LEGISLATIVE COUNCIL

Tuesday 7 April 2009

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

CHILD SEX OFFENDERS REGISTRATION (REGISTRATION OF INTERNET ACTIVITIES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

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

His Excellency the Governor assented to the bill.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answers to questions be distributed and printed in *Hansard*.

MOBILE PHONES

288 The Hon. D.G.E. HOOD (3 July 2008) (Second Session). What policy does the Minister for Education and Children's Services have in place regarding the use of mobile phones in classrooms?

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): The Minister for Education has advised:

The Department of Education and Children's Services (DECS) has provided the following information:

Individual schools develop policies on the use of mobile phones in consultation with their governing council. This enables each school community to adopt a policy that best suits its individual circumstances and the age of the student cohort.

To assist school communities, DECS encourages schools to utilise the Australian Mobile Telecommunications Association (AMTA) policy document Developing an Acceptable Use Policy for Mobile Phones in Your School in formulating a policy regarding mobile phone usage in their schools.

MOBILE PHONES

171 The Hon. D.G.E. HOOD (24 September 2008). Can the Minister for Education advise what policy is in place regarding the use of mobile phones in classrooms?

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): The Minister for Education has advised:

The Department of Education and Children's Services (DECS) has provided the following information:

Individual schools develop policies on the use of mobile phones in consultation with their governing council. This enables each school community to adopt a policy that best suits its individual circumstances and the age of the student cohort.

To assist school communities, DECS encourages schools to utilise the Australian Mobile Telecommunications Association (AMTA) policy document Developing an Acceptable Use Policy for Mobile Phones in Your School in formulating a policy regarding mobile phone usage in their schools.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Regulations under the following Act—
Workers Rehabilitation and Compensation Act 1986—
Claims and Registration—Discontinuance Fee
Dispute Resolution
General—Non-economic Loss
Rules of Court—
District Court—District Court Act 1991—
Amendment No. 9

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

Architects Board of South Australia—Report, 2008

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

Regulations under the following Acts—
Natural Resources Management Act 2004—General
Rates and Land Tax Remission Act 1986—General
Corporation By-laws—
Mitcham—
No. 8—Vehicles

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Acts—
Liquor Licensing Act 1997—Dry Areas—Long Term—Murray Bridge

POLICE COMMISSIONER

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:22): I table a copy of a ministerial statement relating to Commissioner Hyde made earlier today in another place by my colleague the Premier.

BUDGET AND FINANCE COMMITTEE

The Hon. R.I. LUCAS (14:24): I bring up the minutes of evidence of the committee from 28 March 2007 to 16 March 2009.

STATUTORY OFFICERS COMMITTEE

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): I table the report of the committee pursuant to section 151 of the Parliamentary Committees Act 1991.

Report received and ordered to be published.

OMBUDSMAN

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:25): I seek leave to move a motion without notice in respect of the recommendation of the Statutory Officers Committee contained in the report.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That a recommendation be made to His Excellency the Governor to appoint Mr Richard Bingham to the office of the Ombudsman and that a message be sent to the House of Assembly transmitting this resolution and requesting its concurrence thereto.

The Statutory Officers Committee, in its 10 or so years of existence, has made just one previous appointment, and that was for the Electoral Commissioner. This is the second appointment to be made in the history of the Statutory Officers Committee. Following the procedures that were used in the appointment of the Electoral Commissioner, the committee went through a similar selection process in relation to the vacancy in the office of the Ombudsman.

The committee authorised Mr Jeff Walsh, the Commissioner for Public Employment, to commence a selection process for the appointment of the Ombudsman, and the committee resolved to establish a panel to manage the consideration of candidates and to prepare a report for the committee's consideration. That panel consisted of Jerome Maguire, the Chief Executive of the Attorney-General's Department, Department of Justice; Ms Vivienne Thom, the Commonwealth Deputy Ombudsman; Mr Rod Payze; and Mr Ken MacPherson.

Following the engagement of Mr Philip Morton, the managing partner of Morton Philips, and Executive Search Consultants to assist in the recruitment process, the panel reported back to the committee on 3 February 2009. The panel received 28 applications. A short list of applicants prepared by the panel was referred to the committee for consideration. The committee interviewed the recommended candidate, and the committee unanimously resolved to recommend the appointment of Mr Richard Bingham as Ombudsman. I commend the resolution to the council.

The Hon. R.D. LAWSON (14:27): As a member of the Statutory Officers Committee, I commend the report just presented by the minister, who was the chair of the committee. I warmly commend Mr Bingham on his appointment.

There are a couple of points I should make about the process, the first being that I think it is of some considerable regret that this report has taken so long to be produced. A difficulty arose because, when the position was initially advertised, a mistake was made within government offices about the designation of the appointment, and the initial process was aborted and a new process had to be initiated. During that time, it was resolved by the government to increase the remuneration package available to the Ombudsman to raise it to the level of a special magistrate, and I certainly support that. The Ombudsman is an important position in the South Australian constitutional system reporting to parliament.

However, I think it is a matter of regret that the initial process, which produced many good applicants, notwithstanding the salary level offered was then less than finally offered, was aborted because those responsible for placing the advertisement made a serious error. However, I certainly welcome Mr Bingham to the position. As the minister indicated, it was the unanimous recommendation of the committee that he be appointed.

Motion carried.

QUESTION TIME

POLICE ROAD SAFETY POLICY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Police, a question about SAPOL policy.

Leave granted.

The Hon. D.W. RIDGWAY: It is well known that this government has been championing its agenda of being tough on law and order and tough on crime, with its massive recruiting campaign, which we know will, before the election, fall short of its commitment of 4,400 officers on the beat. Notwithstanding that, when the minister opposite was minister for police, SAPOL introduced a new target to the number of contacts each officer is to make in relation to road traffic offences. We saw in today's *Advertiser* that the contact targets with drivers had been exceeded by some 45,000 contacts over and above the targets set. If we had 4,400 police officers on the beat, they would have exceeded their targets by some 100 targets each. I raised some concerns today in relation to these targets, and in particular suggested that it was a revenue raising action by the government and was not helping our road safety targets. It is interesting to note that in response to the statement I made the Minister for Road Safety came onto radio and said:

> The target isn't about fines; the target's about contact with people. Sometimes they pull people over and tell them they've been doing a good job.

He then goes on to say:

> Police have pulled over a number of people over the last year commending them on their driving skills.

My questions to the minister are:

1. Given the community's concern surrounding the rise of outlaw motorcycle gangs and concerns about public safety in particular areas such as the city entertainment precinct, is this an efficient use of police resources?

2. Will the minister confirm that it is now SAPOL policy to pull over motorists who are driving within the law and offer commendations?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:34): Obviously that is a question for my colleague the Minister for Police in another place, and I will refer it to him. I should at least make the comment that the shadow minister for police seems to be the only person in this state who is not currently concerned about the situation on our roads. After a very proactive effort on the part of police and my colleague the former minister for road safety—

Members interjecting:

The Hon. P. HOLLOWAY: —who did a very good job, this state last year achieved the lowest road toll recorded.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Indeed it has, yet we have the shadow minister for police saying that police should not be putting their effort into road safety and that they should be doing other things. I would have thought the very fact that the road toll in this state has risen significantly this year compared to where it was last year is the very reason why our police should be as visible as possible on the road ensuring that motorists adhere to the law.

I think it is absolutely deplorable that members of the opposition should be attacking the police. Here we have the shadow minister for police attacking the police for being too vigilant in relation to road traffic matters at a time when we have an escalation in the road toll. I think it is absolutely disgraceful that they should take that attitude, and in doing so I think they would be alone. No wonder they sit where they do when they have attitudes like that.

POLICE ROAD SAFETY POLICY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:36): I have a supplementary question. Given that the minister is referring the question, can he provide details of how many law-abiding motorists are to be targeted each week to offer commendations?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:36): The honourable member well knows the background. I suggest that the honourable member reads the answer that I gave some time ago when he asked a question about police policy and refresh his knowledge. Maybe the reason why we have this problem in this state is that the other day on *The Advertiser* website a former Liberal candidate and JP had taken photos of himself speeding and put them onto his Facebook social networking site. We know how much members opposite love Facebook and so on. Here we have this former candidate (who is also a Burnside counsellor) snapping images with his mobile phone while driving his car at 130 km/h. No wonder these Liberals opposite ask the sorts of questions they do. They seem to have no respect for the enforcement of the law.

The opposition's road safety spokesman (Hon. Stephen Wade) is listed as one of Mr Carbone's Facebook friends. Here it is—a friend of the shadow minister for road safety has photographed himself doing 130 km/h. We have a very serious problem at the moment in relation to road safety. The toll has gone up this year. It is just extraordinary that, at this particular time, we have members of the Liberal Party suggesting that police are pulling over too many people, because that is what they are saying.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The Leader of the Opposition is trying to make fun of this. He is trying to distort what the Minister for Road Safety says. Let us make no mistake about this: the shadow minister for police is accusing the police of being too officious in pulling over too many people. He said in his question how the police had exceeded targets and, indeed, I believe that one of his colleagues in the lower house (if what I read in the newspaper is true) will challenge that and try to have that policy overturned.

I think the Liberal Party needs to have a thorough re-examination of its attitude towards road safety and in particular its enforcement because, rather than the Leader of the Opposition trying to grandstand about this, you think he would be curling up in the corner, ashamed of the attitude that he and other Liberals are displaying in relation to road safety.

MORTGAGE BROKING

The Hon. J.M.A. LENSINK (14:39): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about mortgage broking.

Leave granted.

The Hon. J.M.A. LENSINK: I have been contacted by concerned constituents in relation to proposals being floated through COAG and, in particular, the draft from COAG and the government which suggests that mortgage broking err on the side of shifting the risk to mortgage brokers rather than banks. A fairly standard letter, which has been drafted on behalf of the industry, states:

> ...home buyers will be adversely affected by three major defects...major housing affordability [problems would occur]...as brokers originate almost 40 per cent of the value of all home loans.

The defects outlined are, first, that brokers, as opposed to the lender, would be required to determine independently a borrower's capacity to make repayments; secondly, that borrowers may seek a stay of enforcement of their mortgage against the lender if the borrower has a dispute with their broker; and, thirdly, that a substantial increase in documentation would be required on behalf of brokers. An article appearing in *The Australian* some 12 months ago, entitled 'Rudd to slice red tape—national streamlining on the way—COAG agenda', refers to the fact that a number of additional issues are being placed on the agenda which is squeezing out the timetable in terms of reform. My questions to the minister are:

1. Does she support those proposals as reported in the green paper?

2. Is she aware of the concerns of the mortgage broking industry, and what does she intend to do about it?

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) (14:41): All credit and consumer laws are undergoing a complete review and reform process in line with attempts to develop a nationally consistent approach with that legislation. The principle is very sound and will eventually result in improved efficiencies right throughout the nation where quite arbitrary rules around licensing, credit rules and a range of other things differ between states for not necessarily apparent reasons. An enormous COAG program is presently being undertaken to bring about national consumer legislation and also nationally consistent credit legislation.

As part of those national reforms to the credit industry, the Ministerial Council on Consumer Affairs has been looking at improving legislative controls, particularly in the finance broking industry. That council drafted and released a consultation package in November 2007 which outlined proposals for national regulation for finance brokers. Since that time a review by the Productivity Commission has recommended that the commonwealth government take over the regulation of consumer credit. Then, in July 2008, in its communiqué the Council of Australian Governments agreed that the commonwealth should take over responsibility for the regulation of mortgage broking, margin lending and non-deposit lending institutions, as well as remaining areas of consumer credit. Some of the key elements of the regulation of credit include:

- enact and extend a uniform consumer credit code as commonwealth legislation;
- license all industry participants;
- establish ASIC as the national credit regulator;
- require industry participants to be members of an approved external disputes resolution (EDR) scheme;
- regulate credit-related advice;
- impose general conduct requirements, including responsible lending; and
- regulate marginal lending.

One can see that quite a comprehensive program has been undertaken. All parties that lend or broker finance, or advise on debt finance for consumers under the UCCC, will be required to be licensed. The commonwealth has indicated that aspects of the licensing framework are to include things such as training and competence obligations, organisational competence, insurance

requirements, accountability for a range of services offered, requirement to observe general conduct obligations (including some aspects of responsible lending) and compulsory membership of an EDR scheme.

To the best of my knowledge, this has not been finalised and discussions are still underway. I am aware that a range of stakeholders are or will be potentially affected by these changes. The aim of these new schemes is overall to reduce red tape and, as I said, make the credit rules more consistent, efficient and effective, while still preserving basic protection.

So, the work is underway and discussions are continuing, and it is important that those industry stakeholders who are or will be potentially affected continue to contribute to the debate and the considerations.

STATE/LOCAL GOVERNMENT RELATIONS

The Hon. S.G. WADE (14:46): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about state/local government relations.

Leave granted.

