# LEGISLATIVE COUNCIL

## Wednesday 12 November 2008

**The PRESIDENT (Hon. R.K. Sneath)** took the chair at 14:17 and read prayers.

### LEGISLATIVE REVIEW COMMITTEE

**The Hon. J.M. GAZZOLA (14:17):** I bring up the seventh report of the committee.

Report received.

**The Hon. J.M. GAZZOLA:** I bring up the eighth report of the committee.

Report received and read.

### PAPERS

The following papers were laid on the table:

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

Primary Industries and Resources South Australia—Report 2007-08

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Reports 2007-08—
- Land Board
- Optometry Board of South Australia
- Pastoral Board of South Australia
- South Australian National Parks and Wildlife Council
- Wilderness Advisory Committee

### BUILDING SAFETY

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:21):** I seek leave to make a statement on building safety.

Leave granted.

**The Hon. P. HOLLOWAY:** On several occasions, the Hon. David Ridgway has asked me questions about regulations relating to building approvals and structural engineering and, more specifically, the rules relating to the verification of engineering calculations by qualified engineers. This is a very sensitive area of law, where mistakes in structural engineering have the potential to put lives at risk if later they lead to building work that is unsound.

In June 2006, the Hon. Mr Ridgway asked a question about the appointment made by me to a ministerial task force on trusses that I had established to implement the Coroner's recommendations in relation to the tragic roof collapse at the Riverside Golf Club. That task force was charged with outlining a range of proposed changes to the design, manufacture, approval, handling, installation and inspection of roof trusses in South Australia. In particular, the Leader of the Opposition questioned the level of building surveying accreditation of the Chairman of the task force.

The appointed Chairman, Mr George Vanco, was and is a member of my staff. I informed the Legislative Council at the time of Mr Vanco's appointment to that role, which was suggested by the Master Builders Association and supported by the Housing Industry Association. The task force has only recently completed its final recommendations, after working through the various submissions received in response to a widely circulated discussion paper.

On 10 and 25 September 2008, the Hon. Mr Ridgway alleged that Mr Vanco had misrepresented his professional credentials. He produced a statutory declaration sworn by Mr Peter Jankovic alleging that Mr Vanco had introduced himself as a building surveyor. Mr Vanco categorically denies that he made such an introduction.

Subsequent to the allegations raised in this document, I received a letter from Mr David Gaffney, the Executive Director of the Housing Industry Association. Mr Gaffney led the delegation of five housing industry people that was lobbying that day against the recommendations of the

Building Advisory Committee's discussion paper. I am advised that Mr Gaffney was in the presence of Mr Vanco and Mr Jankovic during the discussion to which the statutory declaration refers. Mr Gaffney wrote:

> Given recent events, I feel it necessary to provide my recollection of comments made by Mr George Vanco during our discussion on 22 July 2008. Personally, I have no recall of specific comments made by Mr Vanco as to his level of qualification. The impression I took from the conversation was that Mr Vanco is someone who possesses building qualifications and practical technical expertise. In any event, I am disappointed this discussion has resulted in a personal attack on your adviser...

I share his disappointment, and I table Mr Gaffney's letter.

Under the national accreditation framework adopted by all jurisdictions, including South Australia, building surveyors in Australia are classified under two categories, simply called level 1 and level 2. Mr Vanco was accredited to what is referred in the South Australian Development Regulations as an assistant building surveyor, that is, a building surveyor practitioner able to assess and approve building work of up to three storeys and 2,000 square metres. The national accreditation framework also outlines that a building surveyor, level 2, is limited in his or her statutory functions to buildings of three storeys and 2,000 square metres; in other words, an assistant building surveyor is also known as a building surveyor level 2.

The Australian Institute of Building Surveyors is currently revising its accreditation scheme to reflect the more modern nomenclature and has issued a draft for comment. I note that clause 5.2 on page 6 has the heading 'Building Surveyor Level 2' and in brackets it says 'Assistant Building Surveyor'. I table a copy of that page. To argue that level 2 accreditation does not permit a professional in this field to be called a building surveyor is a slight on all those building surveyors currently working in South Australia and throughout the nation with equivalent level 2 accreditation. I table a copy of Mr Vanco's accreditation, which was current from 16 August 2003 to 16 August 2006.

Mr Vanco's appointment to chair the ministerial task force on trusses was made in June 2006, so it covered the accreditation period. In any event, his qualifications in the field of building surveying are not necessary to chair such a task force. Mr Vanco has advised me that he chose not to renew his accreditation after 16 August 2006 as he no longer performs statutory functions in local government. I trust the tabling of Mr Vanco's accreditation will put an end once and for all to the Leader of the Opposition's unnecessary—and in any case totally irrelevant—attack on a member of my staff.

The question of checking structural engineering questions was raised by the Building Advisory Committee in response to allegations that a private certifier was issuing certificates of structural adequacy when they were not a qualified engineer. I understand it was also raised in the context of the Coroner's inquest into the tragic deaths at the Riverside Golf Club. It is important for members to note that one of the recommendations arising from the Coroner's inquest was for the government to ensure that an independent appraisal is conducted of structural engineering aspects of a proposed building.

The Leader of the Opposition claimed in an explanation to one of his questions on this subject that there was no demonstrated need for such a proposal, and he then went on to attack a member of the Building Advisory Committee, who also serves as a commissioner on the Environment, Resources and Development Court. On 25 September 2008 I tabled a letter I had received from the City of Port Adelaide Enfield. That letter concerned a retaining wall that allegedly was incorrectly designed by an engineer acting for the applicant and subsequently approved by a private certifier, who I am advised does not have the appropriate engineering qualifications. The council became aware of the situation after receiving a complaint from an adjoining nursing home that was experiencing problems arising from that allegedly problematic retaining wall. The council, at its expense, sought a review by an independent engineer, who alleged the certifier merely accepted the calculations on the basis that the engineer designing them had engineering qualifications.

Section 33 of the Development Act is explicit. A relevant authority, be it council or a private certifier, must assess a proposed development against the provisions of the building rules. This is the primary reason a building consent is required: to ensure the health and safety of occupants of buildings. The obligation on the applicant is to seek approval. The obligation on the relevant authority is to make sure it is checked. The Leader of the Opposition wanted further examples.

The Chief Executive Officer of the City of Onkaparinga wrote to me in relation to another incident that arose as a result of work undertaken by the council's building fire safety committee. I table a copy of the letter from the City of Onkaparinga. I note that information that will identify the property or the individual has been deleted. This is a further example of an alleged design error that was not properly identified by a private certifier before his approval of those works. I am advised that the certifier does not have appropriate engineering qualifications.

I also recently received correspondence from two other councils, Marion and Barossa, concerning allegations of questionable practices by private certifiers in relation to approval processes. Although these issues relate to matters other than structural calculations, they illustrate increasing concerns raised by approving authorities about the practices of some certifiers. One relates to inconsistencies between a development plan consent issued by the council and the building rules consent issued by the private certifier.

The council, in that instance, makes it clear that its correspondence does not constitute a formal complaint pursuant to the former regulation 99B (which has recently been re-numbered as regulation 103.) The other is a formal complaint under that regulation. It relates to a number of alleged breaches of the act by a private certifier. To ensure that natural justice is afforded to all concerned, I do not propose to table those letters, but the Rann government takes the issue of safety very seriously.

This is a complex area that requires clearer rules for authorities and professionals. Further to the recommendations of the planning and development review, the Department of Planning and Local Government is currently developing a process for improving the quality of private certification in South Australia, including appropriate sanction for poor performance.

The input of the Building Advisory Committee and stakeholders such as the Australian Institute of Building Surveyors is to be considered as part of that process. My intention is to take a considered view when making decisions that affect the safety of the community as well as the need to carefully balance risks and ensure the best outcome for the people of South Australia.

## QUESTION TIME

### MINING INDUSTRY

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32):** I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the current global financial crisis in relation to our minerals industry.

Leave granted.

**The Hon. D.W. RIDGWAY:** A couple of weeks ago, we saw that Boart Longyear, the drilling exploration company, had retrenched 55 staff from its Adelaide operation, which was the first indication that the world global financial crisis would hit home here in South Australia. On 27 October or shortly thereafter, I received a copy of the Credit Suisse metals and mining outlook. It is headed 'Mining capital expenditure set to collapse' and it states:

> Event: We think some $50 billion of mining capex is at risk of being delayed in 2009 if the credit crisis persists...Most of the growth was scheduled for 2010 and beyond, which is now increasingly unlikely...The last time the mining industry froze capex in 1998, it took five years for it to return with any confidence.

The report states that it expects that about $75 billion would be scheduled to be spent next year in the world, and that now it looks like there would be only $50 billion to be spent. It continues:

> This is likely to then delay a further $150 billion that is scheduled between 2010-12...Typically once a project is deferred it takes much longer for it to be kick started...In reality much of the growth of Western miners was planned for 2010 and beyond and this now looks increasingly unlikely.

My questions to the minister are: what level of employment losses does the minister expect in our resources industry as a result of the global financial crisis; and what strategies has his government put in place to help our very important rural and regional communities tough out this crisis?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:34):** I think it is a little bit early to predict the outcome of the current—

**The Hon. D.W. Ridgway:** You're always like that with your head in the sand when you see the tsunami coming.

**The Hon. P. HOLLOWAY:** Well, there is a tsunami coming, but the leader is asking me to say how much damage the tsunami is going to cause. You can see it coming from out there in the ocean, but he is asking me how much damage it will cause. We know, of course, that the global credit crisis will have an impact on our industries, and it will have an impact on employment. I think that affects everyone around the world, but there are many people who earn a lot more than I do who are out there making predictions about what impact there may or may not be. I do not really know what benefit we will get from speculation. Regardless of the matter of how prolonged or bad it might be, we do know that credit will be extremely difficult to obtain, and that will have an impact on some of our projects.

In relation to mining, obviously one of the key impactors on the health of our mining industry will be the health of the economy of countries such as China and India, in particular. If you read the economic papers, the real debate at the moment is about to what extent Chinese growth will depend on internally generated demand and to what extent it will depend on exports of consumer goods—to the United States, in particular. If China's growth—which has been anything between 10 and 15 per cent in past years—were to slow significantly to below 6 per cent or thereabouts, one would obviously expect that to have a significant impact on the demand for commodities world wide.

It is encouraging that just recently China announced an expansion package, and many economic commentators have made the point that China depends on internal consumption for about 80 per cent of its growth. However, having said that, one knows that no country, even the largest, will be immune to the current credit squeeze.

Certainly there are opportunities in the mining industry. China is responsible for about 40 per cent of the world's consumption of commodities, particularly the major metal commodities, and clearly it will be in a better position to be involved in and fund such ventures than if we were to rely on the conventional banking system. So one thing this government is doing in the minerals sector—and, of course, it has been doing it for some time—is talking to those companies that would have an interest in investing within the state to ensure that we have the maximum chance of getting the key investment necessary to keep the economy, particularly in the resources sector, moving. If there is this constipation (if you like) within the world's financial system, with the banks too frightened to loan to other banks, then clearly the only option is to look for other means to ensure that finance is provided to enable such projects to go ahead.

Apart from those general comments, I do not think there is much point in speculating on how bad it will be. As I said: yes, there is a tsunami coming, but as for how much damage it will cause I think we should perhaps wait until it has hit. We will be doing as much as we can to ensure—

*The Hon. D.W. Ridgway interjecting:*

**The Hon. P. HOLLOWAY:** No; we will not have our heads in the sand. What we will do is try to clear as many people off the beach as we possibly can before it hits.

## MOBILE PHONES

**The Hon. J.M.A. LENSINK (14:38):** I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about mobile phone scams.

Leave granted.

**The Hon. J.M.A. LENSINK:** Honourable members may be aware that there was a recent promotion in the *Sunday Mail* for people to enter a lottery-type competition using their mobile phones. My questions to the minister are:

1. Has she issued some sort of warning to the public; if so, when?

2. Does the minister have any advice regarding whether this is, in fact, against the law; if so, what advice does she have in relation to pursuing the proponents of this particular 'competition'?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:39):** I thank the honourable member for her most important question. I have to say that it never ceases to amaze me that each day we wake up to a new and innovative approach by people to relieve others of their money. This scratchie competition that was inserted in the *Sunday Mail* at the weekend is one such

promotion. It offered a multitude of prizes, purportedly totalling around $20 million. After scratching the panel and matching up three symbols—and on most application forms I saw the three panels matched up, so it would appear that many people were winners—the participant could claim their prize by sending an SMS message to the promoter.

At the same time, the winner was also subscribing to an SMS premium service at the cost of $10 every five days. What is more, my understanding is that it continued to roll over, so it was perpetual until the person indicated to the promoter that they wished to stop being a participant in the contest. To unsubscribe, participants must send a stop to the provider, and there was a minimum charge for two SMS messages at $5 each to subscribe, so I am advised that even to get out of this scheme it can cost you $10 minimum.

Obviously, that raised a series of concerns. We received a number of complaints. It was reported on a number of talkback programs and, again, it elicited a number of concerns and complaints, many of which have subsequently been passed through to the Office of Consumer and Business Affairs. I am advised that the advice line has received numerous calls from the public alleging that their entry form did not disclose fees applied and that, in some cases, full terms and conditions were not disclosed on the ticket and could be viewed only on the promoter's website.

I am advised and have reported on radio that, for those people whose ticket did not contain a printing of the fees associated with the texting facility, there is a possibility that they can receive a refund but, for those tickets that had that information, there is still some question mark and I will go on to talk about that. I am further advised that the Gambling Commissioner is investigating, which is the responsibility of minister Carmel Zollo. My understanding is that they are investigating matters around the compliance with the conditions on the licence issued by the Commissioner. I am advised that this competition did have a permit, but there is some concern about whether or not the conditions on the permit have been met. My understanding is that that is currently under investigation as well.

OCBA is currently investigating the promotion to ensure that it complies with our state fair trading laws. OCBA has also referred a number of specific complaints to the ACCC, given that it has broad powers and given that the promotion has the potential to be operating in a number of other states where the permits have also been granted, as I understand it. One of the other things that OCBA is investigating is whether it is legitimate for a competition like this to put forward a prize for which that person must register potentially to win a prize and, what is more, that it costs money for them to do that. That investigation is being made as to whether or not that complies with the current act.

At this point in time, only those people whose ticket did not have the conditions printed on the back are eligible for a refund, I am advised, and, once the investigations are completed, I will be making public that advice. Other officers and I have been on radio raising awareness of problems around this type of competition and making the public aware of the costs associated with texting in response to that particular competition.

## PRISON STAFFING

**The Hon. S.G. WADE (14:45):** I seek leave to make a brief explanation before asking the Minister for Correctional Services a question relating to prison staffing.

Leave granted.

**The Hon. S.G. WADE:** In September 2008, the Australian Institute for Social Research undertook a survey of 252 staff from the three correctional facilities that the state government proposes to relocate from various metropolitan regions to Murray Bridge. The survey found that fewer than 11 percent of staff are prepared to follow their jobs to relocated facilities in Murray Bridge.

The chief executive officer of the Department for Correctional Services reportedly told a public meeting at Murray Bridge on 1 September 2008 that up to 75 per cent of staff would consider moving to Murray Bridge. My questions are:

1. What advice has the minister been given as to the anticipated proportion of staff willing to move to Murray Bridge?

2. On what basis did her chief executive officer assert that up to 75 per cent of staff would consider moving?

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:46):** Members opposite clearly do not like Murray Bridge. I thank the honourable member for his question in relation to staffing at the new prisons at Mobilong. As one would expect, it is a long consultative process with staff and, of course, the PSA, in particular, for the new prisons at Mobilong. The department itself has undertaken a staff survey. Also, the department may not just be in the process of appointing a human services officer to work with staff to find solutions for the staffing problems at Mobilong; I think it already has.

It is understandable that the prospect of changing work location can be of significant concern to some staff and, as such, the department is taking every reasonable action to reduce the impact that the changes may have. As I have said, it is a big task to plan the staffing of new prisons and to move away from the Yatala precinct, which has been going, I think, since 1856 or 1857. However, we have a long-term planning horizon and, in consultation with the staff and, in particular, of course, the union, I am confident that we will find the solutions.

All new staff now being employed understand the likelihood that they may well have to work at Mobilong in the future. I think the honourable member opposite underestimates the value of living in Murray Bridge or, indeed, around the area, particularly the Adelaide Hills. I know that some of the staff who work at Mobilong do already commute from some parts in the Adelaide Hills. We have not had a problem in finding staff for Mobilong now. As I have said, we appreciate that we have to work with the union, and I am fairly certain that a specialist staff member has already been appointed. We will continue to work to find the right solutions for those who do not particularly see themselves moving to a new and exciting workplace.

## PRISON STAFFING

**The Hon. S.G. WADE (14:48):** I have a supplementary question. I asked the minister whether she would bring back to the council the basis on which the chief executive advised the Murray Bridge community that 75 per cent of staff would be willing to move.

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:48):** I did indicate that the department has already held a survey, but I do not have the results of that survey with me. I can undertake to do that; that is clearly not a problem.

## NATURAL BURIALS

**The Hon. I.K. HUNTER (14:49):** Is the Minister for Urban Development and Planning aware of an increasing interest for natural burials and, if so, will he advise the chamber of any progress in meeting the demand for an environmentally friendly alternative to the traditional burial in South Australia?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49):** Yes, I am aware of the increased interest in natural burials as an alternative to the traditional lawn cemetery. Natural burial grounds are the fastest growing environmental movement in the United Kingdom. The first woodland burial ground was opened in Carlisle in 1993, and there are now about 200 natural burial grounds throughout the United Kingdom. Burials in these grounds account for about 8 per cent of all burials. Not surprisingly, this trend has moved down south to Australia. In this country, three cemeteries offer natural burial sites: Lismore Memorial Park in New South Wales, Lilydale Cemeteries Trust in Victoria, and the Kingston Cemetery in Tasmania.

I am pleased to inform the honourable member that South Australia is to join that list with the Adelaide Cemeteries Authority setting aside a section of the Enfield Memorial Park in Adelaide's northern suburbs as a natural burial ground. Natural burial involves preparing the body without the use of chemical preservatives and placing it in a shroud, or a biodegradable casket. Although a new concept, the practice is already covered under existing state government legislation. As well as being chemical-free, the grave used in a natural burial is typically marked with a native tree or shrub, rather than a headstone, or monument. This helps to create a natural bush setting compared with traditional lawn cemeteries. Over time, the bushland created by the new burial ground at Enfield cemetery will become a living and lasting natural memorial.

The development of a natural burial ground at Enfield by the Adelaide Cemeteries Authority is also in keeping with the findings of a parliamentary inquiry that recommended that the state government establish a pilot project. The burial area located near the western boundary at the

Enfield Memorial Park is to be developed and managed using indigenous plant species consistent with the nearby Folland Park Reserve. Folland Park is one of the few untouched areas of native bushland left on the Adelaide Plains. The establishment of the natural burial ground is to strongly focus on sustaining and conserving the remnant native vegetation growing in and around that important reserve.

*The Hon. S.G. Wade interjecting:*

**The Hon. P. HOLLOWAY:** The parrot sitting opposite may be an ex parrot; perhaps he is like the one in Monty Python. With members opposite, you really have to repeat things because they are so dense that it takes a long time for it to sink in. Perhaps that is the way the Hon. Mr Wade learns things: if he repeats it often enough, it might sink into his head; even then, he will probably be wasting his time. However, it is nice to know that he understands that this government is actually doing things. Perhaps he might get the message: if you repeat it enough, he might actually come up with an original idea for himself and for his party. They might even be able to go to the people in 15 months with an original policy, but I suspect that is probably asking too much of him.

I think that the trouble for the Hon. Mr Wade is going to be when he adds it up, because he has already spent the entire budgetary surpluses for the next 10 years in his own shadow portfolio. In fact, we had the situation yesterday where his leader had to denounce people such as him for the sort of expenditure they proposed. He had to say, 'No, all bets are off. My shadow ministers have been out there promising so much money, we couldn't possibly afford it, so all bets are off. We can't afford it.' So what this government is announcing, on our script, is things that it can afford—things that it is doing—unlike the sort of rubbish that members opposite are coming up with which they cannot afford, to the extent that their own leader has to denounce them and say, 'Sorry, we can't do it, because my shadow ministers have been too incompetent.'

Recently I inspected the area at the Enfield Memorial Park with the Adelaide Cemeteries Authority Executive, Mr Eric Heapy. This area of the cemetery is tucked away from the main lawned area and there is some native vegetation already growing near the boundary with the Folland Park Reserve. Mr Heapy assures me that he expects South Australia's first natural burial ground to be ready to receive the first interment by December. Perhaps it will be just in time for the political careers of a few of those opposite. The memorial wall is being constructed nearby to allow visitors to know which part of the burial ground has been assigned for the remains of their loved ones. There is also scope for interring remains from cremations in this part of the cemetery.

Without the cost of a casket and stone memorial, this method of burial should offer a low-cost alternative to South Australians, particularly those who are environmentally conscious, and I think that is important. The Adelaide Cemeteries Authority is now working with the funeral industry on a plan to implement this style of burial in South Australia.

The operating terms and conditions for the natural burial areas will be released later this year, after the Adelaide Cemeteries Authority has consulted with the funeral industry. Funeral directors will also be able to let their customers know that such an alternative is now available at the Enfield Cemetery.

The Adelaide Cemeteries Authority is developing a bushland management plan for the area that is set aside at Enfield. This plan will contain the strategy for the excavation of graves based on existing vegetation, a shortlist of native plant species that can be planted on burial sites, and the ongoing management strategy for the area. This first natural burial ground will also enable the authority to gauge interest in this particular style and whether a further area needs to be set aside in South Australia to accommodate demand.

I can add that I have had a significant amount of correspondence from many South Australians and, in particular, I have also received representation from the southern suburbs of Adelaide where, of course, we do not have a major operating cemetery. Following discussions I have had with people, I am also presently looking at some options in the southern suburbs. I think it is important that we cater to this increasing interest in natural burial. As I said, it is an environmentally friendly alternative, and that is why many people are keen to have this option available. This government will do what it can to accommodate those requirements.

## EXECUTIVE POSITIONS

**The Hon. R.L. BROKENSHIRE (14:56):** I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about fat cats.

Leave granted.

**The Hon. R.L. BROKENSHIRE:** I was surprised to see on page 9 of *The Advertiser* last Saturday, particularly in these financial times when the Treasurer is on record as saying that it is scary and terrifies him when it comes to the state's potential coffers in Treasury, that the minister's department (OCBA) is seeking to create three new executive positions. Further investigation with Hender Consulting reveals that the positions in question are, in two cases, SAES1 level and the other is MAS3 level—all three positions being levels which would usually attract salaries in excess of $90,000 per annum.

My calculations show that the recurrent cost for these three new executive positions, including a 9 per cent superannuation guarantee and indexation at a conservative 3 per cent per annum, would be $2 million if the starting salary was $100,000 and $2.2 million if the starting salary was $110,000. That is not to speak of the likely new personal assistant, credit card, government vehicle and other taxpayer-funded facilities that will have to go with these positions, which I then estimate would probably take the figure, over five years, to $3.6 million. My questions are:

1. Does the minister share the Treasurer's fear for the current financial situation with respect to state Treasury and government coffers?

2. What is the costing over the next five years that the government calculated for those three positions?

3. Did cabinet determine on Monday, after the Treasurer's return from his scary trip overseas, to cease advertising for the three positions?

4. What will these newly created positions deliver in real terms in protection for consumers in South Australia?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:58):** I thank the honourable member for his questions. In fact, the Office of Consumer and Business Affairs (OCBA) undertook an internal review some time ago. I think it commenced a number of years ago. It looked at restructuring or reconfiguring the organisation in such a way as to improve efficiencies and the effectiveness of that department. As we know, we are under increasing pressure in our society to look at consumer protection and to ensure that all aspects of fair trade are adhered to.

There is an enormous federal agenda at the moment, which is about streamlining and improving consistency of legislation and regulation across jurisdictions, and an enormous amount of work needs to be done to bring the jurisdictions into line with each other, as I said, to make things simpler and easier.

The department plays a very important role, and just today we have seen a very good example of a scratchie competition. There are always new and innovative ways of relieving consumers of their well earned money, and it is a task in respect of which we must be ever vigilant and diligent. I do not have the details in front of me with respect to the positions to which the honourable member is referring, but I believe that they are part of that proposed restructure. At this point, I am not able to say to the member whether they are new and additional positions to the department or whether, in fact, they will be filled by other positions that are changed within the organisation as a form of restructure.

As I said, at this time I do not have anything in front of me that indicates that they are all new and additional positions to the department. So, I think it is quite outrageous for the member to bring such a proposal here without even knowing how much of that (if not all) might be being subsumed from within the department. However, I am very happy to take those questions on notice and bring back a response.

## BASEBALL FACILITIES

**The Hon. T.J. STEPHENS (15:01):** I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for Recreation, Sport and Racing, a question about baseball facilities.

Leave granted.

**The Hon. T.J. STEPHENS:** A view often shared with me by many local baseball players and supporters is that baseball facilities in South Australia are well below the national standard. Certainly, the state government's own State Level Sporting Facilities Strategic Plan, under a section entitled 'Weaknesses', states: 'Baseball as an Olympic and priority national high performance sport does not have national or international level facilities in South Australia'. It appears that the state government has also identified the problem. My questions are:

1. Does the minister maintain that baseball facilities in our state are still an ongoing concern, and what is being done to address the situation?

2. Does the minister have an update for baseball regarding the request for a state baseball facility at the State Sports Park?

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:02):** I thank the member for his question, and I will seek to bring back a response from the Minister for Recreation, Sport and Racing in the other place.

## SCHOOLIES FESTIVAL

**The Hon. J.M. GAZZOLA (15:03):** I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the schoolies road safety bus.

Leave granted.

**The Hon. J.M. GAZZOLA:** Yesterday, we heard from the Minister for Consumer Affairs (Hon. Gail Gago) about the excellent work undertaken by Encounter Youth in order to inform students about responsible drinking. Will the Minister for Road Safety outline the steps that the state government and the RAA have taken to ensure that students travelling to and from Victor Harbor for Schoolies Week festivities are safe?

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:03):** It is, indeed, a very exciting time for young South Australians who are in the process of completing year 12 and starting the rest of their lives. However, it also has the potential to be a dangerous time. No-one wants to begrudge schoolies the right to let their hair down and celebrate the end of their schooling life. However, we need to take precautions to ensure that no risks are taken on the road, because research tells us that young people are more at risk.

In August, I announced an enhanced road safety partnership between the Motor Accident Commission (MAC) and the Royal Automobile Association (RAA) aimed at young users taking part in Schoolies Week festivities. Starting later this month, MAC and the RAA will provide a free bus that will transport thousands of school leavers attending the schoolies festival in Victor Harbor, which starts on 21 November. This is an excellent initiative, and I strongly encourage parents to discuss the schoolies festival with their sons and daughters and to plan ahead and make safe and sensible decisions. Catching this bus instead of taking the car could save young lives and spare families the ordeal of a traumatic life changing experience.

Drivers in the 16 to 24-year age group have a high incidence of drink driving and research reveals that young road users, particularly males, are more likely to drink drive. It is expected that about 20,000 school leavers will use the buses throughout the festivities. The buses are free for festival ticket holders, and ample storage is provided on the Adelaide return route. There are also frequent services in and around Victor Harbor (I think that this is the enhanced service, in particular), meaning that there is simply no need for school leavers to bring a car.

For more information and to book the Adelaide return bus, I urge school leavers and their parents to visit www.schooliesfestival.com.au, or contact the schoolies festival organisers Encounter Youth. I am aware that the RAA and the MAC will be further promoting this important service next week, and I wish all concerned a safe time.

## MATERNAL ALIENATION PROJECT

**The Hon. A. BRESSINGTON (15:06):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the maternal alienation project.

Leave granted.

**The Hon. A. BRESSINGTON:** On 20 September 2002, a public meeting launched the maternal alienation project, a project which most likely slipped under the community watch radar,

but one which has and will continue to have a long-term damaging impact on the status of fatherhood in South Australia. In essence, the project was based on the anonymous anecdotal case studies and findings contained in the thesis by a Ms Anne Morris, a student of gender studies at the University of Adelaide. This thesis was then used as the basis upon which the Salvation Army central violence intervention program coordinated its service and intervention approach and, as recently as a few weeks ago, we have been led to believe that even the court officers, police and social workers at Elizabeth at least have been trained in this theory, which has been labelled an academic hoax on South Australian families.

On a more serious level, several constituents also discovered the real identity of the author, Ms Anne Morris, and a question was asked in this chamber by the Hon. Andrew Evans on 16 July 2003. This particular maternal alienation syndrome purports to assert that all men have the potential to be wife bashers and child abusers, and notably the project aims to name the phenomenon of mother alienation as a world first. However, the concept of parental alienation has existed and been accepted by our legal system since the mid-1980s. It is a concept that is entirely without gender bias and open to be applied by either gender in any given situation. By genderising the notion of parental alienation, the project claimed that the notion of maternal forms of alienation are more serious, damaging and prolific than actually occurs to men, whose wife may speak ill of them to their children and change the perception of their father.

In 2003 the project had received some $44,000 in funding at the time, and Ms Morris has been appointed its senior project officer, but assurances were later given by the Hons Terry Roberts and Steph Key that the project would no longer receive any funding. My questions to the minister are:

1. Is she aware of any training in DV units or other support networks that support and fund parental alienation syndrome, and is it funded by the state government?

2. If she is aware, what steps will she take to stop the training and any application of this disproven theory of maternal alienation?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:09):** I thank the honourable member for her questions. I am not aware of this particular project or syndrome. I am not aware of any training or components of this philosophy or theory that are part of any of the domestic violence training programs, interventions or support programs.

I am not aware that there is any association whatsoever, but I am more than happy, obviously, to look into the matter and bring back a response if I find that there is some association.

## FREEDOM OF INFORMATION

**The Hon. C.V. SCHAEFER (15:10):** I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question regarding freedom of information.

Leave granted.

**The Hon. C.V. SCHAEFER:** In his column today, Professor Dean Jaensch says:

> One of the important components of a democracy is open government. That has two sides. First, the government should be open about what it is doing, how it is doing it and how much it is going to cost the people.

In the first round of negotiations to establish a new cost-recovery regime for the aquaculture industry, the representatives from the oyster industry were given an assurance that a transparent and verifiable system would be put in place for checking actual time spent on each aquaculture sector. Since then, an average cost per hectare system across all sectors has been established. This will result in fees for the oyster industry increasing fourfold.

Representatives of the oyster industry have been seeking particulars of costs incurred by their sector for three years and have consistently been refused those details. The model used has been accepted by an independent auditor, but the department still refuses to release the figures used to create the model. My questions are: why has the department gone back on its word to supply these details; and why will it not provide this information to those requesting it?

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs)**

**(representing the Minister for Agriculture, Food and Fisheries) (15:12):** I thank the honourable member for her question in relation to freedom of information and the costs of the aquaculture industry and, in particular, the costs covering the regime relating to cost per hectare.

**The Hon. C.V. Schaefer:** Per sector.

**The Hon. CARMEL ZOLLO:** Costs per sector. I apologise; I thought the member said 'hectare'. I undertake to refer those questions to the Minister for Agriculture, Food and Fisheries in the other place and bring back a response for the honourable member.

## CREDIT CARDS

**The Hon. R.P. WORTLEY (15:12):** I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about credit.

Leave granted.

**The Hon. R.P. WORTLEY:** With only 42 days left until Christmas, many people will be thinking about presents for family and friends. If we are not careful, post-Christmas can be a headache sometimes when we realise the damage done to our hip-pockets. Will the minister advise the council what consumers need to be wary of when using their credit cards?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:13):** The Christmas Pageant having heralded the start of the gift-buying season, consumers are encouraged to shop smart and avoid the potential traps of using credit or interest-free terms.

*An honourable member interjecting:*

**The Hon. G.E. GAGO:** He won't be getting any pressies this year. Santa will give you a miss for misbehaving. Lots of shoppers like to get in early with their Christmas shopping, but it is important to plan for Christmas spending very carefully. The buy-now, pay-later approach can create a great deal of stress further down the track when repayments are due along with household bills and expenses. Many retailers heavily promote their own cards and interest-free term offers at this time of year.

There is nothing wrong with using credit cards, but consumers need to read and understand the terms and conditions. It is important to do the sums on what fees are to be paid and what amount may be remaining after the interest-free period expires. It is a good idea to try to pay the balance in full each month. Interest-free term purchases usually involve a fee charged for the service and severe penalties for late payment, so consumers need to keep their eye on those sorts of terms.

I would like to take this opportunity to remind consumers that they should not assume that, by making the required minimum payments during the interest-free period, the total bill is then paid. It is often a long way from it. With some interest-free agreements when the interest-free period ends there may still be money owed on the purchase, and that remaining sum may incur a large interest charge. To help avoid a large Christmas credit crunch consumers should remember the following:

- set a budget and stick to it;
- shop around to compare prices;
- read the terms and conditions carefully before agreeing to buy now and pay later;
- consider alternatives to credit, such as lay-by;
- try to pay off credit card balances in full each month; and
- seek advice from a financial counsellor if debts seem to be spiralling out of control.

Consumers should also remember that stores are not required by law to return your money if there is nothing wrong with the product you have purchased. Some stores will, but do not assume that they have to; always check that they are prepared to accept returns and under what conditions. Consumers are entitled to a refund if the goods are faulty or if they do not match the description or are not fit for the purpose, such as if a watch described as waterproof turns out not to be waterproof. People should make sure that they keep their receipts or credit card slips as proof of purchase.

Signs that state 'No refunds' are incorrect; there is a statutory warranty that applies to all goods and services if used for the purposes intended but found to be unfit for purpose. So, if there is a fault with your goods you are entitled to return them, given those conditions. Consumers should report any stores that say things like 'no refund on sale items' or 'no refunds after seven days' to the Office of Consumer and Business Affairs, as these signs ignore one's statutory rights to a refund and are in breach of the fair trading laws. Being informed of your consumer rights can help you make wise purchasing decisions.

## POLICE BAIL, CHILDREN

**The Hon. SANDRA KANCK (15:18):** I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for Police, questions about police bail for children in Port Augusta.

Leave granted.

**The Hon. SANDRA KANCK:** I am informed that when police are interviewing children—in particular, Aboriginal children—in relation to offences they are not contacting the parents or guardians of the children either prior to the interview or after the interview and the charging and bailing of the children. This means that, should a child return home and not inform their parent or guardian of their arrest or future court date or curfew, that child is at risk of breaching the bail conditions imposed and subsequently being charged with the offence of breaching bail. That will then accompany them on their record for the rest of their life.

It has been drawn to my attention that on one occasion the curfew imposed on the child required them to be 100 kilometres from Port Augusta at the time the curfew would take effect. The parents, or people who lived at the address to which the child was returning, were not informed of this and no effort was made by police to deliver that child to the address. So when the child left the police station, having had those particular bail conditions imposed, the child was immediately breaching bail. My questions are:

1. Will the minister investigate the extent to which children in Port Augusta are being interviewed, charged and bailed without any attempt to contact parents?

2. Does the minister agree that working effectively with families is likely to reduce future offending?

3. Does the minister agree that the approach I have described actually undermines the capacity of families to protect their children?

4. Will the minister approach the Minister for Families and Communities and the Commissioner for Social Inclusion to ensure that the approach taken by police supports families rather than undermining them?

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:20):** I thank the honourable member for her questions. In relation to alleged police bail for children at Port Augusta, I undertake to refer her questions to the Minister for Police in another place and bring back a response.

## WINE-GRAPE TRANSPORT

**The Hon. J.S.L. DAWKINS (15:20):** I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Transport, Energy and Infrastructure questions relating to interstate wine-grape transport movements.

Leave granted.

**The Hon. J.S.L. DAWKINS:** During the last wine-grape harvest period, the Victorian government trialled a road train route from Yelta to South Merbein and on to the South Australian border east of Yamba. The main aim of the trial was to allow the effective transport of wine-grapes to the Riverland following the limitation of operations at Sunraysia wineries. My advice from Victoria is that few concerns arose out of the trial. As a result, it is expected that the Victorian government may well gazette that state's section of the Sturt Highway as a road train route. There has also been speculation about the future operation of B-triples along that route, given that the cross-border transport of grapes is expected to continue and increase. My questions are:

1. Will the minister indicate what consultation, if any, the Department for Transport, Energy and Infrastructure has received from its Victorian counterpart in relation to the significantly increased movement of wine-grapes from the Sunraysia to Riverland wineries?

2. What work, if any, has been done by DTEI in consultation with relevant local government bodies to plan for further growth in the interstate transport of grapes across the already speed-restricted Paringa Bridge and through built-up areas such as Paringa, Renmark, Berri, Monash and Glossop?

3. Given that the next wine-grape vintage period is rapidly approaching, will the minister ensure that the Riverland and Sunraysia communities are well informed about the management of cross-border wine-grape movements in the region well ahead of the next harvest?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:22):** I thank the honourable member for his questions on wine-grape transport movements. I will refer those questions to the Minister for Transport in another place and bring back a response.

## AUGUSTA ZADOW SCHOLARSHIPS

**The Hon. B.V. FINNIGAN (15:23):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about scholarships for women.

Leave granted.

**The Hon. B.V. FINNIGAN:** Keeping up to date with occupational health, safety and welfare initiatives is important for any organisation for the wellbeing of their staff. Will the minister provide more information on the Augusta Zadow scholarships?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:23):** I thank the honourable member for his question and his interest in these important policy matters. In 1895, Augusta Zadow became the first female inspector of factories in South Australia. She was also one of the founders of the Working Women's Trade Union which was established in 1890. She certainly had a very interesting life. After finishing her education, she became a governess and lady's companion. She travelled through Germany, France, Russia and, finally, England, where she settled in 1868. In London, she worked as a tailor where she helped reform the conditions for female clothing workers. She married Heinrich Zadow in 1871 and they had three children. They travelled as assisted migrants to South Australia six years later in 1877 where they both became very active trade unionists.

Augusta worked in a boot factory and helped to establish the Working Women's Trade Union, becoming its foundation treasurer in 1890. She was a delegate to the United Trades and Labor Council as well as an active suffragist. In 1893, she established and managed the Distressed Women and Children's Fund. She was appointed as inspector of factories in February 1895. Unfortunately, the following year she contracted influenza and died. She is buried in the West Terrace Cemetery, if anyone is interested.

In 2005—a little closer to our time—Augusta Zadow scholarships were initiated in recognition of the work carried out by this amazing woman. Two scholarships of up to $10,000 each are awarded each year to assist with the occupational health, safety and welfare improvements undertaken by, or for the benefit of, women in South Australia. Scholarships are awarded to undertake further education, research and/or occupational health, safety and welfare initiatives in Australia or overseas. Past scholarships have funded research and initiatives on workplace bullying, occupational stress and mechanical aids to help staff and residents, for example, in aged care homes.

This year's winners announced at the SafeWork Awards on 7 November are Pinnacle Workplace Consultants and BreastScreen SA. Pinnacle Workplace Consultants have been awarded a scholarship to fund a project conducted in partnership with the Briars Special Early Learning Centre, which centres on the development and implementation of manual handling strategies and procedures for high risk activities within the early special needs sector. This project will provide a solution to a particular health and safety issue affecting women at work, namely, the minimisation of musculoskeletal sprains and strains associated with people transfers in the child-care sector.

BreastScreen SA employs 50 female radiographers who perform screening mammography in six screening clinics and three mobile units across South Australia. BreastScreen SA also provides mammography training to female radiographers from private practices and public hospitals at the Mammography Training Centre. BreastScreen SA staff, Georgina Upton and Bronwyn Knight, will undertake a project to identify the occupational health, safety and welfare risks involved with emerging digital mammography technology and to develop and distribute a DVD to show how to manage those risks.

Augusta Zadow played a critical role in securing better conditions for workers in factories, particularly women and children, and many of the working conditions we now take for granted are due to the efforts of this woman. I commend the winners of this prestigious scholarship and I commend them for continuing the work started by Mrs Zadow over 100 years ago.

## TRAM TICKETS

**The Hon. D.G.E. HOOD (15:27):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations, representing the Minister for Transport, a question regarding tram ticket validations.

Leave granted.

**The Hon. D.G.E. HOOD:** One morning recently—just a couple of weeks ago—a Family First representative on the 8:10am tram from Glenelg noted a few very interesting facts. The tram was completely full by the Morphett Road stop, and it skipped five stops because it was full. It was so full that, when it did stop at other stops, passengers could not actually get on the tram. From the Morphett Road stop—that is, from Morphett Road into the city—only 24 people were able to actually cram themselves into the first cabin and, of those, only five were able to validate their tickets.

The upshot of all that is that, essentially, even if people were able to get on the tram, they were not able to access the ticket validating machine or to make contact with the conductor, who was stuck down at the other end of the tram.

Recent data has shown that there has been approximately a 10 per cent increase in tram ticket validations on the Glenelg line since it was extended, and this is in stark contrast to the claim from the minister that there has been an increase in patronage of some 39 per cent. So, just looking at those figures, approximately 29 per cent of people are travelling without paying—and I am sure that it is not their wish to do so.

My question is: what steps is the government taking to resolve this inconvenience for people and to ensure that an appropriate revenue stream is available in order to adequately service and maintain our already strained tram network?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:29):** I am happy to refer those questions to the Minister for Transport and Infrastructure in another place and bring back a response. I find it quite incredible that this was a tram that was deemed to be 'the tram to nowhere'; the tram that we did not need and did not want. So, I find it quite remarkable that the member is bringing up these particular concerns of high usage rates and the implications of that on the system.

*Members interjecting:*

**The Hon. G.E. GAGO:** I am pleased that the member voted for it but, in fact, many people in this chamber did not.

## SPENT CONVICTIONS

**The Hon. R.D. LAWSON (15:30):** I seek leave to make a brief explanation before asking the minister representing the Attorney-General a question on the subject of spent convictions legislation.

Leave granted.

**The Hon. R.D. LAWSON:** Members will be aware that in another place the Hon. Bob Such has, over the years, introduced a number of bills for the introduction into South Australia of spent convictions legislation, and he has strongly advocated for that form of legislation in parliament and elsewhere. He introduced a bill in 2003, and I note that on 9 May 2003—at about

11 minutes past 11 in the evening—the Attorney-General (in one of his then regular conversations with Bob Francis on Radio FIVEaa) expressed a view that appeared to be sympathetic to that of the former attorney-general, Trevor Griffin. He said:

> Trevor quite rightly said that if we introduce such a system it would be a system of organised lying…whereby the government would deny that people had convictions when they did…

So, in May 2003, the Attorney-General was expressing views that were somewhat antipathetic to spent convictions legislation. In the first half of 2004, the Hon. Dr Such introduced yet another bill and the Attorney-General responded (once again, appearing on radio, including Bob Francis' show) by expressing some reservation but also expressing sympathy for the proposition that such legislation be introduced. He said:

> …when I became Attorney-General…I found out that if you go to court and you are found guilty of a minor offence and then the magistrate says, 'You've been a good straight person all your life and this is comparatively trivial offending, what I will do is I will find you guilty, but no conviction recorded'…people leave the court and they think, 'Good, I'm over that,' but in fact it does go on your record.

