LEGISLATIVE COUNCIL

Thursday 5 February 2009

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

STORMWATER INITIATIVES

The Hon. R.L. BROKENSHIRE: Presented a petition, signed by 114 residents of South Australia, requesting the council to urge the government to invest in stormwater harvesting for metropolitan Adelaide.

PAPERS

The following papers were laid on the table:

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

Reports, 2007-08—
- Balaklava and Riverton Districts Health Service Incorporated
- Ceduna District Health Services Inc.
- Mallee Health Service Inc.
- Meningie and Districts Memorial Hospital and Health Services Inc.
- Mt. Barker and District Health Services Inc. (incorporating Mt. Barker District Soldiers Memorial Hospital and Adelaide Hills Community Health Services)
- Naracoorte Health Service Inc.
- Northern Yorke Peninsula Health Service Inc.
- Tailem Bend District Hospital

Department of Health—Report, 2006-07—Erratum

STRATA AND COMMUNITY TITLE REFORM

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:19): I table a copy of a ministerial statement relating to strata and community title reform made earlier today in another place by my colleague the Attorney-General.

The Hon. D.W. Ridgway: He is the acting premier today, I am told.

The Hon. P. HOLLOWAY: I believe so, yes. It shows the significant depths of talent held by this government.

QUESTION TIME

MENTAL HEALTH SERVICES, WOMEN

The Hon. S.G. WADE (14:20): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about mental health services for women.

Leave granted.

The Hon. S.G. WADE: Yesterday the minister highlighted what she considers to be discrimination against women in the Australian honours system. I raise an issue about women at the other end of the social scale, women with mental health issues. Women with mental health issues may not only have to deal with discrimination based on gender but also may be socially isolated through stigmatisation related to their mental health status. The government is planning for inpatient services for women with forensic mental health issues to be available only from a facility collocated with the new prison at Mobilong. They face the prospect of a triple burden of discrimination and stigmatisation.

In opposing the establishment of the Select Committee on Proposed Sale and Redevelopment of the Glenside Hospital Site, the Minister for the Status of Women expressed concern at the risk of stigmatisation through the committee. On the other hand, before the committee the Royal Australian and New Zealand College of Psychiatrists highlighted the problem of stigmatisation of mental health patients caused by the government's proposed collocation of the facility with a prison environment. The college's submission to the committee stated:

It is difficult to reconcile this decision with a primary purpose of reducing stigma flouted in the remainder of the Glenside development. Forensic patients are as much in need of mental health care as any other stream of patient. To remove these patients to the non-central location some 50 minutes out of Adelaide, to adjoin a prison complex, can only serve to increase stigma and decrease positive outcomes for this population group.

In light of the comments of the college and the report of the committee, will the minister defer to the royal college and accept that the risk to women with mental health problems is greater from the proposed relocation of the facility than from the establishment of the committee, and will she make representations to the Minister for Health that the facility not be transferred?

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) (14:23): I thank the honourable member for his questions. A great deal of thought and planning has been considered in relation to the future service planning for mental health patients. I am no longer the minister responsible for mental health services, but certainly during my time, in terms of the development of the Glenside concept and master plans, I know that a number of opportunities were to be afforded consideration in the planning and modelling of the facility that included a wide range of issues, including indigenous clients, for example, as well as gender issues. The gender lens, if you like, to the best of my knowledge as the former minister, was being put to that planning.

In terms of the new forensic facilities being proposed, again this is the responsibility of the Minister for Mental Health and Substance Abuse and is no longer my responsibility. Nevertheless, I know from my time as minister responsible, in that early planning time, as I have said several times before, that the plans for forensic mental health care were a contemporary model of recovery care for mental health clients. Some of the best evidence-based and most contemporary analysis was put into those considerations. As I have said in this place before, it was to be planned on a recovery model of care rather than a custodial model of care. I have previously put on the record in this place that the facility is not a corrections model of care, so I think the Hon. Mr Wade has become confused about the different types of services being provided. I know that clinical experts were given the opportunity to have input into the clinical models for that facility. As I have said, these are all matters that I considered in my former role. I cannot comment on more recent considerations, but I know that those matters received significant consideration in all of the previous planning.

FOOD LABELLING

The Hon. J.M.A. LENSINK (14:26): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about food labelling.

Leave granted.

The Hon. J.M.A. LENSINK: I have been contacted by a constituent who is very concerned about the standard of food labelling in Australia, particularly for imported goods. Her concerns arise from the fact that members of her family suffer from severe food allergies. Indeed, the consumer website of *Choice* states that nothing much is ever done about misleading food labelling, in spite of the fact that the state government has some role in ensuring that these things are done properly. My question is: given the increase in volume of imported food, especially from China, and in light of the unfortunate contamination of milk products, what measures has the government taken to ensure the safety of food products 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) (14:27): I thank the honourable member for her most important question. This is a matter that concerns us all, particularly with the recent milk contamination scare. However, these matters are outside the responsibilities of my portfolio. I believe they are matters that come within the portfolio of the health minister, and there might also be some federal components involved as well. Nevertheless, I am happy to refer the honourable member's question to the appropriate minister and bring back a response.

FREIGHTLINK

The Hon. R.I. LUCAS (14:28): I seek leave to make an explanation before asking the minister representing the Minister for Industry and Trade a question about Freightlink.

Leave granted.

The Hon. R.I. LUCAS: My question relates to the current financial problems confronting Freightlink and the potential exposure of South Australian taxpayers as a result of commitments given in relation to the building of the Alice Springs to Darwin railway. Treasury and the Department of Trade and Economic Development have advised that that exposure can be divided into three broad areas.

The first of these relate to the original granting, through legislation passed in the parliament in 1977, of a 50-year interest-free loan of $25 million to the Australasia Railway Corporation, which was, of course, matched by the Northern Territory government, which was also an interest-free loan. That loan, we are told, is repayable in 2054.

We are told that the carrying value of the loan provided by the Department of Trade and Economic Development to that corporation has been reduced to zero, and therefore it does not appear in the department's financial statement as an asset. We are also told that the department continues to record the outstanding loan in its grants and loans management system.

The second broad area relates to the fact that the Department of the Premier and Cabinet has an unquantifiable contingent liability in its accounts associated with the guarantee of the obligations of the Australasia Railway Corporation. I will not go through the details, but it is outlined in the Department of the Premier and Cabinet's 2007-08 Annual Report as to why it is not possible to quantify that particular contingent liability.

The third potential area of exposure relates to a guarantee, again pursuant to the Alice Springs to Darwin legislation of 1977, the state gave to SAFFA in respect of its holding of subordinated mezzanine notes issued by Asia Pacific Transport Finance Pty Ltd as part of the funding arrangements for the construction of the railway. However, I cannot establish the extent of the potential liability of taxpayers underneath that area. My questions are:

1. In relation to the guarantee to SAFA in respect of its holding of subordinated mezzanine notes issued by Asia Pacific Transport Finance Pty Ltd, will the minister outline to the parliament the extent of the potential financial guarantee or commitment the state and taxpayers have in relation to that guarantee?

2. Will the minister indicate the government's current advice as to the potential total exposure of the state in relation to the two areas that can be quantified—obviously, the interest-free loan ($25 million) and the guarantee of subordinated mezzanine notes—and the guarantee being given to SAFA?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:31): I thought the Treasurer had made some statements in relation to this matter, but I will refer the questions to him and bring back a reply.

CHELTENHAM PARK

The Hon. I.K. HUNTER (14:31): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the proposed Cheltenham Park redevelopment.

Leave granted.

The Hon. I.K. HUNTER: The South Australian Jockey Club announced its intention to cease racing at the Cheltenham Park racecourse and consolidate its annual program at Morphettville. As part of its future planning, the SAJC requested that Cheltenham Park be rezoned to incorporate a new residential development. Will the minister provide an update to the chamber on what the government is doing to ensure that any redevelopment within this large open space returns positive benefits to the South Australian community?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:32): I thank the Hon. Mr Hunter for his very timely question. In August last year, I approved the final rezoning for the Cheltenham Park racecourse through a ministerial plan amendment. This ministerial DPA provides maps and explicit rules that guide what can and cannot be done with the Cheltenham Park site, establishing detailed criteria against which development applications for the former racecourse are to be assessed. Importantly, the rezoning ensures that 35 per cent of the former racecourse is retained as open space with any residential and commercial development. I point out

that this percentage is more than double the standard requirement of 12.5 per cent for new housing developments.

The rezoning setaside 11 hectares of open space in no more than two parcels and a further 6.1 hectares for parks and landscaped areas. This government took the opportunity afforded by the rezoning to ensure that some of the open space land at Cheltenham Park is set aside for a wetland to assist in stormwater harvesting. The decision to incorporate a wetland within the racecourse redevelopment is consistent with this government's goal, set out in its 2005 Water Proofing Adelaide strategy, to increase annual stormwater re-use to 20,000 megalitres (or about 10 per cent of Adelaide's mains water use).

I am delighted to inform members that the Cheltenham Park racecourse redevelopment will include a greatly enhanced stormwater capture and re-use project. The $20 million project will include a 4.5 hectare wetland and aquifer storage and recovery scheme, with the capacity to treat, store, recover and re-use 1.2 gigalitres of stormwater a year. This will allow new homes at the site nearby industrial users to be connected to dual reticulation systems to use harvested stormwater for non-potable purposes, such as garden watering and toilet flushing, which is similar to that which exists at Mawson Lakes.

The aquifer storage and recovery scheme will have the capacity to process water from the Cheltenham Park redevelopment and the Torrens Road catchment, as well as parts of the Hindmarsh catchment and Torrens River. I point out that this is an area of almost 900 hectares. Despite the campaign of misinformation conducted by some regular letter writers to *The Advertiser*, the government has always been wholeheartedly committed to creating a wetland at Cheltenham Park.

I am delighted to inform members that the wetland project, which was announced today by my colleagues the Minister for Water Security (Karlene Maywald) and minister Weatherill, is six times larger than the capacity originally envisaged in the development plan amendment, so it is 1.2 gigalitres, rather than what had originally been envisaged. The area of the catchment is almost 900 hectares, much larger than the original catchment of just the Cheltenham site.

The project that was announced today by the government ensures that we will well and truly exceed this government's target to increase annual stormwater re-use. The development plan is about not only ensuring adequate stormwater retention but also providing the South Australian community with access to open space within the western suburbs, and that is why the rezoning also incorporates linked walking and cycling trails, integrated environmental sustainability principles such as passive solar design housing and a minimum of 15 per cent of the housing meeting the government's affordable housing requirements.

This government wants Cheltenham Park to emerge as a vibrant inner metropolitan suburb. The rezoning also includes scope to ensure that the residential development at Cheltenham Park is consistent with the government's plan to electrify the Grange and Outer Harbor lines and extend light rail to West Lakes and Semaphore.

This government has set out a modern vision for Adelaide through the $2 billion transport revolution and its commitment to the environment with its object of increased storage and re-use of stormwater. This rezoning is allowing the government to deliver on its vision of creating commuter-friendly inner city communities alongside a modern, electrified rail network within an environmentally sustainable city.

I want to stress that it was the SAJC's decision to cease horse racing at Cheltenham Park. This government's role was simply to ensure that this decision delivered tangible benefits to the community. The announcement today of an enlarged capacity for stormwater harvesting at the racecourse site is consistent with that objective. Rather than just rubber-stamping a residential development, this government is making sure that we grasp the opportunity to integrate an environmentally based wetlands capable of recycling 1.2 gigalitres of stormwater and set aside an abundance of open space accessible to the public. While many South Australians are disappointed that horse racing will no longer be a feature of Cheltenham Park, we can guarantee that the legacy it provides is one that ultimately enhances the local community socially, economically and environmentally.

Finally, the commitment to expand the scope of the stormwater project coincides with today's lifting of an open space proclamation for the Cheltenham Park Racecourse site, allowing residential development and stormwater harvesting to proceed.

CHELTENHAM PARK

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:37): I table a copy of a ministerial statement relating to the Cheltenham Park project made earlier today in another place by my colleague the Minister for Water Security.

QUESTION TIME

CHELTENHAM PARK

The Hon. M. PARNELL (14:38): As a supplementary question, will the minister advise the council whether the wetland that will form these works is any larger than the wetland that has appeared in the concept plans for the past several months?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:38): I have already answered that question. I said that at 1.2 gigalitres it is some six times larger than the 200 megalitres which I think were originally envisaged. When the honourable member gets the statement from minister Maywald which I have just tabled—

An honourable member interjecting:

The Hon. P. HOLLOWAY: No, I did not, but the statement from minister Maywald provides the size of some of the other waterproofing projects: Waterproofing Northern Adelaide substitutes 12.1 gigalitres per year, and there is the Lochiel Park Green Village; the Metropolitan Adelaide stormwater re-use project, which substitutes up to 1 gigalitre per year of water; and the Barker Inlet, etc. The government is also negotiating with Adelaide Airport.

This is six times larger than was originally envisaged, and the catchment area that will be served by this is now some 893 hectares, I believe, which is bigger than the 400 or so hectares for the Torrens Road catchment area.

CHELTENHAM PARK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:40): I have a supplementary question. Can the minister inform the council of the maximum height of the buildings within the development plan and the expected number of people who will live on the site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:40): A development plan amendment actually sets the guidelines for what can be built. It talks about densities but, of course, ultimately the design will be that put forward by the developers. Yes, it must conform to the development plan and, if the honourable member wants to read the specific details, he can obtain a copy of it. It has been out since August last year. How many houses are on there will ultimately depend. One can have maximum limits, but that does not mean one will necessarily exceed the maximum. But there is provision for medium densities, particularly near the transport corridors. Obviously, the number of people who will ultimately be on that site will depend on what is proposed.

CHELTENHAM PARK

The Hon. M. PARNELL (14:41): I have a supplementary question arising from the minister's answer to me earlier. Can the minister clarify that this 4.5 hectare wetlands area is six times larger than the wetlands that have previously appeared on concept plans for this site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:41): It is the capacity that is six times larger, at 1.2 gigalitres. The idea is—

The Hon. D.W. Ridgway: So it is six times deeper, then?