The Hon. S.G. WADE: Problems in state/local government relations have been highlighted recently by the government's attacking councils for implementing a state government fortnightly waste collection trial and by legal action taken by Unley council against the state government in relation to a major declaration, citing lack of consultation. Other examples of poor relationship management are the government's mismanagement of its proposal for a new prison at Murray Bridge and its relationship with the local council, the Rural City of Murray Bridge.

On 21 September 2006, the government announced that a new prison will be built at Murray Bridge. The news came as a surprise to the local council, as it had been promised by the government that it would be informed before any announcement was made. No such advice was given. I am advised that, in the early stages of the project, the council received commitments from the government to fund the upgrade of Bremer Road and to provide public transport between Murray Bridge and Adelaide. The state government has now also backed away from these commitments.

The council has raised a number of other issues, including rateability, stormwater systems, internal development of the site and adequacy of local hospitals and schools. I understand that 500 school places will be needed and that there is no such capacity in Murray Bridge schools. Without local services, such as schools and hospitals, it will be impossible to recruit and retain prison officers at Murray Bridge.

The council is experiencing continuing frustrations and is being shunted from minister to minister in relation to different aspects of the development; the Treasurer and the ministers for Correctional Services, Transport, Health and Education are all involved. It is a state government project, but the council is expected to manage multiple relationships. The state government is not providing a single point of contact; in fact, it refused the council's request for observer status at a state government cross-agency project steering committee. My questions are

1. As the Minister for State/Local Government Relations, will she ensure that the concerns of the Rural City of Murray Bridge are taken seriously and addressed by her government?

2. What action is she taking to ensure that, across government, local government is effectively and efficiently engaged in relation to the implementation of major state government projects, such as the new prison at Murray Bridge?

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) (14:48): The honourable member refers to a range of different projects and initiatives in terms of various developments and contract arrangements. The local council is involved in a wide number of different initiatives, and the minister responsible for that project is the lead minister and takes responsibility for coordinating information.

In respect of the prison, I am happy to refer the comments to the appropriate ministers in another place so that they are aware of them. Obviously, as Minister for State/Local Government Relations, wherever possible I encourage a whole of government approach to these sorts of projects. They are often quite complex and span a wide number of portfolio areas. It is important that government does consult; it is committed to consulting. Consultation is an issue that is

addressed in our MOU with the LGA, so we are committed to engaging with local government, and I believe we do that.

ADELAIDE SHOWGROUND

The Hon. R.P. WORTLEY (14:50): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding the Adelaide Showground.

Leave granted.

The Hon. R.P. WORTLEY: As members may be aware, the Royal Adelaide Show has a long tradition in this state reaching back more than 150 years. The show is always held from the first Friday in September at the showground at Wayville, providing a wonderful opportunity to bring together the rural, regional and metropolitan communities of this state, showcasing the best in farming alongside arts and crafts. The Royal Agricultural and Horticultural Society has made significant progress in upgrading the facilities at the showground, including the new Goyder Pavilion. Will the minister provide any further details on ways the state government is helping the society as it works to improve the amenities provided by the showground site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:51): Indeed, the Royal Adelaide Show has been an important part of the social fabric of this state since it was established back in 1839, and it has been held at the current location since 1925, when the showground moved from North Terrace to Wayville. In the more than 80 years that the Adelaide Showground has been at Wayville, the precinct has adapted to keep pace with changes in public demand while also embracing the traditions that have made it the best show in Australia.

The annual Royal Adelaide Show is only one of many events held at the showground, most of which make use of the north-east corner of the site. The showground attracts about 1.3 million visitors each year and on average hosts an event every four days. The showground is also the home to the Wayville Sports Centre, Royal Agriculture and Horticulture Society Archives and the Adelaide Showground Farmers Market.

Although steeped in tradition, the Royal Agricultural and Horticultural Society is also aware of the need to update the facilities to cater for changing tastes and the public's demand for modern facilities, and we have seen that in the construction of the Goyder Pavilion. The new pavilion houses Australia's largest rooftop installation of solar panels, five times the size of the nation's next largest installation at Melbourne's Queen Victoria Markets. With about 10,000 square metres of solar panels, the array can generate 1,400 megawatt hours of solar electricity, which is the equivalent to powering more than 200 homes a year, enough to meet all of the electricity requirements of the Goyder Pavilion and more than a third of the annual power needs of the entire showground.

Against that backdrop of tradition and innovation, I had great pleasure in recently initiating a development plan amendment for the showground. This initiation is the beginning of an extensive process that allows the government to rezone the Adelaide Showground to provide a planning framework that allows the Royal Agricultural and Horticultural Society to transform this entertainment precinct in the years ahead.

The potential for the showground site is enormous, given its close proximity to the Parklands and to tram and train corridors. Rather than limit the use to exhibitions and the annual show, the proposed rezoning will allow the Royal Agricultural and Horticultural Society Inc. to examine a broader range of uses for this site. Any rezoning will take into account the heritage value of the buildings and other structures on the showground, but the proposed rezoning will also look at the potential to integrate elements of the site with the surrounding streetscape and transport corridors.

Much of the work to identify the potential for the showground site has been carried out by the RA&HS, which has prepared a concept plan that will form the starting point for the proposed rezoning. In fact, the society has $200 million earmarked for redevelopment during the next two decades, a quarter of which has already been invested in the Goyder Pavilion and other recent upgrades.

The proposed rezoning will be designed in close cooperation with the Department for Environment and Heritage, the RA&HS Inc. and the city of Unley and involves extensive opportunities for public input into the final development plan amendment. Once the draft has been prepared it will go on display for eight weeks. During the consultation period members of the public,

businesses, government agencies and other interested parties—and I think almost everyone is interested in the show—can lodge submissions with the Department of Planning and Local Government.

The consultation phase also includes a public meeting that will be arranged by the Development Policy Advisory Committee (DPAC), an independent body that provides recommendations on rezonings. As usual, I strongly encourage members of the public, local government and industry and community organisations to submit their views to the department and to DPAC so that their concerns can be addressed in the final version of the development plan amendment.

What the government wants to do is facilitate the Adelaide Showground and the Royal Agricultural and Horticultural Society to capture their vision, and the innovation showcased by the Goyder Pavilion is a sign of things to come. The government's role in the planning strategy for the showground will be to enable the RA&HS to continue to provide a Royal Adelaide Show that is relevant to the next generation of South Australians and to maintain its reputation as the best show in the nation.

GARBAGE COLLECTION

The Hon. J.A. DARLEY (14:55): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about garbage collection.

Leave granted.

The Hon. J.A. DARLEY: Constituents have contacted me regarding the unfairness of the actions of country local government authorities, including Central Yorke Peninsula and Clare and Gilbert Plains. Many constituents in these council areas are charged a full service rate for garbage collection when they are a significant distance from the collection point, having to move their bins several hundred metres and, in some cases, many kilometres to the front of their property for collection.

They are happy to pay a service rate but not the charge for service as they really do not require garbage collection. However, the councils continue to charge them the full rate. Councils are able to do this due to the ambiguity of section 146 of the Local Government Act which provides that a council may impose rates and charges for services on land within its area, without any mention of the practicality of providing the services. My questions are:

1. Is the minister considering amendments to the Local Government Act that will clarify the intent of the powers of section 146?

2. Will the minister consider amendments that would direct councils to offer a reduced rate in view of the practicality of providing garbage collection services in regional areas?

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 member for his important question. Indeed, it was a policy position that was put by the Yorke Peninsula district council that created an enormous response from local ratepayers.

Just to go back a little, with the assistance of a $150,000 grant from Zero Waste, the District Council of Yorke last year embarked on a major initiative to close landfills and reduce the amount of waste going to landfill, which is a commendable thing. As part of that process, the council undertook public consultation in the first half of 2008 on its consultation report on waste management services charges, a draft waste and recycling policy and also a draft annual business plan.

Nevertheless, after the service was introduced in October 2008 and the service charge started appearing on rates notices, the council was subjected to a large number of complaints which I think most members have seen. In the words of the council's letter to me, 'The response via the volume of telephone calls received by council staff was far greater than anticipated.' Somewhat of an understatement!

A petition of 741 signatures was also received in the other place, and the petition expressed the view that there had been insufficient public consultation regarding the community's needs, inadequate thought put into the facilitation of transporting bins to and from designated way points or route sites, and that it overlooked occupational health and safety issues, transportation

costs, and issues of safety and potential liability for injury with bins placed along roads that have speeds of 100 or 110 km/h.

Not all land in the council's area is on the bin collection route. Some land, mainly on sealed roads, has the benefit of waste pick-up from its road frontage. Other land, mostly on unsealed roads, does not have the benefit of waste pick-up from its road frontage. However, residents are being encouraged to take their waste to pick-up locations on the nearest bin collection route. The council has advised me that no land should be more than 10 kilometres from the nearest waste pick-up location. However, the council's service charge applies to all land in the council district irrespective of whether or not pick-up is offered from the land's road frontage.

The council's legal adviser has told the council that it does have the power, under section 155 of the Local Government Act, to impose a service charge, even against land to which the service is not directly provided. I sought advice from the Crown Solicitor on that matter and the Crown agrees with the council's interpretation of section 155(2); however, I do not consider that such an interpretation would have been envisaged when section 155 was enacted, and it seems to be outside what I would call the general spirit of the intent of that section. In plain English, it is difficult to understand how a service charge can justifiably be applied to land that cannot receive the service.

I believe there is a policy distinction between land to which a service is available but not utilised and land to which a service is not provided and to which it is not possible to provide that particular service. The owners of the first category of land sometimes complain that they ought not to be charged because they do not use the service; nevertheless, it is a matter for each individual council to determine—obviously, subject to consultation with the community—how the amount necessary to operate the prescribed service should be collected from those who choose to use it. However, to my knowledge no council has, until now, ever sought to impose a service charge against land for which the service is unobtainable.

The District Council of Yorke Peninsula has described to me the process of planning and consultation that preceded the introduction of both its new waste and recycling service and its new service charge. The service has been well planned and, insofar as the service charge relates to the land that can receive that service, the council's consultation process fulfilled its obligations under the act. The acting ombudsman has reviewed the matter in the context of one particular complaint, and has informally advised my department that, in his view, the council's consultation process and its method of charging complied with the Local Government Act 1999. Therefore, he did not intend to make any adverse findings about the council's decision.

Nevertheless, the controversial aspect of imposing a service charge even on land that cannot receive that service was not highlighted in the council's consultation. In this respect at least, I believe the council's consultation could have been much better. In February 2009 the council undertook a review of its service and, on 10 March 2009, agreed to make some immediate changes to improve options for people who were not on the bin collection route. However, this review did not examine the way that the funding for the service was obtained from the council's community.

In view of the consistent legal advice, the petition brought before parliament by the member for Goyder, the Ombudsman's view, and the fact that under current legislation no intervention is warranted, I suggest that only legislative reform can properly deal with this matter. In my view, the charging regime for this particular service ought to be considered as contrary to the spirit, if not the letter, of section 155, and I have written to the mayor encouraging the council to revisit this matter in the context of preparing its 2009 annual business plan. This would give the council the opportunity to take the initiative and deal appropriately with the matter before any legislative change could be brought into operation.

I am also examining an appropriate legislative solution to ensure in future that annual service charges cannot be imposed upon land to which the prescribed service is not available and which cannot be accessed by that service. There are also other issues in terms of access to and enjoyment of amenities that are covered by the bin system, such as townships that may have that system in place. So, although the people concerned may not have a frontage bin collection, they can nevertheless drive into town and enjoy the recycling amenities in the township. There are issues around that, and I am looking to see whether those sorts of things can be incorporated as well. I believe I have requested a meeting with the mayor and the Chief Executive. I am not too sure whether that has yet been actioned, but I have certainly requested my office to arrange for a meeting to be set up in the foreseeable future to progress this matter.

REGIONAL LOCAL GOVERNMENT ASSOCIATIONS

The Hon. J.S.L. DAWKINS (15:06): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations questions about regional local government associations.

Leave granted.

The Hon. J.S.L. DAWKINS: Members would be aware of the five regional local government associations in the non-metropolitan areas of the state. These bodies generally meet on a bi-monthly basis in various localities in their respective regions. The meetings involve a significant amount of time and travel for delegates. I have attended a large number of these meetings over my years in this place and have found them to be of considerable value.

Generally, these meetings feature reports presented by officers of the Local Government Association and the Office of State/Local Government Relations and its predecessors. My questions are:

1. Will the minister indicate why, in her term in this portfolio, attendance by the Office of State/Local Government Relations at regional LGA meetings has apparently ceased?

2. Will the minister also indicated the reason for the significant dropping off in communications from the Office of State/Local Government Relations to regional local government associations?

3. What action will the minister take to restore the participation of the Office of State/Local Government Relations in regional LGA meetings?