Then the Attorney says, 'That does not seem fair to me.' That was the position he expressed in 2004 arising out of what he had learnt since he became Attorney-General. In other statements he said that he was aware, in the years when he was minister of consumer affairs, of the case of a man seeking a licence. He had been convicted of carnal knowledge some 40 years ago and was not eligible for the particular licence by reason of that conviction, which was still on his record.

In the first half of 2004, the Hon. Bob Such introduced yet another bill and the Attorney-General issued a discussion paper saying that he was seeking views by 30 June 2004—now four years ago.

**The PRESIDENT:** The honourable member will complete his question.

**The Hon. R.D. LAWSON:** Yes, sir. That was issued four years ago and yet no legislation has been produced. In the same year, the Attorney-General told Andrew Rimer's program, on Radio FIVEaa, at three minutes past midnight, that South Australia Police already operate a system whereby administratively, if employers are looking for a criminal record in respect of a potential employee, if the conviction is more than 10 years old and it is not relevant, it will not be released. That is a sensible thing, he said, for the police to do. My questions are:

1. When will the government introduce legislation which the Attorney-General has been suggesting he will introduce (and expressing sympathy for those who are the victims of the absence of this legislation)?

2. What is the justification for the government's delay in introducing legislation at this time?

3. Has the practice which the Attorney-General referred to in May of 2004 (whereby the police informally operate a system of expunging criminal records about employees) persisted, and what is the justification for it?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:35):** I thank the honourable member for his detailed questions, which I will refer to my colleague in another place.

### BUDGET AND FINANCE COMMITTEE

**The Hon. R.I. LUCAS (15:36):** I lay upon the table a report on the operations of the committee 2007-08.

Report received and ordered to be published.

## MATTERS OF INTEREST

### NORTH PARA FLOOD MITIGATION DAM

**The Hon. J.M. GAZZOLA (15:36):** The current drought sometimes blinds us to the reality of flooding in Adelaide and the Adelaide Plains area. This complacency was given a jolt in the sudden floods of November 2005, especially in the Gawler River Plains area. Despite this complacency, we need to be reminded that the Gawler River has been subject to major flooding, on average every 10 years, over the past 150 years. Major flooding has occurred as a result of three floods in 1992 and, most recently, in 2005.

Newspaper and media reports record that, prior to the 2005 flood, 43 millimetres of rain fell overnight in Adelaide alone, with an estimated 50 to 100 millimetres in the South Para reservoir catchment area. This caused significant flooding in the Gawler and Virginia areas, Old Noarlunga and Port Noarlunga, with other SES resources deployed at the high flood risk areas of Waterfall Gully and Norwood.

The economic cost of the flooding in the Gawler River/Virginia area saw $40 million in crop losses alone with an additional $25 million of farm infrastructure lost. The state government responded with funding of $2 million to affected farms, businesses and households through the Virginia Horticultural Centre, PIRSA and the Department for Families and Communities. Given that the economic value of the Adelaide Plains is now estimated at around $200 million by the year 2030 (through the 2030 Blueprint), it was evident that serious flood mitigation action was required, especially in light of a possible 100-year flood and an estimated possible loss of property, crops, services and restoration to the tune of $209 million.

The plight of the River Murray, the reality of the current drought (the worst in 100 years) and other consequences of global warming remind us of our fragile dependence on nature and the need for planning. In response to future flood threats in the Gawler River/Virginia areas, collaboration between the three tiers of government (state, federal and local) saw the planning and construction of the Bruce Eastick North Para Flood Mitigation Dam on the North Para River. What began under the instigation of the Gawler River Flood Plain Management Authority in 2002 under the board chair, Dr Bruce Eastick—and comprising members of six constituent councils (Adelaide Hills Council, Barossa Council, Town of Gawler, Light Regional Council, District Council of Mallala and the City of Playford) with additional and substantial funding from state and federal governments—saw the construction of the $16 million dam begin in September 2006 and completed in December 2007.

The project consists of three main components: construction of the flood control dam and spillways on the North Para River near Turretfield; modifications to the spillway on the South Para reservoir; and improvements to and restoration of banks and levies. Located four kilometres north-east of Gawler, the dam and spillways have created a flood control feature 30 metres in height and 225 metres in width.

Although this is the largest dam that can be constructed in this part of the North Para River, parts of the lower Gawler River are still prone to the effects of a one in 100-year flood. Further floodplain mapping has been undertaken to assess the extent of future work required. Nevertheless, the Bruce Eastick Dam provides significant protection from peak environmental events.

As an aside, earthworks undertaken during the construction of the foundation for the dam wall revealed some fascinating insights into past vegetation. Buried deep in the riverbed at the dam site were numerous tree logs of up five metres in length and 1½ metres in width. Carbon dating on one of the river red gum logs has put its age at around 5,500 years, growing between 3710 and 3380 BC. Such a suitable and long-lasting monument has been erected as a cairn at the entrance to the dam.

I was pleased, along with Tony Piccolo MP, Nick Champion MP, the Hon. John Dawkins MLC and former state and federal MP Dr Bruce Eastick and other guests, to attend the official opening of the Bruce Eastick Dam by the state infrastructure minister, Patrick Conlon. In closing, I acknowledge the Kaurna welcoming of the dam by Katrina Power and her mother Alma.

## LABOR PARTY

**The Hon. R.I. LUCAS (15:41):** I rise to express my concern, at a time of international crisis, at the continuing division and disunity within the Rann government and the Labor Party in South Australia. Rather than concentrating on the important national and international issues impacting on the state, all we see within the Labor Party and the government is division, disunity, backbiting, leaking and everything that goes with it.

When I last spoke in this chamber briefly on the issue, I referred to the poisonous nature of the relationship between the Premier and the Deputy Premier at the moment, and I highlighted the example of confidential internal Labor Party research being leaked to *The Advertiser* from sources very close to Mr Rann, which highlighted Mr Foley in most unflattering terms.

There has been continuing discontent within the Labor Party about the ministerial reshuffle, and much has been said about that in the chamber and also publicly. Mr Koutsantonis, Mr Rau,

Mr O'Brien and others have been mentioned in dispatches. Some of my colleagues tell me that Mr O'Brien has been protesting very loudly to anyone who would listen in the northern suburbs, threatening that he would retire; saying that he had been promised a ministerial position by the Premier and that had not been delivered and he was most unhappy that, in his view, a man of his considerable talent had not been recognised by his Premier and—

**The Hon. J.S.L. Dawkins:** He was described as a young Turk.

**The Hon. R.I. LUCAS:** He was described as a young Turk: I am not sure how young Mr O'Brien is to justify that description. What we have seen in the past week is another example. We have seen, under the heading 'Gago at odds over upper house reform', the first breach of solidarity amongst upper house members in relation to this issue. An article in *The Advertiser* stated:

> State government minister Gail Gago is at odds with the Premier and her upper house leader yesterday over the future of the Legislative Council. Ms Gago, one of three ministers who resides in the upper house, told *The Advertiser* a planned referendum at the March 2010 election to abolish the council was doomed to failure. Premier Mike Rann and Labor's leader in the upper house, Paul Holloway, have said they hope the public votes for total abolition of the council.

I will not quote all the examples, but Mr Holloway was quoted in *The Advertiser* of 20 March 2007 as saying that the sooner the Legislative Council is abolished the better. That was the position. As I highlighted at the time, the Hon. Mr Holloway is the first government leader of this chamber, Labor or Liberal, in its history to support a policy of abolition.

However, the important point we have seen is that one of his own ministers and colleagues has now broken ranks with him—not, I suspect, because she has any great love for the Legislative Council, but because she can see this as a potential issue to undermine the position of the Legislative Council leader, the Hon. Mr Holloway.

A number of Mr Holloway's colleagues are pointing to the fact that he will be 61 in 2010, just after the next election, as will the Hon. Mr Hill in the House of Assembly. Obviously, the media may well want to put questions to both Mr Hill and Mr Holloway regarding their intentions and as to whether or not Mr Holloway, for example, will be wanting to sign up for another eight years, if his party will have him, so that he will be 69 when he is in the Legislative Council.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** His colleagues are not pointing that out but are already starting to undermine the Hon. Mr Holloway's leadership, and we have seen in the public positioning of Ms Gago the signs of disunity in this chamber. The Left is very unhappy that it does not hold any of the four leadership positions, which are held by the Right and by Mr Rann, who they see as a captive of the Right. The only semi-important position held by the Left is your position, Mr President.

We know that the Hon. Mr Finnigan has his not inconsiderable eyes and stature on that position. Mr Snelling from the Right holds a position in another place. I am sure you, Sir, will be able to keep the Hon. Mr Finnigan at bay, should the numbers in the Left hold sway. This is part of the continuing disunity and division within the government, and we are seeing a steady undermining of the leader in this chamber, the Hon. Mr Holloway, by some members of the Left both publicly and privately, and Ms Gago's statements are part of that continuing campaign.

## WHITE RIBBON DAY

**The Hon. I.K. HUNTER (15:46):** Away from that flight of fantasy to reality! White Ribbon Day is being held on Tuesday 25 November to recognise that a cultural change is needed to eradicate violence towards women and children. I am proud to be an ambassador for the White Ribbon Foundation. White Ribbon Day was first held in Canada in 1991, two years after the massacre of 14 women in Montreal in a gender-based attack. The men who initiated the event recognised that to stamp out violence against women there had to be cultural change, and that change needed to come from other men. Men had to stand up to their brothers, fathers, friends and colleagues and say no to violence against women.

Since these beginnings in Canada some 17 years ago, White Ribbon Day has expanded around the globe. It is a day for men to stand up and say to their brothers, 'Enough is enough; we will not tolerate your violence against our sisters—it is unacceptable in any context and must be stopped'.

The statistics regarding violence against women are frightening. An ABS study in 2005 found that in the previous 12 months 4.7 per cent of all women had experienced physical violence and 1.6 per cent had experienced sexual violence. Overall, about 33 per cent of all women had experienced some form of physical violence since the age of 15 years, and 19 per cent had experienced sexual violence.

Other figures suggest that surveys of women attending a general practice in Australia put domestic violence rates between 8 and 28 per cent in a 12-month period. The same ABS survey of 2005 estimated that only 36 per cent of female victims of violence reported the violence to police, and only 19 per cent of female victims of sexual assault did. Frighteningly, it is estimated that approximately 80 per cent of female victims of assault know their offender.

We all know it is unacceptable, but we must be more vocal in expressing our disgust about the actions of men who use intimidation, violence and control in their relationships with their wives and partners, mothers, sisters and friends. We must make sure that these men are completely aware of how unacceptable we think their behaviour is, because on some level these men are of the belief that what they are doing is okay and it is somehow acceptable to use their brute force to dominate the women in their life. They have learnt, either through their home life, peer groups or popular culture, that violence against women is all right, that it is their right as a man, and that for some reason the woman deserved it.

Make no mistake: in no instance at all is any form of violence acceptable. It is abhorrent that violence is so normalised, and we must recognise that it is normalised through popular song lyrics, through casual jokes, and through language that reduces the woman's part in sexual intercourse to that of an orifice only. Men demean women and in doing so devalue them, which, so the warped logic goes, makes violence against women okay.

We must make sure that the messages we project are positive, and we must restructure the narrative in instances where violence against women is presented as all right. It is not all right. It is not just the overt messages that need to be monitored. Child and adolescent psychologist Michael Carr-Greg has said that boys receive all kinds of messages about what it means to be a man. Many of these are conflicting and potentially harmful to their development, particularly the expectation to be tough and in control.

These concepts of strength can be confused with violence. By engaging a range of White Ribbon Day ambassadors from a number of different fields, the White Ribbon Foundation has appointed men who are public figures and who speak to a variety of audiences.

From politicians, such as myself and a number of other members of the South Australian parliament, to Wil Anderson and David Koch from the media, from sportsmen such as Kostya Tszyu and David Wirripanda to businessmen like Napoleon Perdis and Aboriginal elders like Ben Taylor of the Noongar group, we band together to say 'No' to violence against women. Wearing a white ribbon on the 25th shows that men believe that violence towards women is unacceptable, and I encourage all members to demonstrate their support for this important event.

## SAMPHIRE COAST

**The Hon. J.S.L. DAWKINS (15:50):** I rise today to speak about the southern portion of the Samphire Coast. The Samphire Coast has been described as the coastal portion of Gulf St Vincent ranging from the St Kilda side of the Barker Inlet right up the gulf and around to Ardrossan on Yorke Peninsula. Community concern expressed to me about this area is limited to the coastal span from St Kilda up to Light Beach.

A reasonable balance needs to be struck between the widely-held desire to protect the coastal environment in general and that of maintaining and/or improving the established public recreational amenity of the coast. Several measures have been taken at various locations along the coast to control, limit and exclude public access in order to protect the environment. On the other hand, it needs to be recognised that there has been a significant loss of recreational amenity along this part of the coast.

A significant portion of this area comes under the jurisdiction of the District Council of Mallala. There were two motions moved by the District Council of Mallala at the Local Government Association AGM on 24 October in relation to these matters and both were passed by that AGM. The first motion was:

That the Local Government Association works collaboratively with the State Government to facilitate measures/strategies that ultimately protect reserve areas from degrading activities of off-road vehicles (e.g.

additional coastal 'rangers' as in other states, provision of licence facilities in hot-spot areas; and have all officers of the South Australian Police Force educated/informed that roads and/or road related areas in section 44B of the Road Traffic Act 1961 applies to any government or council reserve).

The second motion was:

That the Local Government Association seeks assistance from the state government for:

- the provision of private or public off-road vehicle facilities in areas where required, and
- adequate patrolling by state government authorised officers ensuring improved monitoring of known problem areas where off road-vehicles activities are undertaken in an unlicensed and uninsured location.

The objective of the first motion is to protect sensitive coastal and other reserves from irresponsible activities involving off-road vehicles and to ensure that all officers in SAPOL are aware that reserves are designated as road-related areas and are prepared to use section 44B of the Road Traffic Act to fine offenders and/or impound vehicles for damage to infrastructure.

The objective of the second motion is to facilitate the provision of private or public off-road vehicles licensed facilities appropriately covered by limited liability legislation. This would ensure appropriate specified standards for a controlled environment and rider/driver safety.

That last point is particularly interesting to me because some years ago I worked very closely with officers of the Yorke Regional Development Board in trying to find a way in which the Port Gawler off-road vehicle park could continue to exist and provide a service for the people who wish to ride off-road vehicles in an area close to Adelaide. Unfortunately those moves failed and that facility has been closed due to the fact that it failed to get any government assistance for its liability insurance costs.

I call on the government to work with the District Council of Mallala and the residents of the areas concerned to make sure that people using those vehicles do so in a designated area that can be controlled and that people who use that unique part of the coast of Gulf St Vincent can do so in a way that does not affect the environment but in which their activities are unaffected by unsatisfactory public behaviour.

## MENTAL HEALTH, RURAL COMMUNITIES

**The Hon. R.P. WORTLEY (15:55):** I rise today to speak about mental health in rural communities. One in five people experience mental illness, and this number is higher in the bush. It is an epidemic of the modern era because not only are people in rural areas at high risk for depression and other mental illnesses but they are also more isolated, resulting in fewer services being available. Young men are the ones most at risk, closely followed by farm managers and older farm workers.

The stigma associated with mental illness feels like an admission of failure. It tends to have people labelled as violent, dangerous and unpredictable, but of course this is rarely the case. In small towns this stigma can be harder to overcome because of the tight knit groups and the lack of anonymity that tends to go hand in hand with living in the bush, and this means that two-thirds of people suffer in silence.

The majority of mental health afflictions begin between the ages of 15 and 25, and this poses a significant threat to our future workforce and economy. There are many different types of mental illness; to describe them all would take the rest of the day, so I will speak about the most common: bipolar disorder, also known as manic depression, causes severe depression and extreme mood swings; schizophrenia is where a person's thoughts and actions are impaired, and there may be hallucinations and delusions as well as many more symptoms; and eating disorders, such as bulimia, where a person eats and then feels they must purge themselves out of fear of weight gain, and anorexia nervosa, which is the medical term used for someone who starves themselves because when they look in the mirror all they can see is someone overweight staring back at them, even when they are not.

Depression and anxiety are the most common mental health afflictions, and they are prevalent in Australia. Depression is an illness that affects a person's mood, with overwhelming sadness, feelings of helplessness, poor concentration, a loss of interest in anything that person loves doing, withdrawal from loved ones, and the inability to control temper or tears. The more severe the depression, the more symptoms arise, and these can be severely debilitating. In Australia 1,000,000 adults and 100,000 young people live with depression each year; one in four females and one in six males will experience depression in their lifetime.

There are many ways to treat depression. Some can be as simple as a balanced diet and regular exercise; others include medication with mood stabilising drugs or antidepressants, counselling, cognitive therapy, or the use of natural therapies. Antidepressants try to counteract the feeling of depression and work by changing the level of neurotransmitters (or chemical messengers) in the brain, which are thought to be in low supply.

If left untreated, mental illness can result in suicide. People see no other way out. In Australia each year more people die from suicide than in road accidents—approximately 2,500 more each year—and for every suicide there are another 30 attempts. In young people suicide is second only to road accidents as cause of death. Strong indicators of the consideration of suicide are prior attempts, drug or alcohol abuse, and other social factors such as the loss of a close relative or friend, economic hardship, family conflicts and growing social isolation.

According to the Australian Bureau of Statistics, rural and remote areas have the highest rate of suicide in the nation. A lack of mental health workers means that people have to travel long distances, which is hard to do if you are running a farm or a small business, and that treatment is sporadic. Also, many rural hospitals do not have the resources to handle a patient during a psychiatric emergency. This lack of mental health services in country areas is considered the most pressing issue that confronts small communities in Australia, and we need to create incentives to attract and retain mental health care workers for the bush or encourage urban carers to expand their services for a few days on a regular basis.

In 1992, the Australian health ministers conference developed the National Mental Health Strategy as a general guide to mental health reform from 1993-1998. The strategy was a success and was reaffirmed in 1998 and 2003. The strategy places emphasis on continual improvement in supporting individuals and their community, promoting mental health, preventing mental health disorders where possible and reducing the impact on individuals and those affected around them.

As a result of this strategy, all levels of Australian government have recognised the need to work together to combat mental illness, to treat each afflicted individual with the respect that they are entitled to and that the services provided are sufficient enough to cope with the demands placed on them.

## TECHNICAL AND FURTHER EDUCATION

**The Hon. M. PARNELL (16:01):** I rise today to share with members my concerns about the privatisation of technical and further education in Australia. Not long ago there was a rally on the steps of Parliament House by teachers calling for a range of reforms, including a pay rise and changes to working conditions. One of the banners that was being displayed at the rally surprised me because it said 'Don't privatise TAFE'. I was unaware that any such proposal was on the drawing board.

I am indebted to my colleague Dr John Kaye MLC from New South Wales who has pursued this issue and discovered a document entitled 'Skills and Workforce Development' which was a discussion paper produced this year by the Council of Australian Governments (COAG). This process that we say will lead to the privatisation of TAFE is all happening behind closed doors. The discussion paper was forced into the public arena only because the Greens in New South Wales released the paper.

COAG has asked the working group to develop a national partnership proposal for consideration at its meeting on 17 November. That is the meeting at which all of the states and territories are expected to sign up for the privatisation of TAFE. This proposal, if it goes through, is a blueprint for state and federal governments to collude to ram through Australia's biggest privatisation program since Telstra, and there has been no public debate.

All public funding of TAFE programs is to be thrown open to the private sector for bid by competitive tender. TAFE will have to go begging for its current funding of more than $4 billion to pay for its teachers and support staff, and to run its libraries and computer rooms. It will need to compete for staffing in relation to all of its programs—in particular, its equity programs. It will have to compete for the development of curriculum materials. Any recognition that TAFE might enjoy as a public agency in competition with private providers will be removed.

The vocational training and education sector under these arrangements will be exposed to the full force of national competition policy. The proposal also advocates a HECS-like income contingent loan which will discourage people from disadvantaged backgrounds from seeking to access training. Furthermore, apprenticeships are to be undermined by moving training packages

beyond occupational standards. These standards are to be redefined by developing appropriate definitions of competency.

This is really just code for moving from education and training a workforce for the future to preparing workers for a specific employer. COAG no longer wants Australia to train electricians; instead, public funds are to be used to provide employers with willing workers fitted to a narrow range of tasks, possibly specific to that worksite or corporation.

Taken as a whole, these reforms will drive TAFE and its focus on quality education out of the market. It will be a bonanza for cheap and nasty private providers. Forcing TAFE into competition for its own funding will drive down course durations, destroy education and increase class sizes. It is a recipe for dumbing down the workforce. TAFE is to be made to struggle for its survival against narrowly focused, cherry-picking private providers who do none of the heavy lifting of equity. They will not take students with disabilities or youth at risk, and they will not ensure that all Australians are educated as well as trained. Despite all the reassurances, it is unfair competition with only one possible end point, and that is TAFE hollowed out to feed a bloated private sector.

The reality is that ideology and cost-cutting are combining to sell out the future. At a time when the rest of the world is learning about the limits of market-based solutions, COAG wants to hand over the future of the skilled workforce to the same forces that brought the economy to its knees. The Prime Minister's education revolution is, in fact, unmasked as COAG drives Australia's training sector towards voucher-based, user-choice and a user-pay model without the consent of the voters and without fully considering the long-term consequences. I urge Premier Rann and the education minister to lead the charge against these retrograde steps.

## PROPERTY VALUATIONS

**The Hon. J.A. DARLEY (16:05):** I rise today to speak about problems in the Riverland, Lower Lakes areas and surrounding townships. The issues I raise today affect all residents in these areas, especially those with commercial properties, and I believe that some relief should be available to owners. To highlight this issue, I will briefly outline a recent incident that occurred in the Barmera township.

As a strategy of the government's water-saving policy, Lake Bonney at Barmera has been disconnected from the Murray for the past 12 months. During this time, the township of Barmera has suffered financial and psychological hardship, and residents of the area were hopeful that a recent application to the Department of Transport, Energy and Infrastructure from the Jet Ski Boating Association to hold a jet ski racing competition on Lake Bonney would be approved. However, safety concerns were raised over the Lake Bonney site, as there was a risk of a competitor in the race encountering a submerged object whilst racing. The promoters of the event, the Jet Ski Boating Association, is in agreement with the department's decision, and the event will now be held at Martin's Bend at Berri.

Residents were disappointed and frustrated when they learnt of the decision, as they were hopeful that the competition would provide much needed financial relief by way of accommodation bookings and revenue generated by tourists. This event would have been a morale booster for the township and would have raised awareness of the Lake Bonney region.

The drought has already had a devastating effect on farmers and irrigators along the length of the Murray and, as demonstrated with the Lake Bonney example, commercial businesses in the Riverland, Lower Lakes and Goolwa have also been suffering as a result of the downturn in tourism. The consequential decline in the value of business premises as a result of the downturn in business activity must be taken into account.

Most people would not be aware that the Valuer-General has the authority to reduce rating valuations where loss of value occurs and even for individual loss of property due to fire, storm and flood. This was demonstrated in the past after similar natural disasters, such as the hurricane that hit Glenelg in 1948, the earthquake in 1954 and the Ash Wednesday, Wangary, South-East, Mid North and Kangaroo Island bushfires.

In the majority of cases, there are few, if any, property sales that provide evidence of the decline in value, but this should not be a reason for the Valuer-General not providing some relief. One of the legal precedents guiding him suggests that, if there is any doubt, that doubt should be resolved in favour of the ratepayer.

Land and business agents in these townships are in the best position to provide advice on any reduction in demand which may, in turn, lead to a decline in value. I understand that the

Valuer-General has instructed his regional officers to seek advice from agents regarding local market trends, and I commend him for this.

Reductions in property values will affect the budgets of revenue authorities. A redistribution of the rate burden for local government and natural resource management levies could be made, because these budgets are relatively small. However, with the larger SA Water, emergency services and land tax budgets, any reduction in valuation is likely to be minimal and offset by revenue from the rest of the state.

The Valuer-General is required to value all land within the state at least once every five years, and currently undertakes annual valuations. At present, the value assigned to land must be the value of the land as at 1 January each year, and these valuations become operational on 1 July each year. These dates are determined by the Valuer-General in accordance with the Valuation of Land Act, and valuations are gazetted annually. However, the act also allows the Valuer-General to adjust or correct valuations at any time, and these come into effect on a date determined by him.

I commend the Valuer-General for contacting irrigators at the end of 2007 asking owners to provide information concerning the removal of plantings. This information would enable him to revalue these properties and thus consequently provide some relief in the rates and taxes that they would have paid. However, I suggest that the Valuer-General take the further initiative of taking into account the difficulties experienced by businesses in the Riverland and Lower Lakes areas and to see fit to review and adjust valuations where necessary.

Time expired.

## BUDGET AND FINANCE COMMITTEE: OPERATIONS REPORT

**The Hon. R.I. LUCAS (16:10):** I move:

That the 2007-08 operations report be noted.

In speaking to this motion, at the outset I thank the various members of the committee who have served on the Budget and Finance Committee for its first full year of 2007-08 and also the staff members Chris Schwarz and part-time contract research officer Kay Bennett for the work that they have undertaken.

The work of the committee has essentially revolved around the five members of the committee but, as with the original motion to establish the committee, other members of the Legislative Council were encouraged to attend when they were interested, and a protocol was established very early on to allow the participation of other members. As I look around the chamber, I see approximately six to eight other members of the Legislative Council who, at various stages through the past 12 months or so, have attended on a number of occasions. In particular, I thank the interest and attention of the Hon. Mr Darley, who has been a regular attendee at the committee meetings, but also I thank other members who have attended hearings that have been of particular interest to them for their interest.

At the outset I say that, certainly in my judgment, the work of the committee has shown that it has been an active committee. It has generality met (or tried to meet) every two weeks where that has been possible on a Monday morning from 10.30 until 12.30, and I hope that, through the work of its first year, it has demonstrated not only the worth of the Budget and Finance Committee of the Legislative Council but, more importantly, it has demonstrated the worth and importance of the Legislative Council as a chamber and as a part of our democratic institutions in South Australia.

The debate about the Legislative Council will be conducted in other motions on other occasions, and I do not intend to debate the differences between the parties here; with one party committed to abolition and another party or other parties obviously supporting the importance and the worth of the Legislative Council in the work that it does. I would hope that those who do support an ongoing role for the Legislative Council are encouraged by the work of the Legislative Council Budget and Finance Committee.

Without referring to all media and public commentary of the Legislative Council Budget and Finance Committee, I do refer to one particular commentary from Greg Kelton (a respected political commentator in South Australia), who was commenting really, I guess, on the arguments for and against the Economic and Finance Committee in the House of Assembly and the Budget and Finance Committee in the council. Under the headline of 'Watchdog loses its fear factor', Greg Kelton wrote:

> The once powerful Economic and Finance Committee of parliament has become a toothless tiger under the Rann government. The committee which operated without fear or favour for years now suffers in comparison with the upper house's Budget and Finance Committee. This committee established despite much opposition from the government is getting to the nitty-gritty of government spending and putting departmental budgets under the microscope.

He wrote further:

> The significant revelations about government spending and lack of accountability now come out of the Budget and Finance Committee.

Without quoting of his all article, he did go on to highlight the work of the former chairs of the Economic and Finance Committee, or its predecessor, called the public accounts committee.

He referred to the work done by a Liberal MP, Heini Becker, who was a committee member and also the committee chair for a period of time, and the work that he and that committee undertook even when there was a period of Liberal government—

*The Hon. Sandra Kanck interjecting:*

**The Hon. R.I. LUCAS:** Yes; the Hon. Sandra Kanck speaks flatteringly of Mr Becker. I am sure he would be delighted to hear that, and the committee from that time.

*The Hon. Sandra Kanck interjecting:*

**The Hon. R.I. LUCAS:** Yes; exactly. I think we would all do that. Greg Kelton highlights the work of that particular committee at the time that Heini Becker was on it. As I said, it did highlight the capacity of the committee, if properly chaired. I think one of my criticisms of the Economic and Finance Committee is that not only is it a toothless tiger (as Mr Kelton has talked about) but, in essence, it is chaired by that person I often refer to as the welsher from the west. I think the member for West Torrens (to give him his correct title) was really just a captive of the Labor Right and the government and, essentially, does what the government and the ministers wish him to do—and I think that is a shame. I am highlighting, first, the importance of the Legislative Council as an institution and, secondly, the importance of committees like the Budget and Finance Committee.

I do not want to canvass all of the issues but I do want to highlight 10 or so of the issues that have been canvassed during hearings of the committee. They include: the ongoing debate about shared services savings—the supposed savings coming from that; the related issue of dead rent being paid by the government in buildings around the CBD such as Westpac House and 77 Grenfell Street, etc.; the significant ongoing issues in relation to the future ICT program and the accuracy of claimed savings made by the government of $30 million a year; the savings tasked by many agencies which were outlined by the Treasurer and which are not being met and the reasons for those—but I will not go into the detail of all of them; the revelation that the government spent $100,000 for a party to open the tram, which attracted a lot of media attention; the government consultancies for Stuart O'Grady, in particular, and Darren Lehman—again, as I say, we are not criticising the two gentlemen concerned but the government processes in relation to that and the criticisms that were made, even by a senior public servant, about the Stuart O'Grady contract; and IT projects like RISTEC in the Treasurer's own department and the massive blow-out from just over $20 million to $43 million, and the fact that the project is still being negotiated. They have had to move from one proposed successful tenderer to another, and the time for implementation of that project has now gone out to at least 2011. The project first started in 2002 so, potentially, it will have taken nine years to bring an IT program within the Treasurer's own department to a conclusion.

Another IT program in the housing area was called Maintenance Works which, sadly for the government, did not work. There was $5 million spent trying to get that program up and going and, in the end, the whole project had to be scrapped and $5 million of precious taxpayer money was wasted. There were revelations that more than $16 million a year was being spent on hotels, motels and bed and breakfast accommodation as a result of problems within the foster care system managed by Families and Communities.

Another matter which had a lot of publicity in the early days was the Premier's slush fund where he managed to get an extra $400,000 plus out of Treasury to go into his slush fund to give to a church in his electorate with scant, if any, consideration in relation to the submission that went to the government requesting that money.

So, there are 10 or so issues, but dozens of others have been raised over the 12-month period during the course of the work of the committee. I highlight those matters only to indicate the length and breadth of the sorts of issues that are being raised by the committee members with the chief executive officers and senior finance officers who attend.

One of the advantages of the committee, again, given the fact that the Legislative Council decided it would be controlled by non-government members, was to ensure a continued flow of meetings and witnesses who attended. It also meant that the committees could not be filibustered. In the early stages, I think there was a little bit of a test, where long introductory statements were made and long answers were given to relatively innocuous questions, perhaps with the intention that if the two hours was talked out that would be the end of it.

However, very early on the committee made the very wise decision to listen politely and then say, 'Okay, well, you will come back next month.' We found in the very first round that three agencies, I believe, were required to come back again for another two-hour session. I think the chief executives soon learnt that it was sensible not to mess around, in terms of filibustering with respect to the committee, because the committee had that power—unlike the estimates committees in the House of Assembly, where there is a specified period and if someone talks that time out that is the end of it. If members have a look at the estimates committees copies of *Hansard* they will see that, in some of the committees, the opening statement goes as long as the questioning, in terms of where they might have only an hour with a particular witness on a particular occasion.

So, it is one of the strengths of the upper house committee that members have the capacity to say that they did not have to get into any acrimonious argument at all but, in the end, the majority of the committee just decided that there were so many questions that had not been resolved that the health department, the education department and the justice department were invited back to finalise their evidence.

I have previously spoken a little about the strength of upper house budget and finance committees around the world. I had the opportunity earlier this year to look at some upper house committees, such as our Budget and Finance Committee, in the United States and Canada. The first issue was that the strength of those committees, in my judgment, was to ensure that they were not controlled by the government of the day. The second issue was the quality and quantity of the staff resources provided to the committee—and I will speak on that briefly when I look at some conclusions or directions for the future.

Whilst this would never be possible in South Australia (and I would not be arguing for it), one upper house committee had somewhere between 150 and 200 full-time staff working for it. Through that mechanism, they were able to produce for the members of the committee a line-by-line analysis of every budget paper to assist those members, in terms of the questioning of senior bureaucrats and, in that case, some ministers as well. Of course, that sort of quantity of staff is not possible in South Australia, but it is an important issue and, as I said, I will turn to that in terms of the way ahead.

However, to summarise, I think it is important to note that the experience of legislatures in other parts of the world is very much heading in the same direction that the Legislative Council is headed, in terms of a greater say for upper houses with respect to ensuring financial accountability and scrutiny of government spending, and that is particularly possible when the government does not control the committees and the chambers.

In terms of looking at the direction ahead, I think the reality is that, given the decisions that this parliament has taken (and I certainly support it, so I do not have a problem with that), whatever happens post 2010, whichever party is elected as government, the non-government members in this chamber will ensure that there is an ongoing committee along the lines of the Budget and Finance Committee.

It is my hope and expectation, if there is a Liberal government, that there will be a hard-working upper house Budget and Finance Committee controlled by non-government members—assuming the non-government members control this chamber, which obviously will be the case in the foreseeable future in South Australia—to ensure financial accountability of the executive arm of government. No government, Liberal or Labor, I suspect will warmly welcome that. This government certainly has run 100 miles an hour from it. I hope that a future Liberal government will recognise the importance of it and, whilst it might not love it, embrace it as a policy initiative in terms of the importance of the work that this chamber and such a committee can undertake.

Personally, I certainly think that the way ahead is that this Budget and Finance Committee ought to become a permanent standing committee of the Legislative Council along the lines of the Statutory Authorities Review Committee. I know some members have views about the potential rationalisation of various committees. I have no objection to that sort of discussion going on and support some rationalisation. I do not support it, however, in the context of reducing the number of solely Legislative Council-based standing committees. I see the capacity for rationalisation existing in the joint committees of the parliament, which are standing committees. On another occasion I will express some views on that, but not today.

If this Budget and Finance Committee were to be established as a standing committee, which would be my preference after the next election, whoever wins, it would assist in terms of its status as a future body. In future it is important that members of the Legislative Council see membership of it as important and sought-after positions. The possibility of being a chair of the Budget and Finance Committee or a hard-working member of the committee I would hope in future would be seen as sought after positions and that future Legislative Councillors would look on it in that way and as an important task for them to undertake on behalf of the parliament. Most members of parliament are not without ambition, but hopefully they would see it as a path ahead for members of the Legislative Council within their own parties, whether in government or opposition or on the cross benches.

As part of being a standing committee, it is important for the long-term integrity of the committee that it have permanent staff members. Given the current structure, that probably means that it will be possible to appoint two permanent staff members. It would be my view that at least 1½ of those permanent staff members' time ought to be in terms of the capacity to do research for members of the committee in preparation of questions and lines of inquiry with various government departments and agencies.

All the committees overseas are much better staffed than the committee here in the Legislative Council, but the point in future is that the strength of this committee in terms of its work ought not be dependant on just the background and experience of the current members of the Legislative Council who sit on the particular committee, because in this chamber members will come from all sorts of backgrounds, and some will have past experience in the area while others might not. The only way to ensure the ongoing strength of the committee is to have people who are prepared to work hard.

You do need permanent and ongoing staff who can develop corporate knowledge and expertise. I think we need to canvas this issue of whether or not research officers ought to be limited to, for example, only a two-year contract period for committees. In a budget and finance committee, if you are going to have only two permanent staff, you need to develop ongoing expertise over a long period of time in these issues so that you can impart that knowledge and experience to all of the members of the committee.

I will certainly be lobbying my own party, but I also lobby all members in this chamber through this contribution and others who might follow, to consider the view that it should be a standing committee. We ought to be strongly supporting the notion that have two permanent ongoing staff, and that they ought to have expertise in budget and finance issues, preferably having come from the Auditor-General's office, the Department of Treasury and Finance or some related area of discipline. As I said, they should be available to all members of the committee to provide questions and lines of inquiry for that committee.

Finally, I mention two things, the first of which is minor. The committee thus far has generally been flexible in terms of asking for departmental executives to meet a four-week turnaround time for answers to questions on notice. I would hope that the committee in its second year will, through its staff, insist on those senior executives meeting that four-week turnaround or something very close to it.

We certainly cannot allow a circumstance where the turnaround time for one department, I think, was something more than six months. That is becoming more and more like the Estimates Committee in the other place or, indeed, questions in this chamber when they are asked of ministers and the government. The committee has the capacity, in the end, if it so wishes, to demand the reappearance of a senior officer before the committee, and I think that is an option that the committee may well need to address in the future if genuine endeavours are not made by senior departmental officers.

Many senior officers who have given evidence have worked very diligently and hard to produce answers within approximately the four-week turnaround time and, certainly, it is only a small number who have erred by a significant margin in terms of meeting the four-week turnaround time. The final point I would make in terms of the way ahead is that the committee's inquiries have been on a rotational basis to meet with all of the departments and, certainly, my view is that that ought to continue in terms of the work the committee does.

One of the additional tasks that the committee might consider in the future is that, if there is a particular issue within a government department or agency which is attracting some attention, the committee may well resolve to conduct short, targeted meetings—and I certainly would strongly oppose tying up the committee for six month and 12 month inquiries like the Statute Authorities Review Committee—maybe two meetings maximum, where a range of witnesses are brought in perhaps from the middle levels of the department and maybe one or two contractors.

If it were an ICT program where $10 million was being wasted in a department, the specialist IT people within the department, not just the CEO, and the contractors who are contracting with the government or the consultants who have been employed might be called along and, rather than just the one witness, you may have in a two-hour session two or three sets of witnesses and a specific report being given by the committee on a particular issue.

That is something for future discussion by the committee. At this stage, as I said, the committee is intent for 2008-09 on continuing the process and the work that it has undertaken through the first year of 2007-08. I commend the committee's first report to the chamber.

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

## SELECT COMMITTEE ON FAMILIES SA

**The Hon. C.V. SCHAEFER (16:34):** I move:

That the interim report of the committee be noted.

On 14 March 2007 a select committee of the Legislative Council was established to inquire into Families SA and any predecessor entity in existence since the proclamation of the Children's Protection Act 1993. I do not propose to read the lengthy terms of reference.

To date the committee has received a large number of submissions, many of them voluminous, complicated and confidential. We received a discrete body of material and submissions concerning the SOS Children's Village, which operated as a licensed foster care provider at Seaford Rise between 1996 and 2004. We consider that the methods used in the dealings between this organisation and the department raised significant issues about the operations of Families SA that are relevant to the references of this committee, so the committee has taken the decision to deliver this interim report.

SOS Kinderdorf is an international organisation which provides long-term, family-like care for children who are abandoned, neglected or orphaned. It operates in over 130 countries and provides homes for more than 60,000 children and adolescents. The organisation, established in 1949 and headquartered in Innsbruck, Austria, claims to be the world's largest private welfare organisation. SOS Kinderdorf is politically and denominationally independent and, as I said, has a high reputation throughout the world.

In 1993 SOS Kinderdorf approached the department and other non-government agencies concerning the possibility of establishing a village in South Australia. A formal written proposal was sent to the department in March 1994. This proposal included the provision that SOS would be incorporated and controlled by a local management committee and registered as a professional foster care service. SOS would build a village comprising good-quality family homes for eight families (approximately 40 children) in a suburb recommended by the department. The local organisation would remain affiliated with, and enjoy substantial financial support from, SOS Kinderdorf International.

It was proposed that the organisation would target children who were wards of the state and who needed long-term care, especially sibling groups, those experiencing multiple placements, those from non-English-speaking backgrounds, and those with a slight handicap. It should be noted that it was never the intention of SOS to provide temporary care: its whole philosophy revolves around providing family-type surroundings and keeping families together. Neither does it claim expertise in handling severe behavioural problems.

Financially, SOS proposed to be responsible for the capital cost of land and construction, all costs to select and employ 15 staff, and all other establishment costs. It was proposed that the department would pay the normal child allowance for foster carers for the first two years, and SOS would then consider applying for government subsidies in line with other NGOs. It is important to stress that the SOS philosophy is to give a family-like sense of belonging through childhood and adolescence until the children are able to begin an independent life. This sense of family was reinforced by each home having a woman designated and referred to as the 'mother'.

By December 1995 SOS had purchased land and obtained planning and building approvals at Seaford Rise. The new development was welcomed by then minister Wotton, but did not enjoy the support of the then opposition. The village opened in September 1996, and a protocol was developed between the department and SOS which set out the roles and responsibilities of both parties. SOS was duly licensed as a foster care agency, and 72 children were placed in the village between 1996 and 2005.

However, it quite soon became obvious that the philosophy of the department was diametrically opposed to that of SOS, and that the department was uncomfortable without complete control. It very quickly became evident that funding was to be a major issue between the department and SOS. Although Mr Ellis Wayland, executive chairman of SOS Children's Villages in Australia, South Australian Division, told the select committee that SOS had never asked the government for funding and had operated with complete financial independence from the government, indirect funding was derived from state and federal sources. Ms Beth Dunning, Executive Director of Families SA, told the select committee that SOS had been reluctant to enter into funding agreements with the department as this was contrary to SOS's model of autonomy. If I may comment, it is our view as a committee that the department lacked the ability or will to think outside the square. The very crux of the issue is its unwillingness to allow this autonomy.

Despite fund-raising and other efforts, the SOS village remained outside the departmentally funded alternative care system. However, in 2000, a one-off $50,000 payment was made to SOS. This was made up as follows: $20,000 from Anglicare SA, committed as part of unspent brokerage for its alternative care program; $20,000 contributed by Family and Youth Services (FAYS, as it was then) from the Children's Payment Budget; and $10,000 from the Family and Community Development Fund.

It should be noted that the reason provided by Anglicare for its contribution was that 'SOS Kinderdorf fills an important niche in the alternative care system'. It should also be noted that, even with one-off grants, the operation of the SOS village resulted in considerable financial savings to the government. Mr Wayland said that it cost SOS roughly $780,000 per annum to run the village. In 2004, when the government took over the village, it allocated $1.2 million annually to fund operations and spent a further $900,000 to 'change the model over to a government model'. By 2006, the operational cost had risen to $1.5 million per annum.

Recent reports have indicated that the average annual cost incurred by the department for each child in the alternative care system, including departmentally staffed housing, is $270,000 per child per annum, and the total annual expenditure in 2007-08 was $16 million. Again, I can only say that the department's obsession with controlling all aspects of care has excluded a system which not only appears to have been successful for the children but also could have saved the taxpayer significant amounts of money.