The Hon. P. HOLLOWAY: No, you actually store it, because you inject it into the aquifer. Mr President, these are the people who have been claiming that they understand all about stormwater injection. We finally have a proposal that says we will inject this into the aquifer and we will clean the water in this 900 hectare area. It is about 5 hectares that will do the job, we are informed, and it will then be injected into the aquifer. The capacity of the water coming through, as I said, according to the advice I have received, is six times larger than originally envisaged. But, clearly, it will be injected into the aquifer where it can be re-used.

CHELTENHAM PARK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:42): I have a further supplementary in response to the last question. The capacity of the 4.5 hectares wetland—

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Chuck him out.

The PRESIDENT: Order! I am in charge here. The Hon. Mr Ridgway has the call. If he wants to sit down, that is fine.

The Hon. D.W. RIDGWAY: Can the minister please explain how the capacity is six times larger? Are the reeds six times thicker? Are the pumps six times faster at charging it? How can you increase the capacity by six times if the area is the same as before, or smaller?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:42): Because the catchment area has been greatly increased, and the volume of water that can be handled will be much larger. But the idea is aquifer injection. The wetlands on the surface are there to clean the water. The water will then be injected into the aquifer. The whole point is: why would you want six times the surface area, because it evaporates? Doesn't the honourable member understand what is happening at Goolwa at the moment?

No wonder the Liberals are in trouble. Let us reflect for a moment on what some of the Liberal members have been saying in relation to the Lower Lakes and evaporation. The evaporation down there is somewhere between 800 and 1,100 gigalitres a year. In hotter weather it is more, but with the lower surface areas it is probably actually less. But if it is 800 or 900 gigalitres a year, you divide by 365 days a year and it is about 2½ gigalitres a day, on average—more in the summer, obviously—of evaporation coming off the lakes. Yet, members opposite have been lecturing us on water and trying to tell us that 30 gigalitres will fix the problem. That is 15 days of evaporation. That is how crazy their thinking is.

I use the point that the idea of aquifer injection is that you do not want it evaporating. You want to clear up the water so you can re-use it, and then you inject it into the aquifer below the ground where it will not evaporate. That is what it is all about. If you are going to re-use the water, you do not want it evaporating on the surface.

CHELTENHAM PARK

The Hon. R.L. BROKENSHIRE (14:44): I have a supplementary question. If there is an increase of six times the land harvesting area and component to the wetland and you are going to increase the capacity to recharge the aquifer six times to 1.2 gigalitres by bringing in water from the River Torrens and other associated catchment areas, can the minister assure the council that the capacity will be there to harvest and re-use all of the water that could potentially flow into that existing catchment area?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:45): The capacity of this scheme, as I understand it, is really a matter for the minister for—

Members interjecting:

The Hon. P. HOLLOWAY: What I have done is re-zone the land. My responsibilities—

Members interjecting:

The Hon. P. HOLLOWAY: I am not ducking at all. I am happy to debate water with you guys—anything—because, as I just showed with respect to the River Murray, you are so incompetent over there. I am happy to talk about water any day. It is fair enough that the honourable member should want to get some information about the details. As I said, this project has been announced today. I suggest that, if the honourable member wants to go into the intimate detail of this, he should discuss that issue—

An honourable member interjecting:

The Hon. P. HOLLOWAY: I am very well briefed on this. The honourable member should get a briefing from the experts in relation to the intimate detail. However, what I can say in relation

to this matter is that my understanding is that there will be some capacity here. Because the new extended catchment area will go between Port Road and Torrens Road right up to the River Torrens, there is the potential to inject overflows from the River Torrens. If there is excess water there above what is needed to flush out the rest of the system, it can be injected into this aquifer.

Obviously, one can control the amount that is injected into the aquifer. The amount of water that is available will depend on quality and all sorts of things. Quite complex engineering issues are involved to inject it in there. There will also be the issue of how much one extracts from it. The idea is to put the water in there so it can be re-used and, clearly, some quite complex engineering issues are involved.

However, for the purposes of the question, I am pointing out that it is not the surface area of the wetlands that has been increased sixfold but the capacity of the scheme, because it will be designed, through aquifer injection, to handle 1.2 gigalitres.

MARATHON RESOURCES

The Hon. M. PARNELL (14:47): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Marathon Resources.

Leave granted.

The Hon. M. PARNELL: In September last year, in response to questions about the clean-up and disposal of radioactive and other waste illegally dumped in the Arkaroola Wilderness Sanctuary, the minister stated that Marathon Resources' exploration licence continued only because the company 'needs some authority in order to undertake the activities about which we have been talking, that is, the removal of the waste'. When questioned further, the minister said, 'As to the future of the exploration licence, that is something that we will have to await until the clean-up is finished.'

Last week, Marathon Resources released a statement to the Stock Exchange stating that its clean-up was completed on 18 December last year and that all rehabilitation and revegetation works relating to the formal rectification plan were completed early last month, and a report by the independent consultant verifying the work was submitted to PIRSA on 23 January. This morning, the owners of the wilderness sanctuary, Marg and Doug Sprigg, were served by Marathon Resources with a new notice of entry and notice of equipment. Now that the clean-up is complete, it seems that Marathon is preparing to resume its exploration activities once the minimum 21-day notice period expires. My questions of the minister are:

1. Now that the clean-up is complete and the company has served a new notice of entry, when will he make a decision on whether Marathon Resources will be allowed to resume its exploration activities and, in particular, its drilling activities?

2. Has Marathon Resources made a formal reapplication to resume its drilling activities, and has it submitted a new declaration of environmental factors?

3. Considering the high level of public interest in this issue, is there any scope for public comment on whether the company can resume its exploration activities?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): As the honourable member said in his questions, a report was handed to the department on 23 January. The department has not yet signed off on that issue so, as far as the government is concerned, the clean-up of the Mount Gee region and exploration in the Arkaroola area by Marathon is not yet complete, and it will not be complete at least and until the department formally signs off on the work that is being done. I have certainly had no formal application from Marathon, and, certainly, I would not even contemplate one until the process is completed. In any case, I can say to the honourable member that he would be aware that some issues arose in relation to the fluoride matter that pointed to some deficiencies within the Mining Act in terms of how these matters might be dealt with.

I will be bringing some amendments into this parliament. Certainly, I would not be contemplating any further activity by Marathon at least and until that legislation was in place, and that might well be some time away. It is certainly news to me that Marathon has served a new notice of entry. As I said, I have no intention whatsoever of approving that, or even considering any approach from it until the matters have been finalised to the satisfaction of the department. I

understand that work is completed. I am not questioning that the work may not have been done satisfactorily, but that needs to be certified by the relevant authorities.

In any case, I think that, at the very least, the deficiencies of the Mining Act that were brought to light by Marathon's activities need to be corrected. Then, I think, the government would have to give consideration to the impact of any further exploration and, in particular, any public benefit that would come out of that given the history of this matter. I am not even going to consider that until at least those two preconditions are met, and I expect it would be some time at least before the legislation would be considered by this parliament.

MARATHON RESOURCES

The Hon. M. PARNELL (14:52): As a supplementary question, given the minister's response about his lack of knowledge of the notice of entry having been given, will the minister bring back to the council some advice on the validity of those notices and, in particular, the validity of the 21 day statutory periods under those notices, as well as any advice on whether, if invalid, those notices would have to be reissued at some future date?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:52): I think that is a reasonable point. I will certainly have that looked at as a matter of urgency.

YALATA POLICE STATION

The Hon. C.V. SCHAEFER (14:52): I seek leave to make a brief explanation before asking the minister representing the acting premier a question about the Yalata Police Station.

Leave granted.

The Hon. C.V. SCHAEFER: On 3 June last year I asked the Hon. Paul Holloway, who was, at that time, minister for police, a question with regard to the construction of the Yalata Police Station. Budget money was committed in the year previous (that is, in 2007) for the reconstruction of that police station which had been burnt down. At the time I asked the minister when construction of that replacement station would commence and whether he could confirm or deny that the funds committed for the building of the station at Yalata had in fact been deployed to the APY lands.

At the time the minister replied that funding had been granted both by the previous commonwealth government and this commonwealth government and that there was the intention to upgrade those police facilities significantly. His reply continued:

> Unfortunately, the Yalata Police Station was burnt down. I will see what progress has been made in relation to reconstruction of that particular facility. I am not exactly sure of the position relating to that particular facility, so I will take the question on notice and bring back a reply.

My constituent has since contacted me, and they have been told by SAPOL that there now is no money in the budget for construction of the Yalata Police Station. My questions are:

1. When will I receive a reply to the question I asked in June last year?

2. Why has money that was previously committed for the construction of a police station now disappeared?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:55): I will refer that question on to my colleague and bring back a reply. I am as interested as the honourable member in the future of that project, and I am aware that there have been expansions of other projects in the APY lands. I do not know whether the answer is related to that; however, I will refer it to my colleague and, given the time that has elapsed, seek to provide a response as quickly as possible.

INTERNATIONAL WOMEN'S DAY

The Hon. B.V. FINNIGAN (14:57): My question is to the Minister for the Status of Women. Can the minister provide information on events to be held in honour of this year's International Women's Day?

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) (14:57): I thank the honourable member for the question and for his interest in this important policy area. International

Women's Day is held on 8 March every year to celebrate the amazing contribution women make within our community. A diverse range of organisations and individuals across metropolitan and regional South Australia develop events to acknowledge the achievements of women in their community, and a number of events have been successfully built up over many years that are now recognised as important and popular on the International Women's Day calendar.

The United Nations Development Fund for Women (UNIFEM) organises the traditional Adelaide UNIFEM International Women's Day breakfast each year, with around 1,900 women and men attending last year, including many young women from secondary schools. The breakfast raises much-needed funds for UNIFEM projects to assist disadvantaged women across the globe. Hosted by Senator the Hon. Penny Wong, this year's breakfast will be held at the Adelaide Convention Centre on Friday 6 March and will include speaker Evonne Goolagong Cawley MBE, AO.

The International Women's Day Committee SA Incorporated organises the very popular International Women's Day luncheon each year, which in 2009 will be held on Wednesday 4 March. The luncheon features the presentation of the winners of the Irene Bell Awards for community service; the Irene Krastev Award for services to women from culturally and linguistically diverse backgrounds; the Gladys Elphick Award for services to Aboriginal women; and the Barbara Polkinghorn Award for services by a woman writer.

The International Women's Day Collective organises the traditional march and festival, which will this year take place on the evening of Wednesday 5 March. Women will march from Victoria Square to the garden of the Brecknock Hotel, where there will be live performances and speeches.

I am pleased to say that organisations in regional areas have become increasingly involved with International Women's Day, and a number of events have successfully increased the participation of women through providing a broader range of more accessible events that are appropriate and popular with women in their local community. To mention just a few, these include:

- breakfasts in many regions, with guest speakers, have been planned and organised by Zonta clubs;
- an afternoon tea at Gawler held in collaboration with Zonta, the Country Women's Association, Guides and others, with guest speaker Anne Beadell and a debate entitled 'Gawler Embraces Diversity';
- also at Gawler, the Women's Journeys art exhibition, which will be held at Café Nova from 2 to 5 March;
- a celebration of 20 years of the national women's health policy, with guest speakers at the Noarlunga Women's Health Centre; and
- a women's health fair at Port Lincoln.

I look forward to attending as many as possible of these events, which continue to celebrate the achievements and contributions of South Australia's truly remarkable women.

GOVERNMENT ADVERTISING

The Hon. R.L. BROKENSHIRE (15:00): I seek leave to make a brief explanation before asking the acting deputy premier a question about piracy.

Leave granted.

The Hon. R.L. BROKENSHIRE: Mr President, you would have been as concerned as I was about lost jobs when in mid-December the government told us there would be Public Service job losses in the order of thousands, plus other cost cutting measures, in light of a predicted budget deficit of $112 million this financial year. Yet this government's advertising bill remains undisclosed and is growing.

I will shortly ask the acting deputy premier whether he supports the spending of taxpayers' money on promoting this government. First, I have observed that usually the Premier personally promotes on television and radio actions being taken by the government on bushfires, desalination, budget updates, the Tour Down Under, and so on. The only instance I can think of where the Premier was not talking about what the government was doing was when Penzance the pirate monkey was on radio promoting a pirate exhibition at the Port Adelaide Maritime Museum during

the school holidays, and when minister Zollo apologised on *Today Tonight* for a bungle on notifying motorists about the new road rules. My questions are:

1. Did not the Premier want to be a pirate?

2. What has been the government's advertising spending in the past five financial years?

3. Does the Leader of the Government support continuation of the same level of government advertising when the razor gang is slashing jobs and selling its cabinet room?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:02): I certainly do support the government spending money on advertising for important matters like it did last week. The honourable member gave some examples but failed to mention the advertisements the government ran last week to inform people of some of the issues in relation to the heat wave that Adelaide has been enduring and which hopefully will end at the weekend. Clearly, important issues had arisen in relation to the heat wave, in particular for elderly people who are at risk during the heat wave. It is entirely appropriate on such issues that the government should use advertising to seek the public's help to look after the elderly in our community. That is one example of an entirely proper use of advertising spending by the government.

The honourable member asked questions in relation to the sum of money spent on advertising, which I will refer to the minister in another place. Incidentally, I am not the acting deputy premier. The Deputy Premier is in Canberra today with the Premier at the COAG meeting, but he is quite capable of still being Deputy Premier while he is in Canberra.

FLOOD MITIGATION

The Hon. R.D. LAWSON (15:03): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about flood mitigation.

Leave granted.

The Hon. R.D. LAWSON: In July last year, I asked the minister questions about the Brownhill and Keswick Creek storm mitigation plan, but those questions remain unanswered to date. I remind members that the plan about which I asked envisages cooperation from the councils of Burnside, Unley, West Torrens, Adelaide and Mitcham, and the plans include the construction of a substantial concrete dam in the upper reaches of Brownhill Creek.

Since I asked that question, members of the Mitcham council have raised serious concerns about the process being adopted in relation to the management plan. They have described the project as 'ill conceived', and accordingly the council resolved in January this year to withdraw from the project, as I understand its resolution.