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) (15:07): I thank the honourable member for his important questions. I am not aware of any dropping off in commitment or support and assistance by my office to regional local government associations. I am not aware of and quite surprised by the information the honourable member has provided to the chamber, and I am not sure at all that it is, in fact, correct. However, I will certainly follow this up.

My understanding is that our office has in the past and continues to provide strong support and commitment to the regional local government associations. In fact, this commitment is reflected in the bill relating to the changes we are proposing to the Outback Areas Trust, which I referred to in my notice of motion today, to which I obviously cannot make too much reference at the moment. An enormous amount of consultation and involvement with the Outback Areas Trust and various associations has taken place over a number of years. My predecessor, the Hon. Jennifer Rankine, started that process, which involved numerous visits to a wide range of different regional locations, meeting with associations and providing information and receiving feedback and input. So, a great deal of work has been done.

I know that an extensive visit program was undertaken around that process. In fact, officers were up there recently with the draft. So, before tabling the bill in parliament, the draft bill was taken to them for even further consideration. I was very pleased to receive a letter back from the Outback Areas Trust supporting the general thrust of the bill. So, I am most doubtful indeed in relation to the comments made by the honourable member, but I am certainly prepared to look into the matter.

CHILD PRODUCT SAFETY

The Hon. I.K. HUNTER (15:10): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about child product safety.

Leave granted.

The Hon. I.K. HUNTER: It is appropriate that the community is warned quickly about faulty products and, most importantly, when they may endanger babies and small children. Will the minister advise the chamber what is being done to protect consumers from products that are defective and potentially dangerous to small children and babies?

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) (15:11): I thank the honourable member for his question and ongoing interest in these important matters. The Office of

Consumer and Business Affairs is working with state and federal fair trading agencies to address a problem with wooden cots, which have been the subject of increased reports in recent times. A problem identified relates to the vertical bars or slats within the drop side of the wooden cot, which tended to break or become dislodged with regular use. This can pose a risk to children, potentially enabling the child to roll out or fall from the cot.

Product safety officers have detected that this failure within the Mother's Choice Kensington cot is due to the poor construction of the cot. IGC Dorel has issued a nation-wide recall and the notice in today's *Advertiser* advises customers to contact the supplier to arrange replacement of any faulty drop sides. Consumers should expect that cots are manufactured to be hard wearing and should be able to withstand regular use; after all, they house our most important cargo, our babies. I am urging parents, grandparents or carers to report to the office these or any other faults they come across in babies' products.

The product safety branch is working closely with the Australian Competition and Consumer Commission and is keen to hear more about any problems that will help it gauge the extent of safety issues. Consumer reports will help initiate appropriate action to help protect the safety of babies and toddlers. OCBA's product safety branch is easy to contact, and last month I reported on several other baby products that had been recalled nationally. Indeed, I find it concerning that products designed specifically for babies and small children are still found to be defective. It is good news that the system is working. We find these defects quickly and have the product in question recalled promptly. The simple message to parents is to remain vigilant about products they buy for their children and report anything they see as dangerous to the Office of Consumer and Business Affairs.

WATER SECURITY

The Hon. M. PARNELL (15:13): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Water Security, a question on the issue of the government's water security priorities.

Leave granted.

The Hon. M. PARNELL: The latest Murray-Darling Basin Authority drought update released today is depressingly grim. Inflows between January and March of 140 gigalitres were the lowest in 117 years, falling below the previous low of 150 gigalitres during the first three months of 2007, so there is no doubt that we are in a water crisis. On the weekend the senior adviser on water to the President of the United Nations General Assembly, Maude Barlow, was in Adelaide to speak at a water forum organised by an impressive range of community groups and to visit the Salisbury wetlands, Port Stanvac and the Cheltenham racecourse, as well as the Lower Lakes.

Maude Barlow is a pre-eminent international expert on water, with an impressive resume including 16 books and numerous global awards. One of Ms Barlow's key messages is that we should not be investing in three particular technologies to try to get us out of our water mess. She called them the three Ds: dams, desalination and diversion. Yet, when we look at the government's water security priorities for Adelaide we see little else other than the three Ds: dams (such as the Mount Bold reservoir expansion); desalination (such as the Port Stanvac plant); and diversion (such as the continued pumping of River Murray water almost 100km to Adelaide and the likely damming of Australia's greatest river through the Wellington weir in order to shore up this supply.

At the recent national water summit in Canberra, at which Maude Barlow was the keynote speaker, water security minister Karlene Maywald said that the Rann government was spending $3 billion on securing Adelaide's water future. Once you factor in $1 billion for the Mount Bold reservoir expansion, $1.4 billion for the Port Stanvac desalination plant, $400 million for the north-south metro network transfer pipeline, plus works associated with the Wellington weir, we are left with little or nothing to spend on stormwater or other more sustainable options. In addition, the government's preferred next step is the doubling of the Port Stanvac desalination plant, with the Premier stating that he has requested a $400 million grant from the federal government to increase the plant from 50 to 100 gigalitres capacity. My questions are:

1. Did the minister, the Premier, or any other minister or state government representative meet with or speak to Maude Barlow while she was in South Australia?

2. Is the proposed Mount Bold expansion still central to the government's plans to increase the size of Mount Lofty Ranges storage?

3. Out of the $3 billion committed for water security mentioned by minister Maywald at the national water summit, what percentage will be spent on stormwater harvesting?

4. Will the next state water security plan (which I understand is due in June) continue to prioritise the three Ds technology at the expense of demand management, stormwater recycling and aquifer storage and recovery; and will it include a plan to wean Adelaide off the River Murray?

5. How much will it cost to double the size of the Port Stanvac desalination plant?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:16): The honourable member has asked a number of questions for particular information. I will refer those to the Minister for Water Security in another place and bring back a reply.

RESIDENTIAL DEVELOPMENT CODE

The Hon. R.D. LAWSON (15:17): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the new residential code.

Leave granted.

The Hon. R.D. LAWSON: I have received representations from the Coromandel Valley Community Association concerning the proposed residential code. Presently development in Coromandel Valley is governed by part of the Onkaparinga Development Plan Residential Code. That plan contains a very detailed desired character statement for Coromandel Valley, including matters such as the built form, streetscapes, scenic prominence, etc.—all criteria developed over many years with community input.

A discussion draft of the new residential code which has been under development for some time was issued in June last year, I think. It stated that councils would have the opportunity to apply to the minister—that is, the Minister for Urban Development and Planning—for exemption of areas on character grounds. It was fair to assume that the criteria for exemption will recognise and respect those areas where character had already been closely identified.

However, in January this year, the minister adopted different criteria described by the association as 'the crude expedient of a key benchmark which would grant exemptions to areas where the built form was constructed before 1940'. Those criteria might be appropriate in some inner suburban areas but are entirely inappropriate to a place like Coromandel Valley where the character derives from entirely different considerations, and the proposed site coverages, setbacks and the like, which might be appropriate for an inner suburban area, are quite inappropriate for Coromandel Valley and also inconsistent with the requirements to address bushfire issues. The association has written to the minister and others concerning this matter. My questions to the minister are:

1. Does he share the concerns of the Coromandel Valley Community Association in relation to this matter?

2. What steps will he take to address those concerns and, in particular, will he ensure that the particular concerns of communities in a similar situation to the position of Coromandel Valley are appropriately addressed?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:20): Yes, I produced that code in draft form when it was debated in parliament late last year. The act enabling that code to come into place, of course, passed the lower house in early February. The code came into place at the end of February and started on 1 March. The initial coverage of that code was for additions and alterations to buildings. As part of the process we announced, I always made it clear that the full implementation of the residential code would apply on 1 September in terms of consideration of character areas, because it was always understood and accepted by the government that, while the intention of the residential code was to capture up to 70 per cent of the development applications that go through the system, there would be some areas where a code would not be applicable.

Incidentally, some of those areas that we had exempted (and this came out during the debate, I hope) were in high bushfire risk areas, or in other areas where referrals to authorities were needed, and that would also include coastal conservation zones, for example, where referral might be required to the Coast Protection Board. In relation to at least the high bushfire risk areas (and I remind the honourable member that they are being assessed at the moment), I indicated in a

ministerial statement I made earlier this year following the Victorian experience that, obviously, we will need to reassess exactly what categorisation should apply to bushfire areas, but that is another issue.

Councils were requested to respond to the government by 31 March last in relation to those areas where they believed character should apply; so the code would need at the least to be modified to take into account the relevant character issues that are involved. Councils were requested to provide that information by 31 March. Also, of course, the converse of that is that they were asked to provide a list of those areas of their council with which they had no issues with the full residential code for new dwellings applying effectively straight away. Of course, as a result of the act and the regulations passing through parliament those areas can be gazetted fairly soon once the department has had the opportunity of collating that information from councils.

I know that a significant amount of information has come through to the government. Most councils have responded before the deadline of 31 March, putting in the list of their areas where they believe further consideration should be given in relation to character. I know that the Onkaparinga council suggested three or four areas. I believe that Coromandel Valley may have been one of them, but I will have to check that. I have had only a glance at this stage at that correspondence. The department as we speak—it is only seven days into April—has been collating all the information from the councils that have responded (and that is most of them) as to these particular issues.

The process will be that those areas where character statements have been requested—at least those areas where councils believe special character should be applying—will go to the Development Policy Advisory Committee (DPAC) for consideration, which will ultimately make a recommendation to me as to whether or not they conform to character. As I indicated earlier, it is the government's intention then that those character areas should all be in place by 1 September and a modified code would apply, including such things as set-backs, site coverage, and so on, or the built form, reflecting the character of those areas. That matter is now being considered by the department. I will check to see whether Coromandel Valley was indeed one of those three or four areas requested by the Onkaparinga council. I can confirm that fairly quickly with the honourable member, and I am happy to do so.

However, I point out that, although the recommendation of the planning review was that, in most cases, character would apply to built form before the 1940s, I have indicated in my meetings with local government that, if there were special cases of character areas after that date, we would consider them. Whereas generally it is intended that the character areas would apply to built form before the 1940s, it is not exclusive, and I know that at least one council (Campbelltown) has put in a small area along a creek line where it believes there are special character issues, and that will be considered by DPAC for the special features that apply to that creek corridor.

It may well be that, in relation to suburbs such as Coromandel Valley, special issues apply. However, first of all, we require local government to respond to the government in relation to those areas. That has now been done (I will check whether Coromandel Valley is one of those), and it will go to DPAC for consideration. I trust that answers the issues raised by the honourable member, and I will speak to him privately as soon as I can about whether Coromandel Valley was one of the areas requested by the Onkaparinga council to which character should apply.

RESIDENTIAL DEVELOPMENT

The Hon. CARMEL ZOLLO (15:27): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about pressure to find more land for residential development close to Adelaide.

Leave granted.

The Hon. CARMEL ZOLLO: The demand for new land for residential development within metropolitan Adelaide has remained strong, despite the global financial crisis. However, there is also pressure to maintain open space for the wellbeing of the community. The government has already realigned the urban growth boundary to bring more than 2,000 hectares into the urban growth boundary, and it has begun work on a 30 year plan for Greater Adelaide. My question is: what else is being done to identify potential new land for housing whilst also providing open space?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:28): I thank the Hon. Carmel Zollo for her important question. It is important that we begin planning and earmark

now where Adelaide will grow. Combined with targeted redevelopment within our existing suburbs, new areas are required to provide housing and location choice for South Australians.

In 2007, this government added more than 2,000 hectares of land in the urban growth boundary. Some of that land, at Gawler East, is currently going through a development plan amendment process, which will open up new areas for housing in the north. Some 76 hectares of land at Highbury were also included in the urban growth boundary, providing a rare opportunity to open up new land within the north-east for housing close to the city.

As part of the process of opening that land for development, last week I announced that the Highbury land, which is in the City of Tea Tree Gully, is to be rezoned. Public feedback is being sought on this proposed rezoning, which also involves rehabilitating a sand quarry and a landfill site. This proposed rezoning provides a framework for developing a new low to medium density residential estate, and I envisage that it will provide the opportunity to develop in the order of 800 allotments.

This government is committed to a policy of delivering 15 per cent affordable housing with any new development, and that will be the case at Highbury, which has the potential for 800 new homes and the jobs they create in the building and construction industry. It will mean work for tilers, roofers, bricklayers, landscape gardeners, and their apprentices; jobs for the crews who will lay out the new roads for any subdivision; and work for the architects and designers who will shape any new housing development. Also, of course, it means local jobs for local businesses and the benefits that job generation provides to the economy of the north-eastern suburbs.

It is no secret that there is a shortage of land throughout Adelaide, with the potential for new land releases becoming more difficult to identify as the city is squeezed between the gulf to the west and the hills face zone to the east, so it is pleasing that we have been able to identify these 70-plus hectares of land in the north-east to take off some of the pressure for the release of new land to the north and south of the urban growth boundary. The rezoning also ensures that we preserve sufficient open space to meet the needs of the expanding population in Adelaide's north-eastern suburbs.