By 2000, significant differences had developed between SOS and the department. The protocol signed in 1996 did not truly reflect the arrangements which SOS believed it had with the department. SOS complained of a lack of understanding and focus on its mission to provide long-term care of children. Changes to the protocol were discussed on 17 October 2000. SOS believed it was not provided with sufficient background on the children placed with them. It had always claimed that violent and aggressive children were beyond its capacity but believed that it was seeing an increasing number of those children.

Another protocol was discussed in October 2000 which was to attempt to settle these differences and to have departmental assistance using its connections with other government and non-government providers to work with difficult adolescents. The seriousness of the situation was reflected in Mr Wayland's notes of the meeting of 17 October 2000. He said, in part:

> The fundamental and essential problem was the placement of children in the SOS village with severe behavioural problems which, despite determined efforts to cope with, had proven to be beyond the capabilities of the village and more particularly, the SOS mothers and aunts.

He wrote, as the bottom line:

> SOS cannot continue to operate in a profile which is diametrically in conflict with an ethos and operating profile which has been developed over 50 years in virtually every country in the world.

Finally, on 31 October 2001, a second protocol was signed and an internal memorandum was issued advising departmental staff that FAYS and SOS had agreed that young people with a history of perpetrating physical violence were beyond the capabilities of SOS.

Mr Wayland acknowledged that SOS did not initially fully appreciate the complexities of long-term childcare in a first-world country. However, SOS had experienced the same learning curve when setting up in Canada, Europe and the USA without, apparently, the same blockages as were apparent in Australia. At the heart of their many differences was the department's philosophy of birth family reunification at all costs.

Finally, on 12 February 2004, SOS notified the department that in one month it would cease operations at the village. At the time, seven of the 11 homes were in use and 24 young people were being accommodated. The department subsequently took over the operation of the village and purchased nine of the 11 houses in June 2004. Mr Wayland believed that SOS 'was forced to close by union action and government mismanagement'. He said in part:

> The SOS model is based fundamentally on a mother. As such, this terminology was politically incorrect and the only term acceptable to the department was 'carer', even children in care were to be referred to as 'clients' and not 'children'.

Mr Wayland claimed that the government caved in to the demands of the Australian Services Union, which sought to classify SOS mothers as carers under the relevant industrial award and, I might add, without any provocation by most of the village mothers.

The village mothers at the time were paid $40,000 per annum and provided with accommodation, living expenses and petrol costs. This can be contrasted with current carers' allowances of between $7,118 and $15,396 per child—depending on the age of the child—out of which the carer must pay most expenses. Mr Wayland said:

> We could not possibly meet the ASU pay demands which would result in massive additional operating expenses. They wanted the mothers paid double time for sleeping in their own home; time and a half if they had to attend to a child; a lunch break; and, if they were required to serve meals, a loading because they were cooking; another loading if they were suffering any sort of stress because of child behaviour. And so it went on, it was just absurd.

Mr Wayland took great umbrage at any suggestion that lack of funding was a reason for village closure. He also considered that the departmental policy of reunification with their parents as a primary objective conflicted with the SOS experience worldwide, which was that mandatory unification is not necessarily in the best interests of the child.

In summary, Mr Wayland believed that the conflicts eventually became irreconcilable and led to the decision to close down the village. The government's response was to dispute Mr Wayland's claims. The minister at the time, Mr Weatherill, said that the government was forced to take over because SOS did not want to continue and, further, that the SOS model was 'dodgy', unsustainable and not capable of working in the Australian industrial context.

The select committee believes that the SOS village made a significant and worthwhile contribution to the South Australian child protection system during the 10 years of its operation. We consider that the circumstances which ultimately led to the cessation of SOS were deplorable and reflect poorly on the department and the government; and, in particular, the claim of minister Weatherill that the SOS model was 'dodgy' was both offensive and unwarranted.

In our conclusions, we further reflect that the department was not sufficiently flexible in its thinking or practice to accommodate the model of care offered by SOS. We accept the departmental point that it has legal powers and responsibilities for young people under the guardianship of the minister; however, we believe that the department was overly rigid in its application of the rules and unnecessarily restricted the capacity of SOS staff in handling residents.

Evidence we received establishes that this government, which came to office in 2002, was not sympathetic to the SOS model and that this model was anathema to the Australian Services Union.

Given minister Weatherill's stated views, it is not surprising that the government did not provide the political leadership and financial and other assistance that would have enabled the SOS village to prosper. The fact that the government was prepared to purchase the village in 2004

and continues to operate it at vastly increased cost demonstrates the need for such a facility. It suggests that the government was averse to the involvement of non-government enterprise in general and to SOS in particular.

South Australia is the poorer for the departure of a dedicated internationally acclaimed care provider. There was and is a need in South Australia for the long-term care of children and young people under the guardianship of the minister. It is not sufficient for the department to dismiss the SOS model of care on the ground that it worked only in so-called third world countries. There is nothing to say that, with appropriate adaptation and flexibility, the model could not have worked here. The reason for the closure of the SOS village was not that the model was deficient, but that neither the government nor the department was prepared to support it.

The select committee also considers that the criticism of the department's approach to family reunification is warranted and that its reunification practices require re-examination. We believe that the department was never fully committed to allowing SOS to follow the model of care and the style of operation that it developed and used internationally. The committee accepts that the SOS chairman (Mr E.B.J. Wayland) is an assertive and forceful character. There is no doubt that he was frustrated by what he saw as a bureaucratic obstruction and indifference as well as trade union bloody-mindedness. Perhaps if he had been more diplomatic, the SOS village might have struggled on; however, it could not have survived for long in the face of the demands of the Australian Services Union and the entrenched attitudes and inflexibility of the department and the government. The select committee will make detailed recommendations in its later report; however, with regard to this matter, we make the following three recommendations:

1. The department should be encouraged to foster new and innovative models of care and service delivery. In particular, non-government organisations, such as SOS, should be actively encouraged to participate in the field of providing care.

2. Departmental policies and practices should require that relationships between it and providers, whether they be an individual, an organisation or a family, should be based upon a true partnership in which the powers and responsibilities are more equally shared between the provider and the department.

3. Departmental practices and policies in relation to family reunification should be re-examined and adjusted in the light of recent research findings of Dr Paul Delfabbro and others. In particular, reunification should not be universally demanded, but should be targeted, 'time-limited' and subject to change, if parents do not demonstrate sufficient progress for their child's development and emotional needs.

This is a difficult committee, with much very personal and emotional evidence. As I have said, much of it the people concerned have asked remain confidential and so I would particularly like to thank the staff who have assisted us since its inception. The late Trevor Blowes helped us for a short time, followed by Noeleen Ryan. I do hope that this committee did not precipitate her resignation from this place. Her place has been taken very adequately and efficiently by Guy Dixon and our research officer throughout has been Pam Carroll. I express my personal thanks to each and all of those people.

The committee consists of the Hon. Ann Bressington, the Hon. Rob Lawson, and the Hon. Andrew Evans' place has now been taken by the Hon. Robert Brokenshire. It is significant and saddening to me that, from its inception, the government has refused to take part in this particular inquiry, because it is far-reaching and it does certainly cast some very deep questions as to the internal philosophy of Families SA and the departments that preceded that particular department. As I said, this is an interim report on just one small section of our inquiry and I seek the support of the council for its acceptance.

**The Hon. A. BRESSINGTON (16:55):** I am going to be very brief. I would like to thank the staff who have contributed to this particular select committee. As the Hon. Caroline Schaefer said, it has sometimes been very difficult evidence to hear from people about the hardships they have had to endure and some of the less favourable outcomes for families that have occurred. The issue of the SOS Village I raised not long after I came into this place. I asked a question of the minister as to how the closure of that facility and service had come about. The answer that I received was in direct contrast to the information received from Mr Wayland. I am very pleased that he decided to come forward and provide the committee with information. I will make this point again as the mover of the motion for this committee: I thank the crossbench and the Liberal Party for their support which enabled the committee to go ahead.

I regret that the government saw fit to boycott the committee and have nobody present on it. I still cannot imagine why the government would want to be excluded from such a process, as it could have contributed some recommendations to improve the function of the Department for Families and Communities and other groups that may be able to work together with that department to bring about some sort of a resolution for some of the difficult situations that children, parents and families in general find themselves.

I also would like the council to accept that interim report. I encourage members to read it independently and to ask questions of people who may be able to provide answers as to what actually did happen with the SOS Village. Perhaps there could be some discussions in the Labor party room as to how we can seek perhaps to reconcile that situation in the future.

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

## CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE (VOLUNTARY EUTHANASIA) AMENDMENT BILL

**The Hon. M. PARNELL (16:58):** Obtained leave and introduced a bill for an act to amend the Consent to Medical Treatment and Palliative Care Act 1995. Read a first time.

**The Hon. M. PARNELL (16:59):** I move:

That this bill be now read a second time.

This bill is about voluntary euthanasia. Normally, when putting together a speech on a new bill, one leaves it to the end to thank various people who have assisted in the process, whether by their inspiration or by their perspiration. However, I want to acknowledge at the outset that this bill builds on the work that has been done previously by many other MPs and community groups, both in this state and elsewhere.

I particularly acknowledge the Hon. Sandra Kanck, who has previously introduced bills on this topic during her 14 years in this parliament. Also, the Hon. Bob Such, the member for Fisher, currently has a voluntary euthanasia bill before the House of Assembly. Other MPs in both houses of parliament have been working on this issue longer than I, and I acknowledge their role. I am also grateful to Senator Bob Brown and Colleen Hartland, the Victorian MLC who recently proposed similar legislation in the Victorian parliament, for their support.

However, at the forefront of campaigning for voluntary euthanasia law reform have been members of the South Australian Voluntary Euthanasia Society (SAVES). I am a member of SAVES, and I have spent many hours talking to SAVES members—in particular, Mary Gallnor and Frances Coombe—about this bill and how we can best achieve the law reform that we know is supported by the vast majority of South Australians.

In the past three decades, surveys have consistently shown that a majority of Australians believe that terminally ill individuals should have a right to seek and obtain assistance to end their life with dignity. In 1962, it was close to a majority, at 47 per cent; by 1978 it was up to 67 per cent; and in 2002 it was 73 per cent. An independent poll conducted by Newspoll last year found that 80 per cent of Australians are in favour and just 14 per cent are opposed. The figure for South Australians was 81 per cent in favour.

By the time we debate and vote on this bill next year, nearly half the members of the Legislative Council will be new members who have never before debated a voluntary euthanasia bill. Those who have considered it previously may also have changed their position, either for or against. That is why I think it is appropriate to bring this bill back before the parliament.

My bill is different from earlier bills, but the underlying principles are still very much the same. I do not propose to go through a comparison of all the different models of voluntary euthanasia legislation that have been advanced or proposed in Australia or throughout the world. I will leave it to others to do that. However, what I will say is that my bill seeks to focus on the rights of the sufferer. Other bills have focused more on the protection of doctors. My bill includes such protections, because that is a necessary and incidental aspect of the bill. However, my focus is on the right of the patient to choose the time and manner of their death when suffering becomes intolerable.

That is why I have sought to incorporate these voluntary euthanasia provisions into existing state law that deals with the rights of patients to give their consent to medical treatment. I think this is a very important feature of the bill, because the administration of voluntary euthanasia is in every sense a form of medical treatment. All of us are aware of the role of medical treatment aimed at

curing disease, healing wounds or alleviating symptoms. However, medical treatment can also consist of helping a sufferer to bring an end to unbearable suffering, and that is what this bill seeks to do.

One thing that I have noticed as I have followed debates around voluntary euthanasia over the past several years is that many of the most passionate advocates of voluntary euthanasia have come to their position as a result of the experience of a loved one, particularly in the final stages of life. I could spend a considerable amount of time going through case studies of people who have suffered and are still suffering in order to add weight to the arguments in favour of this bill. Without doubt, the stories would be dramatic and heart-wrenching and none of us would be unaffected by the human tragedy involved, regardless of our stance on voluntary euthanasia.

However, I do not propose to go down that path. This is not a bill that I am promoting because of my personal circumstances or even the circumstances of anyone particularly close to me. I do not have personal first-hand stories, and I do not at this stage propose to recount the stories and experiences of others. When we reach the committee stage of the debate it will, no doubt, be appropriate to look at cases where law reform would or could have made a difference to individuals.

Voluntary euthanasia is not a particularly Australian, or even a western, concept. Some jurisdictions, such as Colombia in South America, have passed comprehensive legislation. However, other jurisdictions dabble about the edges, such as Uruguay, Norway or Denmark, where the approach is based on allowable defences to criminal charges associated with death.

In March this year the Luxembourg parliament voted to legalise voluntary euthanasia, but the most recent jurisdiction to adopt it was the U.S. state of Washington, which voted in favour of law reform in a referendum-style vote last week. Known as Initiative 1,000, the people of Washington state voted 59 per cent in favour and 41 per cent against the Washington Death with Dignity Act. Their experience was no doubt informed by their neighbouring state of Oregon, the only other American state with a similar law, and under that law some 341 patients have committed physician-assisted suicide in the 11 years that law has been in effect.

It is important to note in relation to the Oregon experience that a third of those persons who passed the rigorous qualification process and obtained medication did not actually take the drug: the mere availability of assistance gives people pause for reflection and means that they do not feel that they have to act precipitately. A significant factor reported in Oregon is that the existence of the act permits physicians, patients and families to have open and honest conversations about all the available options—conversations that previously had to be either avoided or held in covert language for fear of overstepping legal boundaries.

There are problems with the present system where we do not have voluntary euthanasia on our statute books. Under the present system, if a patient comes to a doctor to request assistance to die, the doctor should by law turn away the patient, knowing that the patient who is determined enough may end their life in whatever violent manner is available to them. Four elderly Australians kill themselves each week by violent and undignified means. What a terrible decision to ask a doctor to make! We know that the impossible nature of such decisions has led to doctors offering assistance to patients to die, against the law. They risk their jobs, freedom and reputations. Why should they have to do this work in the dark without support and without regulation?

This legislation proposed in my bill will bring it into the light—the bright clear light of formal requests, witnesses, independent advice and a government-appointed expert panel. Each medical professional will decide whether or not they will be party to an assisted death, and this is how it should be. Just as I say that certain patients have a right to choose whether to live or die, so too doctors should be able to choose to not be part of any such arrangement. There should be no consequences for those who choose not to participate.

The debate around voluntary euthanasia should not be seen as a competition between voluntary euthanasia on the one hand and palliative care on the other. Palliative care will nearly always be the first port of call for those suffering. The instinct to live is powerful in nearly all of us. While we recognise that death is inevitable, most of us do not want to die any time soon and most could not seriously contemplate taking our own life. When it comes to palliative care, medical literature suggests that, despite the excellent work of medical professionals and the latest medical advances, even the best modern palliative care is simply unable to relieve the suffering of all those near the end of life.

Around 5 per cent of those suffering late stage cancer have symptoms that cannot be relieved to the sufferer's satisfaction, without placing the sufferer in a medication-driven coma. Palliative care will continue to give most people a higher quality of life in their final stages. Modern drugs and pain relief have vastly improved and will, no doubt, continue to do so. However, it does not work for everyone and we need to acknowledge that fact. At this point we have a choice: do we simply acknowledge that palliative care is not effective in some cases and say, 'Bad luck, we tried; you must now suffer as best you can until you die', or do we acknowledge that there are alternatives? We can give control back to the sufferer and allow them to end their life on their own terms.

It may or may not be a dignified death but, if it is the exercise of free will by the sufferer, we must ask ourselves: what right do we have to stand in the way? The problem, of course, is that some people see a stark difference between standing in the way of a sufferer who wants to end his or her life and putting in place a mechanism that allows that person to exercise that right within a legal framework.

In order to understand the need for law reform, we need to understand the present system. Since 1995, in South Australia patients have had the right to refuse medical treatment under the Consent to Medical Treatment and Palliative Care Act. This means that patients may hasten their deaths by refusing treatment. This even includes patients for whom standard medical practice might bring about successful treatment. Refusing treatment is not a great option for people wanting to reduce their suffering. They might live on, enduring terrifying pain and suffering, including shortness of breath or being unable to swallow food or drink, with nothing to look forward to but suffocation or starvation.

Patients may also refuse food and drink in order to hasten their own deaths. This is acceptable to some sufferers but not others. Nobody disputes the fact that patients are killed every day by their medical treatment. In many cases, death is the inevitable outcome of that treatment, yet the law focuses almost entirely on the mind of the doctor rather than the outcome for the patient. We refer to this as the principle of double effect.

The law accepts that doctors may administer drugs knowing that they will hasten the death of a patient as long as the doctor intends only to relieve pain. The principle of double effect includes the deliberate sedation of patients to deep unconsciousness for the purpose of relieving suffering. This is called terminal sedation. While the patient is sedated they receive no food or fluid, and it is anticipated and expected that they will die.

The principle of double effect relies on the fact that you cannot read a doctor's mind. Kay Koetsier, in her paper *The Intent to Kill,* discusses the fact that the same dose of morphine causing the same death can be two different things. Her paper states:

> If a doctor gives increasing doses of morphine, over a period of time, to a cancer patient who is incurable and in great pain, and the patient dies as a result of that medication, it is very unlikely that the doctor's treatment will be questioned. But if that doctor gives the same patient one large dose of morphine which ends the patient's life, at the patient's request, then the doctor's actions are very likely to be questioned and he or she may even be prosecuted for murder.
>
> Many of us have difficulty understanding why a doctor's intention when treating a terminally ill patient seems to be legally more important than the outcome of that treatment.

She goes on to say that the uneasy law surrounding the principle of double effect leads to a morbid game between the doctor and the patient:

> ...whereby if the terminally ill person says: 'My pain is unbearable', not 'I want to die', the dose of pain medication can be gradually increased until death results.

In my view this is not acceptable. A dose of morphine is a dose of morphine. The doctor's mind is important, but the patient's wishes are more important. If the patient says that they want to live as long as possible, then let the doctor do what he or she can to prolong life and relieve suffering, but if the patient is ready to die of a terminal or incurable illness, or if the patient is suffering profoundly and has given up the fight after considering every alternative, then let us give them the right to ask for assistance to die in a way the sufferer believes is dignified and consistent with their values.

Nobody should doubt that laws such as the one that I am proposing today are controversial. Passionate views are held both for and against. I do not propose to deal with all of the arguments that are likely to be raised against the bill, but I do want to touch on two of the most commonly cited objections. They are religious views and the 'slippery slope' argument.

In relation to religious views, I mentioned earlier the 2007 Newspoll that showed that 80 per cent of Australians supported voluntary euthanasia with appropriate safeguards. The same poll determined that three out of four Catholics and four out of five Anglicans are in favour of reform. Nine out of 10 Australians who identify as having no religion are also in favour of reform.

I want to read briefly from a letter that I received about a year ago from Reverend Trevor Bensch, who is the Baptist chaplain at the Queen Elizabeth Hospital and the Calvary Hospital in Adelaide. Reverend Bensch wrote to me—I imagine he wrote to other members of parliament as well—in connection with the Voluntary Euthanasia Bill that the Hon. Bob Such introduced into the House of Assembly. I spoke to Reverend Bensch recently and obtained his permission to use his name and to quote his letter in *Hansard*. He wrote:

> My approach to the issue of voluntary euthanasia is from the position of a liberal Christian who seeks to find the way that is most consistent with what we know about the teaching and example of Jesus. The guidance that I get, mainly from the four gospels, could be put under four headings:
>
> 1. The importance of every individual person.
> 2. The need to make the most of each day.
> 3. The obligation to relieve illness and suffering wherever possible.
> 4. To do for others what you would want them to do for you.
>
> My support for voluntary euthanasia comes from these with an element of my own selfishness. I had no control over my entry into this world but I want some control over the exit. I want the right to say when I have finally had enough.
>
> Through many years of hospital chaplaincy I have continued to be inspired by the courage with which most people bear serious illness, even when it is terminal, but I cannot agree with those who say suffering is good.

He concludes his letter by saying:

> Of the Christian values, compassion must surely be near the top of the list. I urge you to support and vote for the Bob Such Voluntary Euthanasia Bill.

Aside from religious views, the most common argument against voluntary euthanasia is the so-called 'slippery slope', which goes something like this. Once we as a society acknowledge and recognise the right of a person to choose their own death, it is only a small hop, step or jump away from more radical changes. Opponents of voluntary euthanasia predict a society where the elderly, the sick, the disabled or the inconvenient are regarded as dispensable and encouraged to end their burden on society by ending their life.

I do not accept that this is the inevitable, or even a likely, outcome of us now accepting that a person's fundamental rights as a human being include the right to end unbearable suffering through voluntary euthanasia. If I thought otherwise I would not have introduced this bill. The reality is that values change as society changes. It is up to all of us to ensure that the core values of compassion and the dignity of human life are enduring, and I do not think it is valid to deny the rights of this generation based on fear of what a future generation may or may not do. This is an issue to which I will no doubt return later in the debate, once we have seen how the various arguments are presented.

I now want to briefly outline how this bill would work in practice. Because every circumstance is different, and because this bill is aimed at a range of circumstances, I will use a hypothetical example based on typical circumstances. I will talk about a hypothetical patient called Ruth. Ruth is a 50 year old woman with an aggressive and painful form of bone cancer. She has adult children and two grandchildren. She would dearly love to see her grandchildren grow up, but the cancer is getting the better of her. The cancer has no cure, and she has tried every form of treatment, including palliative care. She knows from her doctors that she will die, probably within a few months, but of course she does not know exactly when. She already finds the pain intolerable.

She has discussed her options with her family and her medical carers and has decided that she does not want her final days to be a living hell of uncontrollable pain where she has no control over any aspect of her life. She wants help to end her life at a time of her choosing.

Under this bill, she will need at least two appointments with a doctor at least 24 hours apart before the process of authorising her request can be commenced. However, in practice, she is working with the doctor who has helped her through her whole experience with her illness, and this doctor knows her well. This doctor is prepared to help fulfil her wish to die with more dignity than if she were to allow her disease to run its full and inevitable course. Nevertheless, her doctor wants to be sure that Ruth is acting of her own free will, that she is of sound mind and that her decision-

making ability is not adversely affected by her state of mind. The psychiatrist to whom she is referred certifies to this effect and the doctor then sends all the paperwork, including the independently witnessed request, to a registrar for inclusion in the register which is to be created under this bill.

The request is then managed by a new Voluntary Euthanasia Board of South Australia. That board has powers of direction either on its own volition or on an application by Ruth, her doctors or the registrar. The board includes medical and legal experts appointed by the government. Before Ruth's doctor can prescribe and supply her with the drugs that will end her life, the doctor must consult the board and follow any of its directions. If, at any time, there is any indication that Ruth may not want to go ahead or may want to delay the act of voluntary euthanasia, then the process stops.

There are appeal provisions to the Supreme Court in relation to decisions or directions of the board if there is any dispute. At the end of the day, Ruth is able to end her suffering after having had the opportunity to farewell her family and friends whilst she was able. Her death was of her own choosing and in her own time.

In conclusion, I advise members that I now intend to allow this bill to sit on the *Notice Paper* for many months before progressing to a vote. When that day comes, I hope it will be a conscience vote for all members. When voluntary euthanasia has been debated in the past, political parties have always given their members a conscience vote, rather than a requirement to follow a party line. I hope that this arrangement will be followed in relation to my bill. I have no reason to suspect that this will not be the case; however, I make this plea now to all political parties to allow a conscience vote for your members.

Finally, I ask honourable members to come to this bill with an open mind, regardless of how they may have voted in the past or otherwise expressed their views. There are so many different permutations and combinations of measures and safeguards that could give effect to the concept of voluntary euthanasia. I believe that the model in this bill is a good model; however, I am open to suggestions from members for improvements. I am more than happy to work with members to consider issues such as whether the scope of the bill is too narrow or too broad. Are people not covered who should be, or vice versa? Are the safeguards adequate? Are the safeguards too onerous? Are they simply hurdles that make it harder for sufferers to exercise their rights without actually improving any accountability? All of these matters are open for discussion and negotiation. I look forward to those discussions.

At the end of the day, I want to give effect to what I believe is right. I want to legislate in a compassionate but cautious way and I want what most South Australians want—that is, a legal mechanism for people who are suffering intolerably to be helped to end their suffering. I commend the bill to the council and I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

This clauses are formal.

Part 2—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995*

4—Amendment of long title

This clause amends the long title of the Act to reflect the changes made by this measure.

5—Amendment of section 1—Short title

This clause amends section 1 of the Act to reflect the inclusion of the regulation of voluntary euthanasia in the matters covered by the Act.

6—Amendment of section 3—Objects

This clause amends section 3 of the Act to include the regulation of voluntary euthanasia among the Act's objects.

7—Insertion of Part 2 Division A1

This clause inserts new Part 2 Division A1 into the Act, making it clear that the provisions contained in that Part do not apply in relation to the administration of voluntary euthanasia.

8—Repeal of section 18

This section repeals section 18 of the Act (currently a prohibition on the administration of voluntary euthanasia) which becomes incorrect should this Bill become enacted.

9—Substitution of Part 4

This clause substitutes a new Part 4 and Part 5 into the Act as follows:

Part 4—Voluntary euthanasia

Division 1—Preliminary

18—Interpretation

This clause defines key terms used in this measure. Most importantly perhaps, it provides that the killing of a person will only be voluntary euthanasia (and hence not murder or suicide) if the relevant treatment is carried out in accordance with the Act.

Division 2—Requests for voluntary euthanasia

Subdivision 1—Active requests

19—Active requests

This section provides for the making of active requests; that is, a request by a person who is a person to whom the proposed section applies. Such a person must be—

(a) an adult person who is in the terminal phase of a terminal illness; or

(b) an adult person who has an illness, injury or other medical condition that—

(i) results in permanent deprivation of consciousness; or

(ii) irreversibly impairs the person's quality of life so that life has become intolerable to that person.

Such a person can make a request that he or she be administered voluntary euthanasia.

The clause sets out the procedural requirements that must be satisfied in relation to the making of an active request, including the need for at least 2 separate appointments (at least 24 hours apart) with the medical practitioner to whom the request is to be made, the information to be given to the person, who must witness the making of the request and the steps those witnesses must take.

The clause also provides that, in the event that the medical practitioner suspects that the person is not of sound mind, or that the decision-making ability of the person is adversely affected by the person's state of mind, the medical practitioner must not accept the request unless the person has obtained a certificate from a psychiatrist to the contrary.

The clause also provides that an active request can be made orally if the person is unable to write, and sets out the procedure to be followed by the medical practitioner and witness in such circumstances.

The person's request may set out any directions or conditions the person wishes to be satisfied in the administration of voluntary euthanasia.

Subdivision 2—Advance requests

20—Advance requests

This section provides for the making of advance requests; that is, a request by an adult person who is a person who may or may not be in good health, but to whom proposed section 18 does not yet apply. The request of a person that voluntary euthanasia be administered to him or her cannot be granted until he or she does, in fact, become a person to whom that section applies.

The clause sets out the procedural requirements that must be satisfied in relation to the making of an active request, including the need for at least 2 separate appointments (at least 7 days apart) with the medical practitioner to whom the request is to be made, the information to be given to the person, who must witness the making of the request and the steps those witnesses must take.

The clause also provides that, in the event that the medical practitioner suspects that the person is not of sound mind, or that the decision-making ability of the person is adversely affected by the person's state of mind, the medical practitioner must not accept the request unless the person has obtained a certificate from a psychiatrist to the contrary.

The clause also provides that an active request can be made orally if the person is unable to write, and sets out the procedure to be followed by the medical practitioner and witness in such circumstances.

An advance request must also set out set out instructions in relation to determining what level of pain, indignity or other distress would make life intolerable to the person.

The person's request may also set out any directions or conditions the person wishes to be satisfied in the administration of voluntary euthanasia.

An advance request continues to be in force for a period of 5 years after the day on which it comes into effect (or until such earlier date as may be specified in the request), but a person can renew the request before it expires by taking the steps set out in proposed section 21.

21—Renewal of advance request

This clause sets out how a person can renew his or her advance request. Such renewal must occur before the request expires, and extends the life of the request for a further 5 years after the date on which the renewal notice is given to the Registrar.

No fee is to be payable for a renewal, and a request can be further renewed as needed.

Subdivision 3—Miscellaneous

22—Variation of requests

This clause enables a person to make certain variations to his or her request for voluntary euthanasia, namely the types of instruction or other matter referred to in proposed section 19(3)(e) or 20(2)(f) of the measure.

The variation requires the written authority of the Board, and the Board cannot authorise a variation if the variation significantly changes the nature of the request for voluntary euthanasia.

23—Interaction between requests

This clause provides that a person's request for voluntary euthanasia made in accordance with the measure automatically, upon registration, revokes any previous such request.

24—Revocation of requests

This clause sets out how a request for voluntary euthanasia can be revoked by a person. Any indication on the part of a person who made a request that the request is revoked, or even that they wish to revoke the request, will be sufficient to revoke the request. Such a revocation can occur at any time, and can be made even if the person is no longer of sound mind.

The clause also provides a duty on the part of medical practitioners and others to notify the Registrar in the event that they become aware that a person has revoked a request, and creates offences in relation to non-compliance with those duties where the person does not have a reasonable excuse for such non-compliance.

25—Documents to be forwarded to Registrar

This clause requires a medical practitioner to whom a request for voluntary euthanasia is made to provide certain documents to the Registrar, and creates an offence for non-compliance without a reasonable excuse.

Division 3—Voluntary Euthanasia Board of South Australia

26—Establishment of Board

This clause establishes the Voluntary Euthanasia Board of South Australia and sets out the nature of the Board's legal identity.

27—Composition of Board

This clause provides that the Board is to be made up of 5 persons appointed by the Governor, of whom 3 are medical or legal experts and 2 are nominated by the Minister. The clause also sets out certain requirements relating to the appointment of the Board members.

28—Terms and conditions of membership

This clause sets out the terms and conditions of a member's appointment to the Board, including that the member is entitled to remuneration, allowances and expenses determined by the Governor. However, a Board member cannot serve on the Board for more than 9 years in total.

The clause also makes standard provisions in relation to removal of Board members.

29—Presiding member

The Minister must appoint a member of the Board to be the presiding member at Board meetings.

30—Functions of Board

This clause sets out the functions of the Board, namely to advise the Minister and carry out any functions assigned to the Board under the Act or by the Minister.

In carrying out its functions, the Board must ensure that a person's request for voluntary euthanasia is carried out lawfully and in accordance with the wishes of the person.

31—Board's procedures

This clause sets out standard procedures that regulate how the Board functions and makes decisions.

32—Conflict of interest etc under Public Sector Management Act

This clause provides that, for the purposes of the *Public Sector Management Act 1995*, and in particular the conflict of interest provisions, a Board member will not be taken to have a direct or indirect interest in a matter by reason only of the fact that the member has an interest in the matter that is shared in common with persons in the medical or legal professions generally, or a substantial section of persons in the medical or legal professions.

33—Other staff of Board

This clause provides that the Board may have such other staff as it thinks fit, and clarifies the staff member's position in relation to the Public Service.

The clause also provides that the Board may make use of Public Service staff and facilities with the permission of the relevant Minister.

34—Annual report

This clause requires the Board to provide an annual report on its operations, and that report to be laid before Parliament. The report must include the information required by the regulations.

Division 4—Register

35—Registrar of Board

This clause provides for the appointment by the Board of a Registrar.

36—Register

This clause requires the Registrar to keep a register in relation to all requests for voluntary euthanasia made in accordance with the Act as amended by this measure, and sets out the information required to be kept on the Register.

The clause also sets out procedures for inspection of the Register, providing the Register with an ability to set conditions on such inspection and limiting the people who may inspect the Register to those persons who, in the opinion of the Registrar, have proper grounds for such inspection.

The Registrar is also required to take steps to safeguard the privacy of persons (other than the person forming the subject of the relevant inspection) whose details may be contained on the Register.

37—Registrar may require information

The clause confers on the Registrar a power to obtain certain information required to allow the Registrar to prepare and administer the Register, and creates an offence of refusing or failing to comply with a requirement under the proposed section.

Division 5—Board declarations and orders

38—Board declarations and orders

This clause provides that the following persons can apply to the Board for a declaration of the kind specified in proposed subsection (2) in relation to a particular request for voluntary euthanasia:

(a) the person to whom the request relates;

(b) a medical practitioner who is, or is likely, to administer voluntary euthanasia to the person;

(c) the treating medical practitioner of the person;

(d) the Registrar;

(e) a person authorised in writing for the purposes of this section by a person referred to in a preceding paragraph.

The clause requires that, if the person requesting voluntary euthanasia is not the person who applied for a declaration, then he or she must be notified of the application, and must be given a reasonable opportunity to be involved in the ensuing proceedings.

Proposed subsection (8) sets out a number of orders that the Board can make if the Board is of the opinion that it is appropriate to do so. These orders enable the Board to:

(a) declare the request to be void and of no effect;

(b) postpone the administration of voluntary euthanasia for a specified period (being a period not exceeding 1 month) to enable further inquiries to be made in relation to the request;

(c) impose such conditions as the Board thinks fit on the administration of voluntary euthanasia to a person;

(d) make any other order the Board thinks fit in relation to the request (including an order that the person submit to an examination by a medical practitioner, or by a medical practitioner of a class, specified by the Board).

Such orders allow the Board to perform the task of effectively overseeing the administration of voluntary euthanasia, as such administration cannot lawfully proceed without any orders made having been complied with.

The clause also creates offences for contravention of such orders, or conditions imposed by such an order, and sets out procedural matters relating to hearings under the section.

39—Powers of Board in relation to witnesses etc

This clause makes standard provisions in relation to the ability of the Board to summons witnesses and documents etc, and require the witnesses to make an oath or affirmation and answer questions.

40—Access to Board records

Unless the Supreme Court orders otherwise, records of proceedings under proposed section 38 are not open for inspection.

41—Finality of declarations

A declaration of the Board under proposed section 38 (as opposed to an order under that proposed section) is not able to be appealed against or reviewed in any way.

Division 6—Appeal

42—Right of appeal to Supreme Court

This clause provides a right for a person to whom section 38 applies in respect of a particular request for voluntary euthanasia to appeal to the Supreme Court against an order made by the Board under section 38 (but no other matter) in relation to the request.

Division 7—Administration of voluntary euthanasia

43—Administration of voluntary euthanasia

This clause sets out how voluntary euthanasia can be administered to a person in accordance with a request for voluntary euthanasia. The medical practitioner must take a number of steps before proceeding to administer voluntary euthanasia, each designed to ensure that the relevant request is still in force, that the person does not wish to revoke the request and that the person is a person to whom voluntary euthanasia can be administered in accordance with the Act.

The clause also provides that, in administering voluntary euthanasia, the medical practitioner must give effect, as far as is practicable, to the wishes of the person.

44—Report to State Coroner

This clause requires a medical practitioner who has administered voluntary euthanasia to provide a report in the prescribed form to the Coroner, and requires the Coroner to provide a copy of the report to the Board.

Division 8—Offences

45—Undue influence

This clause provides that anyone who dishonestly or by undue influence induces another person to make a request for voluntary euthanasia under the Act is guilty of an offence, the maximum penalty for which is 10 years imprisonment.

46—False or misleading statements

This clause provides that anyone who makes a false or misleading statement in relation to a request for voluntary euthanasia under the Act, or in relation to a revocation or purported revocation of such a request, is guilty of an offence, the maximum penalty for which is 10 years imprisonment.

Division 9—Miscellaneous

47—Certain persons to forfeit interest in estate

This clause provides that a person who is found guilty of an offence against proposed section 24(5) (failure to notify Registrar of a revocation of a request for voluntary euthanasia) or proposed section 45 (undue influence) forfeits any interest that he or she may have in the estate of a person to whom voluntary euthanasia has been, or is to be, administered.

48—Protection from liability

This clause confers immunity on medical practitioners who administer voluntary euthanasia in accordance with the Act, and such persons who may assist in such administration.

49—Person may decline to administer or assist the administration of voluntary euthanasia

This clause protects the right of a person, or a body of person, to refuse to be involved in the administration of voluntary euthanasia without fear of discrimination or victimisation.

50—Cause of death

This clause provides that the cause of death of a person to whom voluntary euthanasia has been administered will be taken to be the person's illness, injury or medical condition that was the basis for the application of proposed section 19 to the person. The clause further provides that the administration of voluntary euthanasia to a person is not homicide or suicide.

51—Insurance

This clause prevents insurance companies from discriminating against people who have requested voluntary euthanasia, or to whom voluntary euthanasia has been administered. The clause creates an offence for an insurer to ask a person to disclose whether they have made a request for voluntary euthanasia, and provides that the clause applies despite any agreement to the contrary between the parties.

52—Confidentiality

This clause protects information gathered in the course of the administration of the Act, limiting the distribution of the information to the circumstances set out in the clause.

Part 5—Miscellaneous

53—Regulations

This clause provides a regulation making power for the purposes of the Act as amended by this measure.

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

## COPPER COAST DISTRICT COUNCIL

**The Hon. SANDRA KANCK (17:24):** I move:

That this council—

1. Notes the serious and continuing allegations about the District Council of the Copper Coast in relation to the fairness and transparency of the process for the sale of council land in Owen Terrace, Wallaroo;

2. Further notes the limitations of the inquiry being conducted by the Office for State/Local Government Relations, in particular the fact that it is dependent on information provided by the District Council of the Copper Coast; and

3. Therefore refers the matter of the process used by the District Council of the Copper Coast in divesting itself of council land in Owen Terrace, Wallaroo, to the Ombudsman, under section 14 of the Ombudsman's Act, with particular reference to—

   (a) whether all parties expressing an interest in the purchase of council land on Owen Terrace received equal and fair consideration;

   (b) whether information provided by the council to account for its decisions was fair, accurate and consistent;

   (c) whether any councillors that voted on decisions of council related to this matter had an actual or potential conflict of interest and, if they had, whether this was declared;

   (d) whether the decision of the council on the divestment of council land complied with the council's stated specifications and objectives for the divestment of the land on Owen Terrace; and

   (e) any other matter about the administration of the District Council of the Copper Coast identified in this inquiry that, in the opinion of the Ombudsman, is important to bring to the attention of the government and the parliament.

I have a motion already in private business which I moved on the last Wednesday of sitting, and I will be discharging that because it will be superseded by this motion that I have just moved. Under section 14 of the Ombudsman's Act, either house or a committee of parliament has the power to refer a matter to the Ombudsman for investigation. We have this power, but it is rarely exercised.

I am moving this motion today for such an investigation to occur, for three reasons. First, I am convinced that there are deep-seated problems with governance in the District Council of the Copper Coast, and I will be outlining some of these later in my speech. The second reason is that, in the absence of an ICACC, we do not have a body with the right combination of powers, expertise and the necessary investigative culture to get to the bottom of these allegations. Thirdly, it is in the interests of all concerned to resolve this matter so that, ultimately, we can move on.

My motion calls on this council to note the serious and continuing allegations about the District Council of the Copper Coast in relation to the fairness and transparency of the process for the sale of council land in Owen Terrace, Wallaroo. It is worth putting this particular debate into some context. Most members would not be aware of the number and range of allegations being made against this council, but I will go through some of them. The bulk of what I will speak about will be on this issue of a Woolworths in Wallaroo. There are six points that I will address briefly before I get to that.

First, there are complaints relating to The Dunes development. Members would be aware, I hope, that there is a massive $750 million development occurring at Port Hughes at the present time, and it is a development that has been poorly managed. Members may be aware of questions that I have asked; for instance, about dust suppression in relation to that development. The dust churned up by the earthworks has led to holidays at a bed and breakfast across the road being cut short, and I have photographs of dust so thick that you cannot even see across the road.

There is a revolving door between the council and the developer, with former staff leaving the council to go to work at Quickview. I know that anyone who reads the *Sunday Mail* would be aware of the stories and revelations it has made that the police Anti-Corruption Branch is investigating the former council CEO, John Shane, and Peter Butterly, the principal of Quickview.

There is the issue of the proposed community waste water scheme. Council is developing a common effluent scheme, which is desirable in principle but, for some householders, it could cost up to $20,000 to connect into that system because of the extensive trenching that is required. There are questions being asked about why the council chose the more expensive gravity method over the vacuum method recommended by consultants KBR. Some critics say that the whole exercise is being driven by The Dunes' need for water.

I have recently begun to receive complaints that developments are not being categorised properly. Until recently, Mayor Paul Thomas has been a member of the Regional Development Assessment Panel, a position seen as being unwise to hold by many others in local government.

The issue of councillor conflicts of interest is another aspect of this. My office has received a number of complaints—several very well sourced—of individual conflicts of interest. These include how certain councillors have voted and a failure, in some cases, to declare that conflict of interest. There is the issue of attempts to conceal information, and several of my correspondents from the Copper Coast believe their council is actively trying to prevent them from seeing certain documents and finding out about the dates of meetings.

Suppressing dissent is another issue. The District Council of the Copper Coast has tried twice to silence the one councillor who dares to ask questions, Councillor Tommy Tonkin. The first time that it accused him of breaching the council's code of conduct, it was not able to sustain the charge and recently it has moved a vote of no confidence in him.

I turn now to the issue of the choice to locate a Woolworths supermarket at Wallaroo. This will be the basis of the remainder of my speech, but I do remind members of the comments that I made in my speech a fortnight ago, about the number of people who signed a petition and the number of people who have attended public meetings. There has been extensive media coverage of this matter, and more recently there was a rally on the steps of Parliament House. In fact, there were two rallies on the same day at the same time: one in favour of Woolworths and one against it.

The District Council of the Copper Coast is the subject of numerous allegations. Some of them are serious enough to have sparked an investigation by the Anti Corruption Branch, but I believe that is just the tip of the iceberg. Unfortunately in this situation the council is at war with a significant section of its own community. Only 11,500 people live in this council area and, in Adelaide terms, if you looked at the number of people who have signed the petition, that would equate to over 100,000 people in Adelaide; and 500 people attending a public meeting would equate to a meeting of 60,000 people here.

I think it is clear to anyone who cares to look that there is a serious problem. This group of people who are agitating cannot be dismissed as troublemakers. They are residents, many of whom could be described as being in their senior years, some of them retired, some close to retiring; they are not the type of people whom you would simply dismiss as troublemakers. These issues are being raised by a wide range of people, including local business people.

The controversy about the Wallaroo supermarket development concerns a $30 million project to revitalise Owen Terrace in Wallaroo. Owen Terrace has a very unusual configuration, with a shopping precinct on the north side and a large area of open space on the other side. In that open space is a park, toilets, the remains of a rail yard (still the departure point for a tourist railway), a bowling club and a croquet club. The development involves relocating the bowling club and the croquet club and several other sports organisations to a new facility that will be built with the proceeds of the sale of the land and then, on that land, we will see the building of a supermarket and specialty shops.