In the meantime, the colourful Mayor of West Torrens, the Hon. John Trainer, has fired some shots in this battle, claiming that it is flood waters rushing through Mitcham that causes substantial flooding in his municipality. My questions to the minister are:

1. Given the fact that the proposed cooperative plan now looks as if it is on the rocks, what steps will the government take, given its professed interest in undertaking stormwater management across the metropolitan area?

2. What steps will the minister take, as Minister for State/Local Government Relations, to bring the parties together to produce a satisfactory outcome to this intractable problem?

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) (15:05): Indeed, the five councils have been working for several years towards joint implementation of a stormwater management and flood mitigation plan for the Brownhill and Keswick Creek catchments and the proposed formation of a joint council authority to manage that project. As the honourable member identified, the councils involved are Adelaide, Unley, Mitcham, West Torrens and Burnside.

A memorandum of agreement was reached between the five councils early in 2007, and this has underpinned the ongoing work to develop and agree to a joint catchment plan and to then proceed with the implementation. In July 2008, the Mitcham council withdrew from the memorandum of agreement citing a number of concerns, including aspects of design, cost of

proposed work and, I understand, some environmental concerns. The action of the Mitcham council has been criticised by the other councils involved. The mayors of West Torrens and Unley have both been quoted as expressing their disappointment and frustration in relation to the Mitcham council.

A revised memorandum of agreement was then drafted and forwarded for comment to the five councils. The MOA was endorsed and signed by four of the councils (that is, Adelaide, Unley, West Torrens and Burnside) in December 2008. I am advised that the Mitcham council was not prepared to sign the MOA unless two further conditions were included, and those conditions were unacceptable to the other four councils. It is open to the Mitcham council to rejoin the group at any time should it decide to agree with the MOA.

I am advised that the next step for the four councils that have signed the MOA is to move to establish a regional subsidiary, under the provisions of the Local Government Act, to manage the implementation of the stormwater and flood mitigation plan across their council areas. It is expected that a draft charter will be considered by those councils in the near future. If endorsed by the councils, the charter will then be forwarded to me as Minister for State/Local Government Relations for approval, as required by the Local Government Act.

It is certainly hoped that all five councils will be able to work together to proceed with this very significant project for all the communities across this particular catchment area. I continue to encourage the Mitcham council to participate.

FLOOD MITIGATION

The Hon. R.D. LAWSON (15:09): I have a supplementary question. Precisely what form of encouragement was the minister referring to when she said she is continuing to encourage Mitcham to rejoin the group?

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): Expressing a general view, I believe it is in the interests of constituents across those catchment areas, in relation to their properties and ongoing security, for the five councils to resolve this issue.

FLOOD MITIGATION

The Hon. R.D. LAWSON (15:09): I have a further supplementary question. Has the minister had any direct communication with the Mitcham council concerning this matter and, if so, when and what was the substance of that communication?

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) (15:10): I will have to check my records, but I do not believe I have had direct contact with the council.

PORT AUGUSTA

The Hon. J.M. GAZZOLA (15:10): Will the Minister for Urban Development and Planning provide details of any action taken to assist the future development of Port Augusta?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:10): I thank the Hon. Mr Gazzola for his very important question. Port Augusta is a very important regional centre at the apex of Spencer Gulf. With the proposed expansion of mining at Olympic Dam and other import mining projects in the north of this state, Port Augusta's strategic importance has been renewed.

To assist in the future development of this regional centre, the state government has circulated a draft structure plan. Such strategic planning should provide the city with a competitive advantage as an investment destination. Port Augusta residents have been invited to have a say about this draft structure plan during three months of public consultation.

The plan broadly identifies where future housing, population and commercial and industrial growth would be best located or not located, as the case may be, across the City of Port Augusta and its surrounds. The role and function of different parts of the city are identified, and issues, such as the interface between industry, residential areas and valuable environmental assets, are tackled

in the draft. The plan aims to ensure that a supply of well-located, market-ready and affordable industrial, commercial and residential land is available when needed.

Spatially, Port Augusta is a city of three distinct residential villages (Central Port Augusta, Stirling North and Westside) with a centrally located retail and services hub and strategically located industrial estates on the perimeter of the city. The structure plan adopts broad key directions for the future growth of Port Augusta, such as climate change, resilience and sustainability and the facilitation of economic and employment growth. These directions enable short and longer term demand for industrial, commercial and residential land to be sustainably met. These directions are clearly outlined in the detailed document. The draft structure plan was released in December for three months of public comment, with a deadline for submissions of 20 March 2009.

I take this opportunity to acknowledge the collaboration between the Department of Planning and Local Government, the City of Port Augusta council, the Northern Regional Development Board and various state government agencies that have laid the groundwork for this important structure plan.

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

The Hon. P. HOLLOWAY: Sean Holden does a terrific job up there as a public servant and, what is more, he would make a great member of parliament at some stage in the future. He has been working there for a very long time and knows the area very well. I appreciate that his fame has spread to people such as the Hon. John Dawkins, and I thank him for acknowledging Mr Holden so that I can recognise the important work he does in that region.

This document is just one of a series of such structure plans being developed for South Australia's major regional cities. I point out that this plan does not attempt to forecast either the future population or the anticipated growth rate for Port Augusta; rather, what we are attempting to do with the plan is provide a robust framework that can accommodate a range of future population growth scenarios, including high growth. In that regard, the plan seeks to identify suitable locations for substantial population growth if and when it eventuates. This is particularly important because of the projected growth in mining, tourism and supporting industries in the Far North of the state.

When this government came into office, there were just four operating mines in South Australia. That number has grown to 11, with many of those in Upper Spencer Gulf and beyond. Once finalised, the Port Augusta structure plan will form an official part of the state government's planning strategy for South Australia. This gives the document statutory effect and will provide formal direction to council and the private sector. In particular, it will guide the updating of the development plan for Port Augusta that details zoning and other land-use policies.

The development plan, and any proposed amendments, must be consistent with the planning strategy. These development plans and amendments are used to assess the appropriateness of development applications. Hard copies of the structure plan are available from the Port Augusta council and can be downloaded from the Department of Planning and Local Government's website.

Community information sessions are being held throughout the consultation period, and details of these sessions are also available on the Department of Planning and Local Government's website. I trust that the people of Port Augusta, which is such an important regional centre in our state, will take the opportunity to have a say in the future of their city.

PORT AUGUSTA

The Hon. T.J. STEPHENS (15:14): As a supplementary question: if Port Augusta is such an important place, why has the minister closed that very important office for the north that used to be manned by Justin Jarvis, heading into the last state election?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:15): The office for the north does not have anything to do with the land planning strategy for Port Augusta. I answered that question some two years ago when I indicated that the government would be focusing its efforts in the north on other bodies. The office for the north served a very important job in its time, but now, through other agencies, particularly through the increased resources that we are providing to the development boards in the region, we are seeing unprecedented growth in that part of the state—and long may it continue.

Fortunately, we have some very good people in the Public Service who are working for the good of all South Australians in those areas. It is encouraging to think that we have people who are prepared to work in the more remote areas of our state to effectively advance the development of their regions.

RAIL SAFETY

The Hon. A. BRESSINGTON (15:16): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport a question about train safety.

Leave granted.

The Hon. A. BRESSINGTON: The minister will require no reminding that there has been a recent spate of violent incidents on the Adelaide to Gawler line. As has been reported by the local print media, Transit Branch figures show that the number of incidents reported, including assault, robbery and graffiti, increased in the second half of 2008 to 81 from 31 in the first half of the year. Included in those were some heinous attacks on commuters, most notably the vicious bashing of an intellectually disabled man.

Last week that man's mother presented my office with a petition of over 200 signatures calling for improved safety on the Adelaide to Gawler line. These signatures were collected at two different train stations in just an hour and a half and are a clear demonstration that commuters have had enough and are demanding that this government take action.

I am deeply concerned to hear of another attack this week, this time involving a security guard and a commuter. While the details of this incident remain unclear, the result was two men interlocked and rolling around the carriage, collecting other commuters in the shuffle, including a pregnant woman.

As has previously been discussed in this chamber, security personnel who accompany TransAdelaide PSAs under the Security and Investigations Act are powerless to actively intervene in violent incidents unless they are personally targeted. For this reason it was a shock to learn that the government has made a decision to increase the number of security personnel on late night trains on Fridays and Saturdays instead of increasing the number of transit police who, while still limited in their powers to intervene, do have greater statutory power than security guards to protect commuters.

Curious as to why there were extra guards, a constituent asked a TransAdelaide PSA, who promptly replied, 'Due to the number of attacks on PSAs, that's why.' The PSA further informed the constituent that guards are not there for commuters: their priority is the protection of PSAs. This follows another revelation, this time by a South Australian police officer, that transit police are SAPOL's version of labour hire. The reason so few commuters will ever encounter a transit police officer on a train, bus or tram is that if another branch of SAPOL requires additional staff for an operation or investigation it will second officers from the transit branch. This is apparently a daily occurrence and, as such, the number of transit police available to actively patrol public transport has been drastically reduced. My questions are:

1. How many assaults involving TransAdelaide and security personnel on the Gawler line have been recorded in the previous 12 months?

2. Of these, how many prosecutions have been recorded?

3. Will the government consider increasing the powers of both TransAdelaide PSAs and the security personnel who accompany them so that they are better able to intervene and protect commuters?

4. How many transit police are theoretically available per shift to police public transport?

5. Of those, how many are seconded to operations in other branches of SAPOL?

6. Finally, in the past three years has there been any increase in the number of transit police and, if so, by how many?

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) (15:20): I thank the honourable member for her series of important questions and will refer them to the relevant ministers. I think some of the questions might span across portfolio responsibilities, but certainly I

will refer the transport-related ones to the Minister for Transport, Infrastructure and Energy. There may be some police issues that need to be referred.

RAIL SAFETY

The Hon. T.J. STEPHENS (15:20): I have a supplementary question. Does the minister still stand by her statement that she made in parliament recently that only a handful of people use that line, in any case?

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) (15:20): Again, I have been misrepresented by the opposition in this chamber. Members opposite do not bother listening. The point I was making at the time was the way resources are prioritised around demand and, where there is greatest demand, we attempt to match the service with that.

PLANT HEALTH BILL

Adjourned debate on second reading.

(Continued from 3 February 2009. Page 1156.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:21): On behalf of the government I thank the Hon. Caroline Schaefer for her indication of support for this bill. I have spoken to the Independent and minor party members in this chamber and they have indicated that they support the bill but do not wish to speak. I thank them for their support and commend the bill to the council.

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

STATUTES AMENDMENT (PROHIBITION OF HUMAN CLONING FOR REPRODUCTION AND REGULATION OF RESEARCH INVOLVING HUMAN EMBRYOS) BILL

Adjourned debate on second reading.

(Continued from 3 February 2009. Page 1144.)

The Hon. R.L. BROKENSHIRE (15:24): This is a bill about which I have great concern, and I want to put that on the public record in the introduction of my second reading speech. On the straightforward question of the moral situation with respect to this bill, I will demonstrate through my remarks the reasons why I believe that this bill should be opposed on straight-out moral grounds.

In the animal kingdom and in agriculture I support genetic improvements and sciences, and we are seeing the acceleration of opportunities to increase production through the breeding of animals. That is one thing; that is about food production. However, when one starts getting into the moral issues around allowing scientists and researchers to use human embryos, and so on, and to effectively become involved in human cloning, I think we are on incredibly dangerous ground. History has shown us the problems that can occur in society when we make bad legislation and, to my way of thinking, this piece of legislation would have enormous negative ramifications. It would, I am sure, be the worst legislation that I have spoken about, with potential negative ramifications to the community and to society in the future.

Also, I cannot really understand why the government has brought this bill before the parliament when science has gone past this bill. The scientific issues around this bill are now historical, and I will demonstrate to my colleagues why we have moved on and, therefore, the need to oppose and not support this bill.

However, this is a great moment in this parliament, because it is a triumph for parliamentary democracy. Where on party lines we might often differ, in this debate we will vote side by side with those who agree in conscience on a very important issue. If members vote on this bill in the way that I hope they will, it will be an even greater achievement for parliamentary democracy, because we will have rejected what I see as an undemocratic and, sadly, prevailing mentality at state and federal levels, where governments can decide on legislation and then force it down the throat of parliaments across the nation. Western Australia had the intestinal fortitude to reject this legislation, and so can we in the Legislative Council.

My legal adviser has said that the argument on this bill can be summarised by a phrase that might appeal to the Hon. Robert Lawson MLC QC, and that is the Latin phrase novus actus

interveniens. That phrase, in legal terms, is most often used in the law of contract, and it translates literally to a situation where a new act has intervened; a new fact has arisen that has made the previous compact or agreement untenable. That is precisely what we have in this debate.

The advent of induced pluripotent stem cell research (or iPS for short) is a breakthrough that evaporates the previous merits of the clumsy, unethical and unproductive theory of science that has been therapeutic cloning. My colleague the Hon. Dennis Hood MLC did a fantastic job for honourable members wrestling with this issue and their conscience in summarising the debate on this issue.

I do not propose to traverse all the science of the honourable member's great contribution—a contribution that I am sure would have brought a tear to the eye of the Hon. Andrew Evans. Speaking of the Hon. Andrew Evans (to which I will return, and which I will retrace in a little more detail, as it is highly relevant to this debate), I want to repeat something he said in the debate of 26 May 2003 in concluding his contribution on the predecessor to this bill.

I am very pleased that he made this statement, because it not only agrees with what I have complained about with respect to the River Murray handover package late last year but also the trend that we are increasingly seeing—and this was the Hon. Andrew Evans speaking as an MLC more than five years ago. In concluding his contribution on cloning, he said:

> Another concern I have is the nature of the process of agreement via the Council of Australian Governments [COAG], followed by federal legislation and then state legislation presented to us almost by way of a fait accompli. COAG does not have any constitutional status and is not directly empowered by the Australian people or our state parliament to make decisions of this kind. I do not agree with a process that fails to take into account the wishes of the South Australian parliament. I trust this does not become a more regular occurrence.