It also ensures that a very significant stand of native eucalypts on the adjoining Majestic Grove location will be protected from development as part of the proposed development plan amendment. I take this opportunity to acknowledge the work of the member for Newland, Tom Kenyon MP, in his efforts to strenuously convey to my office the community's keen desire to retain this impressive strip of gum trees. Tom Kenyon has been very diligent in responding to his electorate and the constituents of his electorate in relation to protecting this stand of trees along Majestic Grove, and I hope anyone who visits there will see how important that is. We are pleased that we can address that in relation to this development plan amendment.

This stand of trees will create a green zone between the existing housing at Highbury and the land that is subject to the development plan amendment on the other side of Majestic Grove. The rezoning also provides the potential to fill in the missing link between Black Hill Conservation Park and the Anstey Hill Recreation Park. The negotiations with the quarry owner will allow 300 hectares of land within the hills face zone to be returned to state ownership and provide the opportunity to develop that area with walking trails which will also provide a fitting end to the River Torrens Linear Park, which now ends at this quarry site.

That alone will be a great outcome for the South Australian community, with 200 hectares put into the state parks system to complete this gap between the Black Hill Conservation Park and the Anstey Hill Conservation Park in addition to 79 hectares where 800 houses can be provided.

While the remediation of the CEMEX sand mine will return land suitable for housing, the capping and revegetation of the Highbury landfill site—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —also sets aside an area of open space within the development plan amendment. The Environment Protection Authority will be required to adequately assess the remediation work carried out on the landfill sites and also on the CEMEX sand quarry.

This has been a long process. The government needed to ensure that the sand mine resources were depleted and that a suitable rehabilitation plan was in place for the quarry. We also had to work with the government and the EPA to ensure that the landfill site was appropriately

capped and monitoring systems put in place to make that area suitable for any nearby development. The development plan amendment takes us a step closer to realising our ambition of opening up this area for residential redevelopment and also extending the parks system through this section of the hills face zone.

A draft of the proposed rezoning is available for two months of community consultation from 9 April 2009 to 11 June. Copies of the draft are available during that time at the Department of Planning and Local Government on North Terrace and also the City of Tea Tree Gully offices at Modbury. The development plan amendment can also be viewed online at the Department of Planning and Local Government website.

The public meeting is to be held on 1 July 2009 at 7pm at Sfera's on the Park, 191 Reservoir Road at Modbury. At the close of the consultation period, the proposed development plan amendment, along with submissions from the public, local government, government agencies and community and industry groups, is to be considered by the Independent Development Policy Advisory Committee.

A detailed structure plan is also to be drawn up in conjunction with the local council and government agencies which will be required before any of the land is developed. As I have done on many occasions before in relation to development plan amendments and other strategic planning for this state, I urge members of the public to have their say. Their input is important in making sure that the final version of the development plan amendment addresses all the issues of concern to the community.

I believe it is a very significant outcome for this state which will not only lead to some housing within the north-eastern suburbs but also 300 hectares will be returned to the state for open space purposes. It is a very good outcome, I believe, for the people of this state.

ANSWERS TO QUESTIONS

FOSSIL FUEL RESERVES

In reply to the **Hon. D.G.E. HOOD** (29 October 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): I thank the honourable member for his questions. It is appropriate to say firstly that forecasts of future petroleum production are underestimates unless the realistic potential for exploration to add to petroleum supplies is taken into account.

I am advised by my Department that there are approximately 9 to 12 remaining years of supply at current production rates of crude oil, condensate and LPG, based on known field reserves. This is based on estimates of established field reserves and sales statistics for the twelve months to June 2008 for the SA portion of the Cooper Basin, and excludes the inevitable addition to petroleum reserves through exploration.

Adelaide based EnergyQuest publishes its Energy Quarterly which provides a comprehensive statistical analysis of Australian oil and gas production, reserves, gas prices and other key data. Their figures for the entire SA/QLD Cooper Basin reserves and production for crude oil, condensate and LPG has a supporting figure of 8 to 9 years life at current production rates.

I understand that Cooper Basin, like many mature producing basins is on production decline but that does not mean that hydrocarbon liquids will cease to be produced from the basin within the decade. The basin will continue to produce hydrocarbon liquids into the future but not necessarily at 2008 production rates.

Production rates of LPG and condensate from the basin are directly related to gas production to meet gas contracts. Gas pricing and the cost of coal seam methane production in Queensland and the new pipeline from Queensland may alter the mix of SA gas production from the Basin to meet those contracts.

Oil production rates are driven by external economic factors including but not limited to the international price of oil, exchange rates and local factors such as production bottlenecks—which in locations such as the South Australian Cooper Basin can be the flooding of Cooper Creek affecting exploration and rig availability for exploration and field development.

High oil prices in the last 12 months and supportive investment frameworks have combined to stimulate upstream petroleum companies to acquire considerable two-dimensional (2D) and

three dimensional (3D) seismic surveys in the Cooper and Otway Basins and also in frontiers for petroleum exploration, in the South Australian Officer and Arckaringa Basins in the past few years. It is particularly heartening to see for the first time in many decades that exploration is being undertaken for oil and gas in these prospective basins. These exploration seismic surveys will inevitably define prospects that can be drilled and lay foundations for future discoveries in the State.

Indeed, in relation to your question, regarding contingencies the government has put in place, I am pleased to say this State remains very highly regarded for its investment frameworks for petroleum exploration. Our investment frameworks include easily accessible pre-competitive data from decades of exploration and production, a one-stop-shop for the upstream petroleum sector and a competitive fiscal regime. It is worth noting that our State is also highly regarded for the bi-partisan support given by successive South Australian Government for efficient and effective implementation of our investment frameworks for petroleum exploration, development, production and transport. Sustaining a trustworthy, efficient and effective investment framework for petroleum exploration investment, is a very practical means to prolong the life of petroleum production in our State.

As I previously alluded, the provision of modern, fit-for-purpose and easy to access data and information to facilitate corporate decision-making is a key part of South Australia's investment framework for petroleum explorers. As an example, many South Australian petroleum licence holders, and many companies which have been interested in becoming South Australian petroleum licence holders have subscribed to my Department's 'Petroleum Exploration and Production Systems' database. PEPS contains detailed production data that allows for production decline curve analysis in addition to general exploration data. Many petroleum companies purchase PEPS on DVD for their own due diligence analysis to independently assess the undiscovered potential of South Australian basins.

I am pleased to state that since winning the Federal Government's Technology Productivity Gold Award for the PEPS database in 1994, SA has continued to lead the nation in delivery of detailed production data, an achievement that no other state has been able to match for production data. In presenting the award, the Technology in Government Committee cited how PEPS had achieved significant productivity gains and delivered a premium service to industry in Australia.

Additionally, the easy accessibility to data and information has opened opportunities for service companies to 'add value' and create marketable products, such as EnergyQuest's publications. With private enterprise prepared to make forecasts of petroleum production available to subscribers, there is no need for Government to establish a public register on petroleum reserves. This is a reasonable example of South Australia's investment framework facilitating expert outputs from private enterprise with benefits for all South Australians, through the exploration investment engendered. As private enterprise currently satisfies market requirements, there is no need for the State Government to create a public register of known reserves and production data beyond what is already readily publicly available.

IRRIGATION BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1675.)

The Hon. J.S.L. DAWKINS (15:36): I rise to speak on behalf of the opposition in relation to this bill and also, in this contribution, I will make the great majority of my remarks in relation to the Renmark Irrigation Trust Bill. I understand that the Hon. Caroline Schaefer will also make a contribution on both bills.

I give credit to the work of the member for Hammond in another place, Mr Adrian Pederick, as the shadow minister for agriculture but also, importantly, as the shadow minister for the River Murray. I give him great credit for the way in which he works and consults with communities all along the River Murray in South Australia.

These bills replace the Irrigation Act 1994 and the Renmark Irrigation Trust Act 1936 respectively. The Irrigation Act 1994 is now at odds with the commonwealth water reform agenda which seeks to remove the regulatory barriers to the trade of permanent water outside a given area or irrigation district by separating water from land. The Renmark Irrigation Trust Act 1936 gave irrigators no opportunity to transform a right into a licence. Trade of water was not even mentioned

in that act. A second matter in relation to the Renmark Irrigation Trust relates to its structure which left it outside the parameters of other newer pieces of legislation.

There are several objectives contained within these pieces of legislation, notably, the need to take into account current management practices and policy directions and the need for compliance with federal policy directions. Among other things, the bills also remove references to government irrigation districts which no longer exist and delineate the function of irrigation trusts to that of service providers rather than land tenants.

Other important features relate to the federal requirement for there to be no impediment to the trade of water outside irrigation districts. With respect to the Renmark Irrigation Trust, the bill's major function is to transform a member's existing water right into an owned and tradable right. Until now, members of the Renmark Irrigation Trust were not able to sell their rights separately as they remained with the trust and were consequently unable, among other things, to access the federal government exit packages.

In relation to the structure of the Renmark Irrigation Trust, ratepayers will, following the passage of this bill, become members, and members of the board will become directors, allowing definitions and other qualifications defined in the new acts to cover participants of the RIT. In addition, directors will now be elected from the membership as opposed to being appointed by the board.

My own research, as well as extensive consultation conducted by the member for Hammond, indicated that industry representatives were, without exception, supportive of these bills. They said that the changes were vital to allow irrigators access to water markets and that they also enabled them to apply for exit packages. The participants I spoke to were pleased by the department's consultation process and the fact that the resultant suggestions and requests were acted upon (other than for matters outside state control), and I give credit to the minister and the department for that.

I must say that the member for Hammond and I found that all those with whom we consulted agreed that certain matters under federal jurisdiction were the cause of much aggravation throughout the industry. They include, for example, the failure of the recent COAG agreement to properly vest control of the Murray in a central independent body, the weakness demonstrated by the federal government in negotiating with the Victorian government and the resultant restrictions on trade out of that state, as well as the extended grace period granted to Victoria and Queensland that forestalls any real positive action to restore reasonable flows to the Murray-Darling for several years. These matters fall outside the jurisdiction of this state parliament and so should not impede the progress of these bills.

Irrigators and trusts do have some related concerns that are a consequence of the changes. In disposing of the water right from the land within a trust district, for example, the cost of providing and maintaining distribution services will be shared among fewer members with a subsequent increase in the costs to individual members; however, all the trusts are strongly supportive of the changes within these bills and are very keen that they progress through the parliament. It is worth taking this opportunity to emphasise that this state government should do more to effect change in the thinking of federal policymakers—particularly the federal minister, Senator Wong—to take note of the fact that so many of the issues that were brought forward were outside the jurisdiction of these bills.

I reiterate the Liberal Party's support for both bills. I will speak very briefly on the Renmark Irrigation Trust but will not repeat anything I have said in this contribution. However, I would like to quickly mention a couple of other things. In our support of the bill we talk about the irrigation trusts; obviously, other than the Renmark Irrigation Trust, there are a number of others around this state that are either private trusts or are trusts that have resulted from the original irrigation districts, which were set up largely by the state government (although, in the case of Loxton, by the federal government).

The Central Irrigation Trust actually involves 10 of those former government irrigation districts, and in the consultation process the Central Irrigation Trust not only assisted the consultation work by gathering its own 10 trusts together but I understand it also convened a meeting which included a total of some 20 trusts. I believe that work is very valuable to the whole process.

In conclusion, I want to add that, in the work I do across the Riverland and into the Murraylands area, I have sought the views of participants in the irrigation industry right along the

river, and there has been general support for this bill and the hope expressed that it will pass this chamber in the near future.

Once again, I express my gratitude for the work done by the member for Hammond for the way in which he diligently sought the views of so many representatives of all the trusts and different irrigator bodies. I commend the bill to the council.

The Hon. R.L. BROKENSHIRE (15:46): I rise on behalf of the Family First Party to support the second reading of this bill. With the forbearance of the chamber, I will speak to the Renmark Irrigation Trust Bill at the same time, as the two bills are inter-related, to save my colleagues valuable time. I want to reinforce the fact that Family First strongly supports both bills.

When reading in *Hansard* the debate on this bill in the other place, I noted that the opposition's experience mirrors my experience, namely, the opposition's consultation revealed that the government had consulted with all of the trusts and had even made a number of changes proposed by the trusts. Hence, as reported in the other place—and, no doubt, as the minister knows—there is not a lot of angst amongst the trusts about this bill and its passage through this chamber today.

However, I can tell you, Mr President, that there is a lot of angst in the irrigator districts because South Australian irrigators remain today on 18 per cent allocation. Family First is hearing that irrigators are harvesting crops and then permanently switching off the water to their crops. Sadly, and unfortunately, some are giving up.

The government might like its black balloon ads promoting climate change, but I would like to see the government send off a black balloon every time an irrigator along the River Murray gives up and switches off what water they have available, because there would be plenty of black balloons. An absolute tragedy is unfolding up and down the river and, sadly, it is often the smaller or poorer families who are suffering the most. The big managed investment schemes, with money coming in from other sectors and the significant tax breaks they receive from the federal government, seem to be doing all right. However, the rest of the irrigators are struggling like you would not believe.