The council made the decision, earlier this year, to sell that land to Leasecorp (in partnership with Woolworths) over the proposal by Carramatta (working in association with the Drake Foodland group). There are many emotions associated with this choice, but here I concentrate on the process. One of the terms of reference that I am suggesting for this inquiry by the Ombudsman is whether all parties expressing an interest in the purchase of council land on Owen Terrace received equal and fair consideration. I have two credible complainants against this process. One of the complainants is not in a position to speak out, but Bob Soang (general manager of Foodland) is. The following is my summary of the allegations that he has made, as expressed in media interviews and letters to the *Yorke Peninsula Country Times*.

The proposal from Carramatta, the company acting for Foodland, was far superior to that offered by Leasecorp acting for Woolworths in the following ways. Carramatta offered substantially more money for the land and Carramatta's proposal complied with the specifications outlined by the council for the project—in particular, it was consistent with the council's development plan provisions for Owen Terrace. The council's reasons for choosing the Leasecorp proposal over the Carramatta Foodland proposal have varied over time. Appendix 3 of the CEO's report of 7 May 2008 summarises the development proposals for Owen Terrace, Wallaroo.

Two proposals from each developer (the choice between Carramatta and Leasecorp) are summarised. Carramatta Holdings option 1 offers $3.1 million, with the council to provide a new central town square, a new public toilet, centre car-parking (additional to that required for the supermarket), and the relocation and provision of new clubroom facilities. The development would have featured a commercial residential mix, a 2,435 square metre supermarket, an undercroft car park, 10 specialty stores, 159 car parks, undercroft parking of 74 car parks and a residential complex consisting of 21 apartments over three floors. The council's suggestion to the proponents was that it should include a residential component. This, ultimately, in the decision-making of council, acted against Carramatta.

Option 2 from Carramatta provides the same development but with Carramatta to take full costs and risk of the restructure and any relocation in lieu of consideration. Drake Foodland says this proposal has been valued at $4 million. Leasecorp offered $2 million, increased after negotiation to $2.5 million under option 1 and, under option 2, they simply stated they would offer 5 per cent more than any other party offers. Their development consists of a 3,200 square metre supermarket with nine specialty stores, including a cafe, deck dining, an airconditioned mall, undercroft parking for 206 cars, a travelator, 84 above-ground car parks and public toilets. So, Leasecorp were offering substantially less, in terms of the price for the land, but they are providing a larger development: essentially, a shopping mall with more car parks than the Carramatta proposal.

The big sticking point has been the fact that Leasecorp was able to renegotiate its offer and no-one else had that opportunity. I heard one councillor say that, because Leasecorp had said that it would better any other offer, then the council was, in effect, bound to invite them in to increase their offer.

Did everyone receive fair and equal consideration? The next three terms of reference in my motion are designed to provide a clear starting point for the Ombudsman to investigate this central question. I believe the first test is (and this is in the terms of reference) whether the District Council of the Copper Coast decision on the divestment of council land complied with the council's stated specifications and objectives for the divestment of the land on Owen Terrace. The council was offered two different choices. It did not have to take the highest price. However, if the choice it

made was significantly at variance with its broader objectives, and the sale price was significantly below that offered by an alternative bidder, there are questions that have to be asked.

A council report of 7 May outlined what the council wanted. On page 2, paragraph 7, the report states that three variations of any proposed design were sought and that each should give due regard to the principles of development control that apply to the town centre—that is, the Wallaroo Historic Conservation Zone, as contained in the council's development plan, and also consideration of the various principles in documentation entitled Wallaroo Town Centre and Coast Urban Design Framework.

Pages 3 and 4 outline two objectives: to relocate the bowling and croquet club and greens, preferably on a cost-neutral basis; and to underpin the commercial strength of the Owen Terrace precinct which will require attention to issues including land use and retail mix, built form and urban design. Page 4 also outlines several other considerations. These are that development is occurring in a heritage zone; it should revitalise the area and should seek a high level of ongoing occupancy rather than one with absentee owners and empty shops, and public car parks; and toilets that will be lost in the development will need to be replaced.

Clearly, both the Leasecorp and Carramatta proposals would appear to achieve the relocation of the bowling club. The revitalisation of the Owen Terrace area would seem to be realised under both proposals, although which would be the better is a matter for debate. However, the fact that it will create two supermarkets in the town seems an undesirable outcome in such a small town, which can only feasibly sustain one.

The wisdom of creating a large, enclosed mall in a country town main street is also questionable. In fact, everyone I have spoken to about this has instantly said that it will kill the main street. So, that does seem questionable, but perhaps it is just a poor decision and not a question of any lack of due process.

However, the fact that this development is occurring with regard to the principles of development control that apply to the town centre (Wallaroo Historic Conservation) zone immediately highlights process issues. The development plan provisions for that area, listed on page 79 of the Development Plan for the District Council of the Copper Coast, include preserving and protecting the Moreton Bay fig trees, maintaining and enhancing the historic character of the zone and continuous retail frontage to Owen Terrace.

Council chose a proposal that is more likely to be in conflict with those provisions, simply because it is a large, airconditioned mall that would present a blank wall to the street, and a blank wall certainly cannot enhance the historic character of that zone.

The issue of the Moreton Bay fig trees has been raised with me. Some local people say they believe that the Leasecorp proposal will result in the destruction of those fig trees, although when I spoke to him the Mayor said that if there was any sense of the trees being damaged he would be out there protesting against it. It appears to me that council chose a proposal which offered financially a lot less for the land and which also, particularly in terms of that blank wall, is at odds with the Development Plan.

In an interview on ABC Radio on 639 and in other statements to the media, Bob Soang of Drakes Foodland expanded on these issues in a very convincing way. In isolation, this could be seen as a poor decision rather than an inappropriate one but, seen in the overall context of this debate, it raises more fundamental questions. So, I believe that council has some questions to answer. Let us see how it has approached this.

One of the terms of reference for the Ombudsman is whether information provided by the District Council of the Copper Coast to account for its decision was fair, accurate and consistent. So, let us look at the council's response to date. Its first response was that it was not a matter of the highest price but of the best proposal, and that came from the Mayor. This seems shaky against the fit with heritage provisions, but it is possible that council honestly made a bad decision. However, more recently council has changed its argument and it is now saying that it did, indeed, get the best price.

The developer Leasecorp issued a statement claiming that, while Carramatta's proposal was offering more in the first instance ($3.1 million), council would have had to spend an additional $1.6 million for a new town square, car parks and public toilets. Council also issued a statement along identical lines in a public statement on 2 September in the *Yorke Peninsula Country Times*. However, this shift of rationale simply highlights the questions about the processes used. The

report to which I have been referring provided two options for council to consider. Leasecorp's first option offered $2 million, which was upgraded to $2.5 million, while its second option simply stated that it would beat any other bid by 5 per cent.

Carramatta's first option would have left the council with the cost of new parks, car parks and toilets, but its second option was an offer to take on the total risk of the relocation, the rebuild of new sports facilities and the replacement of parks, car parks and toilets. That would have achieved the cost neutral objective of council, and Carramatta says that this second offer is valued at $4 million.

Both the council and Leasecorp have focused on the first of the two options proposed by Carramatta. The fact that Leasecorp was able to renegotiate its offer has rightly attracted considerable attention. The council has justified this on the following grounds: first, it chose the offer it liked and then sharpened its pencil; and, secondly, it was obliged to renegotiate because Leasecorp had guaranteed to beat any offer by 5 per cent. However, Carramatta's second option was also an open-ended offer. So why was it not consulted and asked to renegotiate? After all, some pencil sharpening on the basis of a $3.1 million or $4 million starting point could have yielded an even better result for the council than the low base Leasecorp started with.

Leasecorp said that it would better any offer by 5 per cent. If you consider that the Carramatta base proposal was $3.1 million, and you better that by 5 per cent, then Leasecorp should have been offering to bid $3.25 million. In fact, in the end it was $2.5 million, which is way off the mark. Members will have noticed that, while its promise was that it could offer 5 per cent more than any other bid, it has not been called upon by the council to deliver that actual target. This sort of decision immediately leads one to look for conflicts of interest. It is very hard to explain why the council would opt for $2.5 million for the sale of land when it could have got a total package from Carramatta of $4 million.

One of the terms of reference for the Ombudsman's inquiry is whether any councillors who voted on decisions of the council related to this matter had an actual or potential conflict of interest and, if they had, whether this was declared. I have been informed of at least 10 actual or potential conflicts of interest and, as members know, there is an ACB investigation going on in relation to The Dunes, so it is not an abstract matter in this council but a real problem.

In relation to this specific matter, one potential conflict of interest has been identified in that the councillor who moved the motion is a former real estate agent who is alleged, until relatively recently, to have held property in the vicinity of the development that could have been expected to appreciate. There are several real estate agents on the council, and it is possible they slip up from time to time and forget to declare conflicts of interest. But, more interesting is the council's response.

In the *Yorke Peninsula Country Times* of 30 September the council had an advertisement entitled 'Council response to Kanck's statements'. The mayor, Paul Thomas, stated that the councillor in question retired from his real estate business in 2006. However, that person still uses the email address of his former business, and that former business is still listed as a source of income in the councillor's register of interest from September 2008. This again is not damning in isolation—it could be another slip up—but it fits a pattern that is emerging in this council. Either this council does not have any understanding of conflict of interest or it is knowingly abusing it.

There have been other serious allegations of conflicts of interest, which I am happy to share with any other member who wants to come to see me about it on a confidential basis. Another part of this motion further notes the limitations of the inquiry being conducted by the Office for State/Local Government Relations and, in particular, the fact that it is dependent on information provided by the District Council of the Copper Coast. There are serious allegations, but what are the options for getting to the bottom of them? There is the police Anti-Corruption Branch, but it cannot compel witnesses to come forward. I suspect we are talking about maladministration rather than outright corruption in this case.

The Ombudsman has extensive powers, but under section 17 of the act he does not have to deal with any complaints if there is not sufficient personal interest. As I have argued before, many people who have a grievance are not in a position to complain and may rely on friends to lodge those complaints.

There are several complaints that I cannot speak about because they could hurt people who rely on council for some of their income. In that respect, we do have a quite powerful watchdog in the form of the Ombudsman, but there are limitations on what he can do on an

individual basis. That brings me to the preliminary inquiry by the Minister for State/Local Government Relations, and I have become convinced that this is not an adequate tool.

First, it is not an investigatory body. The Office of State/Local Government Relations has responded to these allegations by offering workshops and training. This supportive approach also characterises the minister's statements on this matter, and that is often the correct course but it is not adequate when more fundamental questions of maladministration are being asked.

Secondly, it does not have investigative powers. It is requesting the council to supply it with information: it cannot compel. Yesterday, in a ministerial statement (and I thank the minister for that) the minister referred to the Government Investigation Unit from the Crown Solicitor's office making further inquiries. That is good, but the CEO's report of this November states that the 'CEO has provided a voluntary witness statement to an investigator in relation to council's divestment of land on Owen Terrace, Wallaroo'. That is an interesting revelation to me—that it was voluntary.

Thirdly, there does not appear to be any reference to the inquiry being conducted by minister Gago in any council documents until November. Up until that point, the only source of knowledge of this preliminary inquiry was media reports. So, provided all the councillors were aware of media reports, they might have known that this inquiry was going on and put up their hand to speak to people from the Office of State/Local Government Relations.

Fourthly, the Copper Coast council appears to be treating this whole process with contempt. In the face of all this scrutiny and criticism, councillors are becoming more evasive. They are trying to silence the only dissenter in the council—Tommy Tonkin—most recently with a no-confidence motion. Locals have also given me information that I regard as extremely reliable that council is changing the times and venues of committee dates and taking items into workshops which do not have to be open to the public, and it appears that this is being done to avoid scrutiny. These are not the actions of people who recognise and are trying to change their behaviour.

Finally, any decision through this process will be controlled by the government. It will not necessarily be transparent. When one considers how heated this debate has become up on the Copper Coast and when one looks at the backdrop of developer donations—and, yes, there are rumours and stories about significant donations from Copper Coast developers—a government-controlled process will not convince people.

An inquiry by the Ombudsman will have the independence and the power to resolve this matter. If maladministration is found to have occurred, it will be dealt with. If the council is exonerated, the debate will be over and everyone can move on. Honourable members should know that I do understand how divisive this sort of debate can be in the community. I know it is even breaking up friendships in that area, but some of the same people who ring me telling me that this is happening and that it is not good and that it is tearing the community apart are also urging me to keep going, and that they want an inquiry like this. They know this is something that has to happen.

As I have said, I have been able to cover a small portion of the allegations concerning the District Council of the Copper Coast. I am happy to brief members privately if they would like more information. I ask that honourable members give this motion serious consideration. I believe it is the only way that we are going to get a resolution to this and stop the swirl of innuendo, rumour and bad relations that is engulfing this area. I hope that, with the concurrence of honourable members, we will be able to put this to a vote in a fortnight.

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

*[Sitting suspended from 17:55 to 19:45]*

## CHILDREN'S PROTECTION (HARBOURING) AMENDMENT BILL

**The Hon. A. BRESSINGTON (19:48):** Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993. Read a first time.

**The Hon. A. BRESSINGTON (19:49):** I move:

That this bill be now read a second time.

This bill seeks to prevent harbouring of children by adults without parental consent and to enable self-determination for families without the interference or restriction imposed on them by outside or

third parties. Many parents and guardians are finding themselves in situations where their parental authority and responsibilities are being undermined and diminished.

It seems that the police are also hamstrung if a child is reported as being in the company of an undesirable person. Many of the reports that have come across my desk involve young teenage girls who have been lured away from the family by older men. These older men encourage these kids to stretch the boundaries and rules of the family, create conflict within that family, and then encourage the young girls to move out of home and live with them. Drugs and alcohol are often used as a grooming tool and that, combined with family conflict, is enough to change the teenager's perception that the parents are acting out of love and concern.

In one particular case a 14 year old female had run away from home. Admittedly the parents were not perfect, but who is? However, they loved their daughter and did their best to protect and care for her. This young girl also had the support of a grandmother with whom she had always spent a great deal of time, and they had a close relationship. The young girl met a man who was 24 years old—that is, a 10 year age difference. She started drinking and smoking dope, and within six months family relationships had deteriorated and she had run away.

The family reported this to Families SA and the police. The police told the family that they were unable to do anything if they located the girl and she was not in imminent danger. That meant that, if she had a roof over her head and she stated that she was okay, they had no authority to remove her and take her home. The police also told the parents that if they located her and made any attempt to remove her they could actually be charged with trespassing.

The young girl was found after three weeks in a drugged state, and the parents forcibly removed her from the boyfriend's home. She stayed put, and three months later the grandmother contacted the police and Families SA because in that period of time there had not been one telephone inquiry, not one interview, and no investigation. The representative of Families SA told the grandmother by telephone that the young girl had been put on a database, that it had not been investigated, and that if they did not receive any feedback as to the status of the girl—that is, if she had not been found dead or had just been found—then it becomes a cold case after just three weeks. Mr President, I ask you and any other person in this place with children or grandchildren: is this is an appropriate response to a run-away 14 year old? I add that this was not an habitual run-away 14 year old: this was a one-off—the first time.

Other situations have been reported that when a family does approach authorities for support to deal with a wayward teenager they become almost a target. They are often told that it is just a phase and that they should be patient; they are told not to be too overbearing, or they are accused of being overprotective. This leaves the family in an untenable situation, and police have told me that there is no law that gives them the authority to return a run-away child to the family.

Of course, the argument may then arise: what if the parents were abusing or neglecting that teenager and she was to run away? Well, laws should not be applied only to 'what if' situations. If the person harbouring a child has concerns they should report them to the appropriate authorities and then take the child in and inform those authorities that that is what they have done and why; that they have taken this child into their home in order to protect the child. The next step should be for the child to be interviewed and the full story given to the appropriate authorities.

We have to keep in mind that most parents are good parents; most parents love their children and would protect them. However, we do have a situation now where our young people, for whatever reason, believe they can leave home if they want to. It is time for this parliament to legislate to protect our children and their parents against such influences. Then, of course, there are circumstances where children are being recruited into gangs. Why is it that the police, when they get a call that indicates an under-age child is at a clubhouse, cannot enter and remove that under-age child and return them home? For most it would seem the commonsense thing to do.

As I see it, this bill serves two purposes that are currently lacking. First, it provides legislative guidelines for police and child protection authorities to support mothers and fathers who are desperate to protect their children. Secondly, it gives the police the clout they have asked for to be able to intervene in such circumstances and to arrest and charge a person for harbouring an under-age child and encouraging that child to leave home.

My office has been inundated with stories from parents and carers. They have told of situations where girls as young as 14 have ended up living with pimps and drug dealers, with their parents unable to know of their child's whereabouts or lawfully bring them home. Sometimes, they have been living with other teens, with no adult supervision or care. In one case, the older teenage

sister was able to claim family benefits for the care of her younger sister, even though drug use and excessive alcohol use was proven.

The Australian Homeless Youth—National Youth Commission Report tells us that in 2001 over 36 children under 18 were homeless Australia wide. It states:

> The 1989 HREOC inquiry faced a problem because the size of the homeless youth population had not been established. The difficulties of quantifying such a transient population were well recognised but little had been done since the 1983 Senate Inquiry. Many homeless young people were essentially 'hidden' from statistical counting and it was difficult to distinguish long-term homeless young people from those experiencing a temporary crisis that might be resolved in a relatively short period of time with little or no intervention by a service. The report commented that:
>
> > There are no reliable measures, in fact very few measures at all, of the incidence of child and youth homelessness...[and]...due to the lack of government and other data, however, it is very difficult to assess how many children and young people are in fact homeless.

In order to address this information deficit, the inquiry commissioned Dr Rodney Fopp to provide an estimate of the size of the homeless youth population. Dr Rodney Fopp's estimation of the size of the homeless youth population was the first serious attempt to establish the size of the problem. After receiving Dr Fopp's report and conducting hearings throughout Australia, the inquiry concluded:

> Sufficient research has now been compiled, however, to enable the inquiry to estimate that there are at least 20,000 to 25,000 homeless children and young people across this country. We stress that we consider this to be a conservative estimate. Dr Fopp's considered conclusion, based on all the evidence available, was that the likely figure is actually 50,000 to 70,000 children and young people who are homeless and at serious risk.

Over my 12 years with DrugBeat, I can say that I heard stories from parents about their child being supported to live away from home—stories where children have been asked to say that they were abused in order to claim the allowance. Back then, I was unable to believe that this was how the system actually worked. However, after 2½ years in this place, I apologise to those parents who I doubted.

I have also had the opportunity to work with youth who have lied about the abuse to live away from home and who, after 12 months, have dug themselves into a hole so deep with drugs and criminal behaviour that they want to return home. I am proud to say that I have been personally involved in reuniting some children with their families and that I have worked to strengthen those families.

It is quite usual for children around the age of 15 and 16 to start to daydream about leaving home. That is all quite normal. What is not normal is for government systems to be put in place to encourage this and to have youth workers guide our youth through the loopholes to achieve their desired outcome of independence, albeit too early.

Children need time to prepare for leaving home, and they also have a great deal to learn in that two-year period about money management and other life skills that will ensure that, when they do leave home, they will have some ability to problem solve and manage their finances. What is happening now is not okay, and it is setting our children up for failure. Again, it gets down to government and youth workers being trained to strive for best practice—not best practice for breaking up families, although unintentionally, but best practice for putting families back together when things get tense, where and when possible.

Yes, there are some teenagers who want to leave because things are bad at home. There may be domestic violence and other forms of abuse where it is in the best interests of that child to leave, and not I nor anyone else would oppose every measure being taken to ensure that those kids are protected and safe. But if a worker cannot tell the difference between a child at risk and one who just wants to leave home because they do not like the rules, then there is something wrong with that worker and, in turn, that indicates a failure of the department to train, assess and evaluate, and have appropriate case management for its workers. It also indicates a serious lack of supervision and/or an attitude where policy and procedures are only there because they do not have to be implemented, followed or applied.

The speaker for the government to this bill may say that child protection is a difficult area to work in and that resources are stretched to the limit, and there simply is not enough of anything to do a job better, so resources and complex issues are always the reasons why. It is a complex issue dealing with complex family dynamics, but that is not the case every time and I can tell you that this government's performance in the area of child protection will be the unspoken election issue of 2010.

We will reach a point of critical mass and there will be more people disappointed than protected and I would imagine that this is all the more reason for ministers to get a handle on the fact that adequate training, appropriate job selection, case supervision, ongoing assessment and evaluation will not only keep the people happy but will also reduce spending and improve efficiency. What we have now is a mish-mash where critical decisions are often made by an inexperienced social worker who is poorly supervised—perhaps too much power and authority to someone not deserving of it. When I say 'not deserving of it', I am not talking about the person: I am talking about the level of experience and training that they have achieved in their career.

I am not on my feet to bash child protection workers because I know it is a very difficult job and I know that they are damned if they do and damned if they don't, and the decisions they make often come down to whether a child will live or die. Again, it comes down to training and assessment tools, policy and procedures that must be followed and that are based on world's best practice. Once best practice has been achieved, then it is revised and updated so that it is an ongoing practice of striving for best practice rather than believing it has been achieved and then resting on our laurels. In fact, best practice is to continue to strive for best practice.

In South Australia, the rate of homeless youth between 12 and 18 was 2,394 in 2001, with a higher percentage rate than that of New South Wales, Victoria or the ACT. On 18 December 2007, *The Advertiser* published figures showing that, in 2006-07, 37 cases in which the child was deemed to be in immediate danger were not investigated within the 24-hour period required by departmental policy and procedure, more than 4,600 cases or almost half the children considered at risk were not investigated within one week, and a further 7,969 cases were simply not investigated at all.

It is important to highlight that these statistics come only from the data that is gathered by the authorities and does not include all the data that is never compiled and, therefore, unknown. On 7 December 2007, the former minister for families and communities, the Hon. Jay Weatherill, said, 'We are also shifting our child protection system away from purely investigating responses towards early intervention and support for families.' However, that promise of early intervention for many families never comes as there is currently no trigger mechanism to ensure that those families get the help and support they need when their son or daughter runs away.

Whilst this bill does not intend to address all the problems associated with youth homelessness, I believe it will limit the transience of youth and the propensity of at risk youth to live without proper parental care, supervision and protection which would predispose them to becoming our long-term homeless or drug addicts. It will also provide a trigger mechanism for state authorities to collate statistics on the reports made of juvenile runaways and tracking those families that are not coping well.

However, current practice is that when a child runs away from home they are not regarded as being at risk by child protection authorities and, therefore, they are not noted in statistics if they are living with a friend, another adult or with another family member. Instead, they are deemed to be safe, so their file is never really made active as no interventions are offered. As only those children deemed by Families SA to be at risk of significant harm are actually investigated, no-one is required to inquire about the fitness of the carer or the appropriateness of the child's living environment in these cases—for example, minors sharing beds with an adult in that one home.

One always hopes that those families might find the help they need from authorities mandated to protect our children and enforce the law, and by that I do not mean the easy option of helping the run-away teen get into foster care or onto some independent rate of youth allowance and onto the emergency housing short list.

These situations arise through a variety of circumstances, often when it is too late for the parent or guardian to intervene and exert influence to turn things around. In far too many instances, young people are lured or groomed by their peers or predators away from otherwise caring families. Often those peers have already found themselves in a drug culture through other family, friends or school networks.

In these situations, when parents or guardians have approached Families SA or police, often the response given has been, 'We can't do anything because the young person has chosen to live in that environment or with that family. It is their choice to use drugs or live with their girlfriend or boyfriend. We can't make them go home.' I ask: why not? In my opinion, we have become too smart for our own good and our social policy is in direct conflict with childhood and teenage development stages.

We are expecting far too much far too early, and the result should be evident to us all. We have created a generation of kids where all too many are not productive, are not responsible and have no consideration for the community in which they live. For the parents of those children life is more difficult than it should be and there is nowhere for them to turn.

Police have taken the view that, since harbouring is not illegal and the child protection system turns a blind eye anyway, there is no impetus or lawful authority for them to act so as to return the child back to their rightful home and family. I am gobsmacked that we debated the animal welfare bill and so much thought and focus was put into the protection and care of animals. I made the comment in my speech that if our child protection act was anywhere near as thorough as the animal welfare act we would be on the home straight.

I have waited and waited for the government to come up with something—anything—especially as it is a recommendation from the Mullighan inquiry, but nothing has come that will protect our children, often from themselves, and support families at the same time. It often seems that it is one or the other, or one at the expense of the other. Protect and support should be two words that are applied equally where and when possible.

Hence, the lack of harbouring laws in South Australia has enabled child protection and law enforcement authorities to wipe their hands clean of any responsibility for missing children. I do not want to imply here that neither child protection workers nor law enforcement authorities do not want to take responsibility for this. I have spoken with many police officers who have been in the force for many years and their heart literally breaks because they are powerless to do anything.

I have spoken with child protection workers who literally have given up because they are banging their head against a brick wall trying to get any sort of action to help these families and to return these kids home. That is not a healthy work environment for any professional to be working in.

With that, they have also been forced to avoid any duty of care to at-risk or vulnerable teenagers. It is an easier option to ignore the problems of run-away teenagers because the presenting family and behavioural issues involved are often complex and difficult to resolve. Commonly, change in the family dynamics cannot be achieved in a month or two before closing the file. Enforcement of court orders and other consequences (monitoring and follow-up) in such cases are vital to success, and that makes it both very labour intensive and resource intensive.

Few in this state would not be aware of the case involving Mr John Ternezis and his daughter, who ran away at age 13, only to develop a serious drug habit, get pregnant and have a baby. Mr Ternezis states in his letter to the former minister responsible for Families SA:

> The department's attitude was always one where they felt the best thing for my daughter was to support her in doing what she liked to do. This is a completely irresponsible attitude to take for any 13 year old child and in relation to our most vulnerable children, it is a real tragedy.

I agree that it is a real tragedy. The purpose of this bill is to ensure that no more 13 year old or 14 year old children are left exposed to the predators in our community. It is also intended to prevent our police and child protection workers from becoming either complacent or demoralised or, worse still, aiding and abetting predators in the community, of which, I have to admit, I have no proof. But, by taking no action, we are enabling those predators to do what they will. If we do not believe that this goes on, we only have to look at the stats that I have presented.

The added tragedy to Mr Ternezis's story is that he has spent the past 11 years since that time trying to hold the child protection authorities to account, almost in vain. A significant anomaly in our child protection system resides in the fact that a parent who neglects or abuses their child can easily have that child removed or they can even be charged with an offence themselves. However, as we observe in the case of Mr Ternezis, when an adult who harbours a child harms that child, that perpetrator is unlikely to be charged or held accountable by any authority at all.

Mr Ternezis's daughter is now 24 but, at the age of 13, she was already living with three men who were supplying her with drugs. She fell pregnant to a 33-year-old man by the age of 15. None of the three men were ever charged with any offences, although even our current laws would have been sufficient to ensure appropriate remedy and protection to that child.

Despite the situation, the authorities knew all along that the child was being abused by the adults with whom she was residing and, despite Youth Court orders to ensure her protection, social workers did nothing, knowingly ignoring the court orders.

Former ministers have similarly ignored the father's pleas for assistance and have evaded any undertaking to ensure other families would not have to endure this tragedy. I have also been told of a situation in which a 14-year-old girl has run away to live with her best friend's family—which condones the use of drugs—only to then have that child influence her younger 12-year-old sister to run away and do the same while her mum was at work. In other situations, adult siblings have taken over the role of parent without parental consent, sometimes as an act of spite.

While I acknowledge the importance of informal carers in the community and good Samaritans out there who put young people up for a few nights, or even a few weeks, and provide them with food, shelter and care, this is usually a poor substitute for parental love, nurturing and guidance. It is also no excuse for the state itself to turn away and deny our vulnerable teenagers the necessary supports they may need to prevent them from turning to the streets, drugs or crime because of relationship difficulties at home.

The bill aims to ensure that, at an early stage of a minor's disappearance, there is a trigger which will either compel someone to notify the proper authorities when a child becomes at risk or which will ensure that a parent whose child has run away can be informed of the child's whereabouts and the child promptly returned to the family. This bill aims to ensure that parental and guardian authority is properly respected and recognised by law, with the aim of limiting the different ways that families can be destroyed by third parties.

I also acknowledge that there are many situations in which children have been taken in by very caring and responsible adults because there has been nowhere for them to go. This bill cannot address their particular concerns, as this is ultimately the role of the child protection services. I also acknowledge that the child protection services have not been able to do the best for those children most at risk.

This bill solely aims to ensure that parents and guardians are given back the rights and powers which have been eroded by legislative flaws and administrative inaction and, ideally, where there is cause for further intervention or support to the child and his or her family, that the appropriate authorities can be alerted to the needs of that family. It is also anticipated that, when this bill takes effect, future ministers will not be able to dead-end process these families as the former minister for families and communities did when he wrote to his local MP about Mr Ternezis, as follows:

> I have been assured that Mr Ternezis has previously accessed all legislative avenues available to him for addressing his grievances, including the state Ombudsman. The Ombudsman determined that Families SA had acted appropriately in respect of all matters raised by Mr Ternezis. In addition, Families SA consulted with the Crown Solicitor's office at the time and received advice supporting the Families SA position.

As I said, there would be very few people in this place who would be unaware of the struggle that Mr Ternezis faced. He had a 13 year old daughter who was out of control, living with three adult men and, at the age of 15, was pregnant to a man 33 years old. How could the Ombudsman's Office find that it was okay to allow that to happen?

In closing, I ask that this bill be supported to appropriately recognise the primacy of parental authority over that of any other parties, particularly when the state is absent. I also ask that we give back the rights that parents have lost over several decades; rights which are essential in order for parents to fulfil their parental responsibilities.

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

## PRIMARY INDUSTRIES AND RESOURCES SA

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

1. That a select committee of the Legislative Council be appointed to inquire into and report upon the conduct of PIRSA in relation to issues that are affecting the livelihoods of those involved in the fishing industry and, in particular—

   (a) (i) the licence fee structure;

   (ii) cost recovery process; and

   (iii) access to right of appeal process.

   (b) The scientific data provided to PIRSA to determine allocations to ensure resource sustainability for the 2008-09 pipi quota for the Lower Lakes and Coorong cockle harvesters;

(c) The validity and accuracy of catch and effort data and the impact that has on scientific stock assessment to guarantee resource allocation; and

(d) The rationale of determining allocation for season quota 2008-09 and the impact that has had on individual licence holders and multiple licence holders.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I have moved this motion because the disallowance of the regulations for the cockle quota for the Lower Lakes and Coorong has caused an absolute furore in the industry. I have debated this matter with the Hon. Rory McEwen on radio on at least three occasions. I am, again, absolutely baffled at how a person can go to the public and give inaccurate information. I am not talking about what he can do as the Minister for Agriculture, Food and Fisheries: I am talking about the fact that he has stated that there were no alternatives put forward to him, when there were. The alternatives that were put forward to him would have ensured that the small-time cockle harvesters—and when I say 'small-time' make no mistake: their livelihoods still depend on this—would still be able to have a quota allocated to them that would have seen them able to sustain their small business.

The 60:40 quota put to the Hon. Rory McEwen showed that the big-time cockle harvesters (who would have received 60 per cent of the allocation of the quota) would still be making a bucket load of money. As a matter of fact, cockles harvested in the past two to three weeks have been fetching $12 a kilo on the market. When cockle harvesting was first established it was paying only about $1.50 a kilo. The quota system was being proposed for the sustainability of the resource, and absolutely nobody was against a quota system.

As a matter of fact, the people who are now literally pushed out of this industry were the ones who established the rotational sustainable harvesting of pipis. It was an accredited process. They were the ones who went out and got information on how to bring that about. They were the ones who went out and established best practice on this, and they are the ones who, I think, for about seven years have been practising that. It equates to about 70 per cent of the industry. But, they are the ones whose quotas have been reduced to the point where it is no longer viable for them to stay in business.

Rather than the minister looking at a slight shift to a 60:40 quota, instead of 68 per cent to the big guys and 32 per cent to the little guys, once those regulations were disallowed, he whacked them all over the head with his big ministerial stick and suspended licences, and suspended these people from even going onto the beach this year. However, they are still expected to pay the same amount in administration fees, even though they cannot go onto the beach, unlike the guys with 68 per cent of the quota who are currently making $18,000 a week from the quota that they have been given—$18,000 a week.

They are paying the same administration and licence costs as the guys who cannot go onto the beach and rake for cockles, who cannot now trade their licences, and who cannot trade the quotas. Those administration fees—make no mistake—are not small amounts of money. One of them told me that his administration fees will be over $6,000 and are due at the end of January, but he cannot rake his cockles; he cannot go onto the beach. If he does not pay those administration fees, the information I have is that it is within the minister's power to revoke his licence to rake.

There is something very wrong with this system. We have been inundated with emails, letters and phone calls from the West Coast-Coffin Bay mud cocklers. They are also facing exactly the same situation with the regulations that I have given notice of motion to disallow. The West Coast mud cocklers' situation is a little different, but it is pretty much the same; there are slight differences. Rather than maybe 13 or 14 families being put out of business, as with the Lower Lakes and Coorong cocklers, in terms of the mud cocklers from the West Coast there are something like 150 people who will lose their livelihood.

We are talking in this state about the global financial meltdown. We are saying that we have no idea of the ramifications for this state. The Hon. Paul Holloway said today that it is like

trying to estimate a tidal wave: we know there is a tidal wave coming but we do not quite know what the damage will be. But, through the actions of this one minister, we are now condemning probably another 200 people to the unemployment line. How can that be good for this state? How can it be good for their families? How can it be good for industry?

We all know that the ACCC believes that competition is healthy. The minister has tailed down these fisheries to the big six. For the Lower Lakes and Coorong cockle harvesters there are, I think, three licence holders who now have 100 per cent of the quota, while the other small guys are literally up against the wall. The Hon. Rory McEwen tried to make out to his own party, the Liberal Party, to everybody else, and to me that this whole kerfuffle about the cockle quotas was all about one man: Mr Steve Alexander.

Mr Steve Alexander became the target of all this. He was the cause. I was told in a briefing that he was the only one who was dissatisfied. Not so! Steve Alexander was the one who was going to be hurt the most by this, but he was prepared to compromise. He was actually the one who, previously, I think, had recommended that a quota system was necessary to sustain the resource. He had no opposition to that at all, but his quota was cut down to 1 per cent.

It is all supposed to be based on previous catch history. He claims that his previous catch history was not recorded properly and not estimated properly, and therefore his allocated quota is inaccurate. Because he has been put out on the front line, this man spoke up and because he has been the one speaking up about this, it has literally become about this one man, but I guarantee honourable members that it is not about one man. His is just the absolute worst-case scenario that I have heard. This has absolutely broken this man. I spent probably an hour with him yesterday and his prospects are not great.

I believe that the government, through its actions, is able to divide entire communities and send them to war against each other, and that is what is happening in this industry. We have people from the south and west who have divided into two groups and who are now warring with each other over pipis, for goodness sake. What happened to conflict resolution? What happened to meeting both sides in the middle? What happened to taking that time?

The minister claims that a huge amount of consultation went into developing this pipi quota system and allocating the quotas, but I hear from one side that they were completely railroaded in the meetings chaired by the Hon. Rory McEwen and that, when they got up to speak, they were told to sit down. When he mentioned on Radio FIVEaa that they had a right to appeal, nobody appealed because these guys do not have the money to appeal this. It is a $40,000 or $50,000 process to take this through the courts to appeal it. Where do people who have had their businesses ripped out from under them get $40,000 or $50,000 to go to the courts and appeal? He knew that. They were also advised not to enter into the appeal process, so they did not.

In the meantime, they have taken advice from people who told them that they knew what they were doing. They tried to participate in the meetings with the minister. They claim that they have been bullied and intimidated. I was not there, so I do not know. The only thing that I can base my views on is the 2½ hour briefing that I went to with the Hon. Rory McEwen where I was sat down at a desk and told, 'Well, I've put up the regulations. You don't agree with it. Well, now you come up with a solution.' Excuse me! I am not the minister. It is not my job to come up with solutions: that is his job.

It is his job to find a medium ground where not everybody is going to be absolutely happy but where at least half or 70 per cent of the industry is not going to be bankrupted. That is poor government policy and poor government practice. That is not a government that is serving the best interests of all their constituents because there is no need for 70 per cent of this industry to be sent bankrupt. There is a solution.

Then the minister stated on radio that I had suggested that we just have an open Olympic scale system where it is a free-for-all on the beaches. At no time have I ever recommended in this place or outside that open slather be allowed. He still could have set the total allowable catch at 600 tonnes and let them go out there and whoever gets their quota first, well and good. He has misled listeners on the radio, and my staff have given me feedback that people have come up to them in social situations and said, 'Why would Ann Bressington want open slather on the beaches for pipi quotas? What is she thinking?' My staff have had to explain that that is not what I proposed at all. So, if the minister cannot win fairly and squarely, if he cannot get his own way, he is not above spreading a few furphies in order to prove his argument.

This inquiry started out about the Lower Lakes and the Coorong and the processes that are in place. Since yesterday, when word of this inquiry got out, we have had inquiries from bluefin fishers, and probably half a dozen others I have not even heard of before, about whether they can come forward and give evidence to the inquiry about the absolute dysfunction of PIRSA.

I know that there is a report out there relating to this quota and how it came about. However, if we simply rely on these reports written by bureaucrats, government department CEOs and whoever else and never truly listen to the constituents who are affected by this, tell me how we will know it is working for them, and tell me how will we know that we are getting it right.

I have moved this motion in order to get all this information on the table. The minister's departments will have an opportunity to present to this committee and tell their side of it. I have also been told that there is some pretty hefty evidence of the fact that there is an agenda involving a level of self-serving in the undertone of some of these decisions that have been made (not necessarily by the minister, I might add). I think that, if that is the case, it needs to be uncovered and reported on; if it is not the case, and there is absolutely no other way for this quota system to go ahead, then fair enough. However, we are causing too much hurt out there. I think I have previously said that sometimes we become a bit immune and make decisions but really do not see the outcome at the grassroots for a very long time.

There are not too many people in here who have not been involved in this whole process outside this place who do not understand the issues involved. I ask them at least to support the inquiry. It will not be a long dragged-out inquiry. At least then everyone in here will have the opportunity to examine a report that will give a perspective on the evidence it has received and perhaps make some useful recommendations to the minister.

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

## SELECT COMMITTEE ON THE ATKINSON/ASHBOURNE/CLARKE AFFAIR

**The Hon. R.D. LAWSON (20:33):** I move:

That the minutes of evidence, documents and submissions presented to the select committee be tabled forthwith.

This motion seeks to have the minutes of evidence, documents and submissions presented to the Select Committee on the Atkinson/Ashbourne/Clarke Affair tabled in this place. The motion is that they be tabled forthwith. However, as a result of discussions that have occurred today, I agree that there should not be a vote on this motion today.

I admit that notice of the motion was given only yesterday, and the Hon. Russell Wortley has indicated to me that the Labor caucus has not yet discussed the issue and that he does not have a party position on it. I understand that, the tradition of this council being that appropriate notice be given.

However, I should just say briefly, because a number of members of the current chamber were not members of the Legislative Council at the time of the establishment of the Atkinson/Ashbourne/Clarke select committee, that the committee was established on 7 July 2005. It is unnecessary to go into the background, nor is it relevant to the current issue. However, when the second session of the 51st parliament was prorogued on 14 August this year, the select committee terminated and a subsequent motion to re-establish the select committee was not carried in the Legislative Council; and, certainly, I respect that decision of the council. Accordingly, we are not seeking to re-establish the select committee.

I should indicate that the select committee heard very extensive evidence over a considerable period of time and collected much documentary evidence. Some of the material has already been tabled and members have access to it; however, all the material that was collected at the select committee has not yet been tabled. This comprehensive motion seeks to have included all the material that was available. I think it is worth noting that a draft report was prepared and would have been supported by a minority of the select committee, namely, the then chair, the Hon. Russell Wortley (who is said to be the author of that) and the Hon. Bernard Finnigan, the other Labor member.

That report reached certain conclusions which are very favourable to the government, and it was leaked, in consequence of which *The Advertiser* of 24 July 2007 published an item which reported the findings of that report. The headline 'Minister clear in Atkinson case' gives the general tone of that particular report. The situation is that the one conclusion of the select committee that

has received some publicity in the community is that which was a partisan position put by the then chair of the committee.

Presently the material which was collected by the select committee is not available to members or to the parliament generally. It is, as it were, sitting out there in the ether. For example, a very comprehensive summary of the evidence of the select committee was prepared by the research officer. That summary will be very helpful to members and anyone else in the future who wish to have reference to the subject matter of that committee. It is for those reasons that we seek, as it were, to have this issue drawn to a close.

As I mentioned, we are not seeking to resuscitate the select committee. That was comprehensively decided upon by the council, and we respect that decision. However, we do believe that all loose ends in relation to this affair should be tied. For those reasons, I will be seeking the support of the council to the motion. As I indicated at the outset, as a result of representations made by the Hon. Russell Wortley and, I think, supported by the minister, and as a result of discussions with other members, I will not, as previously advised, be seeking a vote on this matter this evening.

**The Hon. J.A. DARLEY (20:40):** I indicate my support for the Hon. Rob Lawson's motion. I am aware that the committee did not meet for some 14 months, and that was the reason for my voting against its re-establishment. I think that, if the committee could not get its act together (so to speak), there is little point in re-establishing it simply for the issue to drag on with no conclusion in the foreseeable future.

I understand that the chairman presented a report and there was no dissenting report. I do not know why other members of the committee did not simply submit a minority report to be included that stated their views. I am aware that the matter has already been dealt with in the courts and has been very thoroughly canvassed in the media. However, I agree that it is important to table minutes, evidence, documents and submissions that were presented to the committee and that they be placed on the public record. It is for that reason that I support the motion.

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

## COPPER COAST DISTRICT COUNCIL

Adjourned debate on motion of Hon. S. Kanck:

That this council:

1. Notes the continuing concern by many Wallaroo residents about the sale of council-owned land to Leasecorp and the serious allegations raised both publicly and in confidence about the fairness of the process by which this sale was conducted;

2. Notes that the Minister for State/Local Government Relations is conducting an investigation into the District Council of the Copper Coast;

3. Calls on the Minister for State/Local Government Relations to ensure that her investigation of these complaints is wide-ranging and thorough and includes the collection of evidence from the various parties who have either publicly or privately made serious allegations about the conduct of council; and

4. Recognises that emphasis in the Ombudsman's Act on complainants who are directly impacted by an administrative decision limits the ability of the Ombudsman to investigate, in the public interest, concerns about maladministration in local government.

(Continued from 29 October 2008. Page 465.)

**The Hon. SANDRA KANCK (20:42):** I move:

That this order of the day be discharged.

Motion carried.