I say, 'Hear, hear!' This is not a parliament for rubber-stamping. This is a parliament for the people of South Australia, particularly our chamber, the Legislative Council. It is a house of review, it is a watchdog area of the democratic system and it is there to stop big brother—that is, COAG—making decisions in an isolated situation for our community and then expecting us to follow those decisions here in this parliament. I will continually refuse to do that. It is not good policy practice, it is not good parliamentary practice but an undemocratic practice, and it is not what the South Australian people want.

Whilst from time to time they may complain about having three tiers of government, I am sure that the South Australian community want debate unfettered from ministerial council meetings. They want debate that will be in the best interests of the economy and the social fabric and wellbeing of our community now and into the future, and this bill certainly is not in the best interests of the social fabric now or into the future for South Australians. A former member, the Hon. Nick Xenophon (now senator Xenophon), said in concluding his contribution on 5 June 2003:

> It is important that, on an issue such as this, state parliament ought not to be rubber-stamping what COAG wants.

Sadly, the Hon. Andrew Evans' trust has not been respected, Senator Xenophon's wish has not come true and we are seeing more legislation forced down our throat out of COAG and down through this parliament. It is an affront to parliamentary democracy, and it has happened from both sides of federal politics in recent governments. Yet this state government wants to abolish the Legislative Council. It is quite unbelievable; it is something that those of us who are listening to our communities must fight against at all costs, because the last thing we need is a total dictatorship. We got rid of that in the Second World War and we do not want it returned in this millennium.

I look forward to the fight to ensure that we protect democracy in South Australia. On 5 June 2003 in this place, the Prohibition of Human Cloning Bill was read a second time and taken through its remaining stages. There was no division, so we know that, by a majority, this parliament had no objection to prohibiting human cloning—none whatsoever. Just under 5½ years ago everyone had an ethical problem with cloning—not long ago at all. Indeed, the same was the case in the federal parliament in late 2002. In fact, in federal parliament on 12 November 2002, Senator Abetz summarised the absolutely unanimous rejection of human cloning when he said:

> I think that all senators in this chamber are united in their opposition to human cloning. I understand that the Prohibition of Human Cloning Bill 2002 went through the other place without dissent and on the basis that the practice of human cloning is unacceptable.

There were no interjections and no heckles when he said that. Hence, the Hon. Dennis Hood MLC makes a very good point upon which I encourage members to meditate. He asked:

What has been the amazing new discovery, the great prospect, that has given good cause to overturn this parliament's previously stated position on banning all forms of human cloning?

There are none. No compelling reason is presented, and I believe that we would be making a most serious mistake if we were to support this bill. I will start to talk about the science. In this and previous debates on an earlier version of this bill we have heard of one professor, Shinya Yamanaka. We tried to get in contact with him but he is a busy man. However, a presentation he made in January 2008 was available online to observe. Not only was that instructive for us but I believe it would be of great benefit to members. I will refer to that later in my speech. I want to dwell for a moment on the significance of the induced pluripotent stem cell discovery of Professor Yamanaka and his independent research colleague Professor James Thomson.

The changing of the guard in stem cell research occurred in November 2007, when independent research team studies were released concurrently: one in *Science* magazine by James Thomson and his colleagues at the University of Wisconsin-Madison, and the other research in *Cell* magazine by Shinya Yamanaka and colleagues at Kyoto University in Japan.

Here are some pertinent facts about this discovery, focusing first on Yamanaka. In November 2007, the internationally respected *New York Times* reported on Yamanaka's individual discovery of induced pluripotent stem cells. On 11 December 2007, Professor Yamanaka was profiled at length in the *New York Times*, and I will retrace just the first paragraphs of that profile, as it runs for some length. It says:

Inspiration can appear in unexpected places. Dr Shinya Yamanaka found it while looking through a microscope at a friend's fertility clinic. Dr Yamanaka was an assistant professor of pharmacology doing research involving embryonic stem cells when he made the social call to the clinic about eight years ago. At the friend's invitation, he looked down the microscope at one of the human embryos stored at the clinic. The glimpse changed his scientific career.

'When I saw the embryo, I suddenly realised there was such a small difference between it and my daughters,' said Dr Yamanaka, 45, a father of two and now a professor at the Institute for Integrated Cell-Material Sciences at Kyoto University. 'I thought, we can't keep destroying embryos for our research. There must be another way.'

Yamanaka and US Professor James Thomson, with their separate research on either side of the Pacific, but both demonstrating the viability of iPS cells, were together in the 2008 *Time* magazine list of 100 most influential people in leadership, heroics, pioneering, science, the arts, and business. Yamanaka, Thomson and fellow Professor Yu were jointly nominated for the 2007 *Time* magazine Person of the Year, with the following statement:

A fierce moral debate—whether the therapeutic potential of stem cells could justify destroying embryos to get them—appeared to vanish when scientists in Wisconsin and Japan announced that they had figured out how to convert adult skin cells into near-perfect copies of the wonder cells. More research remains to be done, but this might be the most delightful discovery since common bread mould birthed the age of antibiotics.

The February 2008 edition of *Science* magazine, the magazine of the American Association for the Advancement of Science, an association that claims to service 10 million scientists, said of Yamanaka, 'Few researchers have rocketed from relative obscurity to superstar status as quickly as Shinya Yamanaka.'

Yamanaka, and other researchers who have woken up to the revolution of iPS, keeps going from strength to strength at a pace that saw Professor Ian Wilmut jump ship, real quick, early in the piece. Testimony to the rapid pace of developments and honing of the technique are demonstrated in the following Washing Reuters article of Sunday 12 October 2008, as follows:

Researchers trying to find ways to transform ordinary skin cells into powerful stem cells said on Sunday they found a shortcut by 'sprinkling' a chemical onto the cells. Adding the chemical allowed the team at the Harvard Stem Cell Institute in Massachusetts to use just two genes to transform ordinary human skin cells into more powerful induced pluripotent stems cells, or iPS cells.

'This study demonstrates there's a possibility that, instead of using genes and viruses to reprogram cells, one can use chemicals', said Dr Doug Melton, who directed the study published in the journal *Nature Biotechnology*. Melton said Danwei Huangfu, a postdoctoral researcher, in his lab developed the new method. Melton, a Howard Hughes Medical Institute investigator, said in a statement:

The exciting thing about Danwei's work is you can see for the first time that you could sprinkle chemicals on cells and make stem cells…Stem cells are the body's master cells, giving rise to all the tissues, organs and blood. Embryonic stem cells are considered the most powerful kinds of stem cells as they have the potential to give rise to any type of tissue. Doctors hope to some day use them to transform medicine.

Melton, for instance, wants to find a way to regenerate the pancreatic cells destroyed in type 1 diabetes and perhaps cure that disease. I seek leave to conclude my remark later.

Leave granted; debate adjourned.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—ALCOHOL AND DRUGS) BILL

Adjourned debate on second reading.

(Continued from 3 February 2009. Page 1150.)

The Hon. J.A. DARLEY (15:42): I rise to indicate my support for this bill and what it intends to achieve. The main focus of the bill is to deal with repeat offenders, thereby reducing the rate of drink driving. I support the increases in penalties. If this is the focus of the bill, I wonder why the government has not increased the time limit for previous convictions. I have placed on file amendments which change all references in the Road Traffic Act, the Motor Vehicles Act and the Harbors and Navigation Act to the time frame for consideration of previous drink and drug driving offences in sentencing repeat offenders.

The current law provides that, if you have committed an offence more than five years after a previous offence, you are treated as if you are a first time offender for the purpose of paying a penalty. I am of the view that five years is not long enough for consideration of previous offences and that the court should be given the flexibility of looking at a road traffic offender's history over a longer period of time than five years and be able to apply a higher penalty as a result.

In other jurisdictions in Australia the time period for considering previous convictions varies in their relevant road traffic legislation. I advise members that in Western Australia there is a time limit of 20 years, in Victoria it is 10 years, in New South Wales, Queensland and the ACT there is a five-year limit, a three-year limit in the Northern Territory and no time limit under Tasmanian law. I refer to the comments made by the Minister for Road Safety in response to the Road Traffic Act (Previous Convictions) Amendment Bill introduced by the Hon. Nick Xenophon in 2006—a bill which aimed to implement the same 10-year period for consideration of previous drink driving offences under the Road Traffic Act. The minister said:

> The government is prepared to support an extension of the period from five years, [and] members may be interested to know that a 10-year time limit would be consistent with proposals currently under consideration by the Standing Committee of Attorneys-General for nationally consistent spent conviction legislation.

I know that the spent conviction legislation referred to is in a slightly different context to the one I address in my amendments. However, the principle is the same, namely, having a consistent and appropriate time limit for taking into account previous convictions, given the gravity of the offence and the deterrent effect tougher penalties for repeat offenders are designed to have. I hope the government is still amenable to discussing increasing the time limit and that members will consider my amendments.

Debate adjourned.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 February 2009. Page 1189.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:46): I rise to speak to this bill and to make some comments in relation to problems faced by landowners whose property adjoins a national park. There were a number of bushfires during the year I was the shadow minister for the environment, and one of those bushfires was near my old home at Bordertown, in the Ngarkat National Park. It was a blaze of some significance, burning, I think, about 50,000 hectares.

The thing that alarmed me in that particular instance was the fire control procedures that were put in place. As I am sure you are aware, Mr Acting President, these fires often start with lightning strikes or in hot weather like we have been experiencing. When we have these bushfires, they are in difficult terrain and hard to get to and they gradually spread out. However, when there is a wind change, that is when you get a massive fire front. There were some issues in controlling this particular fire. I know that the Hon. Stephen Wade has some amendments on file in relation to the burning of native vegetation and the creation of firebreaks, in particular, to control fires.

In this particular instance, the order to put in a firebreak was not given. In fact, there was no control put in place in the early stages of the fire, when the wind was blowing in an easterly

direction and blowing the fire back towards Tintinara. I think it was 24 hours later that approval was eventually given to put in a firebreak. Then, of course, there was a wind change to the south-west, so the fire did not burn out into the property where the firebreak had been prepared but headed in a north-easterly direction, eventually exiting the national park on the northern side.

On that northern side, which is the area that is of most concern to me, you have landowners who have erected fencing. In most cases, landowners maintain a very high quality netting fence, which is often higher than normal, to keep vermin out of their property. Often, the netting is ploughed into the ground to bury it so that rabbits cannot dig underneath it. Often, the fencing is quite high, with a couple of rows of extra barbwire and, at some points, an angle attachment to the post that sits at an angle of 45 degrees back into the park so that even kangaroos are unable to jump over the fence. So, they are quite an expensive and elaborate form of fencing.

In this particular case, because there was a very small firebreak, which was probably a track, and some bush which had been rolled down flat but was still tinder dry on top of the ground, the decision was made by the Department for Environment and Heritage that it could not control the fire within the national park because it was too risky as it was coming out at such a rate. The department then made a decision to fight the fire on the landowner's property where there was, in some cases, a bit of stubble from a Lucerne crop, a bit of dry grass and some Lucerne, where the fuel load would be much less. So, they made the decision to fight the fire on the landowner's property, and they eventually brought the fire under control. However, it got close to some houses and other property and destroyed the fence.

When the Hon. Gail Gago was minister, I questioned her on this issue. The convention has always been that landowners share the cost of fencing. I know that the act provides that fences that adjoin national parks are the responsibility of the landowner. However, in a case such as this, where the department has made the decision not to have a clear felled firebreak (so it is a break where the fuel load is suppressed, but it is not an adequate break in those conditions) and where the decision is made to fight the fire on the landowner's property and his fence is destroyed, he has to pay the cost of the replacement.

If you allow poor management of a park and its firebreaks, and when you try to control a fire and fight it on the landowner's property and their fence and property are destroyed, I think it is un-Australian to expect them to pay for the fence. In this case, I think the government made some sort of gesture but, clearly, the type of fence I described to you, Mr President, was an elaborate one and much more expensive per kilometre to erect. Again, the landowner was left with the cost of replacing the fence.

I know that you lived in the country for a number of years, Mr President. In good times, in good seasons, when wool and livestock prices are high and there is money around for grain crops, you could argue that fires happen very rarely and that you could insure your fence and therefore be covered if it were destroyed. However, we all know that, in the past 15 or so years, things have become progressively tougher in rural South Australia. We have not seen prices keep pace with the cost of production, and we certainly have not seen the seasons to which we have grown accustomed.

I would like a response from the minister about whether the government is prepared to recognise that this is a significant impost on adjoining landowners. Just last week, I met with the Farmers' Federation, and it raised this issue with me as a concern in tough conditions. Clearly, when the department does not have an adequate firebreak on the government's property, if you like, and it makes a decision to fight the fire on the landowner's property, it effectively sacrifices the landowner's fence, but it is not prepared to cover half the cost of its replacement. I think that is un-Australian. I would like the minister to address these concerns when he sums up.

The Hon. C.V. SCHAEFER (15:53): I, too, will make a brief contribution. This bill seeks to tidy up some of the anomalies within the Native Vegetation Act 1991. The problem with the act might have been partly the act and partly some overzealous application and too literal an understanding of its requirements, rather than, at times, the act itself. I commend the new Native Vegetation Council, particularly the stewardship of Mr Dennis Mutton, who I think has brought a modicum of common sense to the application of native vegetation clearance as it applies today.

One of the big issues for farmers in particular, but also for anyone who wishes now to clear native vegetation, is that they must offset what they have cleared with additional plantings.

I do not know anyone who has objected to that. However, the necessary practicalities of, for instance, having to replant 10 or 15 hectares of native vegetation on a property which has been cleared of, say, two or three hectares of native vegetation for the installation of, for instance, a centre pivot irrigation system have proven to be almost impossible in a number of cases.

One of the amendments sought by this bill is to allow that offset planting to take place in a denuded area but not necessarily in the same area as the clearing took place. This will allow flexibility. We all know of cases of, in particular, denuded public lands where there might be an eroded creek or something like that where previously Landcare groups received some moneys to deal with that, and those moneys seem to have dried up.

This now gives farmers the opportunity to plant that offset vegetation somewhere where it is needed, again, with the permission of the Native Vegetation Council. Of course, it would also have to be planting appropriate to the region where it was to be planted, which may not necessarily be the same vegetation as was cleared. It does apply some common sense, I believe, to the application of the bill.