I ask the minister, on behalf of the state and federal governments, to tell this chamber whether they still support family farming. I have talked about this a lot in this chamber. I have met a lot of family irrigators, and it saddens me as a farmer myself, with a fourth-generation son at home looking after our farm, that when I go to the Riverland now I am confronted by irrigators who tell me that they are discouraging their sons and daughters from continuing. Frankly, given the way in which the government has handled a lot of the lead-up to issues around irrigation in the Riverland, one would have to hold the government responsible for this happening. What is the South Australian government doing, in conjunction with the federal government, first, to ensure national food security and, secondly, to give a reasonable opportunity to family farmers by providing proper government-initiated policy and relevant incentives?

In summary, irrigators are desperate. Gavin McMahon of CIT appeared on the ABC *Country Hour* of 31 March. As someone who has listened to the program since I was very young, I want to add some positive comments at this point about *Country Hour* and the fact that it is good that you can get 639AM (the *Country Hour* station) in the city. It is a valuable service provided by our national broadcaster, and it is a good program produced in South Australia by Bec Kemp, Annabelle Homer, Drew Radford and others. It provides a great service to country people and also those interested in food production in the city.

Mr McMahon explained that in the Riverland 4,600 megalitres of permanent water entitlement had been sold, which he indicated, while significant on its own, was not large in the overall allocation picture. There were various reasons irrigators were selling permanent water, some to avail themselves of exit grants, others to recapitalise and others simply realising that in all likelihood they would never see a 100 per cent allocation again, considering that at present they are on only 18 per cent. Hence they are already buying most of their water on the temporary market and saw greater value in trying to get all their water on the temporary market from year to year than in relying on this government to give them a decent allocation.

The risk they are taking is that prices might be so high they will not be able to afford it, but this is the only option our irrigators are left with: gambling on the open market. Mr McMahon concluded with an excellent summation of why there are such big problems in the Riverland, as follows:

Devastation has come from very low allocations, low commodity prices and the global financial crisis making borrowing very difficult.

Water trade figures published yesterday on the website of the Department of Water, Land and Biodiversity also show that for this financial year South Australian irrigators have brought in 228 gigalitres of water from interstate in 1,629 water trades. That is an average purchase of 139 megalitres of water. Most of that came in from New South Wales, and by contrast only two gigalitres was sold interstate; in other words, 82 gigalitres has now been traded between irrigators within South Australia.

To all the people I am visiting on my regular trips to the Riverland and with whom I come into contact through my connections, I point out that the smaller family farmers are struggling to buy this temporary water or any other permanent water. I ask the minister to explain how Mr McMahon's advice and the DWLBC advice fit in by comparison with previous financial years' permanent and temporary water sale and purchase activity. The information I am getting from irrigators is that this is unprecedented trade activity, and for many of them I am told it is the last desperate roll of the dice: if conditions do not improve—and I am not exaggerating—many of them will be letting their crops die and walking off the land. That is not a potential tragedy but a tragedy for family farming unfolding right now.

I turn to deal briefly with the Renmark Irrigation Trust, separately dealt with in its own bill. Largely this is because at present they do not have tradable water rights and the government is moving everyone in that direction. I have a few questions that relate to both bills. Why are we going it alone first when Victoria is not dealing with the issue? It is well and good to be market leaders, but I ask what steps Victoria and New South Wales are taking in their irrigation districts approximate with this issue. What confidence does the minister have that these bills are not creating fertile ground for water speculators or water barons? I ask this because I wrote to minister Wong about what action her government would be taking against water speculators, and her response was quite cryptic. I read the letter as saying that the government does not care about water speculators, but perhaps I am being a bit tough on her, although I was extremely disappointed with her response.

I seek clarification from this government on the assurances it can give that the new regime for water trading will ensure that there is no room for water speculation. I am of the firm belief that our irrigation areas in this nation are our food bowl, and there should never be a group of investors who control whether we can produce our own food just because they are charging too much for water while they sit up on the Gold Coast enjoying the sun and are not involved in the day-to-day difficulties and activities of our fruit and vegetable growers, horticulturalists and viticulturists. Water allocation should be tied to land, not in terms of the situation which has existed and which the bill is breaking up but in the sense that the person holding a water allocation, wherever they bought it from, should be someone engaged in the business of food or other primary production and not merely a speculator. That is one of the real problems that has now been created and really works against the best interests of strong economic opportunities for those of us who work the land on a daily basis.

I conclude by making a couple of other remarks about the bills and irrigation generally. As I said, Family First supports the government's introduction of both bills and we will be supporting them through all stages. Again, I place on the public record, as I did when the handover bill for the River Murray was put through both houses of the South Australian parliament at a rapid rate of knots, that not only are our irrigators in South Australia being done over but the people involved in tourism along the River Murray system in South Australia, the communities, all the small businesses in those regions which are also very badly affected by the lack of expenditure through the lack of water availability and, of course, the whole of Adelaide are suffering as a result of such low flows coming into the system.

The point is that we were told that the River Murray handover bill was going to be good for South Australia. At that time, we could see only a couple of aspects that would be good and we were fearful that much of it would be of little or no benefit to South Australians. I trust that these bills will be of benefit to some irrigators, but I remind the council that recently we have seen examples of threats to use the veto power to go away from that handover bill. We have had confirmation that it is not a proper independent authority removed from politicians, ministers in particular, and the Council of Australian Government. We have a situation where we now see the Premier mounting a constitutional challenge about the 4 per cent cap in Victoria.

Frankly, I would have thought that those sorts of things would have and should have been negotiated around the COAG table prior to that bill being put before this chamber. I do not believe that there was a plan, once that legislation went through, to then look at a constitutional challenge. I believe that it was only recent polling and media pressure that forced the Premier to mount a constitutional challenge.

Whilst I support the constitutional challenge—and I hope it will be successful—the people of South Australia, particularly the irrigators, need to know that it will make little difference. As a result of the government and the parliament being intimidated into supporting those handover bills (as they are), we are in a difficult position when it comes to getting a fair go for South Australia, a better water flow, a better percentage and an absolutely independent authority to look after the Murray-Darling Basin system.

I summarise by reinforcing what the shadow minister for water said in the other house; that is, in 50 years people in South Australia will rue the day that the parliament in October 2008, in an intimidatory fashion, supported the Clayton's commonwealth handover of the River Murray system. However, we did not have to wait 50 years; we have already seen all the weaknesses, the inequities, the unfairness and the spin coming to fruition at the expense of irrigators right along the Murray system and all South Australians. I will continue to argue for a better go for irrigators when it comes to water opportunities along the River Murray. Again, I have pleasure at this point in supporting the second reading of both bills.

The Hon. C.V. SCHAEFER (15:59): I, too, support both bills and will speak to them both at the one time. I cannot resist commending the Hon. Robert Brokenshire on his contribution, much of which I agree with, even though it had absolutely nothing to do with either of the two bills about which we are talking.

These two bills repeal the Irrigation Act and the Renmark Irrigation Trust Act, the latter act having been written specifically for that particular trust in 1936. There has been no objection that either I or my colleagues have received from any of the parties involved with either of these acts. This bill has the effect of transferring water rights to the participants in the trusts so that they become owners of those water rights and now have an asset which can be traded. As sad as it is, as the Hon. Mr Brokenshire mentioned, a number of those irrigators are in dire financial straits. A standing committee yesterday received a briefing from Waterfind, which is the pre-eminent water trader in Australia, and I was interested to learn that a great number of irrigators are now in fact selling their permanent rights and simply leasing-in seasonal water rights, if you like, according to their needs in a particular year or, indeed, their financial ability to continue irrigating.

This, in fact, will give them greater flexibility of management, although I am sure that many of them would prefer not to be in that situation. It will also give those members of the former trusts the right to access exit packages. Again, as sad as that may be, it has been a great anomaly, as well as a sense of frustration, to a number of those people who, had they not been in a trust, would have been eligible for an exit package, and, because they were, they were not eligible for that package. Although those two reasons for repealing these bills are as a result of the ongoing tragedy of the lack of water in all our waterways, but in particular the Murray-Darling Basin, we do in fact give some flexibility to those people by repealing the two acts in question, and I support the passage of these two measures.

The Hon. R.P. WORTLEY (16:02): I rise today to offer some brief remarks on this bill. Both this bill and the Renmark Irrigation Trust Bill, which I also support, are interrelated. I will therefore make one speech taking in both bills. Both bills have been subject to review intended to make sure that our irrigation practices in South Australia are congruent with the federal government's water reform agenda. The review's dual purpose was to ensure that our water management practices were in line with current management protocols and practices. In my view, the bill before us amply reflects these aims.

Before discussing the provisions of the bill, I would like to take a few moments to discuss its context. The Irrigation Bill and the Renmark Irrigation Trust Act are of particular importance to me given that my duty electorate is Chaffey, an electorate which I think you, Mr President, had before me. I am very aware of the problems being experienced by those in the Riverland, and I am acutely concerned with the consequences, both short and long term, of our current parlous position in relation to water.

These few figures paint a sobering picture. In 2006-07, agriculture in the Riverland, the Lower Lakes and the Mid Murray employed 22 per cent of the region's workforce. Irrigated

agriculture contributed $500 million to South Australia's gross value of production in 2007-08, with an additional $288 million of value adding. However, reduced water allocations have meant that areas under irrigation have fallen from 63,000 hectares in 2006-07 to 46,000 hectares in 2007-08. Wine production has been high but prices are depressed and export sales to the US are slowing. Citrus growers also experienced eroded export returns.

Dairy farmers cannot operate at a profit; their feed is bought from elsewhere. Milk output is halved. Processing and packaging businesses for milk, juice, wine and fruits face uncertainty, and the global economic crisis, of course, compounds the situation. Words fail me when I consider the potential for social dislocation that underlines this scenario.

Clearly, our most precious resource is under threat to what I believe is an unprecedented degree. The most recent River Murray Weekly Report, issued by the Murray-Darling Basin Authority, tells us that, despite the recent very heavy rains along the New South Wales coast, very little rain fell into the basin. The Eastern Highlands received up to 15 millimetres, but the western half of the basin received no rain at all.

Even more ominously, the authority's drought report for March, released today, notes that South Australia, along with New South Wales and Victoria, has only enough critical needs water for one more year due to the combination of record low inflows over the past three months, low storage levels and bleak rainfall outlook for the next three months over the southern basin. Indeed, inflows for the first three months of this year were the lowest in 117 years, and the current water year could prove to be the sixth driest on record. Members may recall that 2006 was the driest on record. So, the situation is critical, and a drought update summarises the position, as follows:

> Autumn is a critical time for wetting of the catchment prior to winter rainfall, and there needs to be a sustained period of above average rainfall during the remainder of autumn, and throughout winter, for inflows to recover towards the long-term average. However, the latest rain outlook…shows a moderate to strong shift in the odds favouring drier than normal conditions across the southern half of the Basin for the next three months…the chances of any significant improvement in the Murray system inflows for the remainder of the 2008/09 water year are very low.

It concludes:

> It may be that delivery of all carryover cannot be assured until the volume of water to meet system operating requirements is available. Similar to the last two years, the prospects for irrigation allocations in 2009/10 will be highly dependent on future rainfall and system inflows. Overall, the outlook for the beginning of the 2009/10 water year is poor.

This is the context of the bill we consider today. The draft legislation before us puts in place frameworks for the irrigation of properties in both government and private irrigation districts in our rural areas. In the recent past, services in this sector have been provided by private trusts, and this service provision has been augmented with significant investment by government and irrigation infrastructure.

Through the legislation we are currently considering, compliance will be assured with commonwealth policy initiatives, including the national COAG water reform of 1994, the National Water Initiative of 2004 and the Intergovernmental Agreement on Murray-Darling Basin Reform of 2008. The bill also provides for consistency with the commonwealth Water Act 2007, with particular reference to charging and freeing-up of permanent trade in water, to which I will refer shortly.

As my colleague the Minister for the River Murray and the Minister for Water Security said recently in her second reading speech in another place, the Irrigation Bill 2009 also provides flexibility in the management of water licences, so that a trust can choose, by resolution, to devolve its water licence to all members of the trust; flexibility for individual members, enabling them to apply to the trust to transform their irrigation right into a water licence under the Natural Resources Management Act 2004; and flexibility for existing trusts to continue that management of collectively owned irrigation infrastructure and/or drainage networks, and for new trusts to be established or amalgamated in the future.

In addition, it removes the concept of an irrigation district so that the operations and functions of an irrigation trust are based on service provision, rather than land tenure. It emphasises the power of an irrigation trust to enter into individual service agreements or contracts for the delivery of water or drainage services. It makes explicit that an irrigation trust must not restrict permanent trade of water out of its irrigation network and that it must facilitate trade both within and out of the trust network at the request of its members and in accordance with the rules under the Water Act 2007.