## CHILDREN IN STATE CARE

Adjourned debate on motion of Hon. A. Bressington:

That the Rann government makes known to the Legislative Council—

1. the services provided and the expenditure thus far for those people who, as children, were abused while in the care of the state;

2. exactly what recommendations made by the Hon. E.P. Mullighan QC is the government going to implement;

3. whether or not this government will take on board the recommendations and requests of the members of the 'consumer reference group' to meet the needs of those who have lived their lives with the trauma of being abused whilst in the care of the state; and

4. what steps the government has undertaken to give those victims of abuse justice, redress and closure.

(Continued from 15 October 2008. Page 318.)

**The Hon. SANDRA KANCK (20:43):** Members would be aware that the Democrats were very strong supporters of the Mullighan inquiry. In fact, back in 2005 when it was set up my colleague the Hon. Kate Reynolds attempted to enlarge the terms of the inquiry in terms of who would be able to give evidence. We were unsuccessful in that, but it was still something about which we felt very strongly, and when the opportunity came last year, I think, to amend the bill, when the APY lands were brought into the ambit of the inquiry, I moved a motion which, with the support of the crossbenches and opposition, was successful in amending the legislation. So, we now have the provision where the government is required to report on an annual basis for five years on the recommendations and what they are doing about those recommendations, the progress on them, and so on. From my understanding, that is the gold-plated version of report accountability that is now being advanced all around the country.

We certainly have a level of accountability in regard to the recommendations of this committee that we have not seen in the past. By members in this place agreeing to that amendment we have ensured that this report will not be allowed to sink without trace. Implementing the recommendations will require adequate resourcing, and for this reason I will support the Hon. Ms Bressington's motion.

I am very mindful of the fact that we do not control the budgetary process, so our power to influence what money is put towards implementing the recommendations is a little beyond us. I also acknowledge, amongst the many people who were part of the state foster care and ward system, Mr Ki Meekins for the publication of his book *Red Tape Rape*. His persistence and bravery in standing up publicly on behalf of too many young people like himself who were victims at the hands of the state is to be very much applauded. As the Hon Ms Bressington said, acknowledgment only goes so far.

There are strong demands for follow-up services to be provided and they must be provided. The type of counselling and therapeutic support these people need comes at a cost, and I support the honourable member's call for the resources to be provided without delay. I do not think anyone could have missed the warning sounds coming from the state Treasurer in the past week about our economy, but I am hopeful that, by passing a motion such as this, we send a strong message to the Treasurer, in framing whatever budget cuts he comes up with, that this is one area that must not be allowed to suffer. Parliament has to maintain pressure on the government to ensure resourcing is provided because the children who were in state care—and, for that matter, those still in state care—should not be punished a second time around. I indicate my support for the motion.

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (20:48):** On behalf of the opposition I indicate that we will support the honourable member's motion. I am fighting the flu at the moment, so I will keep my comments relatively brief. Members are aware that I was elected in 2002 and the then leader of the opposition, the Hon. Rob Kerin, who officially retired today, was keen to pursue this issue and vigorously pushed for a royal commission into all of the issues that have been raised in this lengthy inquiry and in the Mullighan inquiry.

I reiterate a number of the things the Hon. Ann Bressington said in relation to the pain, suffering and anguish these people have had to live with over many years. From the stories recounted to me by the people who came to see me and who wrote letters to me, and from the discussions we had in our party room in relation to the pursuing of a royal commission, I can say that all points raised in this motion are worthy and resources need to be provided to give those people the care and support they need to ensure that they get some sort of closure, if ever you can have closure on some of the terrible things that happened to them and the pain they have had to endure over many years of living with those memories.

It is not a part of our state's history that any of us can be proud of at all. It was interesting to note during the debate on the royal commission the government's reluctance to go down that path. We were happy in the end that we had the Mullighan inquiry, but somewhat disappointed that we did not have a full royal commission. With those few words, the opposition supports the motion.

**The Hon. I.K. HUNTER (20:50):** I rise to support the motion of the Hon. Ann Bressington moved on 15 October, which was phrased as a series of questions to the government. I am now in a position to give the council a response to this motion as called for in the text of the motion, and I will do so by addressing each of the queries the honourable member has raised.

First, the honourable member asked what services are provided and the expenditure thus far, for those people who, as children, were abused while in the care of the state. Members will be pleased to note, I am sure, that there are a number of initiatives in response to the Children in State Care Commission of Inquiry report. In response to recommendation 39, the government has committed new funding of $180,000 per year, for three years, for adults who, whilst in the care of the state, were subjected to childhood sexual abuse. This funding provides free specialist counselling and related support services to survivors.

A position has been created within Post Care Services by the Department for Families and Communities to link adult victims of childhood sexual abuse to appropriate services, and this position was filled about one month ago, I am advised. Additionally, Post Care Services provides a range of services for care leavers in South Australia. These services include accessing community services and support, and assistance in accessing records.

During the life of the inquiry, the government funded Relationships Australia (SA) to provide free counselling services, and is currently funding them to maintain a register of trained practitioners who are free of church and government affiliation. The government will also fund Relationships Australia to provide training to counsellors and therapists involved in providing therapeutic services to care leavers. This will be funded for three years and will be reviewed at the end of this period.

In response to the question, 'Exactly what recommendations made by the Hon. E.P. Mullighan QC is the government going to implement?', I refer the honourable member to the government's initial response made on 19 June 2008. The response and a six-month implementation plan can be downloaded from the Services SA website. But, in short, the government has committed to the full implementation of 36 of these recommendations, has offered qualified support for 13 recommendations, and is giving further consideration to four recommendations. A report on the outstanding recommendations will be forthcoming at a later date. As members can see, the Labor government is fully committed to implementing the recommendations of the commission.

Thirdly, the honourable member asked whether or not this government will take on board the recommendations and requests of the members of the consumer reference group to meet the needs of those who have lived their lives with the trauma of being abused whilst in the care of the state. The consumer reference group was set up when Post Care Services was established within the Department for Families and Communities and continues to provide information and advice to the service through input from the wider community.

Furthermore, as outlined in our implementation report of 25 September 2008 and in response to recommendation 40 of Commissioner Mullighan's report, a task force has been established by the government to examine redress schemes for the victims of childhood sexual abuse and to investigate the possibilities of a national approach to the provision of services. The government will consider the report of the task force after it has received it later this year.

Finally, the honourable member asked what steps the government had undertaken to give victims of abuse justice, redress and closure. A number of initiatives have been undertaken in that regard. For the duration of the commission of inquiry, Relationships Australia was funded by the government to provide free counselling services to those involved. As I outlined earlier, $180,000 per annum has been made available over three years for free specialist counselling and related support services.

Significantly, and in a move for which I am proud of the government, the Premier delivered an apology on behalf of the current and previous parliaments of South Australia on 17 June 2008 to those who were abused as children whilst in state care. The apology was written following extensive consultation with adult victims of childhood sexual abuse whilst in state care, and a shared apology was signed by the Premier, the then minister for families and communities (Jay Weatherill) and representatives of the Catholic, Anglican, Uniting and Lutheran churches and the Salvation Army at a ceremony attended by survivors of abuse following the Premier's apology in parliament.

As I have stated, a task force has been established which is examining the redress schemes for victims and will consider the possibility of a national approach to the provision of services. I look forward to the findings—expected, I am told, by the end of next month.

As part of the government's review of procedural laws that apply to sexual offence proceedings, we have enacted the Statutes Amendment (Evidence and Procedure) Act 2008—a response to recommendation 35. The act will establish procedures to fast-track sexual abuse cases involving child complainants by providing priority listing of these cases.

The Hon. Ann Bressington raised the work of post-care services in her speech. This service provides valuable advice to the government and will continue to do so in the future. This range of initiatives helps victims get the justice, redress and closure that they deserve, and we as a government are committed to ensuring that this continues long into the future.

In closing, I thank the Hon. Ann Bressington for providing me with the opportunity to demonstrate how seriously this government has responded to the issues raised in the Mullighan inquiry.

**The Hon. M. PARNELL (20:55):** The Greens, too, are very pleased to support this motion. I, too, thank the Hon. Ann Bressington for putting it on the agenda. We know, all too well, that unless we keep it on the agenda the Mullighan report could go the way of so many reports; that is, sit on the shelf and gather dust. I also thank the Hon. Ian Hunter for delivering what I suppose is the government's answer to this resolution. What I imagine we will do now, separately and perhaps in cooperation, is to go through the honourable member's answer on behalf of the government and dissect it and look at where more work still needs to be done.

I acknowledge that the government has committed to implementing in full most of the recommendations of the Hon. Ted Mullighan, but we still have some question marks over those recommendations that have qualified support and those recommendations that the government is still considering. I guess that this motion and the responses from members is a clear indication to the government that we expect the action to be ongoing, and not just the initial response to Commissioner Mullighan's inquiry.

I had the pleasure of meeting Ted Mullighan for the first time a couple of weeks ago here in Parliament House when he was here for the White Ribbon Day's ambassadors' launch. I mentioned to him that I had taken his report home and that it sat on the coffee table. It is not your typical coffee table book, with beautiful images of far-away places. Members of my family had taken an interest in the inquiry and they were keen to see what was in the report. It was chilling reading. I have now brought it back to my office—

**The Hon. A. Bressington:** No-one comes over for coffee any more.

**The Hon. M. PARNELL:** As the honourable member says, no-one comes over for coffee any more. It is not quite that, but it was an important report which I wanted to share with my family. The Hon. Ted Mullighan's inquiry is now over. His job may be finished, but our job is far from finished. We need to ensure that the government continues to take the report seriously and continues to put resources into responding to the recommendations. I am sure that members will continue to hold the government to account until all victims of abuse in state care are receiving the justice that they deserve and every support that society can offer them.

**The Hon. J.A. DARLEY (20:58):** On Tuesday, 20 July 2004, a bill was introduced into this place to establish what has now become commonly known as the Mullighan inquiry, due to the appointment of the Hon. Ted Mullighan as commissioner of the inquiry. After a little over three years, evidence given by hundreds of witnesses and the whole process costing an estimated $13.5 million, the final report was handed down in March this year, with a number of extremely important recommendations. I note that section 11A of the Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004 provides that the government must report within three months as to which recommendations it proposes to implement and within six months to state exactly what it intends to do. This section made its way into the legislation as the result of an amendment moved in 2007 by the Hon. Sandra Kanck, who wanted to ensure that the recommendations were implemented in a timely fashion and were not going to just gather dust on the shelves.

I commend her for such an amendment, as we see in the subject of this motion how important timely responses are. Who knows how long it would have taken the government to formulate a response and take action had this section not been inserted into the legislation. I do not

see the point in commissioning inquiries and spending public funds if nothing is to be done about them, especially when the subject of the inquiry is as serious and as far-reaching as the Mullighan inquiry.

I refer to the response document to the inquiry pursuant to section 11A of the act, tabled in parliament on 17 June 2008 by the then minister for families and communities (Hon. Jay Weatherill), which outlines which of the recommendations will be adopted. I sincerely hope that the recommendations contained therein are well on their way to being implemented and that this motion encourages a swift and thorough response.

I appreciate the government wants to make a considered response to what are quite complex issues. However, I also appreciate that victims have been waiting a long time for changes and the support they need and deserve as a result of the abuse they suffered. Apologies are important, but are little more than lip service if they are not followed by prompt and decisive action aimed at redressing past wrongs. With that, I indicate my support for the motion.

**The Hon. D.G.E. HOOD (21:01):** I also indicate Family First and my personal support for this motion. I congratulate the Hon. Ann Bressington on bringing this motion forth: it is timely and appropriate. I am also very heartened by the contribution of the Hon. Mr Hunter a moment ago signalling the government's response to the questions that have been put to them. I am encouraged by that. It certainly seems that their endeavour is genuine in order to meet the very real needs of the people who were the subject of this inquiry. In supporting the motion tonight, I am acknowledging the formal apology put by the Premier and leaders of church groups to these unfortunate victims.

My next point is that we await concrete promises of action in response to the recommendations of the Mullighan report from the government, but, as I said, I am quite heartened by the comments of the Hon. Mr Hunter a few moments ago, which go a long way to addressing any concerns that members in the chamber have. Much is still to be done, but certainly the indication given to us by the Hon. Mr Hunter tonight is very reassuring indeed.

It is well-known that the Children in State Care Commission of Inquiry took evidence from some 792 people and detailed some 826 allegations involving 922 perpetrators, which are staggering numbers. It is truly a sad state and a terrible reflection on possibly the time and also the circumstances and, indeed, this state (although I am sure we are not alone) that those numbers are so high. When you consider that some 922 perpetrators have been investigated by this inquiry, it really is staggering. The mover of the motion (Hon. Ann Bressington) has quite rightly called it a mountain of human heartache, and I think that only probably begins to describe the situation.

It would be remiss of me in my brief contribution not to mention the contribution of the Hon. Andrew Evans (as he then was) in this whole situation. The Hon. Ann Bressington was kind enough to pay due credit to him in her contribution. Of course, it was the Hon. Andrew Evans—that is, when he was the then honourable, if you like, when he still had that title—

**The Hon. R.L. Brokenshire:** He will always be honourable.

**The Hon. D.G.E. HOOD:** That is right; indeed, he will. Of course, it was he who moved the amendment to remove the statute of limitations so that sex offenders who had committed their crimes prior to 1982 could be prosecuted. Without that, it is highly unlikely we would have had a Mullighan inquiry at all. I think he will be remembered fondly for that action. It has, indeed, opened the floodgates of a great deal of pain, but I think that, if we do not go through that pain, there is never true and genuine healing. He deserves to be commended for those actions. Indeed, along those lines, since 2003 and up until 31 December last year, there were some 69 finalised historical sexual offences as a result of the bill that Andrew Evans introduced removing the statute of limitations. Of those, 29 were found guilty and 23 were actually sentenced to a period of immediate imprisonment. So change is under way, and I am happy to support this motion wholeheartedly.

**The Hon. R.L. BROKENSHIRE (21:05):** I will also be brief, although this is an important motion. It is also the first time since I have been in this council that I have been able to speak on the public record about the Mullighan inquiry and the importance of looking after the victims of these horrendous crimes.

I want to join with my Family First colleague the Hon. Dennis Hood to say, as I have said before in this place, that I am proud and privileged to have replaced the Hon. Andrew Evans in this council, and I owe him a great deal for that. Part of what I owe him is the responsibility to ensure that there is an ongoing opportunity to support the victims of these horrendous crimes. As my

colleague the Hon. Dennis Hood said, if it had not been for the Hon. Andrew Evans the Mullighan inquiry probably would not have got up. I also know for a fact that those perpetrators who are behind bars (with many more, I hope, to be behind bars sooner rather than later) are there only as a result of the Hon. Andrew Evans' efforts.

At that time I was in the other place, and it was not—as the media and the government sometimes project—a matter of the government coming forward with the initiatives to address, first, the legislation and, secondly, the Mullighan inquiry. There was actually more than a year of intense questioning in the other house before that inquiry came about. As an Anglican I was pretty concerned when the government was happy to table a report on untoward things done by the Anglicans at the time, but it was not happy to acknowledge what the state did; that took quite a lot of debate and effort. On this occasion I need to note that the Leader of the Opposition in the other place at that time also worked hard.

I put that on the public record because I strongly support the motion of the Hon. Ann Bressington with respect to ensuring that we are kept informed—and not only on this occasion. I am heartened by the remarks of the Hon. Ian Hunter on behalf of the government but, having said that, I know how government works, and when the media get onto another issue and other things are happening it is easy for the government to back away. It does not have to do the spin any more, and it is the hard yards and the hard grind that then have to take place.

I think I know the importance of this council probably more than anyone—apart from the leader of government business in this place who, I see, has a different opinion on this. We do need to keep a watchful eye, and I would like to see ongoing reports regarding what happens with the Mullighan inquiry, not just in this instance. I would like to see absolute transparency on this so that the least we can do is put in a proper effort. We will never entirely heal the pain and suffering of those people; that is impossible.

As a former police minister I saw some of the terrible crimes that came across my desk documented in various files, and I have to say that what happened to these victims involved some of the most horrendous types of crime that anyone could endure. We should not forget that, and we should not take it lightly at all. I believe this council has a place in continuing to demand transparency and action. Therefore, I feel a great sense of relief that the Hon. Ann Bressington has brought this motion before the council, and I want to see regular transparency.

I would like to finish by commenting particularly on the last clause of the honourable member's motion regarding what steps the government has undertaken to give those victims of abuse justice, redress and closure. I have some personal interest in that one in particular, and I have to say that it must be carried forward. Just the same as I support the gold card and ongoing support for veterans, I equally support ongoing support for these victims throughout their entire life. I encourage the parliament to keep a very close watch on the circumstances of delivery, as this government and successive governments should continue to do on behalf of these people. I am very proud to support the motion.

**The Hon. A. BRESSINGTON (21:10):** I thank all the members in this place who have contributed to this motion. I must say that, for the first time in the 2½ years I have been in this place, I have a warm heart knowing that the government has not chosen to hide under the desk about this particular issue and the struggles these victims of abuse in state care are still suffering and the load they are now carrying. I was heartened to hear, as were other members in this place, the Hon. Mr Hunter's response and the fact that the government has put some of the things in place that these people may need to move forward in their lives.

Although the government has done the right thing and has promised to do the right thing, I agree with the comments made by the Hon. Mark Parnell and the Hon. Robert Brokenshire that we have to keep a watchful eye on this. I have been involved in a number of parliamentary inquiries on the other side as a witness. I have seen the great amount of effort that has gone into collecting that evidence and collating it into a report, and the media that is done on those reports, only for those reports never to be seen or heard of again. That cannot happen with this one.

Although the government has done some of the groundwork on this, I ask whether the government is actually listening to the victims and taking into account what they believe and know they need because, intrinsically, every person who has suffered trauma knows what they need in order to heal.

I do not want to be cynical on this night, because I think it is history making that everyone—the cross-benches, the government and the opposition—is in agreement that a move forward is on

the way. However, I cannot see the government implementing the things that the people who have come to me, written to me or phoned me have mentioned, such as a universal gold card.

When you hear the victims talking about how that gold card could be implemented and used, their views about what they want from that are really quite sensible. They know that, if a gold card were to be given to some of the people who are involved in this recovery process, those people would have a tendency to abuse it. One of the recommendations made to me by one of the people is that these people need to sign a sort of a contract that, if they receive the gold card and they have been involved in criminal activity or whatever, they have to accept that they will have to change their ways in order to have access to the services of that gold card.

I understand that this is a complex issue, and that this is a simplistic approach, but it shows that those people are trying to do the right thing. They are not standing with their hand out now, demanding endless amounts of support, money or whatever under the illusion that they are the things that will help them to heal. What these people want is the right kind of therapies and the right kind of trained staff. In my speech, I mentioned that the services being offered by Post Care are simply not meeting the needs of these people. We need to make sure that the services that are in place are achieving the desired outcome of healing for the people who are accessing those services.

One of the big things the group wants is their own healing centre, and I think this has been agreed to across the board at various levels. They want a one stop shop. So many of these people cannot leave their home. They are agoraphobics and a lot of them have other phobias as well that would prevent them from keeping appointments with psychologists, in offices and so on. We need to understand the needs of these people to feel safe. They have a great level of difficulty trusting government; they have a great level of difficulty trusting anybody, and we cannot do this as a one size fits all measure. We need to look at this on a case by case basis. These people need serious case management plans because there are going to be many different people with many different needs.

I hope and pray that the government is going to take that into consideration and is going to consult not only with the reference group that has been formed but another group now that has also come from that that is looking specifically at a way forward for the victims. I thank everybody—I thank the government and the opposition—and I intend to keep this on the agenda. If I am not getting reasonable feedback from the victims of kids abused in state care, you can bet your dollar that there will be another action taken in this place that will not just be a motion. I leave this with the council and I thank members for their contributions.

Motion carried.

## LOCAL GOVERNMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October 2008. Page 471.)

**The Hon. M. PARNELL (21:17):** The Greens are pleased to support this bill which allows local councils to make by-laws prohibiting smoking in specified public places. This bill is one of very many that have been introduced into this place in the past two years. Most of the bills have sought to protect people from the dangers of passive smoking by specifying certain places where smoking should not occur. We have had bills looking at preventing smoking at the Royal Show, the Christmas Pageant and bus stops and, in fact, I introduced a bill to this place to prevent smoking at children's playgrounds on the basis that if there was any one place where children should rule and not run the risk of passive smoking, then it is a playground.

This approach is different. Under the honourable member's approach, he is giving the power to local councils to decide which public places in their area should be made off limits for smoking. In consultation with local government over my bill that related to smoking in playgrounds, I had very many councils write back to me agreeing that that was an appropriate thing to do, but some councils wrote back and thought that my bill did not go far enough. They supported the idea of councils being able to ban smoking in places other than playgrounds. It seems that the honourable member's bill gives councils such a power.

In the hands of progressive councils, these new powers will no doubt make a number of places off limits to smoking—in particular, public places where people aggregate and where children are present—and that will provide a level of protection for those people from passive smoking. However, some councils may choose not to take advantage of this legislation and, to

those councils—we will call them the recalcitrant councils—I think there is still a role for site-specific legislation. With those brief words, I congratulate the honourable member on bringing this bill before us. I think it is a sensible bill and I urge all honourable members to support it.

**The Hon. R.P. WORTLEY (21:19):** The government does not support the bill. While the intent of the bill—to reduce community exposure to secondhand smoke—is recognised, the government cannot support the bill on a number of grounds.

Non-smokers are frequently subjected to unwanted secondhand smoke in public places. Smokers sometimes choose to light up on the footpath outside buildings, at bus stops and train stations, outdoor dining areas, out the front of Parliament House, at the beach, in crowds at outdoor sporting venues and even sometimes at children's playgrounds.

Some secondhand smoke inevitably wafts over the mouths and noses of non-smokers, causing at least annoyance and irritation, and sometimes a degree of discomfort, or worse. Although smokers should be free to indulge their habit in private and among consenting adults, there is also a public interest—

*Members interjecting:*

**The Hon. R.P. WORTLEY:** Did I say something funny? I must have missed it. Although smokers should be free to indulge their habit in private and among consenting adults, there is also a public interest in allowing non-smokers to breathe air that is free of pollutants from secondhand cigarette smoke. The government wants to strike an appropriate balance between the legitimate interests of both smokers and non-smokers. To strike that balance, it is necessary to consider precisely:

- how, when and where any new restrictions on smoking might be imposed and enforced;
- whether it should be local government alone that enforces any such restrictions;
- the extent to which any exemptions or exceptions should be allowed;
- the level of penalties that might be applied;
- the cost of enforcement, so that enforcement is financially practical; and
- the possible effect upon businesses that may cater for both smokers and non-smokers.

Unfortunately, this bill is a blunt instrument that has been prepared without fully considering these matters. For example, it would permit a council to make a by-law to prohibit smoking in any defined public place. The term 'public place' is defined in section 4 of the act to include private land to which the public has access. One can envisage the problems in the possible application of so broad a power.

A retail shop may be considered as a public place because it is private land to which the public has access. A shop owner may be willing to allow smoking on his or her premises, especially if, for example, it is a tobacconist's shop. It is not clear why a council should have the power to override a shop owner's wishes and make it an offence to smoke, even inside a tobacconist's shop.

Councils have not sought powers as broad as this. Correspondence that the government has received from the City of Port Adelaide Enfield and a number of other councils proposes obtaining the power only to make by-laws to prohibit smoking on local government land (for example, children's playgrounds) and on roads, especially in relation to bus stops and outdoor dining areas.

I am surprised that the honourable member seeks, in his bill, to remove any flexibility or discretion from local government to set penalties that a council regards as appropriate or financially practical, having regard to the costs of enforcement. Section 246 of the Local Government Act 1999 provides that penalties for breaching by-laws cannot be higher than $750, and an expiation fee cannot be higher than 25 per cent of the maximum penalty. Therefore, the highest expiation fee that a council can set for breach of any by-law is currently $187.50.

Although this is the maximum, many offences created under council by-laws attract a much lower expiation fee. These penalties must be reviewed every seven years, when by-laws automatically expire. This bill takes no account of future inflation and would prevent councils from reviewing their penalties as they are required to do with all other by-laws.

The maximum penalty of $200 set by this bill would make it financially impractical for any council to try to defend its issue of an expiation notice if a smoker wished to exercise a right to challenge the matter in court. This aspect of the bill takes no account of the requirements of administering and enforcing these proposed penalties. Frankly, it runs the risk that many councils would simply choose not to exercise the power that this bill would confer upon them.

The honourable member has also indicated that he has received support from the Lance Armstrong Foundation in relation to his amendment. The government's position on this bill is based on the consideration of advice and opinion provided by a broad range of individuals and organisations, including those put forward by the Cancer Council and the Lance Armstrong Foundation.

The Tour Down Under already has in place several smoke-free initiatives for next year, including the designation of the tour village and official corporate hospitality areas as smoke free.

There will also be signage on display in public areas to encourage smokers to consider the comfort of others and desist from smoking. For the combination of reasons that I have described, the government cannot support this bill.

**The Hon. D.G.E. HOOD (21:25):** I will be very brief. Just to state our position at the outset, Family First will support the bill. We do so with some reservation because, to be honest, we do not think this is a perfect bill, although we think it is a step in the right direction, hence our support for it. The concern that we have with the proposed legislation is the possibility of very different regulations occurring across council boundaries. Of course, it would be difficult for people to know where they could and could not smoke, so it would necessitate very good signage in those areas. Nonetheless, we think that there is sufficient merit in this proposed legislation to support it, so we will.

**The Hon. R.I. LUCAS (21:26):** I rise to indicate that I cannot support the proposed legislation. I guess I feel uncomfortable with the fact that I am almost in agreement with some parts of what the Hon. Mr Wortley has said, which almost makes me reconsider—

*Members interjecting:*

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order! The Hon. Mr Lucas has the call.

**The Hon. R.I. LUCAS:** —my position. Politics makes strange bedfellows on occasions. At the outset, I indicate that I have spoken on tobacco advertising, tobacco promotion and tobacco regulation and restriction legislation for 20 years or so, ever since the lofty days of John Cornwall, the then minister for health, who introduced tobacco restriction legislation back in the 1980s. As I have indicated on a number of occasions, I am not a smoker; I have had one puff in my life at the age of seven, which my father gave me, and that was the—

**The Hon. R.D. Lawson:** Did you inhale?

**The Hon. R.I. LUCAS:** I inhaled, coughed, hated it and never tried it, or similar products, since. There are some members in this chamber who are—I do not see them at the moment, actually; they seem to have disappeared from the chamber—

**The Hon. Sandra Kanck:** They've gone outside for a smoke.

**The Hon. R.I. LUCAS:** They've gone out for their last smoke. Some members in this chamber are prolific smokers, but I do not come from that particular perspective. My father, who was a very heavy smoker, died of lung cancer, so I am aware of the considerable health concerns relating to tobacco smoking.

From my viewpoint, the bottom line in relation to tobacco is that, unless we as a community ultimately ban it as a product and say that it is a forbidden and prohibited substance or whatever else it is, there ought to be at least some rights for people who choose to smoke a legal product. We have steadily introduced an increasing number of restrictions over the years which most of us, including me, have supported. I think those restrictions have been beneficial, particularly in relation to enclosed spaces. I think the changes made in relation to restaurants and food outlets—which were introduced under the former Liberal government—were terrific changes, and one can see the good sense in a number of other changes along those lines.

However, the notion that someone can go to a cliff, or somewhere, by themselves and not be within a bull's roar of anybody else who is going to suffer from passive smoking and, as a result

of the whim of a local council somewhere in South Australia, find themselves subject to a penalty of up to $200, or an expiation fee of $20, for smoking a legal product is something that I cannot support.

In the end there has to be a balance in relation to these issues. Ultimately, if governments (or parliaments more particularly) take a decision to make it a prohibited substance and say, 'Okay, no-one can smoke,' then fine—drive everyone into gaol or into the sea or drown them at birth or whatever it might happen to be. Ultimately, it is still a legal product and, in my view, people ought to be able to smoke somewhere.

My view is that if a decision like this is going to be taken then, frankly, I think state parliament ought to be making the decision. With the greatest of respect to some of my friends in local government, I do not believe that they are the ones who ought to be making these particular decisions. I know they will strenuously disagree with me and say that they ought to be, but they are entitled to their view and, as a member of state parliament, I am entitled to my view in relation to this issue.

One of the concerns I have is that, potentially, you may have a situation where, under the legislation, a council can specify a public place—it can specify all the public places in its area. Port Adelaide Enfield Council, if it so wishes, could introduce a particular restriction on all public places within its council area but its neighbouring council (Salisbury, for instance) may well not, under a particular council regime. In any public place within the Port Adelaide Enfield Council area, you will be committing an offence if you smoke in a public place but, in the neighbouring council (Salisbury), you will not be. In the next council (which might be the Tea Tree Gully council) you will be committing an offence; in the one underneath you will not be committing an offence; in the one to the north you will be committing an offence.

**The Hon. Sandra Kanck:** The problem is that this government has said that it has to be up to local government to take action.

**The Hon. R.I. LUCAS:** It might have; however, I am saying that I do not believe it ought to be local government. In the end you are going to have a situation where if the boundary line between Port Adelaide Enfield Council is Main North Road (I do not know what it is), on one side of the road you may be committing an offence and, on the other side of the road, you may not be, but how on earth is an individual going to know? The draft legislation states that, if it is a specific area, a particular area like a playground, it requires signs to go up.

I know of some people in local councils who will want to restrict it right throughout their area. Some of them will do it in particular areas and some will restrict it right across the board. Ultimately, that decision is up to them. I suspect, in the first instance, they might do it in a few areas but the legislation does allow them to ban it completely. Frankly, if you are a salesperson and a smoker who is driving around, you are going to have to know exactly where the boundaries of the local councils are and you will need to know which ones have introduced bans in relation to smoking and which ones have not.

As I said, I am not a smoker so it is not going to impact on me. However, the President, the Hon. Mr Gazzola and others are going to have to know where the boundary lines are and what the definition of a public place will be in particular areas. I understand the goals in relation to the restrictions on smoking. Some of them have been successful in reducing cigarette smoking and some have not. However, I cannot support a notion whereby local councils can willy-nilly make decisions, either blanket or in part, across the whole of their particular areas.

Ultimately, if the Hon. Mr Sneath and the Hon. Mr Gazzola want to sneak out to the side of Parliament House (or wherever it is) or into the courtyard and hide in the bushes to have a smoke, and there is nobody else there so that all they are doing is imposing a potential dose of ill health upon themselves and each other, then I think they ought to be entitled to do it. The Hon. Mr Ridgway, I think, indicated that the Adelaide City Council has publicly indicated that it is one of the councils (together with Port Adelaide Enfield and another) that is interested in introducing some bans, so you may well have that situation. I have a couple of members in my family who are smokers; one of whom works in a city building block. What do they do if they are addicted to smoking?

**The Hon. Sandra Kanck:** Chew some gum.

**The Hon. R.I. LUCAS:** Okay, that's easy to say—chew some gum or give it up—but it is an addiction. They do smoke, so what do they do from nine till five during the day? If the city council has banned it, say, from 9 o'clock in the morning till 5 o'clock at night, what do they do?

They actually have a smoke at lunchtime. If they get away at morning tea or afternoon tea, they have a smoke as well and that gets them through their particular day. That is their vice and their addiction. The rest of us might not have that one, but we probably have other vices and addictions that we may or may not want to talk about publicly, but that is the particular problem that they have.

As I said, it is a legal product, so what do they do from nine till five? Do they take the punt of sneaking down the back into an alleyway and having a smoke and maybe getting done by a city council inspector and then having to pay a fine? I do not know.

I have seen the well-intentioned endeavours of some people trying to give up smoking who have had five or six goes at it. Sometimes it lasts for a week and sometimes it lasts for three months but, inevitably, they seem to go back to it. They have had five or six goes at chewing gum, putting on patches, hypnosis and a whole variety of other things, but ultimately they are addicted to the product and that is their particular problem. For all those reasons, I indicate that I cannot support it.

**The Hon. R.D. LAWSON (21:36):** I was not going to speak on this. In fact, I was disinclined to support this bill until I heard the feeble reasons of the government for not supporting it. Frankly, I would not want to be associated with the sort of reasoning that was advanced by the Hon. Russell Wortley.

This comes from a government which professes to be anti-smoking and pro-health and, at every opportunity, issues press releases and makes statements suggesting that tobacco is a great evil and, yet, when an opportunity is presented to it to provide some limit on smoking, the government simply does not accept it, and the reason for that, of course, is that somebody else made the proposal. It is very typical of this government that, if somebody else has a good idea and puts it forward, the government will not accept it.

I think there are a couple of things that ought to be placed very briefly on the record. There are two forms of protection in this bill. One is that these will be by-laws which, of course, can be disallowed by resolution of either house if the by-laws are so framed as to be entirely unreasonable, and that is an important provision. Another important provision is contained in clause 4, as follows:

> If a council makes a by-law under this section, notices setting out the effect of the by-law must be erected in such numbers and in positions of such prominence that the signs are likely to be seen by persons within the public place.

That means that, in the case suggested by the Hon. Rob Lucas of somebody on a cliff, councils simply will not put signs up everywhere, because that will not be practicable. They will have to limit the areas, and in fact the proposed legislation says 'to specified public places'. It will simply not be possible for a council to have a blanket exclusion of smoking in all public places within their area because it will be physically impossible to erect sufficient signs, so that is one important protection included by the honourable member.

It is also suggested that this will lead to inconsistencies, that on one side of Port Road there will be one regulation and on the other side there might be another. That, of course, is exactly the situation now where councils have the power to make by-laws. Many of them make similar by-laws but many of them are different. You can keep two dogs on one side of Port Road but, on the other side, only one; so many cats, and so forth. We accept in our community that local councils have power to make different regulations, and it is up to people to familiarise themselves with the rules.

I am a former smoker. I am not presently a smoker, and I am not anti-tobacco, but I do not think this measure will have the very deleterious effects which have been suggested by some of its opponents. I will support the bill.

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:40):** I thank members for their contribution to my private member's bill to give local government the power to prescribe designated public places as smoke free. I will spend a few moments talking about that. The intention of the bill is to allow local councils to determine these areas under their jurisdiction where families, children and people congregate. The beach is one place about which the Mayor of the City of Port Adelaide

Enfield, Gary Johanson, and some of his councillors have raised concerns, and I think a motion has gone to the Local Government Association asking it to talk to the government about such a mechanism.

We know that Bondi's council in New South Wales banned smoking on that beach in 2003 because it wanted to promote the healthy benefits of a clean and fresh environment that was free not only of smoke but also of the litter caused by cigarette butts. The Hon. Mark Parnell spoke of his piece of legislation that involved children's playgrounds. It seems logical that people should not smoke in a playground, which, as he said, is by and large a kids' domain and where people should have the right to assume they will not be subject to second-hand tobacco smoke. Similarly, people want to spend their recreation time in parks and gardens and have a barbecue, and I live near Mitcham Reserve—

*The Hon. A. Bressington interjecting:*

**The Hon. D.W. RIDGWAY:** The Hon. Ann Bressington interjects, saying, 'And have a beer.' When I have a beer, the person next to me does not get drunk. As you know, Mr President, the thing about cigarette smoke is that it drifts in the breeze and can affect the person next to them, so I think parks and gardens should be included in this measure.

My colleague the Hon. Rob Lucas talked about some members sneaking around the corner here at Parliament House to have a quiet cigarette. I do not expect that Adelaide City Council would ban smoking in any particular area around Parliament House.

**The Hon. B.V. Finnigan:** They can't.

**The Hon. D.W. RIDGWAY:** The Hon. Bernard Finnigan says it can't, but Councillor Anne Moran, who is a smoker herself, has said that it is probably about time to consider a ban on smoking in Rundle Mall because it is a precinct where, again, families, children and a whole range of people congregate, so perhaps that precinct should be smoke free. You cannot smoke in any Westfield shopping centre, and the mall is, effectively, a shopping centre without a roof. Just as many people congregate there and feel the effects of passive smoking.

When I originally raised this issue, Mayor Harbison said that he thought it was a good idea; however, councils do not have the power to impose a penalty, but he thought that something at about the level of a parking fine (about $20) was a fair penalty to impose and that that was an appropriate figure.

At one stage, I had a littering component in the bill, but I dropped that. If a cigarette butt is defined as a piece of litter, a penalty of $375 for littering would be excessive for a cigarette butt, so this bill determines that $20 is the fine for breaching a council imposed by-law and that $200 is the expiable fine if the person adopts the approach that they do not wish to pay that.

I think it is fortuitous that the Premier announced that Lance Armstrong was coming to ride in the Tour Down Under. Lance Armstrong is a world-renowned survivor of cancer and a great global fighter for cancer awareness, so I thought it appropriate that I write and advise him that I want to progress this legislation and seek his support.

I have had a number of conversations. In fact, his foundation's public/government relations officer rang me and booked an appointment, and we had a telephone hook-up. They applauded me for my courage to progress this piece of legislation and said that they would do whatever they could to help. As of this morning, I received a statement from the Lance Armstrong Foundation which I circulated to all members. In correspondence I have received, the foundation indicated that it could not endorse just one particular piece of legislation because, if it chose just one piece, legislators all over the world would be beating a path to the foundation's door to support every piece of legislation.

It decided that the best way to approach it was to come out with a broad statement. I highlighted to members the final sentence in that statement which was that it supports 100 per cent smoke-free public places. It is interesting, and I reiterate the words of my colleague the Hon. Robert Lawson. It seems that the government does promote healthy lifestyles and it is anti-smoking. It does want to promote South Australia as a unique place in the world, but it did not think of this. It is almost like, 'Well, we are really bipartisan as long as we think of it first and we can drag the other parties along with it.'

This is an opportunity for this government to be bipartisan and support this initiative so that, if the council chooses to do it, we can have a truly smoke-free Tour Down Under. My colleague the

Hon. Robert Lawson talked about a legal product. Alcohol is a legal product, but we have a dry zone in the city because, unfortunately, elements of our community cannot handle their alcohol in public, and as a community we made a decision to have a dry zone in the city. We have dry zones in other parts of the state, so I do not see this ban as being any different from dry zones. It is a legal product. If people used it responsibly and do not let others be affected by it there would be no need for this legislation.

Certainly, I agree with the interpretation of my colleague the Hon. Robert Lawson—wind-swept cliffs. I suspect that the Port Adelaide Enfield Council—in fact all our beachside councils—may well impose a ban on beaches from 1 October to 1 March, because that is when a lot of families go to the beaches. It may well decide that it suits its community not to be bothered with having a ban in the middle of winter when there is a screaming gale and a handful of people down there walking their dogs. It is about protecting the public when large groups of people get together in particular areas.

I am sure that we will have large numbers of spectators at the Tour Down Under in certain areas. This whole cycle race promotes a healthy lifestyle. Mutual Community is part of a cycle challenge. I know that the EFM health clubs have a cycle challenge as part of the community participation. It is all about fitness and health. I know that a couple of members are smirking. They do know that I go to an EFM gym. I know it does not show, but I would probably be twice the size if I did not go. Certainly it is all about a healthy, positive approach to life in South Australia.

It is a wonderful opportunity for the government not to be so selfish and for once to be bipartisan and support something which was not its idea but which, in fact, supports a positive approach for South Australia. With those few words, I urge all members to support the legislation.

Bill read a second time and taken through committee without amendment.

The council divided on the third reading:

AYES (10)

| | | |
|---|---|---|
| Brokenshire, R.L. | Darley, J.A. | Dawkins, J.S.L. |
| Hood, D.G.E. | Kanck, S.M. | Lawson, R.D. |
| Lensink, J.M.A. | Parnell, M. | Ridgway, D.W. (teller) |
| Wade, S.G. | | |

NOES (9)

| | | |
|---|---|---|
| Bressington, A. | Finnigan, B.V. | Gazzola, J.M. |
| Holloway, P. | Hunter, I.K. | Lucas, R.I. |
| Schaefer, C.V. | Wortley, R.P. (teller) | Zollo, C. |

PAIRS (2)

| | |
|---|---|
| Stephens, T.J. | Gago, G.E. |

Majority of 1 for the ayes.

Third reading thus carried.

Bill passed.

## SELECT COMMITTEE ON PROPOSED SALE AND REDEVELOPMENT OF THE GLENSIDE HOSPITAL SITE

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That the interim report of the select committee be noted.

(Continued from 29 October 2008. Page 472.)

**The Hon. SANDRA KANCK (21:57):** I know that the select committee responsible for this interim report cannot stop the development of the Glenside site taking place. It is a reflection on government that the previous minister for mental health felt that, because of the funding constraints placed on the portfolio by the Treasurer, she had to find money from somewhere to fund the action

she wanted to take place in the mental health portfolio. I offered to be on this select committee in order to find out more about the processes involved and to do what I could to ensure that proper procedures and consultations had taken and would continue to take place. There was an opportunity to question the decision makers to find out whether the final detail of the plans was there, and to seek justification and even request and suggest changes.

This select committee process has allowed the spotlight to be shone on the fact that South Australia is the only mainland state that does not have a mental health research and training institute. Shining the spotlight for the committee on 13 August was the Professor of Psychiatry at the University of Adelaide, Robert Goldney (although he stressed he was not representing the university), and from the Royal Australian and New Zealand College of Psychiatrists, Dr Marco Giardini and Dr James Hundertmark. The college's written submission had already advised us of the existence of the South Australian psychiatry training program, housed in the administrative building at Glenside. But in the government's plans that building will be taken over by the Film Corporation.

The submission informed the committee that, while the college has been advised that the training facilities will be incorporated in the redevelopment, they had received no information or guarantees about the type and nature of facilities that would be offered anew. They made the following comment:

> The land size presents an opportunity for development of world-class training facilities in a central location.

In comments to the committee Dr Giardini described it as a golden opportunity to establish a centre of excellence in mental health, not just for psychiatry or the psychiatric discipline but for mental health disciplines. Dr Goldney suggested that nursing would be encompassed. I quote Dr Goldney, as follows:

> South Australia does not have a centre that is seen nationally as a centre of excellence in terms of teaching and research. There is no critical mass of people at any one site. We have so much diversification, with little units all over the place, but none of them have sufficient people in them really to make a difference.

Later in his evidence he elaborated:

> If there was more aggregation of expertise we would have centres of excellence. People would wish to go to those centres and there would be that critical mass of people who could treat, rub shoulders with their colleagues in the corridor and ask second opinions, but we get people scattered around the community and that is the way to get idiosyncratic treatment without that ongoing peer review.

Dr Hundertmark told the committee:

> ...the Glenside site would be ideal for establishing that kind of facility...it is an excellent opportunity to have those kinds of functions occurring on a site that is close to the city, because a lot of the researchers who work on that site will have a clinical load somewhere like the Royal Adelaide Hospital or the Glenside Hospital, and if it is near...they can work between the two sites.

I observe that the Women's and Children's Hospital, which has a psychiatric unit, is 10 minutes drive north of the Glenside campus, Flinders Medical Centre is 20 minutes south, Fullarton Private Hospital is only 2 minutes drive away, Queen Elizabeth Hospital only 25 minutes and Lyell McEwin Hospital 30 minutes. Additionally, Flinders University, Adelaide University and the UniSA campuses are 10 to 20 minutes away. So, locationally, the Glenside site has a lot going for it. That 'rubbing shoulders', as described by Professor Goldney, would provide a sharing of information and the creation of strong links between research and practice.