To me, that is probably the major change to the act from these amendments, which are relatively minor. Previously, a nominee of the commonwealth minister was on the Native Vegetation Council; now that would be a person nominated by the state minister with knowledge of planning and development. Again, that seems to be a very common-sense attitude to take. While my knowledge of native vegetation clearance applies almost entirely to rural properties, there are always issues when areas are developed for housing or in peri-urban areas. So, again, having someone with the knowledge of planning laws on that council to make these things go forward more quickly and expeditiously makes a good deal of sense to me.

The Liberal Party will be putting up a number of amendments, some of which I will speak to at the time but, again, what we are seeking to do is preserve our native vegetation and our ecology but apply common sense to the clearing of vegetation. As my colleague the Hon. David Ridgway pointed out, had sufficient vegetation clearance been allowed quickly enough, I believe that at least two of the lives that were lost during the Eyre Peninsula bushfires would not have been lost, and there is anecdotal evidence that several of the houses would also have been preserved, had the land owners had permission to burn back quickly and efficiently.

I am also a great believer of a decently wide fire break, where people can seek refuge in a wildfire and where they can take their plant and machinery to be safe. The amendments moved in the lower house and which will be moved here seek to allow quite wide clearance, particularly at the edge of parks. We continually hear from the department of environment about how much land it has now set aside, but my concern is that the management of that set aside land is highly questionable. Having experienced, flown over and walked through some of the areas that have been absolutely devastated by major bushfires, I can assure members that there is nothing left after a wild fire. So, the preservation of bushland by clearing native vegetation to a great enough degree that the bushland may be saved is, in my view, common sense and well overdue.

Similarly, we have some amendments to do with being allowed to clear areas in pastoral land to put out pipeline. Again, Mr President, you would have personal experience that if waters are allowed to be taken further away there is less damage to native vegetation than if the stock is forced by this somewhat draconian law to gather in one spot where they do, indeed, denude the native vegetation.

The amendments that we have, as I have said, in all cases I believe are common sense. They are streamlined. I think no-one in this day and age wants to clear vast tracts of land. What people want to be able to do is operate their land in an ecologically and economically sustainable fashion. I happen to be a great believer in cold fires. I believe a cold fire run through some of that native vegetation at the end of the wet season (if we ever have a wet season again!) would indeed do a lot to save animals, lives and homes. We have witnessed three very dangerous fires in the vicinity of Tulka in the past four or five years, and certainly the Mayor of Port Lincoln, and others, has pleaded for the right to clear some of that country and put a cold fire through it.

Our amendments will seek to establish some of those extras, but I agree with the general tenor of this piece of legislation. It does streamline it and apply some practicality, and it cuts down on some of the burdensome red tape that has gone with this legislation previously.

The Hon. J.M.A. LENSINK (16:02): I rise to support this legislation also, and some of my comments will be very similar to those made by previous speakers. I think there is cross-party support for the principle of native vegetation for the purposes of preserving habitat and biodiversity

and going in some way to providing protection for our threatened species. However, I would have to say that, when one looks across the range of environmental laws and agencies, it is quite a fragmented area. I think our environment spokesperson in another place, the member for MacKillop, alluded to this also and said that we may need to integrate further some of our environmental laws to ensure that the threatened species are mapped together with remaining vegetation and some areas may need to be revegetated to provide appropriate habitat for threatened species.

On that note, being a bushwalker in the Adelaide Hills, I also make reference to the parks system. I have some concern about the level of infestation of exotic weeds and so forth, and that adjoining land-holders may not be fulfilling their duties to the environment to keep those under control. We have also had issues in several parks in the state where people may take their dogs into conservation zones or ride their bikes when it is clearly not intended. That can certainly have an impact on the local flora and fauna, in that they can bring in weed seeds. Also, dogs can scare the local wildlife. From that point of view, and from the point of view of natural resource management, we may need to rewrite our entire environmental laws if we are serious about protecting species into the future.

I would like to declare an interest, as a member of Trees for Life and as someone who has for the past two years been growing seedlings that are intended for revegetating at Emu Bay on Kangaroo Island. We know that, since European settlement in South Australia, we have cleared vast tracts of land without understanding its impact on biodiversity. In many ways, we need to look at winding back the clock, if you like, and there are quite a few people who have heritage agreements, and so forth, with primary producers who are working very hard to try to provide additional vegetation. It is an area where we have a better understanding, but I think that we will need to continue to do a lot of work in that area. This bill takes steps in the right direction and streamlines the rules relating to native vegetation clearance.

Many people (and many of our members in the House of Assembly over the years) have spoken about native vegetation and the vexatious relationship between landholders and the Native Vegetation Council, which has been seen as overly bureaucratic, very focused on its rules and not flexible in its approach towards landholders. So, I am very pleased that this bill will assist in that direction, in that the offsets may be provided in areas that are separate from the remnant vegetation, there are better linkages between natural resource management and the Native Vegetation Council, and a range of other measures.

My colleagues the Hon. Caroline Schaefer and the Hon. David Ridgway referred to firefighters. As a Hills dweller, that is something about which I am also very conscious, particularly in these days of very high temperatures. I believe that our firefighters, particularly the volunteers in country areas, ought to be given the tools to do their job effectively and without endangering their own lives.

For those reasons, and also for reasons concerning the point of view of the landholder, the Liberal Party will move a number of amendments to this bill, to which previous speakers have referred. These amendments will be tabled by the Hon. Stephen Wade, who has the carriage of emergency services issues and, in particular, country fire services. He has great sympathy with respect to a number of their concerns. I commend the bill to the council.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—ALCOHOL AND DRUGS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1209.)

The Hon. A. BRESSINGTON (16:09): I rise to indicate that I support the second reading of this bill. I support any sensible initiative the government may take to ensure that persons affected by illicit drugs and alcohol are taken off the roads and the waterways. I would also commend and support any efforts to ensure that drug users are afforded every reasonable opportunity to break their cycle of behaviour, although it is understood that this bill is not designed to accomplish that outcome.

Despite the bill's recognising that two or more drink and/or drug driving charges would constitute a pattern of behaviour demonstrating a potentially serious drug or alcohol problem, I am convinced that this bill does take steps forward.

The introduction of the mandatory alcohol interlock scheme, commensurate powers for police on the water (as on the roads) and tougher penalties for repeat offenders are, as I said, worthy of support. But new penalties will have effect only if the act enables detection in the first instance, and this is where I believe the act as it stands falters a little. For example, the current act does not require all drivers involved in an accident in which someone is injured to submit to a drug and alcohol test. Whilst a superficial reading of section 43 of the act would suggest compulsory drug and alcohol testing in a case where a driver is uninjured and reporting an accident to a police officer, a more thorough examination of the act reveals that it is only compulsory for a person when requested by a police officer to submit to a test but not compulsory for the police to request a saliva or breath analysis test in the first instance.

Therefore, the act does not compel the police to conduct a drug and alcohol test on all drivers involved in an accident in which a person has been injured or killed—something that is reflected in practice, with police most often only requiring drivers to submit to a breath analysis and not a drug test. But compare this to a driver who is hospitalised as a result of trauma. The act, by section 47(1), compels the treating medical professional to take a blood sample from anyone of or above the age of 14 for analysis for the presence of alcohol or drugs, which in turn police would act upon.

To provide a clearer contrast, it is conceivable that an uninjured, intoxicated driver who kills another road user and who avoids detection under section 43 could walk with no penalty, whilst an injured driver who has caused a minor injury to another could incur a penalty due to the mandatory requirement of a blood test under section 47(1), and therefore I ask: how does this make any sense? However, it seems that section 47(1) is also not infallible. In 2007 I was alarmed at the revelation that, whilst blood samples are by law (under section 47(1) of the Road Traffic Act) required to be taken, those blood samples are not required to be tested; and, according to media reports at the time, they were not being tested due to a backlog and their low priority.

Statistics from the National Drug Law Enforcement Research Fund show that alcohol was found in 22.6 per cent of injured car drivers, cannabis in 17.4 per cent, benzodiazepines in 14.7 per cent, amphetamines in 6.9 per cent and opiates in 3.3 per cent, and the figures released to my office under FOI in 2007 show that 23 per cent of driver and motorcycle rider fatalities tested post-mortem in 2006 had either THC (the active ingredient found in cannabis) and/or amphetamines in their blood at the time of the crash. Those statistics surely tell us that there is a need to ensure that all those involved in a serious accident should be tested.

These figures become even more alarming when we realise just how prevalent the threat to innocent motorists is, as was summarised in a media release dated 1 August 2008 by the Victorian Transport Accident Commission, as follows:

> Approximately 20 per cent of drivers killed on our roads test positive for amphetamine-type stimulants and cannabis. Stimulant use is associated with a threefold increase in risk of a crash and is thought to encourage dangerous behaviour like speeding.

A recent report from the National Drug and Alcohol Research Centre found that 71 per cent of drug users had driven a motor vehicle in the last six months within one hour of taking drugs. Of those reporting driving under the influence of drugs, 63 per cent admitted to using ecstasy, 65 per cent amphetamines and 63 per cent cannabis. Nearly 20 per cent of drug drivers believed they were not impaired in any way, and 26 per cent even believed taking drugs improved their driving ability. Whilst the government would boast of its proactiveness in taking people under the influence of illicit drugs and alcohol off our roads, clearly section 43 as it stands is a result of a policy decision that to do so would be either too difficult or too expensive.

I do not think the public of South Australia, if aware, would buy that. It is simply not enough for the government merely to highlight the good achieved by introducing legislation to detect drug drivers, while on the question of drug and alcohol testing of drivers involved in accidents it simply dismisses the concern that testing is not happening in all cases. The other issue I will take the opportunity to raise, particularly on the back of the aforementioned statistic, is the relatively few roadside saliva drug tests that are being conducted in comparison to breath analysis for alcohol.

While I acknowledge that the number conducted is gradually increasing, the low detection levels (which are obviously directly attributable to the number of tests conducted) are of concern. As with all deterrent-oriented police initiatives, they are only effective if people believe they are at a high risk of being caught. For random roadside drug testing this means there needs to be a perception that there is a greater chance of being caught than not. If it is viewed as sporadic and under-utilised then those inclined to drive under the influence or take risks will be more willing to do

so. Considering that 71 per cent of drug users admit to driving while under the influence, clearly roadside drug testing is yet to provide its promised deterrent effect, and I call upon the government to make the necessary changes so that drug testing is as frequently conducted as alcohol testing. Expensive it may be, but it is an investment in the safety of all road users in South Australia.

However, that said, I do support the measures in the bill and sincerely believe that they will, in the future, avert the dramas which led to the need for the Kapunda royal commission, after police failed to require Eugene McGee to undergo an alcohol test. That was a critical error by police which resulted in his 'not guilty' verdict, and which ultimately led to a significant loss of public confidence in the state's police and judicial systems. I implore the government to continue to review the drug and alcohol driving scheme to ensure its effectiveness.

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

CRIMINAL INVESTIGATION (COVERT OPERATIONS) BILL

Adjourned debate on second reading.

(Continued from 25 November 2008. Page 816.)

The Hon. A. BRESSINGTON (16:18): This bill states that it seeks to investigate 'serious criminal behaviour', which includes any indictable offence. Yet it seems to me that this bill is contrary to the purpose of detecting more serious and elaborate forms of organised crime—which may involve attempts to commit or cover up murder, fraud or corruption—that ordinary police powers may not be able to detect or eradicate.

History and countless case studies show that when crime spreads to that level of intricacy it is not unusual to find high-level involvement and either government officials or employees being directly or indirectly implicated. In fact, allegations of official corruption within the state government were summarised in a *Sydney Morning Herald* article titled 'Justice Phillips…won't admit the agency's crime-busting record is poor', written by Ben Hills and dated 9 March 1991. The article stated:

> The whiff of corruption had been hanging over the state governments since media reports in the early 1980s. In 1981, *60 Minutes* carried a program called 'The unhappy hooker '. The ABC had several bites at the story, featuring the usual anonymous backlit whores claiming they had videotaped their clients in compromising positions. In 1988 Chris Masters…gave the story his imprimatur with a documentary *Suppression City*.
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> Finally, with Attorney-General Sumner identifying himself as the person who was being smeared in the media and collapsing with a nervous breakdown, the SA government in February 1989 asked the NCA to see whether there was any truth in claims that 'senior public officials, including politicians, are reluctant to tackle the issue of public corruption because they are being blackmailed'.

It goes on to say:

> And so, while drug barons and corporate crooks had a field day, laundering 'hundreds of millions of dollars' in ill-gotten gains (according to former royal commissioner Mr Frank Costigan QC), South Australia's finest were snooping around such salubrious establishments as Bluebeard's and the Sportsman's Leisure Club, interviewing pimps and prostitutes given Greek…[aliases]…such as Andromeda, Hades, Daphne and Calliope. There was even one called Stormy Summers, which she said was her real name.
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> Statistically it was a staggering exercise…6,000 computer entries were checked, 1,300 files of documents, 313 people were interviewed, and 88 interrogated in what has been described as the NCA's Star Chamber…former Attorney General Chris Sumner was grilled over a gulag-like 14-hour period.
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> At the end of the day, the only charges to be laid will be one against a witness who refused to give evidence, and another involving a completely unrelated extortion attempt. Even the NCA conceded that it was hardly its greatest triumph. 'In retrospect, we would have to say that the entire investigation was an unfortunate diversion of investigative resources away from the NCA's true role, that is, combating organised crime…' concluded the hugely entertaining 191-page report tabled in parliament on Tuesday by a relieved-looking Premier John Bannon.

The report goes on to say:

> While the scrapping…between the NCA's chief of the South Australian branch, Gerard Dempsey, and the chief investigator of Victorian branch's Carl Mengler was going on, the NCA was supposed to be concentrating on the most expensive and extensive investigation in its seven-year history—an investigation that would cost more than the one that put the notorious Abe Saffron in jail for tax fraud, and take longer than the extradition and imprisonment of the heroin smuggler Bruce 'Snapper' Cornwall…it took…two years and over $4 million…and…had consumed 'all available resources' of one of the three branches of Australia's FBI. Crimes involving drugs, corporate fraud and other national priorities were pushed onto the backburner while teams of lawyers, accountants and investigators explored the seamy underside of Adelaide's low-life…With two exceptions (Cornwall and Saffron), the NCA appears to have been hitting middle- and lower-level crime that would have been well within the scope of local forces.