It will provide that the fees and charges for water, drainage and other services provided by a trust reflect the cost of providing, maintaining, managing and operating irrigation and drainage infrastructure subject to the rules under the Water Act 2007. It will provide that an individual's entitlement to vote at a trust meeting is determined by an individual's connection to a trust's supply and/or drainage infrastructure as a member of the trust unless otherwise contractually specified between the parties. The bill also brings various anomalies with regard to terminology up to date, ensures a minor amendment to the National Resources Management Act 2004 and brings penalties up to date.

I now return to the issue of freeing up permanent trade in water. The provisions of the bill will enable those irrigators electing to leave the industry to trade their water. This will make it easier for those so electing to gain access to the federal government's small block irrigators exit grants packages, which will remain available until 30 June this year.

Consultation on both this bill and the Renmark Irrigation Trust Bill have been extensive, and all key stakeholders have agreed that the changes they encapsulate are both necessary and timely. The legislation will ensure that South Australia can meet challenges in the future; challenges which we know will come and which we cannot evade. With these few remarks I commend the bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:11): I thank honourable members for their indication of support for this bill and also their comments, where relevant, on the Renmark Irrigation Trust Bill, which we will deal with next.

I suppose the context in which this bill is being debated is important. We had a question in question time today about the recent statements from the Murray-Darling Basin Authority which indicated that just 140 gigalitres of water flowed into the river storages in the first quarter of this year from January to March, and that is slightly lower than a previous record low in early 2007, which was the smallest volume since records began 117 years ago. So, the fact that we have had two years straight and in this first quarter we have had the lowest ever inflows shows the conditions facing our water storages at present.

I should make some comments particularly in relation to the speech of the Hon. Mr Brokenshire who, in referring to the debate that we had in 2008, basically suggested that the effort we went through with that legislation effectively had no value at all. That is just a nonsense. No-one was suggesting that that legislation that we passed here in 2008 would be an instant fix for the river. Certainly, no government speakers suggested that. Rather, of course, that legislation was all about implementing the COAG agreement in particular and establishing an independent authority which would then be responsible for developing a management plan for the Murray-Darling Basin.

It was never suggested that, somehow or other, overnight, once the bill was proclaimed, that would suddenly put more water into the Murray-Darling Basin storage. The fact that since that bill was passed for the second or third year in a row we again had these unprecedentedly low inflows shows the dire situation that we are facing in relation to the supply of water to this state. Of course, the irrigation industry in this state almost entirely depends on inflows from the Murray River.

I should make that point at the outset, and the Premier has addressed this issue publicly, and I will not go over it again other than to reinforce the fact that no-one was suggesting that that bill would be an instant fix; however, we believe that in the longer term it will address many of the issues of over-allocation. However, without a return to average inflows within the basin, obviously, no management or governmental system will fix the fact that we have had these unprecedentedly low inflows for consecutive years.

The Hon. Mr Brokenshire also asked a number of questions and, in particular, he asked about South Australia's role in relation to this legislation. I point out that, with this Irrigation Bill, we are updating our legislation and, in the process, complying with commonwealth legislation. It is important to understand that New South Wales and Victoria operate their corporations and trusts, as the case might be, in very different ways.

For example, in Victoria, all irrigators within the irrigation trusts or corporations already have their own water licences, and this is not currently the case in South Australia. The bill will address this matter. The Hon. Mr Brokenshire also spoke about speculation in the water market. This government believes that markets are the appropriate way to allocate scarce resources.

These bills give effect to the national water initiative frameworks on the water trade. I think we have to have faith in that system.

The Hon. Mr Brokenshire also questioned how much trade has occurred by water coming into South Australia. The fact that water has come into this state, I think, shows that the water market is working, and that water is coming to where it can be optimally used. If he wants specific details, we obviously do not have those here, but perhaps we can come to that matter in the committee stage. In any case, I suggest that it is not really relevant to the content of the particular bill before us.

The honourable member also asked what the government was doing to help farmers. I just point out that, notwithstanding the dire conditions about which I have just spoken, in September last year the government introduced an allocation of water to ensure that permanent plantings in the Riverland could be preserved. In fact, 60 gigalitres of water was made available at that time to ensure that those permanent plantings could be secured. So, the government has taken action within, of course, incredible constraints.

Water inflow is as low as something like 140 gigalitres in three months. When you think that previously, in an average year, the state's minimum allocation was 1,850 gigalitres under the old Murray-Darling Basin system, you can see that you are getting less than 10 per cent of that, even if it is over the summer months. That is the inflow into the entire basin storages, which puts in perspective the situation that we are facing.

If there are any specific questions, we can address those during the committee stage, but I think it was important to put on the record the government's position in relation to the general picture of the River Murray. I also think it is important to understand that the bill that was passed back in 2008 is intended to address issues within the Murray-Darling Basin in the medium to longer term. I again thank members for their contributions and indications of support for this bill, and I commend it to the council.

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

RENMARK IRRIGATION TRUST BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1687.)

The Hon. J.S.L. DAWKINS (16:21): I will be brief. I have made general remarks in relation to this bill during the debate on the Irrigation Bill. However, on behalf of the opposition, I will make a couple of remarks specifically about the fact that the Renmark Irrigation Trust Bill was adjudged by the other place to be a hybrid bill. That arose out of the fact that the original Renmark Irrigation Trust Act 1893 had strong links to the earlier Chaffey Brothers Irrigation Works Act 1887 and, for that reason, had to be considered as a private act. Of course, following on from the 1893 act was the Renmark Irrigation Trust Act 1936. This bill amends that act.

The House of Assembly, as the originating house, determined that it was a hybrid bill and, as such, a select committee needed to be established. That was done, but it seemed to me unusual that the select committee, which was established within one afternoon and which I think sat only briefly, decided not to advertise—contrary to what would normally be the case with a select committee on a hybrid bill—and then determined that enough consultation had been done. The recommendation of the select committee was that the bill go forward through the House of Assembly.

I am not for one moment denigrating the consultation that was done; however, I would have thought that if you were to establish a select committee some opportunity should be given to the public outside of the consultation process and to allow anyone who may not be consulted to come forward. That is my understanding of the process of having a select committee on a hybrid bill. However, having said that, I indicate Liberal Party support for the Renmark Irrigation Trust Bill for the reasons I outlined in my previous contribution.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:24): I thank the Hon. Mr Dawkins for his and the opposition's indication of support for this bill. As he has said, the Renmark Irrigation Trust goes back a long way; it was, of course, the first irrigation district in this country—even though, if you go to Victoria and look at the Chaffeys' house, you will note that they seem to have tried to reinvent history. This was certainly the first irrigation district in the country

and, even though it has virtually identical provisions to the previous bill, I think it is important to recognise, through this measure, the historical significance of the Renmark Irrigation Trust. Again, I thank the opposition for its indication of support for this bill.

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

STATUTES AMENDMENT (ENERGY EFFICIENCY SHORTFALLS) BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1663.)

The Hon. J.M.A. LENSINK (16:28): I rise to indicate support for this bill, which enacts through the statutes what has been operating in regulation in line with a policy of this government, as well as operating through the particular licensing conditions for electricity and gas retailers.

The stated purpose of the bill is to reduce greenhouse gas emissions, particularly through households, by assisting them to achieve some energy efficiencies. These have been listed as incentives and special offers, which may include any one or more of the following: installation of energy-saving light globes; low-flow showerheads; persuading people that they do not need a second refrigerator or freezer; the installation of energy-efficient hot water systems; ceiling installation; draught proofing; and the installation of energy-efficient heating and cooling systems.

There is also a provision for energy audits to be conducted in what are called 'priority households'. I think it is fair to say that those priority households are lower-income households comprising pensioners and those who hold concession cards—and the target is for 35 per cent falling within those criteria. I find this scheme somewhat amusing, and over time it will be interesting to see how it travels.

It is my firm belief that people in that position (that is, self-funded retirees, pensioners and those on low incomes) would already be doing everything they can to reduce their power bills, for obvious reasons. It depends on what is the primary aim of this bill: whether it is to reduce power bills or to reduce greenhouse gases. If it is the latter, the target ought to be applied more towards larger families. I read with some amusement some of the contributions made in the House of Assembly, particularly from those people who have teenage children, who need to be persuaded of the merit of turning off lights, appliances and so forth, and I think we would all be familiar with that. I have had that experience myself with my nieces, who are in the 'tweeny' category, coming into their teenage years. They are quite oblivious of the need to turn off lights. So, when they come to stay, my power bill goes through the roof.

However, I digress. The greenhouse gas savings made by retailers will be measured in tonnes of carbon dioxide equivalent. The scheme is due to expire in 2014, with the targets being reviewed every three years. The government believes that, over the next six years, some 2,000 households will be targeted by retailers to benefit from that scheme.

I have mentioned one of the concerns, that is, whether the principal aim is to reduce greenhouse gases or to assist those on low incomes. One of the other concerns we have is that the fines that will be applied to retailers will be directed to the Consolidated Account rather than into a specific fund which would be applied to encouraging new technologies and that sort of innovation. Our energy spokesperson (the member for MacKillop) had amendments drafted to this effect, but he did not move them because I think he was awaiting advice about whether or not that changed it into a money bill. However, the Liberal Party is broadly supportive of that going to some sort of hypothecated fund, so that it does not just get soaked up into some account by the government—a 'hollow log', so to speak.

We will be supporting the Hon. Ann Bressington's amendments, which are similar to the amendments we had envisaged. I note that those amendments will direct the funds towards assisting people who may have failed to benefit from activities, which is a laudable aim, and to support other programs or activities to promote or support energy efficiency or renewable energy initiatives within South Australian households. So, I commend those particular amendments.

On the point of whether the ultimate aim is to reduce greenhouse gases or to assist people on low incomes, I also note that the debate advanced by the member for MacKillop that the Victorian government, I think it was, had received some advice that these sorts of measures which are targeted at households, which, relatively speaking in volume terms, are smaller emitters, would, in fact, let industries off the hook, and that is of concern.

I see that the current edition (April/May 2009) of the COTA regular magazine, entitled *myCOTA,* has advised its members that it believes that it will be some months before energy providers work out their various schemes. COTA believes that participating householders can save around $80 a year on their power bills and, in some cases, a great deal more, which I think would be welcome news for many people on fixed incomes. With those comments, I endorse the bill.

The Hon. D.G.E. HOOD (16:35): I rise to indicate that Family First supports the second reading of the bill. The bill imposes a new penalty regime on electricity and gas suppliers that fail to meet more than 90 per cent of one or more of their targets per year, under the Residential Energy Efficiency Scheme.

The scheme is the sort of proposal that looks good on paper, but I have a number of concerns about it. Indeed, in his report to the Labor Party, Professor Gaurnet said that emissions trading would be a 'big hit' on families and that energy prices would rise initially by some 16 per cent for electricity and 9 per cent for gas, with inflation being pushed up almost 1 per cent as a result. He also said that electricity might cost some 40 per cent more. My question is: how do people cope with that sort of rise?

South Australia and Victoria have decided to let energy companies increase their prices even further to subsidise energy savings initiatives to their lower income customers. As far as I know, only one or two states have rolled out such a scheme, with Victoria being the other state.

I note from the scheme's website that bill payers will subsidise lower income users for a number of things, including changing light bulbs to energy-efficient light bulbs; changing shower heads to an energy-efficient shower head, which saves water and costs less to heat the water because it uses less water; installing ceiling insulation when there is none currently; sealing gaps in doors, windows, fireplaces and exhaust fans in order to stop drafts and improve insulation; getting rid of old fridges and freezers, particularly second fridges and freezers; and upgrading heating and cooling systems to more efficient systems, or installing duct work which makes them more efficient while using less energy. Another of the examples given was to install a more efficient water heater. Where this is not already required by law, it was stated that the new water heating standards applying in South Australia were relevant in this situation.

The press releases surrounding this issue have been very interesting. One early press release stated that the scheme would lower costs for 'all types of households'. A later press release stated that lower income households could save between $60 and $80 a year; and the most recent press release trumpeted savings of 'over $80 per year'. This scheme is getting more efficient by the day, it would seem. The reality, as Professor Garnaut stated, is that energy costs will go up and not down. AGL, in February, raised supply charges for its 250,000 customers to pay for this scheme, which it says it needs to do in order to subsidise the energy audits for some of its 10,000 low income customers.

The scheme compels electricity and gas suppliers who make their money from selling electricity and gas to make their customers use less electricity and gas. This is a strange paradigm when we consider that the purpose of a business is to create these products to sell at the best price they can get for them and ultimately to reward their shareholders and allow further investment infrastructure. My view is that these sorts of schemes do not work very well at all. When social policy initiatives are in conflict with industry's imperative—and we should remember that we require companies to make a profit in order to please their shareholders and indeed fine or even gaol directors of companies who do not act in the best interests of their shareholders—those initiatives should be driven by the institution endued with the backing for social policy initiatives, and that is a government. They should not be outsourced to an industry that clearly has other motives and issues driving its operation on a daily basis. That is why I believe this scheme will struggle to work effectively in the medium to long term.