The evidence that we in South Australia need such a facility where that critical mass of thinking can come together was clear. It was also clear that if the committee wanted to recommend the setting aside of land or facilities at Glenside for such an institute we needed to act quickly with a recommendation to this effect before decisions were finalised about the carving up of the land and the doling out of the buildings. So, immediately after witnesses had retired on that day, I moved that we publish an interim report, which was agreed to, and which we are now noting. Since then, a strong rumour has emerged that the Adelaide Central School of Art will also be moving to that site, so this interim report is very timely.

In the process of giving evidence on 13 August, Professor Goldney made a statement that was quite a revelation to me, and I will read it, as follows:

> When I took up my position 18 months ago, I was astounded to hear that the Mental Health Training Centre is contracted out to the New South Wales Institute of Psychiatry. South Australian money is sent to New South Wales for people there to come here and teach mental health training. It is absolutely absurd. We have two

university departments of psychiatry, we have the university departments of mental health nursing and we have university departments of psychology. It is a waste of money.

I found that to be extraordinary information, and it is an insult to the 200 psychiatrists in our state. From what Professor Goldney told us, however, that contract expires at the end of this year and he says he has been assured that it will not be renewed. I think that is a good thing. A research and training institute, as this report recommends, would have that training role, I expect, as its brief. We would not have to go out of this state.

Dr Goldney also made the point that having such an institute would be consistent with the Shine and Young report. I did a bit of a search on the government web site to find the Shine and Young report. It was given to the government in May this year. Its full title is the Review of Health and Medical Research in South Australia. As I see it, everything they say in this report, which is about medical research in general, fits what this committee is recommending in relation to mental health.

A couple of the problems that the Shine and Young report says exist at the moment in regard to medical research are: a lack of coordinated strategic research priorities, directions and outcomes for the alignment and implementation of health and medical research development activities; and the absence of a critical mass of researchers that would foster collaboration between universities, health services, hospitals, and other groups involved in health and medical research. So that fits very much with what the committee has recommended.

In the recommendations of the Shine and Young report about medical research in general, it says:

> A 'centralisation' model (with limited specific nodes) is the only viable model for South Australian research, given the relatively small size of the population and the necessity for critical mass to be competitive in national and international research.

So it applies equally to the much more specific area of mental health.

As I will no longer be in the parliament when this select committee releases its final report next year, I want to take this opportunity to make a few other remarks about the decision making in the mental health portfolio, including the matter of the carving up of the Glenside site. The government reassured us in the lead-up to the 2006 election that Glenside would not be closed down. Obviously, this was not a core promise because, since then, it has been closing it down bit by bit by stealth. I am sure most of us can remember—and I can hear it in my brain, unfortunately—Mike Rann's 'no more privatisations' mantra in the 2002 election. What is happening at Glenside is privatisation. The government is handing over public land to private developers for their profit. In February 2007, minister Gago said:

> We are currently developing a master plan to retain Glenside as a centre of specialist services to relieve pressure on our hospitals and we'll be announcing details of that in the coming months.

The consultation around this whole project has been lacking from the start. Quite clearly, you can hear in that statement from the minister that 'we will be announcing the details, just fall into line'. Unfortunately, this is standard operating procedure for this government. Last Friday morning I went to a breakfast of the Planning Institute where the planners in South Australia ranked South Australia, compared with all other states, as the worst in the country on consultation. Obviously, we have seen that lack of consultation with the Glenside site. We have seen it with the proposed Marjorie Jackson-Nelson hospital. We were told out of the blue that we will have a hospital. Then we had consultation, so to speak, in the *Sunday Mail* a couple of weeks ago, asking questions such as whether we want internet facilities. That is not real consultation: that is fake consultation. When the Glenside plans were announced, my media release stated:

> All the decisions have been made and the only opportunity for input will be about where some of the services, houses and shops will be located on the site—and that is not consultation.

There have been major mistakes in the Glenside planning, which I hope might be redressed with a new minister; for example, reducing the number of beds in Helen Mayo House which has six beds for women with post-natal depression, some of whom are suicidal and some of whom are rejecting their babies. I cannot think that the government thinks that six beds at any one time will cater for the number of women in that situation.

With the sell-off of the land for housing and the transfer of it to arts organisations, I question whether adequate facilities will exist in a much more compacted site for the psychiatric telemedicine facility that is currently on the site. We still do not know what will be provided for in the

plans. In the past two years the extended care facility at Glenside has been dismantled, which raises the question of the validity of the current policy of further progressing deinstitutionalisation. Some 12 months ago James Nash House—the state's forensic mental health institution—was going to be closed as a consequence of a new facility to be built at Murray Bridge—and I have been very critical of that decision. Only today or yesterday the Hon. Stephen Wade was raising questions about staff and their unwillingness to go there. It would also have created problems for family members wanting to visit inmates—I suppose that is what they are called—at James Nash House—a site which is remote from the metropolitan area and which has no public transport.

That plan has been put on hold because of the government's response to the current world economic situation—fortunately I think, because it provides an opportunity to reflect on the question of whether the siting of it at Murray Bridge was ever a good idea.

In relation to what happened with James Nash House, again I put out a media release when the idea/plan was first promoted. I then said:

> In the now typical style of Rann's Government, Labor has announced they will 'fully consult with staff about the move'—starting today, after their announcement. It creates a new definition of consultation.

The Murray Bridge plan also included the closure of 10 forensic mental health beds at Glenside. So, it will be interesting to see whether the government will now be backtracking on this. One would hope so, but it is something that I think the select committee can pursue.

In May we saw the closing of the supported residential facility at Norwood, with 19 beds going, on top of the plans to reduce services at the Glenside site. The College of Psychiatrists put out a media release about that on 23 May this year. I will refer to one paragraph. It is a little confusing. They brought in the issue of Glenside Hospital at the same time as criticising the closure of that particular supported residential facility and, having done that, they then talked about Glenside. The media release states:

> We question whether this is the right time in the evolution of this State's mental health services to sell off land which will forever be lost to mental health consumers and services, when the State is in dire need of a substantial increase in appropriately run, high quality supported accommodation options for those with serious, chronic mental illnesses.

I really stress the words they use: 'the state is in dire need of a substantial increase in appropriately run, high quality supported accommodation options. Yet this government is heading in other directions.

In looking at some of my notes on mental health, I found that, in the lead-up to the 2006 state election, I addressed the Mental Health Coalition, and the following is part of what I had to say, because it is so relevant now. I said:

> There are two types of health systems—the ambulance at the bottom of the cliff to pick up those who have fallen off or jumped off, and the fence at the top of the cliff to prevent the falls and jumps in the first place. South Australia has the ambulance at the bottom of the cliff system, and because there are so many people falling or jumping off, we're having to put the money into the ambulances and haven't got the money to put into erecting the fence. It's a vicious circle. The South Australian Democrats want the fence put up, but we must not take the money away from the ambulances to do it.

But I observe that is what we are doing right now. Just as we need more community care as a way of dealing with that, we turn around and close mental health beds. It ought not to be one or the other.

In 1993, the Human Rights and Equal Opportunity Commission Inquiry into the Human Rights of People with Mental Illness (I think that is the Burdekin report) recommended the establishment of a community visitors program for monitoring of standards in mental health institutions. That was 15 years ago. In 2005, I introduced my human rights monitors bill, which was the gold-plated version of an official visitors bill. I understood, however, that around that time the then minister for human services (Hon. Lea Stevens) was consulting on an official visitors bill and therefore I expected that the incoming government in 2006 would introduce some form of legislation. But it looks like, in the splitting up of the portfolios—turning DHS back into health and families as two separate portfolios—no-one took responsibility for it. We still lack such an agency in South Australia to undertake independent and random inspections of mental health and other institutions, and it is still very much needed.

Coming back to the issue of the Glenside site, I refer to a few sentences from a media release put out by the South Australian College of Psychiatrists. In part, the media release states:

'Mr Rann told South Australians before the last election that Glenside would remain open. Surely that did not mean most of the area would be lost to mental health,' said Dr Hundertmark.

The media release further states:

Government did not seek advice from the College with regard to any specific aspect of the plan before it was released...'The existing Glenside site should be retained in its entirety for current and future mental health use,' Dr Hundertmark said. 'Open space has a proven role in rehabilitation for people with mental health issues.'

I think that is really important. We will replace open space with shopping centres, and that is not what is needed by people recovering from a mental illness. It causes me to ask whether the government is throwing out the baby with the bathwater. We are continuing to reduce bed numbers, and that does not make sense in the context of a State Strategic Plan which aims to increase our population. It seems sensible to retain as much of the Glenside site as possible in anticipation of the extra demands that an increasing population will create.

A new mental health training and research institute, as recommended by the select committee, is a perfect use of the Glenside site. I am hopeful that our new Minister for Mental Health and Substance Abuse, the Hon. Jane Lomax Smith, with her training in pathology, will understand the importance of critical mass in the health profession and therefore the value of the recommendation made by the committee, and act upon it. If, when the Glenside carve-up plans are finalised, we find that provision has been made for this institute then this select committee will have served a vital purpose.

**The Hon. J.S.L. DAWKINS (22:16):** In wrapping up the debate I would like to thank my colleagues the Hons Sandra Kanck and Michelle Lensink for their contributions to the motion. I would particularly like to thank the Hon. Sandra Kanck for coming up with the idea to move the motion; as she said, it was a day when we had particularly compelling evidence from Professor Goldney, Dr Giardini and Dr Hundertmark. The report has been brought down and has gained some publicity, but we are keen that the government take notice of the very strong views that those three eminent gentlemen put to the committee.

Before concluding, I would also like to thank the Hon. Sandra Kanck for her involvement in the committee during the time it has been underway; I know she will be leaving us very soon. With those few words I commend the motion to the council.

Motion carried.

## DISABILITY SERVICES

Adjourned debate on motion of Hon. S.G. Wade:

That this council notes the failure of the government's reorganisation of disability services and policy to improve services for South Australians with a disability.

(Continued from 24 September 2008. Page 160.)

**The Hon. A. BRESSINGTON (22:18):** I rise to wholeheartedly support the Hon. Stephen Wade's motion highlighting the government's failure to improve disability services arising from the reorganisation of disability services. I also commend the honourable member for his incredibly well-researched and insightful speech, which highlighted the many failings of our disability services system.

My consultations with people in the disability sector showed that there are five major areas of pressing need for service: supported accommodation, flexible respite options, early intervention programs to minimise the impact of regressive or degenerative disabilities, transport, and post-school options. The Hon. Stephen Wade spoke of Mr Edward Carson's case and the gross ineffectiveness of Disability SA's restructuring, and I am appalled that the boasted restructuring came at a time when the community was screaming out for meaningful services through individualised funding and support services that offered family choices.

I have met with several families in desperate need of accommodation and in-home support services, yet none of those services have been forthcoming. Even securing a Housing Trust transfer into more sustainable premises capable of accommodating wheelchairs, special beds and other equipment is impossible for these struggling families. Far too many families have to find the resources themselves to be able to afford supplies of nappies, syringes, swabs, bandages and other basic health care needs, much less medication, and they struggle to do so. Invariably these families are already on a very low income.

Not unlike the story of Mr Carson occupying a hospital bed at $1,350 a day, similar stories can be heard in other cases where people are placed in mental health lock-up wards after the pressures of homelessness have adversely impacted on their already fragile mental health—at considerably greater expense to the taxpayer than the cost of providing for a house transfer or other alternative solution. Indeed, that is supported by the comments made by Lynn Arnold from Anglicare mentioned in the Hon. Stephen Wade's speech. We have yet to truly measure the real cost of failing to provide appropriate supported accommodation against the cost to taxpayers of housing people in gaols, mental institutions, hospitals and foster care.

I am alarmed by what appears to be an obsession of this government that all access to knowledge and information is vested entirely in the bureaucrats. No longer can a carer with a disabled child speak to another mother who is a volunteer to get independent and helpful advice on where to go for a wheelchair, an extra carton of nappies, one-off transport to a day activity, one week a month respite or an extra two hours in-home support without the entire department of Disability SA being alerted to the fact that such a request may be on the way, and it seems to be pre-empting a situation whereby all avenues for lodging an application will be closed off and their prospects of success greatly limited on some obscure grounds.

Most families do not even know what criteria they must meet even to compete for the meagre goods and services in a fair and equitable manner. How does one get the last respite placement when they might meet the same criteria as 20 others in the same situation? Does it go down to the squeaky wheel syndrome: the person who makes the most noise wins? Or does it go to the family with the most senior advocate within the department, who happens to be the neighbour of a ministerial adviser? Without clear, concise and transparent criteria for deciding these things, it is easy to see how so many families get very little or nothing whilst a few fortunate families can get by.

The honourable member spoke at length about the top heavy nature of the department's bureaucracy. An additional example of the top heavy nature of disability funding is also demonstrated by the fact that one family, which is now finally receiving a much needed boost in the hours of in-home care, had to wait many weeks before they were able to use the allocated hours because no carers were available.

My office has been advised that far too often, when the preferred carer is not available due to illness or absence, the family is forced to fill in the void any way they can as no replacement has been approved by the department. The difficulty arises because the family is forced to employ a carer via an agency, which charges $37 an hour as its day rate and $45 an hour for weekend nights, whilst the carer actually receives a day rate of $15 an hour. The family is told that the agency has a high staff turnover rate and not enough people on the books willing to do the work.

More than 50 per cent of the funding is sucked up by the middle man. That said, the family is not able to find preferred carers of their choice willing to work for the lesser rate. However, Disability SA will not permit them to bypass the carer agency and employ directly a person of their choice. Individual funding could be a reality today, even partial funding, by nothing more than a phone call and directive to that effect if only there was that will. The potential cost savings would be obvious and immediate. If this bureaucracy has been so successfully restructured for the benefit of people with disabilities, why is it that individual funding and support cannot be obtained simply with the stroke of a pen to enable such a system to operate in cases that demand it?

The Hon. Stephen Wade also highlighted the serious loss of corporate knowledge, history, experience and the degeneration of its values base. Whereas once upon a time the notion of dignity and care and informed consent may have been guided by the principles of access and equity, today we do not even know how to define whether the state owes a duty of care to people with disabilities and what this means in practical terms. It is also true that disability services are losing sensitivity to the special needs of some groups and the uniqueness of their circumstances.

Whilst there is merit in saying that the needs of a family coping with autism should be no more or less important than a family dealing with Down syndrome or an acquired brain injury, it is not the same to provide comparable respite to a young family with one child as compared to ageing carers with their own unique health concerns. The fear of losing precious services is certainly very real amongst families caring for a person with a disability. Not surprisingly, many people feel beholden to a department that exploits the generosity, love and goodwill of families, pushing them to breaking point.

I have made the point many times in this place that we need to have an expectation of striving for best practice, to have the training, case management, policies and procedures in place to solve many issues and, in fact, give the government a better bang for its buck. I share the Hon. Stephen Wade's concern at the top-heavy bureaucracy that exists in Disability SA. I am advised by people in the sector that one professional bureaucrat position could provide monthly weekend respite services for up to 16 families and so much more; instead, we have people employed to tell families that they cannot qualify for the goods and services they so desperately need.

It is interesting to note that, while services are being cut back or delayed, families must still shell out money to make up the difference that would make their lives easier. Just one such example was the introduction of the 'What I would like you to know about me' website. Despite a $30,000 grant from the government, the cost of maintaining the website is costing families $25 to access it—a site designed to ensure that they did not have to retell their story dozens of times to different bureaucrats, professionals and other carers.

In August 2007, thousands of South Australians living with a disability and their families were made worse off than they had been in the two years prior when cuts of $750,000 to non-government organisations providing vital advocacy and support services were increased even further. In the 2005 budget, the government allocated a mere $9 million towards disabilities despite some $25 million to $35 million being needed at the time. Even the Treasurer himself admitted on ABC Radio on 27 May 2005 that the small increase was not enough and more needs to be done.

I also make the point that societies are judged on how they deal with and manage their most vulnerable and, between disabilities and child protection, this state has a long way to go before we come anywhere near to par. Only three years earlier the government portrayed itself as a champion and underdog of those struggling to cope with a disability, and yet in no time at all the clawback of those promised funds had begun which many had hoped would have gradually increased over the ensuing two years and even led to individualised funding and support services. But those hopes have been dashed, despite the government's restructuring at a time when 10,000 new public service positions were being created.

Still those struggling to cope with a disability were to be told that they must get on with their lives and accept that they would continue to receive absolutely nothing. The budget statement of 2007-08 refers to this in far more glowing terms as a budget saving initiative. I believe the best way to reduce demand is by ensuring that people do not get to the services in the first instance, then you can justify further cuts to services because the need apparently no longer exists if people are not using the services (and I say that sarcastically).

Sadly, this so-called saving initiative will cost the disability sector very heavily so as to affect directly the Down Syndrome Society, the Arthritis Society, the Muscular Dystrophy Association, the Brain Injury Network, the Disability Information Resource Centre, Family Advocacy, Anglican Community Care, the Physical and Neurological Council of South Australia, Deaf SA and the Paraplegic and Quadriplegic Association.

It is my firm belief that specialist and non-government organisations outside of the public sector need to receive adequate funding lest we dissolve into a huge central bureaucracy at great expense to this state, as we are doing so rapidly. The valuable contribution of non-government and charitable groups supporting people with disabilities and their families must not be lost due to neglect of the disability sector. It is vital that South Australian families who are caring for a loved one with a disability have suitable places to go for support, and through its neglect of the sector this government has placed them at risk.

Just a few weeks ago, my office had cause to make inquiries with Disability SA about the process for obtaining an assessment for an acquired brain injury, only to find that getting a straight answer on a simple matter of assessment procedures and options for diagnosis was not going to be that simple at all.

My staff member was bounced between, and questioned by, several Disability SA staff as to her reasons for wanting the information, before being advised that she could not seek to have access to a partial low-level assessment for acquired brain injury through Disability SA on behalf of a constituent, but that the person would have to accept a comprehensive assessment, or none at all, if was to be coordinated through Disability SA. Another service provider informed us that there was anything up to a two-year wait for a less intrusive assessment process.

Staff of Disability SA vet and veto information that can or cannot be obtained, so there is no independence and even less choice. Only a few years ago, you could still get information about community support services because they actually existed; however, many of these no longer exist, where once upon a time they would have been accessible through various shopfronts, community houses, councils and other networks.

The information and other services provided by the Disability Information Resource Centre were always independent and openly accessible and provided the most appropriate and effective one-stop shop. Now you must go through bureaucrats who act as gatekeepers in deciding whether and what information the public needs.

Many people with disabilities find it difficult to get personal carers of their choice and at times when they may be most needed to help manage personal care and grooming needs, for example. We have heard of stories of people who have been left lying in appalling conditions for hours on end until a carer arrives to help them with toileting and of people having to wait for three days to be showered and changed.

Carers, particularly the elderly and those with other children, are concerned that they are given precious little time to do their shopping and bill paying. Time to recuperate from the physical demands of caring for a person with a disability is difficult to get, much less quality time to spend with other children in the family for recreational and other activities.

Families are reporting that even if they can secure meaningful day activities for their son or daughter, such as employment, education or training, getting them to those places is an altogether different obstacle. We hear that some individuals get access to transport, while others in identical situations simply do not. Often no logical explanation exists to account for the different outcomes.

Access to services needs to be flexible and based on the assessed needs of the individual. There is no point in giving transport access for a person to get to their job at 11am when they are required to start at 8.30am, or to give respite access to a family for five hours a week in one block if they need to run five one-hour errands at different times of the week. It is of little value to offer a person in a wheelchair one hour a day for personal support, if it takes them two hours simply to get out of bed and be ready for the day.

This is a big spending, big taxing government, but what I am hearing and seeing is that key areas are still grossly underfunded, and there is no proper needs assessment in place. A long-term commitment to the disability sector is urgently required. For example, on 21 December 2004, the government announced a one-off payment of $5.9 million to clear equipment waiting lists for the disabled. Then on 9 June 2007, it again announced a $5.7 million one-off payment to clear equipment waiting lists.

It is sad that that funding did not get to most of the people who needed to upgrade equipment or to buy new equipment. Clearly, in order to service the hundreds of South Australians with the equipment they need, a greater level of funding needs to be made available. Existing services are struggling to operate at the current rate and it is likely that demand will increase in the foreseeable future from new clients.

Assessments to determine equipment needs and appropriate funding are far better than one-offs, as they provide a level of security for families to know that, if an upgrade is needed, it is actually possible. With this in mind, it is extremely disappointing that spending on non-government disability advocacy groups was slashed by over 50 per cent in the earlier 2007-08 budget.

In earlier meetings with people with disabilities and their carers, it was highlighted for me that other countries are doing much better in meeting the needs of people with disabilities. I know that ageing carers need the peace of mind to know that, when they pass on, their son or daughter will be cared for, not exploited, neglected and abused. I wholeheartedly support this motion and I congratulate the Hon. Stephen Wade for moving it.

Debate adjourned on motion of Hon. I. Hunter.

## NATURAL RESOURCES COMMITTEE: DEEP CREEK

Adjourned debate on motion of Hon. R.P. Wortley:

That the report of the committee on Deep Creek Revisited: A Search for Straight Answers be noted—

To which the Hon. S.M. Kanck has moved after the words 'be noted' to insert the words 'and this council condemns those officers of the Department of Water, Land and Biodiversity Conservation who either misled the committee and therefore the parliament, or who failed to provide requested information to the committee'.

(Continued from 15 October 2008. Page 327.)

**The Hon. SANDRA KANCK (22:36):** Tonight I am going to complete the speech that I started about a month ago. A document entitled 'Hydrological and hydrogeological response for parliamentary inquiry' prepared by Theresa Heneker some time in 2005 eventually came into the committee's possession. Unfortunately, this was well after the committee had tabled its first report on Deep Creek. What was interesting about this paper was that much of the information provided to the committee at the interagency presentation in March 2007 appears to have been sourced from this paper, but we got a very censored and distorted version. I will quote from Heneker's report:

> Most current studies now readily concede that plantation forests...significantly increase the interception and evapotranspiration losses from a catchment. This in turn leads to a reduction in surface water flow leaving the catchment. Plantation forests also have the capability to...reduce groundwater recharge...
>
> It is highly likely that forestry has changed the timing and quantities of stream flow, in particular, within the Upper The Deep Creek subcatchments, which would explain many of the changes in hydrology that have been observed...
>
> However, forestry is not the only land use... to have altered the hydrological regime within the catchment...The lack of stream flow records makes it difficult to quantify run-off volumes from the catchment under any of the native vegetation, grazing or forestry land uses.

Commenting on non-permanent stream flow, Heneker recognises that 'for flows to continue through the summer months (as base flow), water must be stored elsewhere within the catchment', and she accurately postulates that, in the Deep Creek catchments, it would be the peat swamps that absorb winter rainfall and slowly release it through summer. She says:

> Forestry has likely impacted on these swamps and hence base flow in two ways:
>
> 1. A reduction in the generation of run-off from the catchment may have effectively 'starved' the peat swamps of their full recharge amounts previous [sic] received under pasture conditions. This could potentially reduce the periods of flow from the catchment and will be most noticeable in years of below average rainfall.
>
> 2. Forest plantations are located immediately adjacent to a number of swamps and the additional extraction of soil water by these trees may lead to a more rapid depletion of the water stored within these swamps over the summer period.
>
> With regard to Foggy Farm and the swamp located within this area, it is agreed that forest plantations have significantly affected flows from this small area within Upper The Deep Creek subcatchment.

And I note Theresa Heneker's word 'significantly'. So, she creates a very clear picture of forestry having a huge impact on water uptake. This information was in the possession of DWLBC officers more than 12 months ahead of their presentation to NRC. Why did they fail to disclose it?

I suggest that it is because they knew it did not fit their arguments. When departmental officers appeared before the committee they spent a great deal of time attempting to convince us that the problem of the decline of watercourses was due to more farm dams and decreasing rainfall.

What did Heneker have to say about rainfall? She had a number of figures in her report. At figure 8, which was annual rainfall totals and variability at Parawa from 1948 to 2003, it states, 'Shows only a very slightly decreasing trend in annual totals.' At figure 9, which was winter rainfall totals and variability at Parawa from 1948 to 2003, it states, 'There is no overall trend in the winter totals.' In other words, it was steady. At figure 10, the summer rainfall totals and variability at Parawa from 1948 to 2003 she suggests had a decreasing trend although, as I read the graph, that trends downwards over a 50-year period by a drop of only 10 to 15 millimetres, and that would hardly account for the loss of flow in the Foggy Farm area. Heneker observes that drier decades similar to those since the 1970s have occurred previously and, although she does not make the next connection, it does beg the question then as to why, in the 1990s, Foggy Farm dried up when it had not, in those earlier decades.

In March 2007, Mr Darryl Harvey told the committee, 'A decline in rainfall has been noted,' but he failed to tell us that it was only a 10 to 15 millimetre loss of summer rainfall over a 50-year period and that the other measures were basically steady. When I asked Mr Harvey to tell us how some of the historical rainfall records related to creek flow he said, 'We do not really have an understanding of that. We just do not have the baseline data.' Given that, why did he and others so strongly assert that the committee's conclusions in its first report were wrong?

When I pointed out to Mr Harvey that in 1992, the first year in which stream flow began reducing, there was record rainfall, he then tried to make the connection between rainfall and

dams. I say this was pure effrontery to the committee because, having tried to tell us that dams were one of the major impacts, he immediately said, 'We do not know the level of dams at that point.' So, having told us that they did not have the baseline data on creek flow, they then compounded the lack of knowledge in regard to the presence of dams and then had the hide to tell the committee, using the minister as their mouthpiece, that we were wrong.

In response to questioning from the presiding member, Mr Harvey admitted that their estimates about dam numbers and capacity could be out by 50 per cent, and the impact of forestry could be out by 33 per cent. Yet, despite these admissions, Mr Harvey and his partners in crime were resolute in advising the minister that forestry was not the cause of the stream flow cessation and that dams and lower rainfall were.

The committee was perplexed about the department defending pine forests rather than diversity. It seemed to be acting as an agency for Forestry SA and not DWLBC. As we say in the report summary, committee members were concerned that officers from DWLBC appeared to be arguing the case for Forestry SA. This is inexplicable given that DWLBC was established 'with an objective to improve sustainability through the integration and management of all the state's natural resources and to achieve improved health and productivity of our biodiversity, water, land and marine resources'. There is nothing in there that says it is supposed to support and maintain forestry in this state. There is nothing that could even be interpreted to mean that.

By the time these officers appeared again before the committee in May of this year, at the committee's behest, another paper had passed through the system. This is another one that the committee obtained only recently. Dated 16 July 2007, it was sent by someone called Ashley Greenwood, Program Manager, Hydrology, National Water Initiative and addressed to the Principal Policy Adviser, who I take to be Mr Darryl Harvey, who appeared at the hearing in March 2007 and the three hearings in May of this year. That paper was a delighted response to the committee's report on Deep Creek, and it begins:

> The report contains 10 recommendations that vindicated the recent technical advice provided by the Department to PIRSA, NRM boards, and community forums...regarding the management of plantation forestry impacts on water resources.

She or he goes on to give this updated assessment:

> Specific areas within the UDC sub-catchment heavily developed with plantation forestry substantially exceed the 25 per cent sustainable use limit guideline at a sub-catchment and property scale. Foggy Farm is an example of this. The Foggy Farm property contains 82ha of forestry development. This would not comply with recent DWLBC advice to local councils. which would require forestry to be limited to a gross 29ha and incorporate protective buffers around all EPBC Act 1994 listed wetlands, streams and drainage lines.
>
> In the light of the current work and the very high standard of technical information prepared by KID for the Deep Creek joint submission (Heneker 2005), it is difficult to understand the NRC concerns regarding the apparent lack of knowledge of responsible government agencies (DWLBC) on the impact of forestry within the UDC.

I observe that the reason for the committee 'not understanding' was that that information had been denied to us. Then we come to a most telling comment:

> DWLBC's work on forestry-water issues over the last two years and its recommendations to local councils over the last six months regarding the implementation of appropriate management strategies was evidently not brought to the attention of the NRC.

How right Ashley Greenwood was! The Natural Resources Committee was not given this information; it was denied to us. The people representing DWLBC at these hearings pretended that it never existed. One has to ask why and ask who was responsible for withholding it from us.

Subsequent attempts mid-year to obtain some of that information again demonstrated the continuing arrogance with which the committee was treated by DWLBC. Attachment 1 to that briefing note that I have just read was denied to the committee on the spurious argument that it was used in the preparation of a cabinet document.

I know that cabinet documents are not available to us under FOI but this is a new category that says that, if a document was used in preparation for a cabinet document, you cannot have it. That is stretching FOI a long way. However, the department did let us see attachment 2 to that paper—they were very gracious!—and under the heading in attachment 2 'Water use by plantations and run-off reductions due to forestry', it tells us that DWLBC KID has deduced:

> ...the average maximum reduction in stream flow due to forestry which may be equated to the forest water use is around 85 per cent.

Under the heading 'Plantation design', it states:

> Buffers should be established to manage the direct impact of forestry on the downstream water users including the environment. A minimum 50m buffer should be established around all significant wetlands and streams...the buffer is not limited to up or down stream areas but for the total extent of the recognised feature.

These bureaucrats are telling parliamentarians that we cannot see things, but if that is what we get in the attachment that we are permitted to see by these bureaucrats, the one that we have been denied access to must have been an absolute killer in terms of showing up the lies and deceit of some of these officers.

I turn now to the role of the minister and ask the question: was the minister blameless in this? She responded within the statutory time frame to the committee's recommendations. Clearly, she was misled by those bureaucrats. In the foreword, Mr John Rau, the presiding member of the committee, said:

> The committee does not accept that in circumstances such as these it is either reasonable or appropriate for departmental officers to try and interpose their minister as a 'human shield' to protect them from the consequences of their behaviour, over which the minister could not reasonably have been expected to have had independent knowledge or effective control.

I recognise the difficulty for ALP members on this committee in supporting a report that was critical of a government department. I doubt that we would have got this report through with majority support had we criticised the minister. So, from my perspective, to get a report that was accepted by all of us, it seemed to me that I had to accept the excuses that were made for the minister to ensure that we managed to get a report like this, which is so highly critical of DWLBC. In the summary of the report, the position in the chairman's foreword is elaborated, as follows:

> The Committee is disturbed by the Department's performance on these matters and considers that it has been wilfully misled regarding a number of issues central to the Deep Creek Inquiry and follow-up. It is the Committee's unanimous view that the (previous) Minister cannot be held accountable for this poor state of affairs as she was also unwittingly the victim of poor advice from the Department.

While I do not in any way accuse minister Gago of being complicit in any way of deceiving the committee, I remind her of the Westminster system, which states that the buck stops with the minister, and I do accuse her of not fulfilling her role properly. If, when taking on the role of environment minister, she found that she did not have the required knowledge that would allow her to assess the relative truth and value of the information given to her, she should have somehow obtained that information.

I recall how, when Jennifer Cashmore (I think she was Jennifer Adamson at the time) became a minister in a Liberal government, she was not ashamed to sit in on some University of Adelaide lectures (this was common knowledge) to provide her with adequate knowledge of the issues in the portfolio she was covering. If, in handling all the portfolios I do on behalf of my party, I can find and digest such information, then so can a minister. If she had done a little bit of homework, she might have understood that she was being misled.

Surely, the fact that this report in June 2007 was unanimous, with the support of four of her own ALP colleagues, including the chair of the committee, ought to have made her sit up and take notice. Had I been in that position, I would have had an informal chat with the chair to try to get an understanding of it. Had she bothered to look at the *Hansard* of the departmental presentation to the committee and observed the ducking and weaving in answering questions and the contradictions that officers made even of each other, she might have questioned the response to the committee that her officers gave her to sign.

Hopefully, this report will have set alarm bells going for the public servants involved, for others with DWLBC (and I say that because we have seen some similar things from DWLBC officers in regard to the Upper South-East Dryland Salinity and Flood Management program) and for some other public servants in other departments. I have been told that the behaviour the Natural Resources Committee was subjected to at the hands of these DWLBC bureaucrats is not uncommon. As best I can determine in trying to explain the behaviour, I understand that some of these bureaucrats came originally from PIRSA and that maybe they thought they were still representing Primary Industries. I would like to think that the persons named in this report have at least been censured.

I come back to the committee findings and remind any officers of DWLBC, or of any other department who might read these speeches, that, under the heading 'False or misleading information', section 214 of the Natural Resources Management Act 2004 provides:

A person who furnishes information to the Minister or another authority under this Act that is false or misleading in a material particular is guilty of an offence.

Maximum penalty: $20,000.

Section 28 of the Parliamentary Committees Act provides:

(1) All privileges, immunities and powers that attach to or in relation to a committee established by either House attach to and in relation to each Committee established by this Act.

(2) Without limiting the effect of subsection (1), the powers of each Committee include power to send for persons, papers and records.

(3) Any breach of privilege or contempt committed or alleged to have been committed in relation to a committee or its proceedings may be dealt with in such manner as is resolved by the committee's appointing house or houses.

These officers of DWLBC who misled and lied to this committee could face charges of misleading the committee and be fined up to $20,000; and it is possible that, some time in the future, this chamber might decide on a motion of its own for some other treatment to be meted out to them. At the end of all this, the environment has been the biggest loser because, with all the excuses these bloody-minded bureaucrats have come up with, the catchment at Foggy Farm stopped flowing last month. It did not even make it to summer time this year, despite having an average winter rainfall.

Those members who saw *Stateline* on this issue a couple of weeks ago would know that the point made about these peat swamps was that once they dry out it becomes almost impossible to wet them again. These cowboys in DWLBC ought to be held responsible for this environmental destruction. It is now more than three years since I moved the original motion for the Natural Resources Committee to investigate this issue. It is more than 18 months since these bureaucrats appeared before the committee and still nothing has happened to redress the problem. Macroinvertebrates have disappeared from the site, swamp-adapted plants have died or are dying and the triumphant victors in an unhealthy ecosystem are now blackberries.

I thought when I moved that motion in 2005 we would see action. Instead, we got prevarication, lies and attempts to mislead. History will not judge these people kindly. I know it is traditional when we take note of a report to thank other members of the committee. It is a little passé but, in this particular case, I really do want to thank other members of the committee and the secretariat. To Knut Cudarans and Patrick Dupont, our secretary and researcher, I give great tribute for the way in which they pursued these scoundrels, forcing them back again and again to appear before us, tracking down the papers they were hiding from us and making sure that we were aware of what was going on at all times so that we knew what questions to ask them.

I thank the committee members for the unanimity of purpose they showed and for taking on what was at the beginning my cause. It cannot have been easy for Labor members to have come out as strongly as this. I particularly thank John Rau, the presiding member of the committee, for what I can only describe as forensic questioning of the witnesses, assisting to expose their lack of preparedness and their willingness to play with the truth. It was a team effort, and I really do thank everyone involved in this.

**The Hon. C.V. SCHAEFER (22:58):** My contribution will be considerably shorter given that the issues raised within this report and, indeed, the previous report on the Deep Creek catchment have been well summarised by the Hon. Russell Wortley and even more significantly so by the Hon. Sandra Kanck. There should have been no necessity for this second report. I would say at the outset that this committee is by far the most enjoyable and, I believe, effective committee I have served on in my 15 plus years in this place. It is a committee which is truly non-partisan and which brings down reports without fear or favour, as indeed the committee system should be.

After considerable—or, as the Hon. Sandra Kanck has described it, forensic—investigation into this issue, the committee unanimously brought down a number of recommendations that were pertinent as we believed it, having sought considerable expert advice as to some possible remediation for the Deep Creek area that would return flows and the environment and ecology to at least part of its former functionality.

Among those recommendations was a suggestion for the setting up of a buffer zone between the pine forests and the Foggy Farm area of Deep Creek. Our suggestion was not a large or comprehensive buffer zone: it varied from 20 metres to 100 metres. I for one would have been quite satisfied had the department—and, indeed, the minister—written back saying, 'Thank you for your suggestions. However, it is the policy of the government of the day that we will retain the pine forests as they are until such time as they reach a size for commercial harvesting.' Instead, we

received a fatuous letter signed by the minister, which was clearly untrue and dismissed the findings of the committee in what one could only say was an arrogant way.

That then triggered from the committee a second and even more intensive inquiry and, the more we asked of the officers involved, the more we came to understand (and it became very evident) that they had, indeed, withheld information from us and had given us incorrect and untruthful replies. In doing so, they had treated the entire parliamentary system and the committee system with disdain and contempt, and that is what this report is about. I hasten to add that there are some quite good officers within the DWLBC, but we were not fortunate enough to have them deal with us at that particular time.

The minister's response, via her department, was to suggest that she had no powers to effect tree removal. That is completely incorrect, as was proven by our investigations. A further claim was that the state had no direct role in referring actions to the commonwealth under the EPBC Act. Again, that is totally untrue. Another claim was that peak hydrological impact occurs 16 to 20 years after planting, so impacts would be unlikely to be observed in the time frame stated in the report. Again, that is a complete untruth, which we were able to back up with evidence from the department which we had to seek a second, third and sometimes fourth time.

The department also needs to be condemned for its tardiness in producing the documents that we requested. One of the officers claimed that they had sought crown law opinion. On further questioning, he admitted that his crown law opinion was asking someone at a desk alongside him. The department claimed to have been confused as to the area to which the committee was referring, even though our report had been absolutely clear and departmental officers had been present, I think, at almost all of our inquiries. The summary goes on:

> In seeking accurate and timely information on which to base its deliberation, members were regularly frustrated by disingenuous responses, significant delays and a range of excuses as to why seemingly simple requests could not be acted upon. Departmental undertakings to supply documents and information were repeatedly reneged upon and deflected to other departments. An apparent need for the department to be regularly reminded of outstanding requests was also noted.

That probably sums up our disappointment, frustration and disgust—disgust not because the department did not happen to agree with us but disgust because there appeared to be a culture (and I do not think it is exclusive to this department) which believed that a parliamentary committee is nothing more than a time waster, to be fobbed off with any sort of bland answer rather than cooperating with it to make recommendations. Having chaired a number of committees, I know full well that standing committees can only make recommendations to the minister of the day. Their recommendations are not binding, and we were never silly enough to think that they were. However, we expected truthfulness and respect from the minister's department.

I must say that the presiding member's foreword is accurate in all aspects, other than his remark that the committee unanimously agreed that the minister could not have been expected to know what was being done to her. I, too, raise the issue that, under the Westminster system, the buck stops with the minister. She can be expected to know and must be expected to know. A minister is paid something in excess of $70,000 more than any other member of parliament in order to take additional responsibility.

*The Hon. P. Holloway interjecting:*

**The Hon. C.V. Schaefer:** As the Leader of the Government remarks, it is a lot less than what the departmental people are paid. However, the buck stops with the minister under the Westminster system. She may not have known, but that does not exonerate her from any guilt. She should have known and should have made it her business to ask questions. When a committee hands down recommendations such as we did at the end of the first report, any minister would start to ask questions, call in the relevant officers and ask for further explanations at the very least.

I hope that at the very least this is a warning not only to that minister, who has since been down-graded, but also to all ministers that they have obligations within the parliamentary system to report back to the parliament and to know what their department is doing as best they can. They certainly have obligations to ask questions of those departmental officers and, above all, they have obligations to not sign a letter. One of the very first things anyone teaches you, even if you are chairing the local tennis club or any committee, is never to sign a letter you have not read or do not understand, yet clearly that is what the minister did on several occasions. So, she is not without guilt and, particularly under the Westminster system, she is responsible for letters that go out under her name and also the findings of her committees, and clearly she failed in her duty to do that.

However, the minister has moved on, as has the former chief of that department and, like the Hon. Sandra Kanck, I sincerely hope that those officers who are named within this report have been severely reprimanded. We have been assured by the new minister and his new departmental head that there will be a change of culture within that department. If that is the case, I look forward to working with them on future reports.

Again, I thank my colleagues within the committee, and the staff. I certainly commend both staff members but, in particular, Patrick Dupont for his detective-like prying out of minor documents that, in fact, proved that this particular department had lied to our committee. His work was extremely commendable.

Debate adjourned on motion of Hon. J. Gazzola.

*[Sitting suspended from 23:12 to 23:30]*

## LOCAL GOVERNMENT (STORMWATER HARVESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September 2008. Page 173.)

**The Hon. I.K. HUNTER (23:30):** I advise that government members will not be supporting this bill. This government is committed to increasing the state's water security, but this bill will not do it. Instead, it simply increases the reporting required by the Stormwater Management Authority—an authority established in July 2007—so that state and local government sectors could work cooperatively to ensure maximum outcomes from funds invested in stormwater management. The government is continually looking at ways in which to secure the state's water security through a variety of methods and has already committed to developing stormwater harvesting projects. What this bill does is focus on increasing expenditure on stormwater harvesting works, but increasing spending on stormwater harvesting does not necessarily increase water savings. It is much more complex than that.

The Stormwater Management Authority has already prepared integrated stormwater management plans. The authority is the first of its kind in this state and the existing legislation promotes catchment-wide multi-objective stormwater planning and management for purposes such as flood risk mitigation, environmental outcomes and use. The legislation also enables funds to be used to carry out works and prepare stormwater management plans. The 2005 Waterproofing Adelaide strategy set out to increase South Australia's stormwater reuse to 20,000 megalitres; and we are well on track to reach or even exceed this target.

Waterproofing Northern Adelaide and the Metropolitan Adelaide Stormwater Project are examples of current initiatives being implemented in conjunction with the private sector. This bill acknowledges that stormwater harvesting and treatment can be expensive and seeks additional funding from the Land Management Corporation. The state government has already provided significant funding of $4 million per year indexed over 30 years to the Stormwater Management Authority and SA Water has committed a further $2 million this year to provide seed funding for feasibility studies for a range of stormwater reuse projects that have been recommended for funding approval through the authority. To date $5.5 million has been approved for 25 projects worth $13.5 million.

Aside from the complexities of treatment and reuse, stormwater is incredibly important to the natural environment for a variety of reasons. For example, flows into the River Torrens are important for refreshing the environment and for insects, fish and biota in the river that have survived the summer. Additionally, some flow must reach the sea to trigger, for example, the spawning of certain fish species. It is important to remember that stormwater is not just simply being wasted. It has an important role to play in the environment, as well. It is important to be realistic about the challenges involved in efficient and responsible reuse of urban stormwater. Stormwater treatment can be costly, so we need to determine the cost effectiveness of projects to treat stormwater against water savings in order to adequately determine the viability of any scheme. We also need to ensure that stormwater reuse does not inadvertently cause environmental harm. Unfortunately, this bill does not add any more to what is already in place and increases reporting loads and duplicates existing policy. It may actually deter local government from being involved in stormwater harvesting.