It further goes on to say:

In November 1988, the SA Deputy Premier Don Hopgood, in great secrecy, signed the reference authorising the NCA to investigate 'bribery or corruption of or by police officers…illegal gambling, extortion and prostitution…drug trafficking…murder and attempted murder'. All told, a list of 56 people, including a number of police officers and public servants, was attached to the reference as named targets.

To give credit on one of the rare occasions when it is due, this operation did lead to the conviction of one corrupt officer, the former head of the Drug Squad, Detective Inspector Barry Moyse, jailed for 20 years for his involvement in large-scale marijuana growing and trafficking. But, was Moyse acting alone or was he part of a corrupt cabal that had infiltrated the South Australian police? This was a question that led to the NCA launching another of its colourfully named investigations, Operation Ark—an operation that would split the NCA into bitterly opposed camps, destroy the reputations of long-serving police and lead to a state of total warfare between the Adelaide branch of the NCA and the local police force.

Operation Ark was the sequel to Operation Noah, the annual anonymous telethon in which police appealed to the public for information about drugs. In March 1989, among the 1,000-odd calls, were a number that should have set off alarms bells all over police headquarters—calls that identified no fewer than 13 South Australian police alleged to be dealing in drugs or protecting dealers. These reports were never passed on to the Police Commissioner, David Hunt, who in his fury first heard about them a month later on the radio. Nor were they properly investigated by police—a leaked copy of the NCA's top secret report quotes an assistant commissioner of the South Australian police as saying, 'The public could be forgiven for thinking it is Disneyland.

If the SA Police investigation was Disneyland, the script unfolding within the NCA's offices in Melbourne and Adelaide was Monty Python. The report on Operation Ark was to be the last hurrah for the NCA's inaugural chairman, Justice Donald Stewart, who was retiring mid year after five years in the job.

One would expect that in most cases high level crime warranting covert powers ought to be referred to organisations such as the National Crime Authority, the Australian Federal Police or anti-crime and corruption authorities, but this experience is a fair demonstration of how precious resources are likely to be diverted by state police once given broader powers to allegedly investigate serious crime.

The cases of corrupt drug squad officer Barry Moyse and paedophile magistrate Peter Liddy are just two that are relatively indicative of the points I wish to make. We should not forget that Moyse was a detective inspector with the drug squad and head of Operation Noah, while Liddy used to be the chairman of the Police Disciplinary Tribunal, no less. Both these cases were solved and successfully brought to conviction without the need for additional covert powers by state police, and it seems that if police were empowered to walk the beat, patrol our communities and once again become the genuine police force they used to be, as opposed to a police service which they have become, we might root out much more crime without the need to resort to these superfluous measures.

Moyse was charged and convicted on the basis of intelligence gathered by the NCA, following the evidence of drug dealer George Octapodellis, who by that time had come to the attention of the NCA. By contrast, I am advised that the investigation into Liddy arose as a result of the complaints made to many authorities, including police, dating as far back as the 1970s and 1980s. The young man who ultimately brought Liddy to justice was featured in an episode of *Today Tonight* telling how Liddy was caught. The program was aired immediately after he was convicted.

The victim in question tried for years to get the police to act, but of course he was just one person complaining about the actions of a magistrate, with no objective proof that these things had happened. The victim alleged he was attacked and warned off making further allegations. He believes his attackers were police or former police who supported Liddy. In 1982, the statute of limitations was also in place, which meant that crimes against him were outside the limit. On another occasion the victim was told by police to simply forget it and 'We don't have a unit that handles that kind of offence against males'.

In desperation, the victim's father, fearing his son would harm himself, put out an anonymous press release in 1997-98 detailing the crimes and embarrassing the police into action. When the police visited the young man in Queensland, he could only supply them with nicknames of other boys, as that was the way life saving club members knew each other. Eventually the police traced others who were by then also in their 20s, and they told similar stories. One young man of whom Liddy was particularly fond was offered a bribe by Liddy not to give evidence, and it was that action by Liddy that was his real undoing, convincing the police he did have something to hide after attempting to interfere with a witness.

It seems a simple matter of fact that, had the police taken the same measures of investigation earlier and with the additional covert powers of investigation, Liddy would have been convicted earlier. What is also possible is that, had the investigation been conducted earlier using

fresher evidence than some two or three decades later, other police could also have been implicated and faced charges, but perhaps we will never know that.

I have problems with this bill for the main reason that it argues a very strong case for an ICAC, the very thing this government has denied South Australians. Instead, it seeks to place the powers of an ICAC into the hands of police, whilst we see abundant evidence of police refusing to use existing law enforcement powers to combat crime, fraud and corruption, and even in other more extreme cases perhaps abusing powers they in fact do not have or ought never to have had.

Given South Australia's dubious history in uncovering high-level organised or official wrongdoing, one can be relatively safe in the knowledge that this bill will be in no way an adequate substitute for an ICAC. Moreover, it would appear that this bill would have the potential to render corrupt or dishonest conduct by police lawful so long as it can be retrospectively rubber stamped and explained as being in the course of some official covert operation.

First, it is deeply disappointing that we are introducing a bill that aims to give police additional covert powers but not at the same time seeking to give our anti-corruption branch the broader powers to investigate private bodies or individuals, such as private corporations and gangs, and that is a significant omission. Another massive omission is failing to give security guards broader powers to apprehend and detain when police presence is required, but clearly not made available to the general public. I will come back to this concern later.

All the police have to do to detect crime is do what they ought to be doing, that is, enforcing the law and using their existing powers to their fullest extent, but in a proper and lawful manner. Had state police acted more diligently, the charges and subsequent convictions in both the Moyse and Liddy matters would have been secured in any event by lawfully using the Commissioner's current powers to make orders under section 11 of the Police Act 1998, without any of the risks associated with common law.

It is a concern that the bill is not much more prescriptive about what it seeks to accomplish when it gives the broader powers to police, so that those powers cannot be over-used and police resources wasted. I say this in the context of allegations made by many injured workers of abuses of power by WorkCover investigation and fraud officers and surveillance operators, many of whom are ex-police officers. The experience of Mr Tom Easling at the hands of the Special Investigations Unit of Families SA, which had also recruited ex-police as investigators, is another example of where it is suggested that well-trained and experienced former police officers have abused their powers of investigation. That these officers were not in the employ of SA Police at the time of the allegations should serve as little comfort to South Australians, given that they are still public servants bound by law, policy and procedure.

In this bill, the words 'drugs', 'murder', 'sexual abuse', 'gangs', 'organised crime' and 'corruption' are not explicitly used at all and 'fraud' is used only once. So, it begs the question: for what purpose are these unconditional, covert powers being given to the police when the current Police Act already enables extensive powers to be delegated by the Commissioner under section 11, which provides for the issuing of orders by the Commissioner? It also begs the question: how can the people of South Australia be assured that the powers given will not result in a waste of public resources investigating minor indictable offences as opposed to serious indictable offences?

Some examples of serious crimes which could include minor indictable offences under this bill are: theft and receiving; deception; serious criminal trespass; illegal abuse/interference with a motor vehicle; aggravated assault causing harm; indecent assault; causing harm; stalking; gross indecency; and property damage.

Some may recall the post-NCA investigations of 1989 and the formation of Operation Hygiene, where the South Australian Police Commissioner asked members of the public to supply any information they had about police corruption. That 'uncovered' a few ridiculous offences by police, which were as trivial as stealing pot plants and cheating on their time sheets. I do not know to what extent the public would want police investigating these offences whilst we have graffiti gangs and child sex offenders on the loose and when resources are so finite that the ordinary victim of an unfolding home invasion cannot get a police patrol car to come out in the middle of the night.

In the end, Operation Hygiene did result in two police officers (Malcolm Pearn and Stephen John Fuller) being found guilty of being an accessory after the fact of shop breaking, which, incidentally, was carried out by another two police officers. Their sentences carried less than a three-year gaol term. It is important to note that a website on state government corruption discloses

that Tony Grosser had made disclosures of police corruption to Operation Hygiene before the siege in the Barossa. I have also been made aware that we are now coming up to the 15-year anniversary of the National Crime Authority bombing in which Detective Geoffrey Bowen was killed, a crime with which no-one has been charged.

On 6 October 1993, then Liberal member for Davenport moved a motion for an independent inquiry into Operation Hygiene. Whilst not defending the actions of the convicted officers, the member did raise concerns that the offenders' actions were carried out in 1986, some six years prior to their being charged. The main area of concern, amongst other things, was that Operation Hygiene failed to uncover more substantial and more recent evidence of police and other official corruption and failed to bring to justice two other crooked cops who had actually committed the original crimes, for which their two fellow officers (Fuller and Pearn) were convicted.

Significantly, the member for Davenport also suggested that police had destroyed vital evidence which may have proven Fuller's and/or Pearn's innocence, as in the case of the Keough and other similar cases highlighted by Dr Bob Moles in the book *A State of Injustice*.

On 10 April 1980, Colin Creed had held up a branch of the Savings Bank of South Australia. On 20 April 1981, he raped a woman at gunpoint after breaking into her home. The next day, he repeated his heinous crime with another victim. On 5 May 1981, Creed held up another bank. He was suspected of the September 1979 murder of 20 year old Ann Roberts, but he would not be brought to justice following his last sighting on 21 May 1981 until he was finally arrested in September 1983 after being spotted in Western Australia by another South Australian police officer.

Whilst details of the specifics behind Creed's arrest and conviction are difficult to find more than 20 years later, there appears to be no reference to his case in *Hansard,* other than a brief reference in passing by the member for Playford in the other place on 6 July 1995. He articulated in a somewhat comical fashion the ineptitude of the police investigations at the time of Creed's offences. He explained that some 15 years earlier he had cause to visit a brothel in Unley after one of the brothel workers came into the restaurant across the road, where the member was working for a friend. He said:

> On that night, two girls came running into the restaurant. One had been sliced badly with what I thought was probably a Stanley knife. I said that we had better call the police, but they did not want the police to be called. I said, 'You've been stabbed; you have to call the police.' So I rang the police. There was a bit of reluctance when I said that it was Abigails on Unley Road—I even remembered the name. Eventually I said, 'I think you'd better get out there because someone's been stabbed.'
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> Police cars converged from both sides. I clearly remember the man who had allegedly done this act coming out of the place wearing a leather coat. He got into a Ford Falcon and drove off. I took down the number on the registration plate. For some time thereafter the police managed to lose that number. In fact, they came back to me on three or four occasions, including three weeks later, and said, 'We think you have the wrong number.' I said, 'You can think what you like, but that is the number.'
>
> Exactly 12 months later, they rang me again. 'We are closing in on this bloke.' I said, 'It's about time.' They said, 'He has a very plausible story.' I said, 'How plausible is it?' They said, 'You'll find out tomorrow when we arrest him.' They did not arrest him the next day: his name was Colin Creed, and he disappeared. He disappeared for some years. In fact, he committed another murder after that incident although, as I understand it, the police did not manage to pursue that matter competently, and Mr Creed is now in gaol on lesser offences.

It is my belief that the best indication of the future is the past and, if nothing changes, nothing changes. On the basis of the member for Playford's evidence, it appears that there were many points in the Creed case chain of events at which a much speedier arrest and conviction could have resulted using the powers and resources already afforded the police, but competent and diligent policing did not take place. Over the past two years, I have given many examples of government failings, where official authority has been abused or, conversely, not applied properly at all.

The bill claims to target gangs, but the powers given are potentially very dangerous without an ICAC or other higher body to regulate it in collaboration with the Commissioner of Police. In fact, the briefing on the bill makes a strong case for an ICAC, but it subverts the argument to suggest that our state police can now do what an ICAC would do anyway; however, we know that this is simply not the case.

Moreover, there has been an abundance written in and reported across the media about the exorbitant waste of public resources by the National Crime Authority for almost no outcome by way of significant convictions, and this raises serious questions about the effectiveness of this body

to combat crime and corruption. In fact, if we are to give police additional powers to detect crime, we must not enable any police officer of any rank or any part of the police force to exercise powers that may be delegated by the Police Commissioner or other high-ranking official; rather, we must ensure that any such extreme authority cannot be abused and that, when it is, such an authority can be publicly called to account—and I emphasise the word 'publicly'.

There would be a stipulation that those powers could be used only under the direction and employ of perhaps three or four discrete branches of the police, namely, the Fraud Squad, Anti-Corruption, Homicide and the Drug Squad. One of my staff was employed previously by the investigations section of Customs and had worked for another national crime-fighting body. I am advised that at no time could delegated powers of criminal investigation and covert operations ever be delegated to other teams, subordinate branches and/or staff of other parts of the Customs service—for example, through to the invoice room, registry, quarantine or excise, to name a few.

Whilst cooperation from other teams may at times be required, the superior powers could not be exercised by those officers outside the investigation unit. Additional staff needed to investigate an alleged criminal activity would, instead, be directly recruited into the investigation section for the specific purpose of the investigation. Once the task was completed, that officer would be returned to their substantive position. Accordingly, if we are to give additional powers to the police, only the Anti-Corruption, Homicide, Fraud Squad and Drug Squad branches should be able to use these powers, not every other level of police.

Just a few weeks ago, I was approached again by a security organisation with a request for assistance. The manager of the company wrote, as follows:

> I would like to inform you that my Patrolman on 15/1/09 around about just after 1900hrs had a problem at a client's premises this evening. A major brawl had broken out at Liquorland car-park at the Paralowie shops because a member of the public had approached my Patrolman for assistance.
>
> My Patrolman had contacted base by the 2-way radio requesting police assistance urgently and that the Patrolman could not call Police because he was trying to assist with the problem because a member of the public asked for help that my guy could not refuse.
>
> I had then contacted Police Communications to get a Police Patrol to attend and the operator had told me that the Patrolman should contact them himself so they can get the correct information.
>
> I then contacted our Patrolman to let him know that he has to contact Police [whilst in the middle of a brawl].
>
> My Patrolman was not very happy about it and told me not to worry about it. I had responded back to the Patrolman stating if it gets too out of hand give me a call and I will come and give you back-up because the Police won't attend due to my Patrolman not making the call [himself].