To give a few illustrations of how little regard industry has paid to this scheme to the present, David Nankervis—a well respected journalist from the *Sunday Mail*—recently published an article on the scheme in the *Sunday Mail*. He telephoned TruEnergy for a comment before publishing the article. When TruEnergy was asked about the REES scheme, he reported that its Director of Corporate Affairs, Kate Shea, said, 'It's coming in on 1 July, isn't it?' In fact, the scheme was already meant to have started on 1 January, and when the story ran in late February TruEnergy should have already been running the scheme for several months. Its Director of Corporate Affairs did not even care enough about the scheme to know that it had started.

I have looked at the website of the major energy providers in the past 24 hours and none, as far as I can see, has any dedicated phone numbers or ways to apply easily to participate in the scheme. Indeed, when calling AGL on the number provided on its REES webpage, I hit a telephone service asking me to press various numbers, and it did not even give the option for the REES scheme information. I was given an option to speak to an operator regarding a general inquiry—and perhaps they could have directed me further—but there was no simple way to get the information or apply for the scheme, even when calling the number listed on the relevant webpage.

Origin's website talks about low income earners being able to apply for the scheme 'shortly', despite the fact that it should have already been in operation since January. Clearly, confusion reigns. Perhaps some energy companies are quite willing to pay the $100,000 maximum base penalty specified in the bill for failing to meet the targets rather than seriously implementing these schemes. It is highly likely that the $100,000 maximum fine would be well and truly less than the potential loss of revenue to them over the longer term of implementing the scheme.

I have some reservations that this scheme will have the impact it is desired to have. Under the current scheme, it cannot have any serious impact on our total greenhouse gas emissions. For example, if you buy a Toyota Prius, change all your light globes to energy efficient fluoros, and even go to the trouble of setting up a wind turbine in your backyard, install solar panels and do all the things designed to make us more energy efficient, your efforts would not make one iota of difference to Australia's total greenhouse gas emissions because the federal government decided to use an annually reducing cap to reduce our total emissions by 2020 to between 5 and 15 per cent; that is, the total amount will be how our performance will be judged rather than by sector. When we reduce our own emissions all we do is potentially allow greater scope for emissions by other pollutants, including industrial pollutants.

I put a few questions on notice last week regarding South Australian energy production, and I am certain they will become more focused concerns for all South Australians over the years to come. To put it one way, there is an elephant in the room when it comes to power generation in South Australia. Keep in mind that Adelaide operates with a gas power station at Torrens Island that was constructed in 1967, and that is before man even walked on the moon. Around 2014 to 2016 I understand we will reach a major turning point. Somewhere around that time South Australia will not be able to fuel its major power plant on its own any more. The South Australian side of the Moomba gas fields will be dried up, or almost dried up, and the Electricity Supply Industry Planning Council Annual Planning Report for 2008 says that supplies have been diminishing since 2003. We have no other major tapped supplies of gas in the state, so it looks as though we will rely on interstate fuel from now on through the SEA Gas line from Victoria and also from Queensland.

What will South Australia's energy future be like? Are we destined to become a perpetual receiving state? We are already begging the eastern states for water; and soon will we be in a situation where we are doing the same to Victoria for natural gas? The other states have no hesitation, it seems, in turning off our water supply and electricity supply when it suits them, as we have seen particularly with electricity supplies over the summer recently, when they want it instead of us. So what will happen when gas supplies get low in South Australia? Is South Australia facing a future with the finger of the Victorian Premier or senior bureaucrats on the power switch button? I certain hope not. According to the annual planning report, Leigh Creek is also down to about 10 years of readily accessible coal remaining. Will we start importing coal from other states for our other large power plants to run on coal? Possibly.

In summary, I have some concerns about South Australia's energy future that I have touched on here. I do not think this scheme will do as much as it is intended to do. Given that the scheme is already in place and that legislation is required consequentially, Family First will support the second reading, and we believe that more serious steps need to be taken in future in order to secure South Australia's energy supply.

The Hon. M. PARNELL (16:45): The Greens support this bill which is part of the implementation of the government's residential energy efficiency scheme (REES). We think it is appropriate that energy retailers are given clear reasons and incentives to invest in demand management on behalf of their customers. Traditionally, the more electricity and gas that was used, the more income there was for the energy providers. We now know that we need to break that nexus so that it is in the interests of the retailer for their customers to use as little energy as possible. From an energy security perspective, reducing energy bills for people on a low income makes sense; and, from a grid management perspective, the approach taken in this bill makes sense.

The main difficulty I have with this legislation is to understand how it fits into the overall scheme for greenhouse gas reductions, given that that is one of the stated objectives of the bill. I believe that this bill will not make a jot of difference to greenhouse gas emissions. The reason for that is that the federal government's carbon pollution reduction scheme will undermine any effort that is taken by the state government through legislation such as this, as well as measures taken by individuals at the household level. We also have in the commonwealth's carbon pollution reduction scheme a woefully inadequate non-science based headline target of a five to 15 per cent reduction in emissions, and that is a major flaw of the commonwealth's scheme.

Richard Denniss, the Executive Director of the Australia Institute, has been very vocal about this flaw in the commonwealth's scheme. In his Research Paper No. 59 (November 2008) entitled 'Fixing the Flaw in the ETS: The role of energy efficiency in reducing Australia's emissions', he said the following:

> Emissions trading will impose a 'floor' below which emissions cannot fall as well as a 'cap' above which emissions cannot rise. That is, once the government has decided on an acceptable level of pollution, it will issue a corresponding number of pollution permits. If households use less energy and create less pollution, they will simply free up permits to allow other families or other industries to increase their own emissions.
>
> If, for example, it is decided that Australia needs to reduce its carbon emissions by 15 per cent on year 2000 levels by 2020, emissions will total 85 per cent—not 84 per cent or 86 per cent. Under such an arrangement, there will be little scope for Australian households and small businesses to take deliberate action to reduce their emissions because whatever they do, Australia will continue to emit greenhouse gasses at a level corresponding to 85 per cent of its emissions in 2000. The only varying factors will be who pollutes and what price they pay to do so. As a result, concerned households and businesses will not be able to make any meaningful contribution to greenhouse gas abatement.

Later on in the same research paper, Dr Denniss says:

> Some state governments have expressed interest in the notion that they may set more aggressive targets for emissions than those fixed by the federal Government. However, under a national CPRS, if one state government establishes a higher emissions target for polluters in their state, it just frees up more national permits to be purchased by polluters in other states.

Richard Denniss also continued this theme more recently in an article in February this year entitled 'An idea whose time never came' in which he said the following:

> It is important to highlight that voluntary action doesn't just mean the efforts of individuals. One of the most exciting examples of collective voluntary action is the ACT Government's commitment to pursue an emissions reduction target of about 30 per cent by 2020. If the residents of the ACT are willing to pursue such a goal, and it can be shown that they are achieving it, why shouldn't the pollution cap be sliced accordingly?
>
> The CPRS in its present form is deeply flawed. If the Government wants to see the legislation passed, it is going to have to amend its proposal. The irony is that if the legislation is amended to fix the problems outlined above, the CPRS will end up working the way that most Australians thought it would work in the first place.

The problem we have is that, if the commonwealth's pollution reduction scheme legislation is passed with the current flaw still intact, nothing the state government does, nothing in this bill, no spending program or any policy will make one jot of difference to our overall greenhouse gas emissions, and that is bizarre. It is horrible; it is shocking; and it has to be fixed.

The Premier has trumpeted long and loud his leadership on matters greenhouse, and he has brought before this parliament legislation to deal with emissions. We have this current bill before us, but it will not make one jot of difference if the commonwealth's scheme passes in its present form, and that is why, even though people in the conservation community and energy experts have been slow to come to this realisation, every community rally that you now see looking at the question of climate change and greenhouse gas reductions is focusing on this commonwealth scheme because the penny has dropped and people realise what a sham it is.

It is now being called the 'carbon polluters reward scam' because that is all it will do. Every time we put panels on our roof, every time we fix or replace an inefficient refrigerator, or we insulate our homes, all we will be doing is putting extra money in the pockets of the big polluters.

That gives me no reason to oppose this legislation (which on its face is good legislation; it encourages people to use less energy and it puts some of the burden back on the electricity and gas retailers). But unless the Premier has some inroads in dealing with his commonwealth counterparts, then, whilst we might feel good about passing this legislation, it will make not one jot of difference and we will have been part of perpetuating a fraud on the entire Australian community.

Debate adjourned.

SURVEY (FUNDING AND PROMOTION OF SURVEYING QUALIFICATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1664.)

The Hon. M. PARNELL (16:53): The Greens strongly support the need for more licensing and registration of cadastral surveyors in South Australia. This means not only more training at the undergraduate level but also that we need more efficient processes to ensure that graduates are able to obtain their licences to practise in South Australia as quickly as possible. Things in the surveying profession are currently quite dire. We have an ageing workforce, South Australia currently has no viable survey undergraduate course and we have a declining number of licensed surveyors in this state.

In 1990 there were 202 practising licensed surveyors on the surveyors' register. From 1991 to 2008, 53 graduates became licensed surveyors in South Australia, and this totals 255 existing and new licensed surveyors from 1991 to 2008. In 2008 there were 131 practising licensed surveyors on the surveyors' register. This means that 124 surveyors have retired or left the cadastral surveying industry between 1991 and 2008. I should add that all these figures come from the *Government Gazette*. This is not a viable workforce for the profession of surveying, and there is no doubt that we need more licensed surveyors in South Australia.

To help address this, the bill proposes to allow the levy, which currently funds the Institution of Surveyors' activities in training, licensing and regulating licensed surveyors, to be extended so that it can be used expressly for the education of new surveyors. As I understand it, there will be a fee increase of $30 per survey lodged in the Lands Titles Office, on top of the current levy of $53.50. The levy, as I understand it, is not to be subject to regulation, but rather imposed by ministerial approval and that, over time, it will rise with the consumer price index.

This bill seeks to continue the central role of the Institution of Surveyors in every step of training, licensing, investigating and managing the survey workforce. As well as the need for more undergraduates coming through, there is another well of potential surveyors into which we can tap, and they are those people who are currently working in the surveying industry but who are not licensed. Many of these people are working towards obtaining their licence, but in the meantime they operate under the supervision of a licensed surveyor. In April 2007 a Study of Surveying Education in South Australia report was conducted by Brenton Burford for the Institution of Surveyors.

Criticism was levelled at the surveyors board requirements to obtain a survey licence, with a number of those interviewed for the report complaining that it was unnecessarily restrictive and inflexible, particularly in relation to training requirements. But this is not a new criticism of surveyor training. In fact, a report published in the Institution of Surveyors' journal, *Tieline*, in 1989 (which was just prior to self-regulation, which commenced in 1992) looked at postgraduate training for cadastral surveyors and highlighted precisely the same concerns. So, there is nothing new.

In fact, more recently in this place I moved to disallow certain regulations in relation to the qualification and training of surveyors. I did not, in the end, put that disallowance motion to a vote because it actually achieved its desired objective, which was to bring the various parties together, including the Institution of Surveyors and the union that has coverage of many surveyors; and, as a result of that dialogue, the training regime improved. There is an example of a disallowance motion not needing to go to a vote but achieving the desired result nonetheless.

There is no doubt that more undergraduate training is required, and the question is whether this bill—this process, this self-managed regime—is the best way to achieve a significant increase in the number of licensed surveyors in South Australia. We must remember that it is the same Institution of Surveyors that has managed the system since 1992 and therefore has been at the helm during the period of criticism to which I referred. In concluding my second reading contribution, I want to put on the record a number of questions to which I would invite the minister to respond. First, how much money will be raised by the additional levy, and will the minister confirm the amount of increase in the levy (which I understand is $30), and the total levy that will result?

How much will the Institution of Surveyors receive as a result of the bill? How much will be provided annually to the University of South Australia for its role in training? Of the annual contribution to training, how much will come out of the pockets of the existing practising surveying

industry? What is the contingency plan if the University of South Australia decides not to supply the course or, at some stage in the future, cancels its existing course? What will happen to the funds in that situation?

What increased level of reporting will the government expect as a consequence of the increased amounts involved and the increased levy contribution? Have other ways to increase the number of licensed surveyors in South Australia been looked at, such as a process to accredit surveyors currently working in the survey industry who have obtained TAFE qualifications or the fast-tracking of licensing of those currently working in the survey industry?

Finally, what consultation has the government undertaken in relation to these changes? In particular, has the government consulted with the Australian Miscellaneous Workers Union, as representatives of many workers in the surveying workforce?