I reiterate that while this bill is, I am sure, well intended, we do not believe that it will increase the state's water security. In fact, it may cause unforeseen negative consequences. The government will not be supporting the bill.

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (23:33):** On behalf of the opposition, I rise to speak to all three bills proposed by the honourable member. The opposition wholeheartedly endorses the principles behind what the honourable member is attempting to do. As all members would be aware, at the beginning of the winter rainfall season—sadly, we have not had a spring rainfall season so we are suffering from not only no stormwater but also a bad season for our farmers—the Leader of the Opposition (Hon. Martin Hamilton-Smith) launched our stormwater policy. We made a commitment to develop a broader ranging policy for stormwater capture and treatment, and aquifer injection and reuse, than the government has in place.

The government in its Waterproofing Adelaide strategy to which the Hon. Mr Hunter referred identified in 2002 that by 2007 the River Murray would not be sufficient to support Adelaide. Here we are in 2008. The government's strategy five or six years ago pointed out that we would run out of water, but it did nothing to move to protect the community. That is why we are now having the desalination plant that the opposition also proposed, which is one of a number of our policies that the government has picked up.

We support wholeheartedly the principle but do echo some of the concerns that have been raised by the government; that is, we should be looking at whole of catchments and maybe small stormwater harvesting and aquifer reuse projects such as the honourable member is suggesting for a minimum of 20 allotments. However, if we look at the government's proposed residential code of a minimum allotment size of 350 square metres, we are talking about 0.7 of a hectare of built area, plus a bit of road space. We are talking about very small parcels of that land on which this bill requires developers to install stormwater harvesting and aquifer recharge and reuse schemes.

While the opposition supports the principle of capturing stormwater and reusing it, it may well be better to look at a whole of catchment approach and take a much broader view. Our policy is to capture the stormwater, put it through a wetland, reinject it into an aquifer, and then bring it back out of the aquifer in a potable form and use it as potable water, similar to the way in which water is being harvested by the Salisbury council and the work that Colin Pitman has done. While that water is not being used for potable uses, it could easily be put back into the system and used for human consumption.

We see some difficulties with the honourable member's legislation, but we acknowledge all the good ideas that it brings. His bill is about having developments dual plumbed so that the water which is stored in the aquifer is used for second-grade water, shall we say. The opposition thinks that may be detrimental to its policy, notwithstanding the fact that we support broadly what the honourable member is trying to achieve but believe that it is probably better to look at things on a whole of catchment basis. It may well be that small aquifer storage and recovery projects such as what the honourable member is proposing may fit in certain catchments where it may be the best way to manage stormwater. It also may be better in small developments to require developers to have a flood retention dam so as to release water into the stream at a slow enough rate so that it can go through a wetland further downstream, be captured and reinjected back into an aquifer.

One of the concerns the honourable member's legislation raises is that, if there is not a suitable aquifer below the development, what does a developer do if it is not possible, considering that this bill compels the developer to do that work? The Hon. Mr Hunter mentioned the Stormwater Management Authority. I do not think its charter is the right charter. When we debated the bill, its charter was mainly focused on flood mitigation and protecting properties from inundation, rather than stormwater harvesting and aquifer storage and reuse.

I remember in the debate that, while people viewed that as probably part of the picture, it certainly was not the charter of the Stormwater Management Authority. It was more about protecting property and getting rid of the water as quickly as possible and getting it out to sea. I do not want to disappoint the honourable member. We see some positives and we are certainly happy to support this bill at the second reading stage because we think that debate is important and we want to encourage good ideas, but I indicate that the opposition will not be supporting it at the third reading.

**The Hon. M. PARNELL (23:39):** The Greens will be supporting the second reading of this bill. I will speak briefly to this bill and I will not speak to the other two bills on the *Notice Paper* relating to stormwater harvesting in the interest of efficiency. A couple of years ago in this place,

we passed legislation dealing with stormwater harvesting only to see it languish in another place. I have a number of bills in the pipeline—no pun intended—that also deal with stormwater harvesting, and I will be bringing those to this place. This is a very important topic and I congratulate the member for bringing these bills to us.

Members may recall that, a couple of months ago, I released a report that I commissioned by Sustainable Focus with Richard Clark and Associates entitled 'Report on sustainable water options for Adelaide'. A large part of that report was focused on the opportunities for stormwater harvesting. To give a couple of basic statistics, the Waterproofing Adelaide information tells us that the combined stormwater harvesting and waste water reuse is around five gigalitres per annum; however, total stormwater and waste water flow, as estimated by Waterproofing Adelaide, is 230 gigalitres per annum. That shows that there is a massive potential to reuse that water.

The most important thing about both stormwater and waste water is that they are sources of water that are generated in almost direct proportion to the growth in population and development. That means that they have an intrinsic sustainability in relation to their future availability as potential water supply sources. The run-off from Adelaide now is vastly more than it was before it was developed, and this is a result of the hard surfaces—the roads, the roofs and the development.

The other point to note is that the aquifers (and other members have mentioned the relationship between stormwater and aquifers, because clearly aquifer storage is an important part of stormwater reuse) are spatially distributed over a wide area of central and western Adelaide, in particular. That means that we can and should spatially distribute aquifer recharge bores across the extent of the aquifer. That leads itself to a decentralised rather than a centralised system, and anyone who has read the Productivity Commission's report on urban water would know that the concept of economies of scale that we have, until now, assumed applied to water systems do not in fact deliver the savings that one would imagine. A decentralised system is the way to go in the future.

The total capacity of the tertiary aquifers underlying the Adelaide plain is uncertain, but it is estimated that it may be up to 100 times the capacity of the Mount Lofty Ranges storages—100 times more water can be stored under Adelaide than can be stored in the Adelaide Hills with the advantage, of course, that there is no evaporation for water stored in the aquifer.

The other point to make is (and the consultant's report to which I referred notes) that we will never recover 100 per cent of all stormwater. The Hon. Ian Hunter's comment suggested that there were some good ecological reasons why one would not want to, and I was interested to hear what he said; however, the biodiversity values of the trapezoidal Sturt Drain are very low and the need for environmental flows along that concrete is pretty minimal. Richard Clark, one of the authors of the report, estimates that we could capture 70 per cent of the stormwater and could recycle 95 per cent of our waste water.

The feasibility of storing large quantities of water in the aquifers beneath Adelaide is, as I have said, the key to the reuse of both stormwater and waste water but it brings a range of other benefits as well, not least of which is in terms of mitigating flood damage. Recent trials by the CSIRO have shown that aquifers can be used for water treatment and transmission as well as for storage. Water of potable standard was extracted from an aquifer at Parafield which had previously been recharged by stormwater and that had only been treated, before injection, by passing it through a wetland. The recovered water exceeded drinking water standards and was bottled as drinking water for publicity purposes. The ability to recharge in one location and recover the water in another offers the potential for water trading between rechargers and users without the need for linking pipelines, so there are economies to be gained there.

I asked the consultants to come up with a methodology for all the different water security options for Adelaide and put them in some sort of priority order. They looked at all the traditional and anticipated sources of water—whether it be taking more water from the River Murray or building a desalination plant—and assessed all these options against the following criteria.

They looked at the reliability of services and how affordable they were and whether the technology was currently available or merely a future possibility. They looked at the implications for human health and whether each water option would protect Adelaide from flood damage. They looked at environment protection issues both upstream and in-stream. They looked at downstream environmental impacts, and they considered the greenhouse implications.

What the consultants came up with, on a point system, was a points rating for stormwater harvesting of 41 out of 50. It achieved that result, particularly in relation to its affordability, because it is a relatively inexpensive way of providing fresh water. The consultants estimated the cost to be between 10 ¢ a kilolitre and $1.50 a kilolitre compared with up to $2 a kilolitre for desalination.

So, when we put stormwater reuse in a matrix with the other possible uses of water, the consultants found that Adelaide could be self-sufficient in water without relying on one drop of water from the River Murray, without building a desalination plant, without extracting existing groundwater resources and without increasing the storage capacity in the Mount Lofty Ranges, such as the Mount Bold expansion. So, putting zero litres next to all of those, there was still sufficient water for not just Adelaide today but Adelaide with a growing population as envisaged by the State Strategic Plan. The consultants estimated that we could be getting 60 gigalitres per annum from stormwater harvesting. On that basis, I am very keen for us to explore any measures that promote stormwater harvesting.

I agree with the Hon. David Ridgway when he said that there are some issues in relation to these bills that we might need to fine tune but, overall, the concept that we should be relying more on the water that falls on Adelaide and, in my view, less on trying to manufacture fresh water from the sea is a very sound proposition. I am pleased to support the second reading.

**The Hon. R.L. BROKENSHIRE (23:48):** I thank all members for their contribution. There are three bills, so I will speak on the second reading closure to the first bill. I am disappointed that the lead speaker for the government basically straight out said that it will not support this bill, even though he admitted that it was well intentioned.

There is nothing more important for South Australia's future than a water supply, and one which allows us to wean most of Adelaide's water supply off water from the River Murray—not all of it, because that is not possible, and it would not be in the best interests of the state, because we would probably end up not getting sufficient irrigation water or environmental flow, either. However, as my colleague the Hon. Mr Parnell said, we could be almost independent of the River Murray if we were to get serious. We have to do a lot more.

Both of the major parties have a drought proofing Adelaide policy. One party rebadges it with a slightly different name, but both the major parties are saying, 'Hey; we've got to do something. We've got to have a waterproofing Adelaide and metropolitan area strategy.' We have introduced something in this place, and I am happy to see amendments moved in the committee stage. Fine tune it, for sure, but let us get on with it. All that seems to happen with water is talk and then knee-jerk reaction stuff.

The opposition came up with a desalination plant because the then leader of the opposition flew over to WA and had a look there, where, I might add, they have extremely different circumstances from those in South Australia. The government then said, 'No; we're not going down that track at all.' The government was just hoping that it would rain. It did not rain, so the government went on with the desal plant. How ad hoc is that? Where is a systematic, well planned water strategy?

The situation is that there are opportunities. Look at what Colin Pitman has done. For over 10 years, I have watched with interest what is going on out there in the Salisbury council area and beyond. Some fantastic and vital work is being done there, and it can be duplicated. You have to start somewhere.

This bill primarily locks in governments of the future, and this is why both the major parties do not like this, as I see it at the moment. I would love to sit down with both the major parties before we go into committee to try to work through it a bit more and see whether we can come up with some amendments that we can all agree on to get things going.

The major parties do not like having to have quarantined, transparent, locked-away money to provide vital infrastructure and opportunity. They are both the same when it comes to that. They like to be able to have general revenue, money coming in, to be able to provide for things that they think are important at the time. But, again, that is ad hoc. It might help for a term to get into government or to get back into government but it does not help the sustainability of the state.

I want to refresh the memories of honourable members briefly about this first bill which creates a plan for the government to spend the equivalent of 10 per cent of revenue from the Land Management Corporation's land sales on stormwater harvesting projects. We hear the honourable leader of government business in this council talk about the importance of planning for future

subdivision—25 years, in fact—and I commend him for that. That is a great long-term initiative and we should have that sort of planning, but the south is an example right now. You go down there when parliament adjourns tomorrow and have a look.

The Land Management Corporation has either sold out or has a joint venture with development partners and, almost without exception, with that land that is being developed, the pipelines are going into creeks and the water is running straight out to the sea. Surely, it is not a big ask. You also have to lead by example. If we get this through, we are going to lock in developers to this, and I will talk about the greenfield sites later on. However, when it comes to the Land Management Corporation, 10 per cent of revenue going towards stormwater harvesting projects can help local government. Through the Liberal government, in particular, local government bodies had huge cuts in infrastructure support for stormwater and recycled aquifer storage and recovery opportunities. Those cuts were made; the money has not gone back into that, and local government is desperate.

Mayor Felicity Lewis of Marion would love to undertake a wetlands aquifer storage and recovery project in Marion where the motorbike training and development area is near the Warradale Army Barracks, but no money is available from the state government. This gives an opportunity for that money to be put into a quarantine pool to assist with this type of thing. Local government, in my opinion, has been the undoubted leader in stormwater harvesting in this state, yet people like Colin Pittman are almost ridiculed, or at best discounted, regarding their knowledge and what they have been able to deliver. The need to support local government is urgent.

This package of reforms links hand in glove with the debate on the River Murray. People all along the Murray have been signing petitions in support of stormwater harvesting (I am collating those petitions at the moment) because they realise that Adelaide needs to reduce its take from the Murray. By the way, for all that Land Management Corporation land being developed at the moment, guess where the water supply is coming from right now—the River Murray! We do not even have the water in the River Murray. These people have less sympathy for Adelaide gardens than metropolitan residents have because of the fact that they are under such severe restrictions.

I refer to some important data here. I thank my colleagues for being tolerant tonight because I know it is late but, to Family First, alternative water supplies are really important for the future of the state. In an average year, the River Murray provides 80 gigalitres (30 per cent) of Adelaide's water and 180 gigalitres (79 per cent) in drought years. Studies have shown that population growth in Adelaide between 2001 and 2031, which is what the leader of government business has been talking about in relation to planning, will account for an increased water demand of another 13 per cent.

The State Strategic Plan is to increase Adelaide's population to two million by 2050. Desalination will supposedly deliver 50 gigalitres per annum. The cost of providing desalinated water could be in the order of $4 to $6 per kilolitre. It is acknowledged that part of the Waterproofing Adelaide strategy are the Kondoparinga and North Para catchments, which are estimated to yield 12.7 gigalitres per annum at a cost of only $1.55 per kilolitre—as against $4 to $6 for desalinated water—for the Finniss River, and $2.40 per kilolitre for the North Para River. So, the cheapest of those three options—all three of which supposedly this government is investigating—is $1.55 per kilolitre, and all those options together will deliver (supposedly) 62.7 gigalitres per annum.

Let us now consider stormwater harvesting. Long-term modelling of stormwater flows indicate that there may be up to 174 gigalitres per year available for capture, storage and reuse in the Adelaide metropolitan area. I ask honourable members to absorb the next piece of this information that I and Family First see as crucial. The Finniss River, at $1.55 per kilolitre, is the cheapest delivery of water to Adelaide, and let us set aside for a moment, if we may, the environmental risks of those projects.

The average cost for aquifer storage recovery for urban stormwater, when analysed across eight different projects in Adelaide, is $1.12 per kilolitre. That is between 30 per cent to 50 per cent of the cost of producing water from a desalination plant, depending on which study you believe, and it uses 3 per cent of the energy that you are going to use in a desalination plant.

Turning now, more specifically, to the subject matter of this spiel, I want to continue on the theme of costs as they relate to local government. In 1994, in the Salisbury council area (in the Premier's electorate) the first aquifer recharge bore was trialled. New residential subdivisions in the past 10 years have been required to install wetlands to contain stormwater, which is what we are

talking about in these spiels, and now the City of Salisbury has significant wetlands that not only promote biodiversity but they deliver for the environment and they deliver, of course, water.

A recent wetlands project at the Parafield Airport catchment—and I have been out there and seen it with a now federal Labor MP when he was mayor; I went with him and had a good look at it, and he is committed and passionate about this—provides 1,000 megalitres of water to Michell's for wool processing. That is one gigalitre per annum. Before that, that wool processing plant was relying on fully treated mains water to process the wool. Now waste water is supplied directly from the wetlands and the excess from that goes into aquifer storage.

Throughout metropolitan Adelaide there are 22 operational projects, and they are injecting 2,000 megalitres per year of treated stormwater into various aquifers throughout Adelaide. All of these, I understand, have been generated by local government—the whole lot by councils. Five more are in the planning stages, which will increase the injection volumes to about 3,900 megalitres per year.

The government's Waterproofing Adelaide strategy includes provision for increasing rain water and stormwater use from an estimated two gigalitres per annum in 2002 to 20 gigalitres per annum by 2025, but the government says it will not support this bill—it has these goals but no way of driving them.

Look at the maths of this: desalination, 50 gigalitres; North Para and Finniss, 12.7 gigalitres; and stormwater harvesting, 20 gigalitres. That adds up to a total of 82.7 gigalitres, yet the potential, on the science, is up to 174 gigalitres available from stormwater harvesting. If we got serious about this, if the government got serious about supporting local government's great work, we could double what Waterproofing Adelaide intends to deliver.

The government should look to Israel for inspiration. I will provide some quick data on this. When I went to Israel 10 years or so ago, I saw this and I have been passionate about it ever since, because it is equally dry but more difficult, in many ways, to be able to address stormwater harvesting than a lot of Adelaide. Israel uses an average of 1,785 gigalitres to sustain 10 million people. On that figure alone, you can see that they are far more water efficient than we are. Their water shortage is far worse than Australia's, with the Jordan River significantly more degraded than the River Murray. Israel is one of the highest users of reclaimed waste water in the world. In fact, about 80 per cent of the total water generated is wastewater.

An estimated 455 gigalitres of water is recharged into their aquifers, and it is being extracted very quickly. The quantity captured is estimated at 160 gigalitres per year. Israel also provides all its fruit, vegetables and market gardening bowl from that water. I have seen it first hand. I believe that this is a good bill, and I look forward to further debate during the committee stage.

Bill read a second time.

## DEVELOPMENT (WATER HARVESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September 2008. Page 174.)

**The Hon. R.P. WORTLEY (00:01):** I indicate that the government will be opposing this bill. It seeks to introduce new section 51A into the Development Act 1993, which would require a relevant authority to ensure that a designated development includes arrangements to deal with stormwater harvesting. A designated development is a division of land into more than 20 allotments for residential development or building construction on commercial industrial land greater than 1,000 square metres in area.

While the aim of the bill is admirable, in that it seeks to ensure that new larger developments are more self-reliant in relation to water provision, the prescription of these requirements in the Development Act could place an inflexible and onerous regime on development in this state. It does not provide enough flexibility for those developments that could meet their needs in other ways, or where it is not necessary or desirable for such provisions to be met. The only way out is for the granting of an exemption with the power of veto held by the Environment, Resources and Development Committee.

This has the potential to significantly delay larger developments, particularly developments of large greenfield residential sites and, subsequently, increase the cost of housing in those

developments. It is a direction contrary to the government's planning reforms and red tape reduction strategy. The bill does not assist in achieving affordable housing in South Australia.

The government is proposing to address water sustainability and development in a number of different ways, including the strengthening of water-sensitive urban design policies and a review of sustainability measures and built development using the building code, a direct recommendation of the Planning and Development Review Steering Committee.

I also note that some local government entities—such as the City of Salisbury—are pursuing their own initiatives relating to stormwater harvesting in partnership with developers and industry. This work, I must say, is to be commended and encouraged. So, while we believe that it has merits and that the commitment by the Hon. Mr Brokenshire is quite genuine, we do not believe that the bill put forward is one that we can support.

**The Hon. R.L. BROKENSHIRE (00:04):** I thank the honourable member for his contribution. I will at least acknowledge that the government is saying that the bills have merit, but I would like to see this bill passed so that we can get on with productivity when it comes to water harvesting.

This is the second of a three-bill package and, with due respect to the other two bills, this one would actually have a more immediate effect if passed. I just want to qualify a point that has been raised (if I heard it correctly) in the debate in relation to designated development. Designated development means the division of land under this act into more than 20 allotments for the purposes of residential development. We have had a look at it and we have also had legal advice about it. We do not expect very small subdivisions to bear the cost of infrastructure for water harvesting. However, when developments exceed 20 allotments the economies of scale are there.

As I have said, it is very difficult to retrofit and it costs more money, so the cheapest investment time for infrastructure is when it involves greenfield sites. If we do not start with greenfield sites, where are we ever really going to start? Of course, with commercial and industrial properties it is where the site exceeds 1,000 metres, so we are not talking about the local shop on the corner: we are talking about more significant commercial and industrial developments.

We had a debate in here on the handing over of powers to the commonwealth for the River Murray and it was brought up (and now appears in *Hansard*) that critical human needs did include industry in Adelaide which had had no water restrictions whatsoever placed upon it and could use whatever water was wanted. New commercial and industrial developments just tap into the mains water. There are no requirements to build tanks for holding catchment, etc.

In America in 1997 I saw what was being done with recycled water. There, they capture water from freeways; they are focused, and they do not have the problems we have with climate change. I believe that this bill is crucial because it is the only way we can go forward into stormwater harvesting. It is too costly and impractical to retrofit wetlands, etc., which are required for existing developments in many cases.

Acquifer storage and recovery is not new technology. The first trials of acquifer storage and recovery were done in the 1950s, when aquifers were recharged with urban run-off to supplement existing groundwater reserves to be accessed in times of drought. That was 58 years ago, when people were getting ready for times of drought. Look at what we face now, but nothing much has happened. The potential for stormwater harvesting in Adelaide was not finally recognised until 1989, when a set of statistics revealed that the amount of stormwater run-off from metropolitan Adelaide was greater than the city's total mains water use. We have an opportunity here to overcome a major problem.

In 1991 the new Brompton stormwater management trial was the first example of urban catchment and acquifer storage and recovery for residential development. That project consisted of 15 townhouses surrounding a reserve in Brompton. All roof run-off was transferred into a gravel-filled trench below ground level which then entered the quaternary acquifer via a bore hole. The water was then recovered and used for irrigation purposes. That was with only 15 townhouses; we are saying it has to be 20 or more. The trials were done and proven.

The underlying acquifer system is a key characteristic of Adelaide's stormwater storage potential; that is one of the great things. The Hon. Mr Ridgway asks: what happens if you cannot take acquifer storage and recovery? We have a provision within the act whereby, if you cannot do an ASR in a specific subdivision, you put in dual reticulation and other initiatives to bring pipes through from other areas to alleviate the stresses with water. Obviously, it is subject to a geologist's

report as to whether it can be done. I can tell you from my own knowledge that most of the Adelaide acquifer is fantastic when it comes to the geology for acquifer storage and recovery, including right through the McLaren Vale area.

The Adelaide Plains area is underlaid by a series of quaternary and tertiary age aquifers. The upper tertiary aquifers are shallow and individually limited in extent and saline. The quaternary system has greater storage potential due to lower salinities, rapid and extensive transfer of pressure and a larger storage area.

Quite simply, the advice that I have is that the hydrology is there, the will and capacity of local government is there and the water savings and economics are there. This bill is where the rubber will hit the road on saving water in Adelaide, and it adds up to water for the environment, including the Lower Lakes and water for our irrigators, who are our food producers.

Just consider for a minute, the argument I made on the first bill. I am talking about the potential to double the government's planned 80-odd gigalitres to over 160. That is 80 gigalitres saving from where? The River Murray. We have been debating the Lower Lakes in the public arena and in here, and they need a 30 gigalitre drink before Christmas, as Family First, the Greens and other colleagues on the crossbenches who went to the rally have been saying.

With my proposals here, we will save not only 30 gigalitres for the Lower Lakes but also 50 gigalitres for environmental projects or for food producers to get a decent allocation for the survival of permanent plantings or, better still, a crop to provide income for their families, and jobs and food for South Australia.

In closing, I refer honourable members to my earlier remarks on these bills, and I am very happy, before the committee stage, to sit down with honourable members to go through the technicalities and encourage any amendments that they may like to propose.

Bill read a second time.

## NATURAL RESOURCES MANAGEMENT (WATER HARVESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September 2008. Page 175.)

**The Hon. B.V. FINNIGAN (00:12):** This is the third bill, of course, that we have been dealing with tonight introduced by the Hon. Robert Brokenshire. My colleagues have spoken on the other two bills. In relation to this bill, the Natural Resources Management Council does not have the authority to direct other organisations to provide information about their water harvesting projects.

In any event, measures are already in place to coordinate and report on water harvesting projects including the coordination of stormwater policy through the Office for Water Security, the identification of stormwater management projects through stormwater management plans developed by local councils and the board of the Stormwater Management Authority. Minutes of board meetings are publicly available on the internet.

Statements that suggest that some stormwater projects are dressed up as stormwater harvesting projects imply that current reporting attempts to hide the true nature of projects. However, the opposite is true. Reporting attempts to identify that stormwater management often has multiple outcomes, including flood mitigation and environmental flows, in addition to water harvesting for use. All these aspects should be considered to ensure that projects provide an overall benefit to the community. The government opposes this bill, as we do not see that it is necessary.

**The Hon. R.L. BROKENSHIRE (00:13):** I thank my colleague for his comments on the bill. In closing, this is the simplest of the three bills and this one, frankly, is really primarily about an accountability measure. Family First have discovered, since introducing our bill, via an FOI—and this is interesting, I believe—that the Stormwater Management Authority holds absolutely nothing on costing stormwater harvesting. This goes to show that the SMA is actually about mitigation and not about harvesting, contrary to what was, I think, said in earlier debate.

The accountability measure in this bill requires the NRM council to report on stormwater harvesting initiatives, which I see as basic when we have a new levy structure through the NRM that people who are hurting out there are paying. They do have some goodwill with this levy as against some of the other new levies, but people actually want to see some transparency and they

want to see some reports on stormwater harvesting initiatives. I would love to see this bill passed. We are all concerned to know not only whether stormwater harvesting is happening but also how much is being invested in it. I do not know whether other members have had more success, but we have tried everywhere to get some actual figures and accountability on this but have not succeeded.

The government has given mixed messages from the Treasurer and the responsible minister on whether it believes in stormwater harvesting. By 2010, when we get into the election campaign, I would like to hear the government saying that it has been investing in this area, but we need to see where it is investing now and how much it is investing.

The trend line of federal Labor policy on stormwater harvesting is not really encouraging either. My recollection is that, at the last federal election, the coalition offered more for stormwater harvesting and that, at this point, the government's $13.9 billion national Water for the Future Plan includes only $250 million in rainwater and greywater initiatives as part of the 'using water wisely' strategy, which potentially involves a host of things, including stormwater harvesting.

This bill will enable the NRM Council to impartially analyse (and this is what I am after—an impartial analysis) and report on what stormwater harvesting and ASR is occurring so that we do not have to rely upon whichever government is in power to drip feed and spin to us whether it is or is not funding stormwater harvesting. Again, I refer honourable members to my previous speeches on this bill and its sister bills, and I am happy to put forward more data and argument if they need it.

In making this contribution on the third bill, I conclude by acknowledging the good research work of John Fargher, who will soon graduate from Adelaide University. He has been working with us on a lot of this as well. We forget too readily that, when the jacarandas flower, our teenagers and young adults are busy studying to try to make the most of their potential. I know that other colleagues also have them, but these internship programs through Clem MacIntyre are of great assistance, particularly to Independents on the crossbenches. Combined with the other work we have done, I want to put on the *Hansard* record that Mr Fargher has been of great assistance to us. I ask colleagues to have a close look at this bill before the committee stage.

Bill read a second time.

## CONTROLLED SUBSTANCES (PALLIATIVE USE OF CANNABIS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September 2008. Page 184.)

**The Hon. A. BRESSINGTON (00:18):** I rise today to speak on this bill, which has been put before us by the Hon. Sandra Kanck. Its content is of no surprise, nor is its real intent. It is a mischievous bill and, if it were not sending such a dangerous message to our youth, it would also be quite laughable.

I am always amused when either the Greens or the Democrats move motions in this place (as the Hon. Mark Parnell intended to do today) to recognise international conventions for the environment, to call for world peace or to address breaches of human rights, etc., but then, on the issue of drug policy, they are more than happy to ignore the international conventions we are also signatories to.

I think an accurate description of their view on international politics is selective, to say the least. Of course, in my mind, this displays for all to see a shallow, if not meaningless, approach to all those most serious global issues we must be involved in for the world to be a better place for our children and grandchildren.

We are compromised when we begin to pick and choose which international conventions we support. When we put forward legislation where the debate encourages our children to believe that marijuana is not only harmless but, in fact, has the potential actually to improve their life, we are guilty of abusing our position and of what I believe is absolute irresponsibility.

We are irresponsible to the majority of people who want to care for and protect their children, and we are irresponsible to ourselves and the purpose of this parliament. For no other substance used in the treatment of any condition would it be acceptable to leave the determinations of efficacy and safety up to legislators who, with all due respect, have a hard enough time developing efficient and meaningful policy let alone making judgments on so-called medical treatments. I cannot speak for other members in this place, but I imagine that, with the lack of medical expertise in here, it is a burden that none of us would want to bear.

It simply is not the role of government, as I see it, and that only reinforces that this bill is not about treatment but about legalisation. I have mentioned before the legal opinions of Athol Moffat, who was a New South Wales Supreme Court judge for 24 years. For 10 of those years he was president of the New South Wales Court of Appeal. Also during that time, he served two years as the first royal commissioner of Australia when he inquired into organised crime in the US and its infiltration of Australia. In 1985 he wrote a book titled *Quarter to Midnight* on that subject. With half a lifetime of judicial objectivity behind him, he participated in setting before the Australian people an objective examination of the many issues that our drug problem raises, including government responsibility and liability should legalisation in this country ever become a reality—just as Athol Moffat had insight into the future that Australia and Australians would face if we were unable to convince governments to reclaim control of the legislative agenda on drugs that had been hijacked by the legalisers who are able to infiltrate our health policies, become government advisers and undermine what could have been an effective three-pronged approach to harm minimisation.

Before he passed away, and for some 20 years prior, he wrote numerous legal discussion papers for governments to consider where and when any move to legalise would arise. I guess that length of time is indicative of the persistence of the legalisation movement, and it is also indicative that it will continue until governments in this country and others are able to see through the flawed and contradictory arguments that are presented and the numerous fronts this group of misguided people are prepared to fight in this so-called war on drugs. That term 'war on drugs', as I have said before, was coined by the legalisation movement, knowing all too well that average people are intrinsically opposed to war and, if given the choice, would prefer to live with just one less battle, and this is how the perception of the Australian people has been manipulated.

The legalisation movement would argue that drug abuse is a medical and social issue and not a law enforcement issue, and, as such, they have argued their skewed proposals on that front. This has led to a soft approach on drugs with a tough on drugs rhetoric that most governments embrace, hence the conclusion that the so-called war on drugs is unwinnable when in actual fact it merely takes the application and enforcement of the law to make the difference between winning and losing. When we win everyone wins. Parents are able to inform their children of the harms of drugs and will be believed because the information that is circulated will reflect the position that drugs in our society is unacceptable.

Is there anyone in this place who truly believes that their children or grandchildren would be better off using drugs, would be better off having easy access to drugs and would be better off if they must first reach the point of addiction before anyone would or could intervene? I believe that there are basic principles that, for the average Joe in the street, do not change; but, of course, over the course of nearly 30 years of undermining, the legalisation movement to some degree has managed to change public perception about drugs and create and sustain a discourse—an exact replica of the discourse created by the tobacco companies when the harms of nicotine were first discovered.

The tobacco companies set out, in their own words, to create doubt in the minds of their consumers in order to preserve a future market for their product, and they did their job well. It took almost two decades before we saw acceptance of the medical evidence of the harm caused by nicotine. It took almost two decades before it was publicly proven that the tobacco industry had marketed its product knowing full well that it was both addictive and harmful. What was the one and only driving force of its determination and commitment to continue to peddle its poisonous products? The answer is simple: greed.

As I said in my speech on the bill that the Hon. Mr Ridgway introduced to ban cigarette smoking in council locations, we have seen a zero tolerance approach to tobacco and it has been successful in reducing the number of smokers. We have seen smokers demonised—for their own good, of course—and, might I say, legalisation gone mad to encourage them to restrict their use of their drug of choice. The Hon. Sandra Kanck has led that charge and has made no apologies about her level of concern for those people who would choose to partake in a legal, albeit harmful, activity.

We hear day in and day out about the harm caused by alcohol. We are told that the harm done by tobacco and alcohol combined is so much more than the harm done by illicit drugs. Has the penny not dropped yet that the two drugs causing the most harm are the two that are legal and readily available? Public acceptance of the use of alcohol and tobacco has challenged governments for over a decade to come up with strategies and messages that would eventually

seep through the denial of the users and have them face up to the fact that they are literally killing themselves.

Again, the Democrats and Greens have fully supported those initiatives without hesitation or apology. The irony and hypocrisy of their diligence on the alcohol and tobacco front is only outstripped by the messages they continue to send to our children—to your children and to my children—and they undermine a parent's ability to have a positive influence in their children's lives where illicit drugs are concerned.

I hear no-one propose that, because nicotine is such an addictive drug, we should just give up and allow people to exercise their right to choose to use. I hear no-one suggesting that the government provide nicotine replacement therapies for free. I hear no-one proposing that the government provide a quantity of alcohol free for alcoholics because they are hopelessly addicted. And I hear no-one proposing that the government hand over one dollar coins to poker machine addicts because they too are hopelessly addicted.

Yet the Greens are on the record (in March 2004) as wanting to decriminalise methamphetamines and cocaine so that users do not face a gaol term. I would challenge the Greens and Democrats to come up with figures that show users are gaoled simply for using. The decriminalisation aspect with respect to cannabis has seen the judiciary being very lenient indeed when sentencing cannabis crop growers. That is what decriminalisation does: it changes the perception of the legality or illegality of drugs. Both parties know this, and they hide behind humanitarian concerns to undermine the responsibilities of our police force and our parliament.

Ms Rhiannon stated in 2007 that they did not have a 'soft on drugs' approach and that the Greens wanted to see people diverted into treatment and rehabilitation programs rather than going to gaol. Well, breaking news: even those who are breaking the law are rarely sentenced to significant gaol terms. We have heard the Hon. Dennis Hood make that point in this place time and again.

The problem, of course, is adequate funding for drug treatment programs that assist people to stop using. We all know that there are very few programs that do not apply safe use and recreational use advocacy for addicts which, according to addicts themselves, does as much harm as not being in treatment at all. When do we start to listen to those who have recovered, respect their experiences and also respect that they are the people to whom we should be listening? All the others who advocate for anything less than recovery, the 'drug elites', as Bronwyn Bishop referred to them, the users who do not want to stop, have an agenda, and that agenda is legalisation, regardless of the collateral damage.

This is not about the fact that people do not have the right to their opinion and that I do not want people to disagree with me. It is about whether or not governments and political parties actually listen to the science. If they choose not to do so, we could save millions—perhaps billions—of dollars on research that is funded by taxpayer dollars. We do not ignore the research on breast cancer, leukaemia or any other illness that causes serious harm or death yet, for some reason, the topic of addiction, a medically and scientifically proven central nervous system disorder, is questioned and discredited by those who, for whatever reason, believe that some good could come out of making these dangerous drugs more readily available.

Let us look at recent history—the history of tobacco and alcohol—and learn our lessons. Legalisation promotes use, and this bill, whether the honourable member would own it or not, is about attacking the drug legalisation efforts at ground zero. Cannabis is a valuable currency in the drug trade. It is used as a drug of recruitment and it is then traded interstate for other drugs such as heroin, ecstasy, crack cocaine and meth. Legalise this drug for medical use and it opens the floodgates. Justice Athol Moffit wrote in the discussion paper 'The Medical Use Pretence' (remember that this was written in about 1998):

> This old device is now re-emerging in the United States. It has been resurrected by the permissive policy lobby to manipulate the medical purposes exception of the conventions, starting with cannabis and heroin. The lobby is seeking amendments of the law to permit drugs to be prescribed or supplied for medical purposes, purposes which are defined in broad and loose terms. For example, the Californian initiative includes the general power to prescribe for any illness for which marijuana provides relief.
>
> The medical purpose device has been advocated for some time in Australia by the permissive policy lobby as a way around the conventions. An example appears in the harm reduction model of controlled drug availability, and was published by the Redfern Legal Centre in December 1996. It advocates the controlled supply of all illicit drugs by medical prescription, neither limited nor defined by the medical profession, and their pharmaceutical supply,

without prescription, by specially trained and licensed pharmacists. I will discuss how this has worked for California in detail a little later.

Justice Athol Moffit went on to say:

> At the turn of the 20th century the medical prescription of opiates, cocaine and other now illicit drugs was permitted, and this soon led to gross over prescription and very large increases in the use of illicit and dangerous drugs. This situation boasted the first drug epidemic and made rich the medical practitioners who owned clinics and exploited the system. People are easily enticed by any claims of medical benefits from drugs.

In the name of public safety and health we are also quick to condemn alternative therapies, such as vitamins and those supplements as uncontrolled and possibly harmful, yet the information about the harms of illicit drugs is almost non-existent, and the efforts of the legalisation movement and the pro-drug lobby to continually break down the information about the harms of those drugs are very persistent.

I have spoken many times about the shortfalls of the application of our current drug policy, the need for more rehabilitation options for those wanting to recover from addiction, the need for improvements to the current education delivered in schools and, more broadly, the need to increase penalties and policing to rein in supply—essential issues that are in direct conflict with this bill before us today.

Prior to contrasting the realities and science with the specifics in this bill and the claims made by the honourable member when introducing it in this place, for the benefit of members in this chamber I will address the international experience with so-called medical marijuana and the origins of the ideology underpinning medical marijuana initiatives. As mentioned previously in a quote from Athol Moffit, the American state of California was the first in the US to legalise the use of cannabis for medicinal purposes—not specific medicinal purposes but any medicinal purposes.

Confirming the involvement of pro-marijuana proponents from the start, the Californian legislation was not worded to ensure that patients were protected and only prescribed cannabis when its safety and efficacy had been demonstrated, but instead it was worded to allow a doctor to recommend cannabis if they believe it may alleviate the symptoms of an illness, any illness, that a patient may present with. During what can only be described as a propaganda campaign, Californians were led to believe that crude cannabis was the panacea of enlightened times, was safer than paracetamol and would be prescribed by all self-respecting doctors if only the big mean government would let them. Largely relying on anecdotal accounts and emotive language, an imagery of genuinely ill people suffering, Californians were told that this all could be alleviated if only they would vote in favour of proposition 215, and succumb they did.

Early in 1997 doctors in California began prescribing crude cannabis. As with all bad legislation, it was not long before the majority's unintended consequences became apparent. Cannabis was being recommended in unspecified amounts on 12-month certificates. Dispensaries dedicated to the sale of cannabis and offering all manner of strains and THC-containing products, even including chocolate-covered pretzels, began to appear across the state, and today dispensaries now outnumber Starbucks cafes in California's capital.

The result of the flawed provision allowing doctors to recommend crude cannabis for any condition was vividly demonstrated by the American version of *60 Minutes* in a story that aired last year. Using borrowed footage, *60 Minutes* showed a waiting room full of young people joking about what they would tell their doctor their ailment was in order to get a 'medical marijuana' certificate. I quote from the transcript, which states:

> The doctor, James Eisenberg, saw four healthy people sent by KCBS. He rejected a 17 year old for being under age. But, after having a brief consultation and paying $175, the other three got their papers. One complained of dry skin, another of hair loss, and the third said high heels hurt her feet.

She was given a medical certificate for marijuana because high heels hurt her feet. Other such abuses have been uncovered by local television networks. KNSD-TV in March 2007 aired a story in which a local high school was forced to send warnings home to parents as students had been found under the influence of cannabis and in possession of doctor recommendation certificates. To quote the transcript found on the website of the organisation Educating Voices, it states:

> Officials at the Grossmont Union High School District have sent letters home to parents, notifying them that a number of students have been caught on campus with medical marijuana cards. District official Catherine Martin said they are concerned over the growing trend and the apparent ease with which teens are able to obtain the cards.

Revealing just how much of a joke 'medical marijuana' has become in California, even owners of marijuana dispensaries have dropped the pretences and openly flaunt their wares in alternative

papers, as do doctors who will give you a quick once-over and, for a price, a permit to buy. Such abuse has led many who had previously supported 'medical marijuana' on compassionate grounds to lament their involvement. Reverend Scott Imler, who was integral to California's ballot campaign, has since stated:

> We created [proposition] 215 so that patients would not have to deal with black market profiteers. But today it is all about the money.

When asked by the *60 Minutes* presenter if people are simply using 'medical marijuana' to get high, Reverend Imler responded:

> I think there's a lot of that. And I think you know, a lot of what we have now is basically pot dealers in store fronts.

Later in the story, Reverend Imler adds this:

> Most of these cannabis centres are buying their marijuana off the black market. They're dumping millions of dollars into the criminal black market. Some of these places sell hashish, which comes in from the Becca Valley in Lebanon.

The presenter Morley Safer then states:

> What you're suggesting is that the traditional black market, or part of the traditional black market, is now legal?

Reverend Imler replies:

> Yeah. That's essentially what's happened.

The point needs to be made that California's medical marijuana initiative has not only increased the laundering of illicit cannabis sourced internationally by providing a legal point of sale, but it has also increased the incentive for domestic production for those so inclined.

Since 1997, the US Forest Service has eradicated 7 million pounds of cannabis grown on Californian national forest land. The US Forest Service estimates the street value of cannabis planted on national forest land in California to be in excess of $US1 billion each year and, despite the best efforts of forestry and law enforcement agents, California's national parks have attracted a reputation of being no-go zones to hikers and hunters due to many being confronted with the barrels of a shotgun when stumbling upon a cannabis crop. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

## DEVELOPMENT (PLANNING AND DEVELOPMENT REVIEW) AMENDMENT BILL

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (00:40):** Obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (00:40):** I move:

> That this bill be now read a second time.

On 19 June 2007 the government announced the planning and development review. The objective of the review was to achieve the most competitive planning and development system in Australia and New Zealand, without compromising the liveability or sustainability of the state. On 2 June 2008 the government endorsed the recommendations of the planning and development review and endorsed an implementation plan for those recommendations. A key legislative change flowing from those recommendations is the Development (Planning and Development Review) Amendment Bill 2008. This bill is intended to establish a legislative framework to ensure the key elements of the planning and development review (including an increase in the level of complying development) can be achieved. In summary, these elements relate to the following.

Red Tape

The bill will facilitate a reduction in red tape across the South Australian planning system, which will result in a benefit of above $75.6 million to applicants and local government by realising savings:

- to private citizens of $16.6 million through a reduction in the time it takes to have basic renovations and basic house construction approved and completed (through a reduction in the interest paid on loans during the planning approval and construction processes);

- to the industry of about $49.6 million through more timely approvals and $4 million through improved land rezoning times, to enable the industry to better meet market demand, particularly when housing demand outstrips supply (as is currently the case);
- to local government of approximately $5.4 million through a reduction in costs associated with administering the South Australian planning system.

The reforms are also expected to deliver benefits to the following beneficiaries.

Applicants

The reforms will provide for a development code that will be a single document explaining how the assessment of residential development operates and setting clear performance standards for residential development. This reform should:

- reduce the time taken to process applications in the merit and complying development categories from 17 weeks to six weeks (a 65 per cent reduction or 11 weeks); and
- provide estimated interest savings per application of between $1,576 and $5,517 for private investors and $16,500 for large commercial developments due to a reduction in the time taken to process development applications; and

Local government

The reforms should allow councils to:

- expand the range of complying development by converting 50 to 70 per cent of all merit-assessed residential applications to exempt building rules consent only or complying development; and
- provide administrative cost savings to councils of $5.4 million per annum (based on current activity levels).