This security company has written to me on numerous occasions. It patrols many areas at Elizabeth, Munno Para and Smithfield. I know of at least 10 situations where they have called police urgently for assistance and have sometimes had to wait for up to 1½ to two hours. These patrolmen do not have the power to detain offenders, and they are moving targets for these guys. A number of times, security guys from this agency have had full cans of Coke hurled at them and had their heads split and their eyes hit.

We are now looking at giving police more powers—not more resources or police—but we still refuse to look at increasing the powers for security agents so that they can merely protect themselves and take whatever steps are necessary to protect the general public.

This is one of countless similar examples where police have the powers, if not the resources, to protect the public. Had there been a prompt police presence, one might well wonder what kind of result they could have obtained. What persons could have been questioned, arrested or charged? One is also left to wonder whether any drugs or firearms might have been found or persons on outstanding warrants apprehended.

In this case, additional covert powers were not required to solve what may have been evidence of gang-related activity in the suburbs. All that was required was police presence. In any event, the fact that no police attended the incident on this night now means that no-one will ever know whether there was any criminal or gang-related violence requiring intervention or further policing.

A few months earlier, a person under the heavy influence of illicit drugs attempted to break into the home of one of my staff whilst she and two children were still inside. She, too, could not readily get a police patrol, despite calling 000, until she made such an issue of it that three officers

and two cars were compelled to attend her property—15 minutes after several members of her family in the nearby area came to her aid and apprehended the offender.

The next day, the offender's keys were found at her property, but the police would not even come out to collect the material evidence linking the offender to her property. When she threatened to deliver the keys to the Commissioner himself and bring in the media, a patrol swiftly arrived to collect the valuable evidence. She did this after two earlier incidents in which she received little or no cooperation from police to have crimes against her property and a family member reported and investigated and had been told to find her own evidence linking the offender to the crimes against her property.

In each of the three cases the offenders were known to the police and the offences were not in dispute. In each, the excuse used by police for not exercising their authority was allegedly the remote prospects of securing convictions—a poor excuse by police that cannot justify failing to gather and collate information which is obtainable anyway. If the public attempting to phone the Family Violence Unit of the Elizabeth police station were not left holding on a line for over 82 minutes or if the public were not unable to make a report of the a crime at the Salisbury police station because there were not enough staff this bill would be much less problematic. In closing, I do support the bill but I feel it necessary to voice my concern that it would do precious little to combat serious organised crime.

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

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:46): I move:

That this bill be now read a second time.

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

Leave granted.

At the last election, the Government made pledges to improve victims' rights. Some of them have already been enacted in the *Statutes Amendment (Victims of Crime) Act 2007* and the *Victims of Crime (Commissioner for Victims' Rights) Amendment Act 2007*. Others were enacted in the *Criminal Law (Sentencing) (Dangerous Offenders) Amendment Act 2007*.

The remaining pledges are:

For the first time in our legal history, the Rann Government will give victims of crime advocates the legal right to make victim impact submissions at the sentencing hearing in cases that result in the death or total permanent incapacity of the victim.

The Sentencing Act also will be amended to enable the prosecution to obtain, and present, community impact statements to court during sentencing submissions. The community impact statements will be used to inform the sentencing court about the effects on the community of the crimes before the court. For example, with regard to drug production or sale offences, evidence of medical professionals could be called to establish the harmful effects of drugs on individuals and the long-term health consequences of drug abuse. In cases of death by dangerous driving, expert evidence could be called to establish the human and financial cost of road deaths.

The Commissioner for Victims' Rights has also asked for some legislative change. His recommendations are:

Amend the Criminal Law (Sentencing) Act to make it clear that victim impact statements can be given in person, via CCT., audio or audio-visual recording etc. I have had several requests to cover the costs of victims coming to court to read or listen to their impact statements. This will provide another option, especially for vulnerable victims.

Section 52 of the Criminal Law (Sentencing) Act provides for restitution orders (i.e. court order that the convicted offender return misappropriated property to the victim-owner). Unlike section 53, which provides for compensation orders that can be enforced like any other pecuniary order, an order made under section 52 appears to be unenforceable. The Premier and the Attorney-General pledged to strengthen victims' rights including their right to compensation. Making it clear how section 52 will be enforced might alleviate some of the pressure to amend the compensation laws.

The *Criminal Law (Sentencing) (Victims) of Crime) Amendment Bill 2007* was introduced into Parliament on 24 October 2007. The Bill was laid aside on 19 June 2008.

The Government proposes to re-introduce the Bill with changes.

Election Pledges

First Pledge

The first pledge contains two policies:

Section 7 of the *Criminal Law (Sentencing) Act* now obliges prosecutors to furnish particulars of any injury, loss or damage suffered by a person as a result of the offence for which the defendant was convicted or, in short, any associated offence. Section 7A allows the victim of an indictable offence to read his or her statement to a court before it passes sentence, or the victim can ask the court to permit another person to read the victim's statement. It follows that this policy is to enact legislation to extend the right that is currently confined to indictable offences to summary offences where death or total permanent incapacity to the victim has resulted. The reason for this is some prominent cases where the relevant offence has been reckless or negligent driving and death has resulted. It should be noted that it would also apply to, for example, industrial accidents constituting summary offences under workplace-safety law. The Bill has also been amended to take account of a submission put by the Minister for Industrial Relations so that victim impact statements in occupational health, safety and welfare prosecutions may be given by the prosecution in minor summary offences and so that a court may require company officials to be present when a victim impact statement is given in person under section 7A of the Act. The defendant is required to be present, but where the court is satisfied that a threat to the defendant or the victim has been made, the court should make special arrangements for this process. For these purposes, 'total and permanent incapacity' is defined to mean: 'the victim is permanently physically or mentally incapable of independent function'.

The Government now proposes an addition to this amendment. The addition is that section 7 of the *Criminal Law (Sentencing) Act* be amended to state that a court, when asked to allow a victim of violent offences to read his or her impact statement, should be encouraged to do so. The onus is on the court to exercise discretion in favour of the request. If the court chooses not to allow a victim to read his or her statement then the court should state its reasons, so the reason can be given to that victim should he or she ask.

The second policy was to allow a victim's advocate to read out the victim impact statement to the court on behalf of the victim. The Government has decided to broaden this policy and I will outline what is proposed about that later in this speech.

Second Pledge

Two kinds of community-impact statements are proposed. The first type is a collective statement of harm, to be called a neighbourhood-impact statement. A common example is a drug dealer in a street. The neighbours suffer the effects—discarded syringes, lots of traffic at all hours, increased levels of street and petty property crime and so on. Under the proposal, they would be allowed to give a collective-impact statement on how this drug-dealing offence has affected them. The second type is more a policy-justification statement—to be called a social-impact statement. In the drug-dealing instance, evidence could be given of the harmful effects of drugs generally (for example). It was intended that the election policy promise would deal with the enactment of provisions for both types. The Government proposes that both kinds of statements can potentially be given in a sentencing hearing for any offence. It should be possible to collate the statements of many individuals into a group statement. The Government proposes that the provision of these statements be up to the Commissioner for Victims' Rights and that the prosecution or the Commissioner be authorised to place the material before the court.

Commissioner for Victims' Rights Suggestions

First Suggestion

Section 7A(3a) of the *Criminal Law (Sentencing) Act* says: 'If the court considers there is good reason to do so, it may exercise any of the powers that it has with regard to a vulnerable witness to assist a victim who wishes to read out a victim impact statement to the court.' This suffices to bring CCTV into play. But the Act should be amended so that it is possible for victim-impact statements to be given via audio or audio-visual recording where there is equipment available for the purpose. The defendant should be present except in a case where the court is satisfied that a real threat has or is being made to the safety of the defendant or the defendant's representatives or family, or where the presence of the defendant will otherwise cause undue disruption. In such a case, the court is authorised to make arrangements for the offender to be present by electronic or other means.

Second Suggestion

Section 53 of the *Criminal Law (Sentencing) Act* is the order for compensation upon sentence. That sum is defined to be a pecuniary sum and therefore can be enforced in the same way as any order for a pecuniary sum—that is, effectively, as a fine. Section 52 of the Act is different. It is about giving back particular property, not a sum of money. This is about returning the particular item stolen (for example). It follows that this cannot be defined as an order for a payment of a pecuniary sum and cannot be enforced in that way. The *Criminal Law (Sentencing) Act* deals with the matter by providing for default imprisonment. The Commissioner for Victims' Rights says that this does not work. In some ways that is not surprising, since the analogous old method of collecting pecuniary sums by default imprisonment did not work well either—which is why it was replaced. The Government proposes to add remedies for restitution orders short of imprisonment. The Government proposes to give an authorised officer the power to enter land and seize the property in question, or to cause the value to be enforced as a pecuniary sum, which means that remedies such as (for example) suspension of driver's licence and dealings with the Registrar of Motor Vehicles.

Additional Government Amendments

The Government has decided to take this opportunity to remedy some other injustices or matters affecting victims' rights that have been brought to its attention since the former Bill was introduced into Parliament.

- it is proposed that the *Criminal Law (Sentencing) Act* be amended to allow victims to suggest a sentence, if they choose, in their impact statement. The court could take notice of the suggestion, as it does take notice of the prosecutor's and defence counsel's submissions on an appropriate sentence. The court simply takes the request into account but is not compelled to act as requested by any party.

- it has been brought to the Government's attention by the DPP that there is a deficiency in the right of a victim to make a victim-impact statement where the accused is found unfit to stand trial or not guilty by reason of mental impairment. The current legislation contains provision for determining the view of the 'victim'. Section 269R of the *Criminal Law Consolidation Act* says:

269R—Report on attitudes of victims, next of kin etc

(1) For the purpose of assisting the court to determine proceedings under this Division, the Crown must provide the court with a report setting out, so far as reasonably ascertainable, the views of—

(a) the next of kin of the defendant; and

(b) the victim (if any) of the defendant's conduct; and

(c) if a victim was killed as a result of the defendant's conduct—the next of kin of the victim.

The DPP has argued that the 'victim' should have the same rights as the usual victim to prepare his or her own statement and to read it out to the Court. The Government agrees with the DPP that there is a rough equivalence between the disposition phase of the hearing and a sentencing hearing. But these defendants/accused are in a different position from the normal defendants. They may suffer from a very significant mental illness or intellectual disability. There is little point in subjecting such people to the reading out of a victim impact statement (although, of course, the court may be appropriately informed, as is now the case). In my opinion, there is only benefit in allowing the elocution of a victim impact statement where there is some prospect that the defendant/accused will understand it to an appreciable degree. The usual absolute right must therefore be subject to an overriding judicial discretion.

The Commissioner for Victims' Rights and the Crown Solicitor have brought to the Government's attention the need to amend the law to prevent a prisoner from taking civil action against a registered victim who makes submissions to the Parole Board in accordance with the Act. The necessity became obvious when a prisoner serving a life sentence for murdering his former wife's partner in 1991, applied for parole. As a registered victim, the prisoner's former wife exercised her right under section 67(4)(ca) of the Act to make a submission to the Parole Board. The Parole Board refused the application for parole and in accordance with section 67(9) of the Act, gave a copy of the reasons to the prisoner. The written reasons included statements made by the former wife against the interests of the prisoner. The claim was dismissed but it is possible that he will appeal this decision and that the matter will continue to cost the Government financially and the victim emotionally. This will be an amendment to the uniform defamation law. It is necessary to keep so far as is possible to the uniform law. In the model Bill there was provision for each State Act to contain a schedule to expand the circumstances of publication that attracted absolute privilege. It was agreed that States and Territories could give absolute privilege to certain publications, such as of their Law Reform Commissions. The provision is—

(1) It is a defence to the publication of defamatory matter if the defendant proves that it was published on an occasion of absolute privilege.

(2) Without limiting subsection (1), matter is published on an occasion of absolute privilege if—

(a) the matter is published in the course of proceedings of a parliamentary body etc

(b) the matter was published in the course of proceedings in any Australian court or Australian tribunal etc

(c) the matter is published on an occasion that, if published in another Australian jurisdiction, would be an occasion of absolute privilege etc

(d) the matter is published by a person or body in any circumstances specified in schedule 1.

The current South Australian Act does not have (d), because the Government could not think of anything else that we thought should be accorded absolute privilege. Victoria and Queensland have it, but have nothing in their schedules. NSW particularly wanted to have a schedule, because that is what they had done with their earlier Act. The NSW schedule contains a long list.

Item 7 of the NSW Schedule is:

Without limiting section 27(2)(a)-(c), matter that is published:

(a) by the State Parole Authority or the Serious Offenders Review Council in a report or other document under the Crimes (Administration of Sentences) Act 1999, or—

(b) in the course of any proceedings of the following bodies:

(i) the State Parole Authority or a Division or committee of that Authority etc

The Bill mirrors this approach because (a) it maintains consistency with the scheme of the uniform *Defamation Acts* and (b) because it would keep all the law about defamation in one place.

- The Commissioner for Victims' Rights has recommended an amendment to the *Victims of Crime Act* to provide for a payment for grief and a payment for funeral expenses in criminal-neglect cases that involves death. Currently, these payments are limited to homicide cases. Homicide is defined to mean murder or manslaughter. Criminal-neglect is not a homicide offence for this purpose. In a recent criminal-neglect case, an infant was killed by either his mother or her male partner (who was not the infant's father). Both adults were convicted of criminal neglect. As the convictions were for criminal-neglect rather than murder or manslaughter, the infant's father was not entitled to a grief payment or payment for funeral expenses. The maximum amount for funeral expenses is $7,000 and the maximum grief payment is $10,000.

- The Commissioner for Victims' Rights has also suggested an amendment to the *Criminal Law (Sentencing) Act* to make it mandatory, for a court, other than in exceptional circumstances, to impose a restraining order in cases where defendant is guilty of a sexual offence. He cites a case where a District Court judge declined to issue a restraining order on the basis that a good behaviour bond would be adequate despite there being no condition to prohibit the defendant from contacting the victim. The Government thinks there is merit in amending the legislation to require a court when sentencing a defendant for a sexual offence to consider imposing a restraining order, on the defendant to prohibit the defendant from contacting the victim. The onus would be on the court to exercise discretion in favour of the request. If the court chooses not to impose a restraining order then the court would be required to state its reasons. The failure to make an order would be appealable.

- Schedule 2 of the *Freedom of Information Act* contains a list of exempt agencies. They include such agencies as the Ombudsman, the Attorney-General, in respect of functions related to the enforcement of the criminal law, the DPP, the Parole Board and so on. It is the Government's opinion that the Commissioner for Victims Rights should be added to this list.

- The Commissioner for Victims Rights has suggested that the *Victims of Crime Act* be amended so that a right that may be exercised by a victim may be exercised by another on behalf of the victim. This is an extension of the proposal originally made about the right to read a victim impact statement and was the subject of an amendment to the *Criminal Law (Sentencing) Act* in the original Bill. It is therefore proposed to amend the *Victims of Crime Act* in the same way as originally proposed and so encompass and broaden the original proposal. The right is confined to an officer of the court, an immediate family member or close relative, or, in the absence of these, a person who, in the opinion of the Commissioner for Victims' Rights, is suitable to act in the role, or, in any event, an employee of a group or organisation devoted to victim support, or the Commissioner for Victims' Rights (or a person acting for the Commissioner).

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law (Sentencing) Act 1988*

4—Amendment of section 6—Determination of sentence

This clause amends section 6 to make it clear that in sentencing proceedings the court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

5—Amendment of section 7—Prosecutor to furnish particulars of victim's injury etc

This amendment makes it clear that a court dealing with an offence that is not an offence to which section 7A applies must nevertheless allow particulars to be furnished in the form of a victim impact statement unless the court determines that it would not be appropriate in the circumstances of the case.

6—Amendment of section 7A—Victim impact statements

This clause amends section 7A of the principal Act in several ways. New subsection (3a) enables a court to assist a person who wishes to read out a victim impact statement to the court to do so by means of a prerecorded reading of their statement, or to exercise the powers the court has in relation to vulnerable witnesses. Subsection (3b) requires that the court ensure that the defendant (or, where the defendant is a body corporate, a representative of the defendant) is present when the statement is read out to the court if the person providing the statement so requests. Under subsection (3c), the court may decline to do so for reasons set out in the provision, but in such a case the court must nevertheless endeavour to ensure the defendant hears the statement being read out via audiovisual link or audiolink or, if that is not possible, by making an audiovisual recording.

The range of offences for which a victim impact statement can be provided is also extended to include certain summary offences (namely one that results in the death of a victim or a victim suffering total incapacity).

7—Insertion of sections 7B and 7C

This clause inserts new section 7B into the principal Act, providing for written community impact statements to be provided to the court. The Commissioner for Victim's Rights is responsible for compiling a statement under the section, and either the prosecution or the Commissioner may provide a sentencing court with the statement.

The statements consist of 2 types. The first is a neighbourhood impact statement, which is a statement about the effect of the offence, or of offences of the same kind, on people living or working in the location in which the offence was committed. The second type is a social impact statement, setting out the effect of the offence, or of offences of the same kind, on the community generally or on any particular sections of the community.

The clause also sets out procedural matters related to the provision, and reading in court, of such statements.

New section 7C provides for the making of rules relating to statements under sections 7A and 7B, provides for a copy of such a statement to be made available to the defendant or his or her counsel and makes it clear that the defendant is entitled to make submissions to the court in relation to the statement. The section also makes it clear that a statement to be furnished to a court under section 7A or 7B may contain recommendations relating to sentence.

8—Amendment of section 19A—Restraining orders may be issued on finding of guilt or sentence

This clause provides that a court must, on finding a person guilty of, or on sentencing a person for, a sexual offence (which is defined in the clause), consider whether or not a restraining order should be issued against the defendant and, if the court determines that a restraining order should not be issued, give reasons for the determination.

9—Insertion of Part 9 Division 2A

This clause inserts new Part 9 Division 2A into the Act. The Division provides for action by authorised officers in the situation where a restitution order under the Act is not complied with. The clause sets out the actions that can be undertaken (including seizure of the property or payment of an equivalent amount by the defendant) and the powers an authorised officer can exercise in doing so.

Part 3—Amendment of *Criminal Law Consolidation Act 1935*

10—Amendment of section 269R—Reports and statements to be provided to court

Section 269R deals with reports and statements to be provided to a court determining proceedings dealing with persons who are declared liable to supervision under the mental impairment provisions in the *Criminal Law Consolidation Act 1935*. This clause amends section 269R to allow for the furnishing of victim impact statements where a court is fixing a limiting term in proceedings relating to an alleged indictable offence or prescribed summary offence. The court is required to deal with the victim impact statement in all respects as if it were furnished under section 7A of the *Criminal Law (Sentencing) Act 1988* except that, if the court is satisfied that the defendant is incapable of understanding the victim impact statement or that, having regard to the nature of the defendant's mental impairment, it would be inappropriate for the defendant to be present when the statement is read out (as required by section 7A(3b) and (3c)), those requirements will not apply.

The amendments also allow for the Crown or the Commissioner for Victim's Rights to furnish a court fixing a limiting term with a neighbourhood impact statement or a social impact statement (and the court is required to deal with such a statement as if it were furnished under section 7B of the *Criminal Law (Sentencing) Act 1988*).

Part 4—Amendment of *Defamation Act 2005*

11—Amendment of section 25—Defence of absolute privilege

This clause provides that a matter published in circumstances specified in proposed new Schedule a1 will be published on an occasion of absolute privilege.

12—Insertion of Schedule a1

This clause inserts a new Schedule a1 into the Act specifying matter published by the Parole Board of South Australia in a report or other document under the *Correctional Services Act 1982* or any other Act or published by a registered victim of an offence (within the meaning of the *Correctional Services Act 1982*) in the course of, or for the purposes of, any proceedings of the Parole Board of South Australia relating to the offender.

Part 5—Amendment of *Freedom of Information Act 1991*

13—Amendment of Schedule 2—Exempt agencies

This clause makes the Commissioner for Victims' Rights an exempt agency for the purposes of the *Freedom of Information Act 1991*.

Part 6—Amendment of *Victims of Crime Act 2001*

14—Amendment of section 4—Interpretation

This clause amends the definition of *homicide* in the Act to extend it to an offence against section 14 of the *Criminal Law Consolidation Act 1935* (criminal neglect) where the victim dies.

15—Amendment of section 20—Orders for compensation

This clause makes some minor amendments of a consequential and clarifying nature.

16—Insertion of section 32A

This clause inserts a new section allowing any rights of a victim (whether under this Act or any other Act) to be exercised on behalf of the victim by an appropriate representative chosen by the victim for that purpose (except as prescribed by regulation).

Debate adjourned on motion of Hon. D.W. Ridgway.

ADMINISTRATION AND PROBATE (DISTRIBUTION ON INTESTACY) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:47): I move:

That this bill be now read a second time.

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

Leave granted.

The *Administration and Probate Act 1919* deals with deceased estates and includes provision for intestacy, that is, the distribution of the estate in the case where the deceased did not make a will or where the will disposes of only part of the estate. In the absence of a will saying what the deceased intended to happen to the property, the law leaves the estate to his or her closest surviving relatives.

The intestacy distribution is set out in section 72G. If the deceased left a spouse or domestic partner, but no children, then the spouse or domestic partner inherits the whole estate. If the deceased left children, but no spouse or domestic partner, then the children share equally in the estate. If, however, the deceased left both a spouse or domestic partner and also children, the section says that the spouse is to receive the first $10,000 and half the balance of the intestate estate. The children will receive the other half of that balance, in equal shares. The intestacy distribution reflects the generally-accepted view that it is the spouse or domestic partner who should be the primary beneficiary of the estate where the deceased failed to make a will.

The first $10,000 of the estate, which is left to the spouse or domestic partner, is sometimes called the statutory legacy. The amount was fixed in 1975 and has never been increased. This Bill proposes to increase the amount to $100,000 initially and to permit further increases by regulation in future.

The present figure of $10,000 is the lowest in Australia. The figure in New South Wales and in the Australian Capital Territory is $200,000, in Queensland it is $150,000 and in the Northern Territory, $120,000 (although in the latter three jurisdictions, whether the spouse will receive half or only one-third of the balance of the estate depends on the number of children). In Victoria, the figure is $100,000 and in Western Australia and Tasmania, it is $50,000, though in these cases the spouse receives 1/3 and the children 2/3 of the balance. In New Zealand, the figure is $121,500, although again the surviving spouse receives only one-third, not one-half, of the estate.

Different views exist about the purpose of the statutory legacy. One view is that it is meant to meet the spouse's needs while the estate is being distributed, which can take some time. It enables him or her to continue living for the time being as he or she is accustomed. Another is that it helps the spouse to retain the matrimonial home, where the home is not in joint names or where it is mortgaged. Another view is that it is a simple way of ensuring that, in the case of a small estate, the spouse will usually inherit the whole estate. That may be especially relevant where a small business, on which the surviving spouse depends, constitutes the main asset of the estate.

On any of these views, the amount of $10,000 is now too low. Property values, and the cost of living, have increased substantially since 1975. Indeed, when the National Committee on Uniform Succession Laws considered the question in its 2007 report, it judged that the figures in all jurisdictions were too low and that the statutory legacy should be uniformly increased to $350,000. No jurisdiction has, as yet, taken up this suggestion. As far back as 1985, the Tasmanian Law Reform Commission suggested that the figure of $50,000 was too low for Tasmania, although the figure has not been increased.

The Government believes it would be reasonable to increase the figure to $100,000, matching that in Victoria. The Government also believes that it would be wise to permit the amount to be increased in future by regulation, as necessary to keep pace with future Consumer Price Index increases. That is what this Bill would do. The transitional provision of the Bill ensures that this increase applies only to deaths occurring after the amendment commences, so there will be no effect on the distribution of any pending estate.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Administration and Probate Act 1919*

3—Amendment of section 72G—Distribution of intestate estate

Section 72G provides for the distribution of an intestate estate. Currently, in the event that an intestate estate is to be divided between a spouse (or domestic partner) and the deceased person's children, grandchildren or lineal descendents, the spouse (or domestic partner) is entitled to the first $10,000 with the remainder being divided in two equal parts between the spouse (or domestic partner) and the person's children, grandchildren or lineal descendents. This clause proposes to increase the entitlement of the spouse (or domestic partner) to the first $100,000 or a greater amount that may be prescribed by regulation.

Schedule 1—Transitional provision

This schedule provides that the amendments made in this measure only apply in relation to the estate of a deceased person whose death occurs after the commencement of the amendment.

Debate adjourned on motion of Hon. D.W. Ridgway.

STANDARD TIME BILL

Adjourned debate on second reading.

(Continued from 4 February 2009. Page 1191.)

The Hon. J.M.A. LENSINK (16:48): I promise to be very brief talking to this bill, given its size. It is really just a measure to transfer from Greenwich Mean Time, which is our current measure, to Coordinated Universal Time, which I am advised is an international time scale recommended by the International Bureau of Weights and Measures as the legal basis for time. I note that this bill does not have anything to do with issues such as daylight saving or shifting to Eastern Standard Time but is merely a means by which we determine the particular reference of time that we are in synch with.

It would probably be beyond the understanding of most of us here; it seems to have some basis in the discipline of physics. I refer members to the minister's second reading explanation of 29 October 2008 in which he states that, whenever the cumulative difference approaches one second, an adjustment is made in Coordinated Universal Time to reduce the gap and that this is particularly important for highly powered new technology involving global positioning systems, computers and so forth that might have very fast transfer of information.

I do not propose to speak any further on it except to say that this will bring us into line with a number of other jurisdictions and nations, and therefore I think it is just a sensible tidying up of South Australia's particular reference to time. I commend the bill to the council.

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

DEVELOPMENT (CONTROL OF EXTERNAL PAINTING) AMENDMENT BILL

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

The Hon. I.K. HUNTER (16:50): I move:

That this bill be now read a second time.

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

Leave granted.

This bill is quite a simple bill—it seeks to amend the definition of 'development' in the Development Act in relation to the external painting of buildings in historic conservation zones; and to also eradicate discrepancies within the existing development controls in historic conservation zones, particularly in commercial zones where there is no change in land use. Someone may change the particular business, but not the nature of the business—for example, Joe's Bistro might become Joanna's Restaurant—so councils do not have control in relation to the external painting of the building.

Some of the bigger chain outlets have colours and logos painted on their existing buildings which are really mismatched in their locale.

At present, two historic buildings could be alongside each other. If one changed its land use, say, from office to retail, any external painting or signage on the building would be controlled by the Development Act. If the other building went from retail to retail or office to office it would not be covered by the act but, if the tenant changed, they could paint the building without requiring approval. Some buildings are painted so that the actual facade becomes one huge coloured sign. Unfortunately, in the Town of Gawler some buildings have been painted red, yellow and purple—all sorts of colours.

This bill does not prohibit an activity but, rather, introduces some controls so it gives a local community a say in the matter. Importantly, it gives local communities a say, particularly when national chains are involved. They tend to walk into local communities and towns and say, 'This is our business, take it or leave it.' Unfortunately, many development assessment panels are powerless to stop that sort of thing.

Importantly, though, this bill has an enabling provision. It enables the Governor to proclaim regulations with respect to where this would occur. It would occur within historic conservation zones but, importantly, it would not necessarily automatically apply to all historic conservation zones. It will be up to the council to apply to have a regulation introduced to ensure that this provision would apply to their zone.

This bill only has three clauses, but its impact could be quite substantial in supporting local communities. The first amendment inserts a clause that makes external painting 'development'. The second ensures that it is only external and not internal painting of a building. Heritage listed buildings are not covered by this bill; they are covered by existing legislation and protected by existing law. The third clause states, 'the external painting of a building within an area prescribed by the regulations for the purposes of this paragraph'.

Debate adjourned on motion of Hon. D.W. Ridgway.

At 16:52 the council adjourned until Tuesday 17 February 2009 at 14:15.