The state

It is expected that the reforms will also:

- lead to an approximate increase of $3.4 billion to $4.9 billion in gross state product (GSP) or 1.08 per cent to 1.51 per cent over the next five years (or approximately $689 million to $992 million per annum on average); and
- lead to an opportunity cost saving of $62 million per annum by reducing the total cost of stop the clock events each year. That is, based on the value of building works delayed each year, $62 million will be available to be invested elsewhere the economy.

Finally, there are potentially a number of follow-on effects from minimising such delays. For applicants and builders this includes the introduction of more certainty and predictability into:

- the construction labour market, where skills are highly sought after due to a shortage of these skills; and
- construction contracts, by reducing any premium costs associated with the risks brought on by delay.

In addition to the formal report associated with this bill, I will also make some other comments at this stage. This legislation enables the residential development code to be introduced by regulation. A draft version of the code has been available for consultation since June this year, which is in keeping with this government's commitment to public participation in its decision making. After three months of taking submissions from the public, industry and community groups, the government is on track to finalising this code in time for its introduction in March next year.

The introduction of a residential development code for dwellings of up to two storeys will allow code compliant applications to receive planning approval within 10 working days. At the conclusion of the three-month consultation period, the government began road-testing the code against development applications received by 10 metropolitan and regional councils in the first quarter of this year. That road-testing determined 37 per cent of applications would have been subjected to the new residential code, 2 per cent would have been exempt from a planning approval under rules that come into force from 1 January, and 22 per cent would have been assessed under the building rules consent only provisions.

A number of changes are being considered to the draft code based on feedback from local councils, the Local Government Association, community and industry groups. I will briefly outline on the record some of those changes. One of the main changes is to delete the minimum size area (350 square metre) requirement and retain density controls through the local Development Plan. The code will apply to existing allotments (provided all other performance controls are met) and to allotments with site areas consistent with the policy set out in the local Development Plan. For example, if the Development Plan allows you to build a 'two for one', you will be able to under the code.

The code to apply to detached dwellings, semi-detached dwellings, alterations to existing home but not to row dwellings (row dwellings comprise less than 1 per cent of applications). The code will be presented in several parts so that there are differing levels of requirements depending on the nature of the building; that is, more performance controls for new homes and alterations, less for sheds and carports. A deletion of the five metre front setback. Instead, the setback will be as prescribed in the local Development Plan. Deletion of the three metre rear setback. Instead, for sites greater than 300 square metres:

- Single storey component of a dwelling (measured from the closest solid wall) must be set back from the rear boundary a minimum distance of four metres.
- Upper storey component of a dwelling (measured from the closest solid wall) must be set back from the rear boundary a minimum distance of six metres.

For sites less than 300 square metres:

- Single storey component of a dwelling (measured from the closest solid wall) must be set back from the rear boundary a minimum distance of three metres.
- Upper storey components of a dwelling (measured from the closest solid wall) must be setback from the rear boundary a minimum distance of five metres.

There are changes to the side setbacks as follows:

- The requirement that you can only build on the boundary to one side only (not both).
- All walls located on a side boundary must not exceed:
  - three metres in height; and
  - 50 per cent of the remaining length of the boundary (excluding the length of any front setback); and
  - no wall along a boundary can be greater than eight metres in length.

There is also inclusion of a requirement for sheds and other outbuildings to be made of non-reflective materials and finishes.

The government also remains of the opinion that sustainability is an issue best addressed through the building code rather than the development code. There will be other changes, all of which respond to issues raised during the public consultation and road-testing phase. These changes will be available in the final versions of the code that will be available before debate begins on this bill, which, hopefully, will be when we resume on Tuesday week. I remind members that the residential development code does not apply to local heritage places, state heritage places, state heritage areas, historic conservation zones and policy areas, and development that is subject to a referral such as to the Country Fire Service.

Character will also be acknowledged, in addition to the code that will come into effect in September next year. Further public consultation will be required with local councils, community and industry groups to identify the features that distinguish character within our suburbs. I commend the bill to members. I seek leave to have the explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Development Act 1993*

4—Amendment of section 33—Matters against which a development must be assessed

These amendments serve 2 purposes. New subsection (4a) of section 33 will provide a mechanism under section 33 to prescribe classes of development that will not need to be granted development plan consent. New subsection (4b) will provide that where a development only requires building rules consent and the council is the relevant authority, the council must issue a development approval if or when it issues the building rules consent.

5—Amendment of section 35—Special provisions relating to assessment against a Development Plan

These amendments relate to the assessment of *complying* development under section 35.

New subsection (1b) will provide that a development that is assessed by a relevant authority as being a minor variation from *complying* development may be determined by the relevant authority as *complying* development in any event and assessed accordingly.

New subsection (1c) will provide that if a proposed development meets all but 1 of the criteria for *complying* development, it must be assessed as such and the balance of the development will then be assessed as *merit* development. However, subsection (1d) will make it clear that subsection (1c) will not prevent a relevant authority from deciding not to grant development plan consent on account of its assessment of the balance of the development and under subsection (1e) this provision will not apply if the development, from an overall perspective, falls within a category of *non-complying* development.

6—Amendment of section 37—Consultation with other authorities or agencies

This amendment relates to cases where an application is refused, or conditions are imposed, on account of a direction of a prescribed body under section 37. Under the current provisions of the Act, the prescribed body is constituted as a party to any appeal. The amendment will provide that the prescribed body will be the *respondent* to any appeal and the relevant authority may, on application be *joined* as a party to the proceedings, if the relevant authority has been directed to refuse an application. If an appeal relates to a condition that has been imposed at the direction of a prescribed body, both the prescribed body and the relevant authority will be respondents to the appeal.

7—Amendment of section 38—Public notice and consultation

These amendments basically serve 3 purposes.

Firstly, it will now be possible for the regulations to assign various forms of development to Category 1 or Category 2 with the effect that the assignment by the regulations will prevail over any inconsistency with the relevant Development Plan unless the regulations provide otherwise.

Secondly, the regulations will determine which forms of development will be Category 2A (compared with the amendments made by section 10 of the *Development (Assessment Procedures) Amendment Act 2007*).

Thirdly, in the case of a Category 1 development, the Act will provide that the relevant authority must not, on its own initiative, seek the views of the owners or occupiers of other land in connection with deciding whether or not to grant or refuse development plan consent.

8—Amendment of section 39—Application and provision of information

The amendments will establish various rules associated with the extent to which a relevant authority may request information with respect to certain categories of development. Another amendment will 'stop the clock' for the time within which a decision on an application must be made by the relevant authority if the applicant requires additional time to address various issues associated with the application.

9—Amendment of section 41—Time within which decision must be made

An applicant will be able to serve a notice on a relevant authority that has not decided an application that relates to a development that is a *complying* development within the prescribed period. In such a case, it will be taken that the relevant authority has refused the application and, subject to the regulations, the relevant authority will be required to refund the application fee.

10—Amendment of section 88—Powers of Court in determining any matter

This is a consequential amendment.

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

## STATUTES AMENDMENT (TRANSPORT PORTFOLIO—ALCOHOL AND DRUGS) BILL

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (00:50):** Obtained leave and introduced a bill for an act to amend the Harbors and Navigation

Act 1993, the Motor Vehicles Act 1959, the Rail Safety Act 2007 and the Road Traffic Act 1961. Read a first time.

**The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (00:52):** I move:

That this bill be now read a second time.

This bill is further evidence of the government's commitment to improve road safety and provides additional tools to keep off our roads people who drink or take drugs and drive. The bill combines two initiatives: introducing a mandatory alcohol interlock scheme and implementing the government's response to the review of the first year of operation of the Road Traffic (Drug Driving) Amendment Act 2005. The bill is necessary because, despite the raft of measures introduced over previous years to deter drink and drug driving behaviour, people continue to drink or take drugs (or both) and drive. Crash data shows that:

- the percentage of drivers and riders killed with a blood alcohol concentration (BAC) above the legal limit has increased from a low of 22 per cent in 1998 to an average of 33 per cent in the last five years, 2003 to 2007;
- on average, over the period 2003 to 2007 64 per cent of all driver and rider fatalities above the limit had a BAC greater than 0.15;
- on average, over the five-year period 2003 to 2007, 40 per cent of drivers and/or riders deemed responsible for an alcohol-related fatal crash had previously been detected committing a drink driving offence on at least one prior occasion;
- on average, between 2003 and 2007, 24 per cent of drivers or riders killed in South Australia tested positive for THC (the active ingredient in cannabis), methylamphetamine ('speed') or MDMA ('ecstasy'), or a combination of these.

In relation to drug driving reforms, on 1 July 2006 the Road Traffic (Drug Driving) Amendment Act 2005 (the amendment act) came into operation. It gave effect to the South Australian government's commitment to take strong measures against individuals who choose to use illegal drugs and then drive. The amendment act empowers South Australia Police (SAPOL) to conduct roadside saliva testing for the prescribed drugs of THC, methylamphetamine and MDMA.

The amendment act required the legislation to be reviewed after the first year of operation and a report to be laid before both houses of parliament. The review report indicated that the operation of the act had been effective. The report suggested a number of improvements to the drug driving provisions, some of which involve amendments to the drink driving provisions. The government has already implemented several important initiatives not requiring amendments to the principal legislation. These include the increases in expiation fees and demerit points for drink and drug driving offences that came into operation on 1 July 2008, and the testing of all drivers' and riders' blood samples for prescribed drugs, which also commenced as of 1 July 2008.

While most of the amendments are minor changes to improve the efficiency of the provisions, those of particular note are:

- introducing a three-month licence disqualification for the first conviction by a court of driving with a prescribed drug present in the driver's oral fluid or blood, with a similar change for a category 1 BAC offence. The Road Traffic Act 1961 provides that a first offence must be dealt with in the first instance by the issue of an expiation notice. This means that a driver gets one chance to avoid disqualification. If detected again within a prescribed number of years, the offence will be prosecuted and, if successful, the driver disqualified for three months. As a result, the disqualification periods for second, third and subsequent category 1 offences have been increased to six, nine and 12 months to provide for appropriately escalating penalties;
- counting prior alcohol-related driving offences in the determination of whether a drug driving offence is a 'subsequent' offence and vice versa;
- lowering the age of all people attending or admitted to a hospital as a result of a vessel or motor vehicle accident from whom a blood sample must be taken under section 74 of the Harbors and Navigation Act 1993 or section 47I of the Road Traffic Act 1961, from over 14 to over 10 years of age;

- requiring a drug dependency assessment in cases where a person has a second drug offence within a five year period and, if dependent, have the licence cancelled until further assessment indicates the person is no longer dependent;
- enabling SAPOL to test vessel operators for prescribed drugs. At the same time, the alcohol testing provisions of the Harbors and Navigation Act 1993 are brought closely into line with the provisions of the Road Traffic Act 1961 to aid consistency in administration and legal interpretation;
- providing for the transport of oral fluid and blood samples by an approved agent of SAPOL;
- introducing immediate loss of licence for a period of six months as a penalty for the offence of refusing or failing to submit to a drug test;
- enabling a police officer, under section 47EAA2(b) of the Road Traffic Act 1961, to require a person to submit to a blood test in the event that the oral fluid (saliva) analysis commences but is unable to be completed;
- including in section 47K of the Road Traffic Act 1961 evidentiary provisions to support drug screening tests in addition to oral fluid analysis.

In relation to the mandatory alcohol interlock scheme, in October 2001, South Australia became the first Australian state to introduce a voluntary alcohol interlock scheme for serious drink-drive offenders. Alcohol interlocks are fitted to vehicles to prevent them being started if the driver provides a breath sample with a reading that exceeds a designated breath alcohol concentration. This is usually a zero concentration of alcohol.

The Road Safety Advisory Council recommended that the interlock scheme be made mandatory for serious and repeat drink driving offenders.

Given the unacceptably high percentage of drink drivers involved in fatalities, the government believes that further strong measures are needed to deter people from drinking and driving. This bill does just that. It provides that, in future, drivers convicted of a serious drink driving offence will have to serve the full period of court-imposed licence disqualification and then have an alcohol interlock device installed for the same length of time as the disqualification period, up to a maximum of 3 years, before being eligible to apply for a driver's licence without alcohol interlock scheme conditions.

A serious drink driving offence is defined in the bill as—

- a second or subsequent BAC offence at or above 0.08 (category 2 BAC) within five years;
- driving with BAC at or above 0.15 (category 3 BAC);
- driving under the influence of intoxicating liquor (DUI-alcohol); or
- refusing or failing to provide a sample of breath or blood for the purposes of alcohol testing.

At the end of the court-imposed disqualification period, the person will be able to apply for a licence subject to alcohol interlock conditions provided there is no other barrier to the issue of the licence (such as another impending disqualification period). However, any licence issued will include conditions that the person must only drive a nominated vehicle and that that vehicle must be fitted with an alcohol interlock. It will be a serious offence for a person to drive a vehicle that is not fitted with an alcohol interlock device in breach of their licence conditions.

To ensure that the licence holder has demonstrated an ability to separate drinking from driving, the last three months on a licence subject to alcohol interlock scheme conditions will have to be completed without certain interlock violations, as distinct from breaches of alcohol interlock scheme conditions. Interlock violations will be of a kind specified by notice in the *Gazette* and will be, for example, a second blood alcohol reading of 0.05 or more. A breach of alcohol interlock scheme conditions will attract a fine of up to $2,500. These conditions are similar to those currently applicable to the voluntary alcohol interlock scheme, including—

- a condition that the holder of the licence must only drive a nominated vehicle that is fitted with an alcohol interlock installed by an approved provider;
- a condition that the holder of the licence must operate the device in accordance with instructions published by the minister in the *Gazette*;

- a condition that the holder of the licence must not interfere or tamper with the alcohol interlock, or allow another person to do so;
- a condition that the holder of the licence must present the vehicle to an approved provider for the purpose of having the functioning of alcohol interlock examined;
- a condition that the holder of the licence must only drive the nominated vehicle if the alcohol interlock is properly functioning.

It will be a condition of regaining an unconditional (full) driver's licence that the driver has an interlock device fitted for the required time. It is expected that some drivers will never seek restoration of their licence and never drive again; some may attempt to avoid this system by driving illegally.

It is proposed that the penalty for driving unlicensed and not having served the required period on the mandatory alcohol interlock scheme (MIS) will be the same as that which applies to where a person who has never held a licence commits a second offence of driving without a licence—that is, a maximum penalty of $5,000 or imprisonment for one year and disqualification from holding or obtaining a licence for not less than three years.

The MIS is an administrative rather than a judicial scheme. Together with the proposal to discontinue the current court-based approach to repeat drink drivers under section 47J of the Road Traffic Act 1961 described below, the MIS is expected to free court time for other serious matters that require a court's attention.

Similarly, as far as possible, the day-to-day management of the MIS will be undertaken by interlock providers. This will build on the current approach with the VIS. The providers will install, maintain and monitor the devices, regularly report on the use to the Department for Transport, Energy and Infrastructure, and administer the concession scheme.

The fundamental principles underlying the costs associated with the mandatory alcohol interlock scheme include—

- that the proposal is intended to be cost neutral for the government over the longer term;
- that participants in the scheme will meet all costs; and
- that a flexible payment system will mean that the more affluent participants will subsidise the costs for those on low incomes.

Provider costs for low income participants will be reduced by 35 per cent.

In relation to the discontinuation of current voluntary alcohol interlock scheme, there are a number of people who will be affected by these changes because they are already on the voluntary interlock scheme or committed offences before the mandatory interlock scheme commences but are not dealt with by the courts until after the commencement date. These people will be entitled to be dealt with under the law as it stood at the time of their offending. The bill inserts transitional provisions in the Motor Vehicles Act 1959 to maintain the rights of these people.

However, to provide a certain end date for the voluntary interlock scheme, it is proposed that any person who has a right to enter the voluntary interlock scheme but has not done so by the fifth anniversary of the commencement of the mandatory interlock scheme will forfeit the right to participate in the voluntary interlock scheme and will have to serve out their disqualification in full.

If a person on the voluntary interlock scheme voluntarily surrenders their licence or ceases to hold a licence for another reason, for example through disqualification, they will not be able to return to the voluntary interlock scheme and will have to serve out the remainder of their disqualification, with no reduction for any time spent on the voluntary interlock scheme, before they can regain their licence.

In relation to section 47J of the Road Traffic Act (repeat offenders), the mandatory alcohol interlock scheme will render the existing repeat offender provisions of the Road Traffic Act 1961 redundant. Currently, a repeat offender who is convicted must have an alcohol and drugs dependency assessment before being sentenced but can continue to drive until the matter is again considered by the court. If the offender is found to be alcohol or drug dependent, they are disqualified from holding or obtaining a licence until a further assessment indicates this has changed.

Delays in assessments mean the disqualification that should result from the drink-driving offence is delayed for many months. The delay in dealing with the matter, both in terms of assessment and being dealt with by the court, reduces the perception of seriousness for offenders. It is also contrary to worldwide research which suggests that, to be effective, punishment should closely follow offending. In addition, the process involves repeated court appearances. The magistracy has indicated a preference for an administrative scheme.

The bill amends section 47J of the Road Traffic Act to prevent further entry into the system. It is not appropriate to repeal the section at this time as those who will be subject to a 47J order at the commencement of the amendments will need to be accommodated. Existing eligible drivers and those already subject to court orders under this section will continue to be dealt with according to the scheme, but new offenders will be dealt with under the mandatory interlock scheme. Legal advice suggests that this is the neatest transitional arrangement available, until such time as there are no further 47J orders and the section may be repealed.

In relation to compulsory drug and alcohol dependency assessments, currently, under section 80 of the Motor Vehicles Act 1959, the Registrar of Motor Vehicles has the power to require drivers to have medical tests to assess their fitness to drive. Repeat drink drive offenders outside the Adelaide metropolitan area and drivers who are referred by a medical practitioner are dealt with in this way.

The Registrar's current practice, reinforced by national guidelines, is to not issue a licence to a person who is assessed as dependent on alcohol or drugs, and to only issue a licence subject to alcohol interlock scheme conditions to a person who is alcohol dependent. The driver must present evidence that they are no longer dependent before they can be issued with a licence. This practice will continue.

In part to replace the section 47J requirement for alcohol dependency assessments for repeat drink drivers, and in part to ensure that drivers who appear from their offence history to be dependent on alcohol or drugs are assessed, the bill provides that the Registrar must require a dependency assessment if, within five years of applying for a licence, a person commits or expiates:

- a second serious drink driving offence; or
- three category 1 BAC or two category 1 offences and one category 2 offence; or
- two or more drug driving offences.

These patterns of behaviour demonstrate a potentially serious alcohol or drug problem that must be addressed before that person can be issued with a driver's licence. This provision removes the Registrar's discretion regarding assessments and formalises his current practice regarding issuing licences where dependency is shown in relation to these offences. The Registrar's powers to require drivers to have medical tests to assess their fitness to drive under section 80 will continue and may be applied in other circumstances involving alcohol or drugs.

At the same time, the maximum penalties under section 80 for contravention of a condition of a temporary driving permit and section 81 for contravention of a condition of a restricted licence or learner's permit, which are currently $250, are increased to $1,250 to match the maximum penalty for contravention of a condition of a learner's permit or provisional or probationary licence. An omission in section 81 has been identified. The section applies to both learners' permits and licences, but the penalty provision only applies to licences, meaning that there is no penalty for breach of a condition of a restricted learner's permit. The bill corrects this omission.

This bill will improve the operation of the existing drug driving provisions of the legislation, and introduce a scheme to ensure that serious drink drivers cannot drink and drive. I am sure we would all agree that these measures will improve road safety in South Australia. As announced in a media release yesterday, the government will not be introducing mandatory carriage of licence, as feedback received overwhelmingly indicated to us that there was concern that people could be penalised for being forgetful.

I commend the bill to the council. I seek leave to have the explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

Clauses 1 to 3 are formal.

Part 2—Amendment of *Harbors and Navigation Act 1993*

4—Amendment of section 4—Interpretation

This clause inserts definitions of terms used in provisions that are inserted or amended by the Bill. It also relocates some definitions from other sections and updates existing definitions in section 4.

5—Amendment of section 13—Production of identity card

This clause amends section 13 by deleting the reference to 'member of the police force' and substituting 'police officer'. The term *police officer* is defined in the *Acts Interpretation Act 1915*.

6—Amendment of section 70—Alcohol and other drugs

This clause amends section 70 to make it an offence for a person to have a prescribed drug present in his or her oral fluid or blood while operating a vessel or while a member of a crew of vessel who is, or ought to be, engaged in duties affecting the safe navigation, operation or use of the vessel. The monetary penalties are the same as those for an offence against section 47BA(1) of the *Road Traffic Act 1961* (namely, a minimum fine of $500 and a maximum fine of $900 for a first offence, a minimum fine of $700 and a maximum fine of $1,200 for a second offence, and a minimum fine of $1,100 and a maximum fine of $1,800 for a subsequent offence). As in the case of an offence against section 47BA(1), it is a defence if the defendant proves that he or she did not knowingly consume the prescribed drug present in his or her oral fluid or blood (but not if the defendant consumed the prescribed drug believing that he or she was consuming a substance unlawfully but was mistaken as to, unaware of or indifferent to the identity of the prescribed drug). The clause also amends section 70 so that previous drug offences are taken into account in determining whether an offence against that section is a first, second or subsequent offence.

7—Substitution of sections 71 to 72B

71—Authorised person may require alcotest or breath analysis

Section 71 empowers an authorised person to require an operator of a vessel or a member of the crew of a vessel to submit to an alcotest or breath analysis. The section has been redrafted to make it consistent with section 47E of the *Road Traffic Act 1961*.

72—Authorised person may require drug screening test, oral fluid analysis and blood test

New section 72 empowers an authorised person to require a person who has submitted to an alcotest or a breath analysis under section 71 to submit to a drug screening test. The section empowers an authorised person to require an oral fluid analysis or a blood test if the drug screening test indicates the presence of a prescribed drug in the person's oral fluid. If a person has submitted to an alcotest or breath analysis as a result of a requirement made under section 71 in prescribed circumstances (as defined in section 4), the authorised person may require the person to submit to an oral fluid analysis or a blood test without first requiring a drug screening test.

This section is consistent with section 47EAA of the *Road Traffic Act 1961*.

72A—Schedule 1A further regulates blood and oral fluid sample processes

New section 72AB provides that Schedule 1A sets out detailed procedures for taking and dealing with blood and oral fluid samples. This section is consistent with section 47F of the *Road Traffic Act 1961*.

8—Substitution of section 73

73—Evidence

Section 73 has been redrafted to make it consistent with Schedule 2 clause 15 of the *Rail Safety Act 2007* and section 47K of the *Road Traffic Act 1961*. It includes evidentiary provisions required to support the drug testing provisions, and a number of evidentiary provisions are relocated from sections 72 and 74.

9—Insertion of section 73B

73B—Oral fluid analysis or blood test where consumption of prescribed drug occurs after operation of vessel

New section 73B applies in relation to proceedings for an offence against section 71(1) or (3) in which the results of an oral fluid analysis or blood test under the new section 72 are relied on to establish the commission of the offence.

The section provides that a court may find a defendant not guilty of the offence charged if he or she satisfies the court that he or she consumed the prescribed drug during the period between the person's conduct that gave rise to the requirement to submit to the oral fluid analysis or blood test and the

performance of the analysis or test, and the prescribed drug was not consumed after an authorised person first exercised powers under section 72 preliminary to the performance of the analysis or test.

This section is consistent with section 73A which applies in relation to proceedings for an offence in which the results of a breath analysis are relied on to establish the commission of the offence. It is also consistent with Schedule 2 clause 8 of the *Rail Safety Act 2007* and section 47GB of the *Road Traffic Act 1961*.

10—Amendment of section 74—Compulsory blood tests of injured persons including water skiers

This clause amends section 74 to lower the age from 14 to 10 for the compulsory blood testing of persons injured in vessel accidents who attend at or are admitted to a hospital or are dead on arrival at a hospital. It removes a number of evidentiary provisions relocated to section 73 and provisions relating to procedures for blood testing relocated to Schedule 1A, and provides for previous prescribed alcohol or drug offences to be taken in account in determining whether an offence against section 74 is a first or subsequent offence.

11—Insertion of Schedule 1A

This clause inserts a new Schedule containing procedural provisions setting out how samples of blood and oral fluid taken under Part 10 Division 4 of the Act must be dealt with.

Schedule 1A—Blood and oral fluid sample processes

Part 1—Preliminary

1—Interpretation

This clause defines terms used in the Schedule.

Part 2—Processes relating to blood samples under section 71, 72 or 74

2—Blood sample processes generally

This clause set out what must be done in relation to a sample of blood by the medical practitioner who takes the sample and the analyst who analyses the sample. The clause is consistent with Schedule 2 clause 10 of the *Rail Safety Act 2007* and Schedule 1 clause 2 of the *Road Traffic Act 1961*.

3—Blood tests by registered nurses

This clause enables blood samples to be taken by registered nurses outside Metropolitan Adelaide. This provision has been relocated from section 72B and is consistent with Schedule 2 clause 16 of the *Rail Safety Act 2007* and Schedule 1 clause 3 of the *Road Traffic Act 1961*.

4—Police officer to be present when blood sample taken

This clause requires a police officer to be present when a blood sample is taken. This provision has been relocated from section 72 and is consistent with Schedule 1 clause 4 of the *Road Traffic Act 1961*.

5—Costs of blood tests under certain sections

This clause provides for the taking of a sample of blood under certain sections to be at the expense of the Crown. This clause is consistent with Schedule 2 clause 14 of the *Rail Safety Act 2007* and Schedule 1 clause 5 of the *Road Traffic Act 1961*.

6—Provisions relating to medical practitioners etc

This clause includes provisions relocated from section 74 and is consistent with Schedule 2 clause 17 of the *Rail Safety Act 2007* and Schedule 1 clause 6 of the *Road Traffic Act 1961*.

The provisions protect medical practitioners and registered nurses from liability for acts in good faith in compliance or purported compliance with the Act, and specify the circumstances in which a medical practitioner must not, or is not required, to take a blood sample.

The clause also makes it an offence for a medical practitioner to fail, without reasonable excuse, to comply with a provision of, or to perform any duty arising under, section 74 and prohibit the commencement of proceedings for such an offence without the authorisation of the Attorney-General.

Part 3—Processes relating to oral fluid samples under section 72

7—Oral fluid sample processes

This clause sets out what must be done in relation to a sample of oral fluid by the police officer who takes the sample and the analyst who analyses the sample. The requirements are consistent with those of Schedule 2 clause 11 of the *Rail Safety Act 2007* and Schedule 1 clause 7 of the *Road Traffic Act 1961*.

Part 4—Other provisions relating to blood or oral fluid samples under Part 10 Division 4

8—Blood or oral fluid sample or results of analysis etc not to be used for other purposes

This clause limits the purposes for which a sample of blood or oral fluid taken under Part 10 Division 4 (and any other forensic material taken incidentally during a drug screening test, oral fluid analysis or blood test) may be used.

The clause limits the evidentiary use of the results of a drug screening test, oral fluid analysis or blood test under Part 10 Division 4 of the Act, an admission or statement made by a person relating to such a test or analysis, or any evidence taken in proceedings relating to such a test or analysis (or transcript of such evidence).

This clause is consistent with Schedule 1 clause 8 of the *Road Traffic Act 1961*.

9—Destruction of blood or oral fluid sample taken under Part 10 Division 4

This clause requires a sample of blood or oral fluid taken under Part 10 Division 4 (and any other forensic material taken incidentally during a drug screening test, oral fluid analysis or blood test) to be destroyed after a specified period.

This clause is consistent with Schedule 1 clause 9 of the *Road Traffic Act 1961*.

Part 3—Amendment of *Motor Vehicles Act 1959*

12—Amendment of section 5—Interpretation

This clause inserts a number of new definitions and relocates to section 5 existing definitions in other provisions of the Act.

13—Amendment of section 72A—Qualified supervising drivers

This clause removes definitions relocated to section 5.

14—Amendment of section 74—Duty to hold licence or learner's permit

This clause amends section 74 to make it an offence for a person to drive a motor vehicle on a road if the person has been disqualified from holding or obtaining a licence because of a conviction for drink driving offence and the person has not, since the end of the period of disqualification, been authorised to drive a motor vehicle. A maximum penalty of $5,000 or imprisonment for 1 year is prescribed.

15—Amendment of section 75A—Learner's permit

This clause amends section 75A to remove definitions relocated to section 5.

16—Insertion of section 79B

79B—Alcohol and drug dependency assessments and issue of licences

New section 79B provides that if an applicant for a licence has, during the period of 5 years immediately preceding the date of application, expiated or been convicted of 3 or more category 1 offences, 2 category 1 offences and 1 category offence, or 2 or more serious drink driving offences, the Registrar must, before determining the application, direct the applicant to attend an assessment clinic to submit to an examination to determine whether the applicant is dependent on alcohol.

The section also provides that if an applicant for a licence has, during the period of 5 years immediately preceding the date of application, expiated or been convicted of 2 or more drug driving offences, the Registrar must, before determining the application, direct the applicant to attend an assessment clinic to submit to an examination to determine whether the applicant is dependent on drugs.

If the Registrar is satisfied, on the basis of a report of a superintendent of an assessment clinic that the applicant is dependent on alcohol, the Registrar must refuse to issue a licence to the applicant until the applicant satisfies the Registrar that the applicant is no longer dependent on alcohol (unless the applicant is willing to accept a licence subject to the mandatory alcohol interlock scheme conditions, in which case the Registrar can issue such a licence to the applicant). If such a licence is issued, the mandatory alcohol interlock scheme conditions are effective until the holder of the licence satisfies the Registrar that the holder is no longer dependent on alcohol.

If the Registrar is satisfied, on the basis of a report of a superintendent of an assessment clinic that the applicant is dependent on drugs, the Registrar must refuse to issue a licence to the applicant until the applicant satisfies the Registrar that the applicant is no longer dependent on drugs.

17—Amendment of section 80—Ability or fitness to be granted or hold licence or permit

This clause amends section 80 to increase the maximum penalty for an offence of contravening a condition or restriction of a temporary driving permit from $250 to $1,250.

18—Amendment of section 81—Restricted licences and permits

This clause amends section 81 to ensure that there is a penalty for contravening a condition endorsed on a learner's permit under this section and to increase the maximum penalty for an offence of contravening a condition from $250 to $1,250.

19—Amendment of section 81A—Provisional licences

This clause removes definitions relocated to section 5.

20—Amendment of section 81AB—Probationary licences

This clause amends section 81AB to ensure that if a probationary licence is issued subject to alcohol interlock scheme conditions, the probationary conditions are effective for the same period as the alcohol interlock scheme conditions or 12 months (whichever is the longer). It also amends the section to ensure that if a probationary licence is issued after a person is disqualified for a serious drink driving offence the probationary conditions are effective for a period equal to the disqualification period or 3 years, whichever is the lesser. The clause also removes definitions relocated to section 5.

21—Amendment of section 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions etc

This clause amends section 81B to remove a definition and a provision relating to the period of disqualification that applies to a person who is given a notice of disqualification under subsection (2). The amendments are consequential on the repeal of Part 3 Division 5A of the *Road Traffic Act 1961*.

22—Amendment of section 81C—Disqualification for certain drink driving offences

This clause amends section 81C to require that offences against section 47BA(1) of the *Road Traffic Act 1961* be taken into account in determining what is a first, second, third or subsequent offence for the purposes of section 81C.

23—Amendment of section 81D—Disqualification for certain drug driving offences

This clause amends section 81D to require that offences against section 47B of the *Road Traffic Act 1961* be taken into account in determining what is a first, second, third or subsequent offence for the purposes of section 81D.

24—Insertion of sections 81E to 81H

Sections 81E to 81H establish a mandatory alcohol interlock scheme.

81E—Circumstances in which licence will be subject to mandatory alcohol interlock scheme conditions

Section 81E requires a licence issued to a person to be subject to the mandatory alcohol scheme conditions if the applicant has been disqualified on conviction for a serious drink driving offence committed on or after the commencement of the section and the person has not held a licence since the end of the period of disqualification. A serious drink driving offence is defined as any drink driving offence other than a category 1 offence or a first category 2 offence. The section specifies the period for which the mandatory alcohol interlock conditions are to be effective. It also provides that a licence will not be subject to such conditions if the applicant satisfies the Registrar that prescribed circumstances exist in the particular case.

81F—Mandatory alcohol interlock scheme conditions

Section 81F specifies the mandatory alcohol interlock scheme conditions. It also requires a person to nominate a motor vehicle for the person.

81G—Cessation of licence subject to mandatory alcohol interlock scheme conditions

Section 81G provides that if a person ceases to hold a licence subject to the mandatory alcohol interlock scheme conditions before the person qualifies for the issue of a licence not subject to such conditions, a licence subsequently issued to the person will be subject to the provisions until the person qualifies for a licence not subject to the mandatory alcohol interlock scheme conditions.

81H—Contravention of mandatory alcohol interlock scheme conditions

Section 81H makes it an offence for the holder of a licence subject to the mandatory alcohol interlock scheme conditions to contravene any of the conditions and specifies a maximum penalty of $2,500. It also makes it an offence for a person to assist the holder of such a licence to operate a motor vehicle, or interfere with an alcohol interlock, in contravention of the conditions. The maximum penalty for this offence is also $2,500. The section also contains a number of evidentiary provisions to assist in the prosecution of such offences.

25—Amendment of section 93—Notice to be given to Registrar

This clause amends section 93 to require the proper officer of a court that makes an order under section 47J(9) of the *Road Traffic Act 1961* revoking a disqualification to notify the Registrar in writing of the date of the order, its nature and effect and short particulars of the grounds on which the order was made.

26—Insertion of Schedule 6

This clause inserts a new Schedule to continue in operation the current voluntary alcohol interlock scheme established by Part 3 Division 5A of the *Road Traffic Act 1961*.

Schedule 6—Transitional voluntary alcohol interlock scheme

1—Interpretation

This clause defines terms used in the Schedule.

2—Voluntary alcohol interlock scheme conditions to continue to apply to certain licences issued before commencement of Schedule

This clause provides that if a licence in force under the Act on the commencement of this Schedule is subject to the voluntary alcohol interlock scheme conditions, those conditions continue to be effective after that commencement for the balance of the required period unexpired on the commencement of this Schedule.

3—Voluntary alcohol interlock scheme conditions to apply to certain licences issued on or after commencement of Schedule

This clause provides that a person is entitled to the issue of a licence subject to the voluntary alcohol interlock scheme conditions for the required period if—

(a) —

(i) before the commencement of the Schedule, the person expiates a relevant drink driving offence to which section 81C applies and is given a notice of disqualification under that section stating that, despite the disqualification imposed for that offence, the person will, on application made to the Registrar at any time after the half-way point in the period of disqualification, be entitled to be issued with a licence subject to the alcohol interlock scheme conditions; or

(ii) before the commencement of the Schedule, the person is convicted of a relevant drink driving offence and disqualified by order of a court and the court also makes an order against the person under section 51 of the *Road Traffic Act 1961* to the effect that, despite the disqualification imposed for that offence, the person will, on application made to the Registrar at any time after the half-way point in the period of disqualification, be entitled to be issued with a licence that is subject to the alcohol interlock scheme conditions; or

(iii) before the commencement of the Schedule, the person commits or allegedly commits a relevant drink driving offence and in consequence of the commission or alleged commission of that offence, the person is, after the commencement of this Schedule, disqualified for a period of at least 6 months; and

(b) after the half-way point in the period of disqualification and within the period of 5 years after the commencement of this Schedule, the person applies for a licence subject to the alcohol interlock scheme conditions; and

(c) the person meets the requirements of this Act for the issue of the licence; and

(d) no disqualification (other than the disqualification for the offence referred to in paragraph (a)) is in force at the date of the application or will commence at a later date.

4—Period for which licence is required to be subject to voluntary alcohol interlock scheme conditions

This clause provides that the required period for which a licence is subject to the voluntary alcohol interlock scheme conditions is a number of days equal to twice the number of days remaining in the period of the person's disqualification for the relevant drink driving offence immediately before the issuing of the licence.

5—Voluntary alcohol interlock scheme conditions

This clause specifies the voluntary alcohol interlock scheme conditions. It also requires a person to nominate a motor vehicle for the person.

6—Cessation of licence subject to voluntary alcohol interlock scheme conditions

This clause provides that if a person—

(a) voluntarily surrenders a licence subject to the voluntary alcohol interlock scheme conditions; or

(b) ceases to hold such a licence for another reason (other than cancellation of the licence in consequence of the person being convicted of a serious drink driving offence),

before the conditions have applied in relation to the person for the required period, the person is, from the day on which the person surrenders or ceases to hold the licence, disqualified from holding or obtaining a licence or learner's permit for a period equal to the number of days remaining in the period of the person's disqualification for the relevant drink driving offence immediately before the issuing of the licence.

7—Contravention of voluntary alcohol interlock scheme conditions

This clause makes it an offence for the holder of a licence subject to the voluntary alcohol interlock scheme conditions to contravene any of the conditions and fixes a maximum penalty of $1,250.

It also makes it an offence for a person to assist the holder of a licence subject to the voluntary alcohol interlock scheme conditions to operate a motor vehicle, or interfere with an alcohol interlock, in contravention of any of the conditions and fixes a maximum penalty of $1,250. A court convicting a person

of such an offence may order that the person be disqualified from holding or obtaining a licence or learner's permit for a period not exceeding 6 months.

The clause contains a number of evidentiary provisions necessary to assist in the prosecution of offences against the clause.

8—Financial assistance for us of alcohol interlocks

This clause provides for the financial assistance scheme established under section 53AA of the *Road Traffic Act 1961* to continue in operation after the repeal of that section to enable persons entitled to the issue of a licence subject to the voluntary alcohol interlock scheme to obtain means tested loans or other assistance.

9—Fees

This clause requires the holder of a licence subject to the voluntary alcohol interlock scheme conditions to pay the fees prescribed by regulation.

Part 4—Amendment of *Rail Safety Act 2007*

27—Amendment of Schedule 2—Provisions relating to alcohol and other drug testing

This clause amends Schedule 2 to enable blood and oral fluid samples to be transported by couriers approved by the Minister. It also makes an amendment to ensure that an authorised person is not required to facilitate an oral fluid analysis if a person who refuses or fails to have a blood test on the ground of a medical or physical condition has already refused or failed to submit to an oral fluid analysis on such grounds or has been unable to produce sufficient oral fluid for an oral fluid analysis to be performed.

Part 5—Amendment of *Road Traffic Act 1961*

28—Amendment of section 5—Interpretation

This clause amends section 5 to define the terms *drink driving offence* and *drug driving offence*.

29—Amendment of section 47—Driving under influence

This clause amends section 47 to require that offences against section 47BA(1) be taken into account in determining what is a first or subsequent offence for the purposes of section 47.

30—Amendment of section 47A—Interpretation

This clause amends section 47A by altering the definition of *prescribed circumstances* so that a requirement to submit to an alcotest, breath analysis or drug screening test under section 47E or 47EAA, or a direction to stop a vehicle for the purpose of making such a requirement, is made or given in prescribed circumstances (ie, not in the exercise of random testing powers) if it is made or given up to 8 hours after a person has—

(a) committed an offence of a prescribed class; or

(b) behaved in a manner that indicates that his or her ability to drive a motor vehicle is impaired; or

(c) been involved as a driver in an accident.

Currently such a requirement or direction is made or given in prescribed circumstances if it is made or given up to 2 hours or, in relation to a drug screening test, 3 hours, after a person has done any of those things.

31—Amendment of section 47B—Driving while having prescribed concentration of alcohol in blood

This clause amends section 47B to require a court that convicts a person of a first offence against the section that is a category 1 offence to order that the person be disqualified from holding or obtaining a licence or learner's permit for at least 3 months. Section 47B(1) makes it an offence for a person to drive a motor vehicle, or attempt to put a motor vehicle in motion, while the person has present in his or her blood the prescribed concentration of alcohol.

The clause also amends the section to require that offences against section 47BA(1) be taken into account in determining what is a first, second, third or subsequent offence for the purposes of section 47B.

32—Amendment of section 47BA—Driving with prescribed drug in oral fluid or blood

This clause amends section 47BA to require a court that convicts a person of a first offence against the section to order that the person be disqualified from holding or obtaining a licence or learner's permit for at least 3 months.

The clause also amends the section to require that offences against section 47B(1) be taken into account in determining what is a first, second, third or subsequent offence for the purposes of section 47BA.

33—Amendment of section 47E—Police may require alcotest or breath analysis

This clause amends section 47E to require that offences against section 47BA(1) be taken into account in determining what is a first or subsequent offence for the purposes of section 47E.

34—Amendment of section 47EAA—Police may require drug screening test, oral fluid analysis and blood test

This clause amends section 47EAA by inserting a provision that empowers a police officer to require a person to submit to a blood test if the person is unable to produce sufficient oral fluid for a sample of oral fluid to be taken. It also makes an amendment to ensure that a police officer is not required to facilitate an oral fluid analysis if a person who refuses or fails to have a blood test on the ground of a medical or physical condition has already refused or failed to submit to an oral fluid analysis on such grounds or has been unable to produce sufficient oral fluid for an oral fluid analysis to be performed.

35—Amendment of section 47I—Compulsory blood tests

This clause amends section 47I to lower the age from 14 to 10 for the compulsory blood testing of persons injured in motor vehicle accidents who attend at or are admitted to a hospital or are dead on arrival at a hospital. It also amends the section so that all previous drink driving or drug driving offences are taken into account in determining what is a first or subsequent offence for the purposes of the section.

36—Amendment of section 47IAA—Power of police to impose immediate licence disqualification or suspension

This clause amends section 47IAA to enable a police officer to issue a notice of immediate licence disqualification or suspension to a person who the police officer believes has committed an offence against section 47EAA(9).

37—Amendment of section 47J—Recurrent offenders

This clause amends section 47J so that it applies only to persons convicted of prescribed offences committed before the prescribed day. It also updates the language of the section.

38—Amendment of section 47K—Evidence

This clause amends section 47J to include an evidentiary provision which enables proof of matters relating to oral fluid analyses and drug screening tests to be given by certificate.

39—Repeal of Part 3 Division 5A

This clause repeals sections 48 to 53AA of the Act which established the alcohol interlock scheme.

40—Amendment of Schedule 1—Oral fluid and blood sample processes

This clause amends Schedule 1 to allow oral fluid and blood samples to be transported by couriers approved by the Commissioner of Police. It also makes a minor technical amendment to clause 9 to ensure that forensic material taken during a drug screening test, oral fluid analysis or blood is required to be destroyed if proceedings for an offence against the *Motor Vehicles Act 1959* or a driving-related offence under some other law (such as the *Criminal Law Consolidation Act 1935*) are not commenced within the period allowed.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

At 01:10 the council adjourned until Thursday 13 November 2008 at 11:00.