The Hon. J.M.A. LENSINK (17:01): I rise to indicate that the Liberal Party supports the bill, which is not extensive and contains only three clauses. The clause in question inserts a paragraph into section 10 of the Survey Act 1992 and provides an additional function, that is, to provide financial assistance for training, and I endorse the Hon. Mark Parnell's questions in that I think it is not terribly clear how this will operate. I think that the parliament deserves to have those questions answered because, in some ways, this is a market failure to provide the relevant qualifications in South Australia. My colleague the Hon. Rob Lucas asked questions in relation to this issue, and I think that he may well make a contribution either during the second reading debate or at the committee stage.

He raised an issue that some of us may not have thought of, namely, that it is unusual to assist in the funding of tertiary education through some sort of fee process. I think all of us agree that it is important to have locally trained graduates, and I ask the government: what were the exact circumstances of the course's ceasing to be offered in South Australia? As I mentioned, the Hon. Mark Parnell's questions are very important because this regime may well fall over, and I think that the parliament deserves more transparency in relation to what it is enabling the institute to do.

I would also like more information. I have a copy of a letter provided to the member for MacKillop (the shadow minister for infrastructure) from the Institution of Surveyors, as well as a copy of the annual report for the year ended 30 June 2008, which leaves a bit of mystery as to what the current market of surveyors looks like, that is, the number of surveyors who operate in South Australia. I understand that a number operate through mutual recognition and are based in Victoria. Will the government provide advice on whether a monopoly, duopoly or oligopoly operates within this market so that people who require survey services are at the mercy of a specific company or forced to cross the border to find people who can offer those qualifications?

I would also like to know whether there is a set fee for those services and whether those fees can be provided to the parliament, as is the case in a number of other professions, particularly the health professions, where we know that there are certain fees, or are there recommended fees provided by the professional institution? What is the quantity of work—how many surveys are performed per annum? Can the government provide much greater detail about what the market for surveying looks like in this state that has led to this situation, where we need to undertake the unusual step of providing funds from lodgments to underpin, in effect, a new undergraduate degree course? With those comments, with some reservations, I look forward to the rest of the debate.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:06): I thank honourable members for their contribution to this bill. Some questions were asked, and I will go into those in more detail at the committee stage. In 2005, the University of South Australia ceased to offer the undergraduate course necessary for a person to become a licensed or registered surveyor, and it meant that surveying qualifications were no longer offered in South Australia.

It is an extremely important profession, and I know that the supply of qualified mining surveyors is particularly tight. Of course, it is a very necessary occupation with the expansion of the mining industry.

We can follow this up further in the committee stage; it has not been made clear here, but indicatively we are looking at an increase in the levy. As I understand it there is a levy of some $50, which is payable when plans certified by licensed surveyors are lodged with the Lands Titles Office, and my understanding is that an increase in that levy of the order of some $30 would be required to give the institution the necessary income to meet the requirements of the University of South

Australia. I believe about $150,000 would be necessary for the University of South Australia to continue operating or resume providing this course.

Of course, we know that within our state not all occupations are catered for at universities. If you want to do aeronautical engineering you have to go interstate, and until recently if you wanted to do veterinary sciences you had to go interstate. We now have courses here, but clearly those courses can be expensive for universities to put on, particularly if the number of students studying those courses is relatively low, so the government has addressed this issue.

It is important that we do so, and we believe that with the passage of this bill and the income that is generated it will enable the University of South Australia to continue this course, but perhaps we can pursue these issues in more detail during the committee stage. Again, I thank honourable members for their contribution to the debate.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: The Hon. Mr Parnell asked some questions, and in my second reading response I gave some indication. I think his first question was how much money was expected to be raised with this. It obviously depends on the number of surveys that are lodged, but the estimate is between $120,000 and $130,000 at $30. So, if you had a $30 increase, that would raise about $120,000 to $130,000. That would then go to the Institution of Surveyors, which has entered into an agreement with the university so that that money would then go to the university. My understanding is that the university was looking for $150,000 to resume this course, and this is really the mechanism by which it will happen. The figure of $30 would raise that sum. That would go to the institute and that would flow to the University of South Australia so it can resume the course.

The Hon. Mr Parnell also asked about the composition of surveyors within the state. I am told there are about 100 practising surveyors; that is the number actually practising. Most of them are small firms. About 35 or thereabouts are small firms, and the remainder would be working for other companies. A company like Santos, for example, would have a consulting firm, I am advised, which supports it. I know that in the mining industry surveyors are very important. So, we have 35 small firms and two really large firms, so I guess that is the structure; 35 or 40 one or two person outfits, then two larger companies that support the bigger industry and some in between. I trust that provides something about the structure of the industry. If you have any more questions we will try to answer them.

The Hon. J.M.A. LENSINK: On that matter, is there any evidence that there is somewhat of a duopoly or that the current structure is impeding access to surveying services?

The Hon. P. HOLLOWAY: My advice is that there is no impediment; it is just a lack of surveyors. In 2005, the course was closed to new entrants. Some graduates have come out over the past three years, but the last lot comes out at the end of this year. That is why we need to ensure that we have another intake. I think the answer to that question is that the big issue is obviously the declining supply of surveyors, and that is more likely to have an impact than any sort of market power.

The Hon. J.M.A. LENSINK: Does the government have an estimation, then, of how many new graduates it needs to be putting through on an annual basis, if you like? What measures have been taken over the past three years, while the training has clearly been in decline, to promote the profession to people who might be interested?

The Hon. P. HOLLOWAY: My advice is that you would probably need about 10 to 15 graduates to meet demand. The average has probably been about 6 to 10, but there will be 16 graduates assuming they all pass this year, so that at least gives us some hope. Obviously, to get that number of graduates, you will need more to start so you might like to have 20 or 25 actually beginning a course.

There have been some efforts put into careers nights and so on, as you do with any sort of small profession like this, to try to generate interest but, clearly, with small professions and with such a specialty area, it is difficult to get the message across. I am also advised that this is a national problem in relation to getting surveyors. There is a shortage across the country, so it is not just here that we have the problem of attracting surveyors.

At the national level, the Australia New Zealand Land Information Council (ANZLIC) has been involved in promoting the profession and trying to encourage careers in it. That has all been done at a national level. However, obviously, we need a proper course here in South Australia if we are to get the graduates, and that is why the government has come up with this proposal to ensure that the university does get the funds to provide the course.

The Hon. J.M.A. LENSINK: It is an interesting precedent that government would put on a levy to fund an undergraduate degree course. Can the government advise of any other examples in any particular profession where this has actually taken place?

The Hon. P. HOLLOWAY: We are not aware of any. I did mention earlier that there are some other courses that we do not have or have not had in this state: veterinary courses and aeronautical engineering are two that come to mind. Of course, we do have a veterinary course now. We also have an automotive engineering course, which was established at the University of Adelaide, with some support from the government, I think, to establish that course.

The state government does give a significant amount of money to university courses in specialist areas and, of course, we also try to get industry to make significant contributions. An example of that would be in the area of petroleum engineering where Santos provides significant amounts of money and the state government, through my department, does provide some help but mainly at the level of trying to retain professors and the like.

There has not been help given so much to keep courses going as to ensure that they have the recognition. Generally, those courses where the government provides support have had sufficient throughput to enable the course to keep going. Rather, our support has been directed at having specialist professors.

Petroleum engineering is one of those that comes to mind. I do not have further detail on me now, but I know that there are those sorts of arrangements. The state government does provide significant funding for specialist courses, but I am not aware of any parallel for this particular arrangement. There may well be some, but I am not aware of them.

The Hon. M. PARNELL: I thank the minister for addressing some of the questions that I raised in the second reading. I will just revisit some of those issues that might be appropriate now. The bill refers specifically to the conduct by a university in a course of instruction and training, but I would like the minister to tell the committee what other ways the government has looked at to increase the numbers of licensed surveyors. In particular, what steps are being taken to fast-track the accreditation of surveyors who are currently working in the industry who may have their TAFE qualifications or other qualifications but are not necessarily in a position to go back to university?

The Hon. P. HOLLOWAY: My advice is that to become an accredited surveyor you need to have a four-year university qualification. If you were to try to fast track that, I guess you would be breaching the act. The other problem is that any surveyor who is given accreditation without having done the necessary four-year course would not get recognition anywhere else in the country. That is why the government is trying to restore the university course—so that we can, in fact, get surveyors with a four-year qualification who meet national requirements.

The Hon. M. PARNELL: I appreciate what the minister is saying, and I do not want it to seem as if I am trying to dumb down the profession or lower the standards, but in other fields and professions there is no shortage of examples where very lengthy experience and on-the-job training is more than a substitute for a formal tertiary education course; for example, we have had clerks of court with no legal qualifications whatsoever who have become magistrates. I guess my question is: is there any consideration of people currently in the system having their lengthy experience, and perhaps non-university training, recognised and accepted?

The Hon. P. HOLLOWAY: I am advised that, while there is some provision in the act so that if you do have experience equivalent to a degree you can apply, no-one has actually sought that. I know there is a similar provision under the Development Act in relation to planners and building surveyors; in certain circumstances, I believe the minister can recognise qualifications. One would always have any applications assessed independently—I think it would be wrong for the minister himself to do that—and under the Development Act the minister would act on the advice of the department.

If, for example, a council in a remote area of the state needed someone who had experience, you could recognise their planning qualifications. In relation to surveying, I guess there

could be a lot at stake in terms of having someone suitably qualified. In short, the answer is that the provision does exist in the act but it has not yet been tested.

The Hon. M. PARNELL: On another matter, given that the levy is to be substantially increased, is there any proposed change to the reporting or financial accountability requirements? Perhaps the minister could preface his answer by explaining the current reporting arrangements.

The Hon. P. HOLLOWAY: My advice is that the Institution of Surveyors has to lodge a report to the parliament within three months of the end of the financial year. Clearly, if there is an increased levy, one would expect that to be picked up in those reporting requirements.

The Hon. M. PARNELL: I also asked about the consultation that the government has undertaken in relation to this bill and, in particular, about whether the AMWU was consulted.

The Hon. P. HOLLOWAY: We are not aware of any specific consultation with the AMWU. My advice is that there have been a number of general meetings of surveyors where these matters have been discussed and, presumably, most of the surveyors are members of the institute. Basically, the advice is that they are members of the institute and so there would have been general meetings and so on at which this was discussed. One would expect that all the surveyors who had an interest in this would have participated in those.

The Hon. J.M.A. LENSINK: The funds to be raised are estimated at roughly $120,000 per annum. What does that pay for? I imagine it might equate to one lecturer; if so, how will that sustain what I understand is a four-year degree? Are funds required from other sources as well, such as from within the university or some other industry? What will the structure of the course look like?

The Hon. P. HOLLOWAY: My advice is that there is a basic three-year geospatial information course that covers a lot of the material a surveyor would normally need. So, in effect, what we are looking at here is putting a fourth year on that course so that over the four years you have covered all of the requirements. If 16 graduate students is the size of the course, I guess that would cover part of those costs, and I am advised that the university will also contribute towards this. As far as we are aware, $150,000 upwards is the asking fee. That, combined with their own funds, will enable the university to put on this extra fourth year.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

STATUTES AMENDMENT (ENERGY EFFICIENCY SHORTFALLS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1844.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:32): I thank honourable members for their indication of general support for this bill. A number of issues were raised, but I will refer first to the point made by the Hon. Michelle Lensink in relation to an amendment that has been tabled by, I think, the Hon. Ann Bressington, which I understand was proposed to be moved by the member for MacKillop in another place.

We will obviously have a discussion when we come to that amendment, but I want to point out that the intention of the design of the penalty regime is to specifically encourage compliance by energy retailers with the Residential Energy Efficiency Scheme and not to raise revenue to otherwise achieve the scheme's objectives. The potential size of the monetary penalty which would be incurred, as well as the significant risk to reputation and the commercial risk associated with not complying with the Residential Energy Efficiency Scheme, is a considerable deterrent.

I notice that the Hon. Mr Hood is not here at the moment, but he talked about the $100,000 penalty that is attached in the bill. I point out that, in addition to that fixed penalty, there are also additional penalties, depending on the shortfall, which could run into many millions of dollars. The point is that, potentially, there could be a very significant penalty associated with this, quite apart from the reputation risks and the commercial risk associated with not complying. Given the way in which this penalty regime is designed, few penalties, if any, are expected to be incurred

over the life of the scheme. In fact, if penalties are incurred, we will not have achieved our goal with this measure. Because those penalties are so severe, we would expect this level of compliance.

The commission will incur administrative costs in establishing, administering and reporting on the type of scheme envisaged by the amendment. Penalty moneys depend on the size of any shortfall as such. There is no guarantee that even administrative costs for such a scheme would be recovered by penalty amounts, and additional expenditure is likely to be required. The commission's costs are recovered through licence fees, which would be recovered by energy prices, potentially for no consumer gain.

It is worth noting that the Residential Energy Efficiency Scheme includes a 'make good' provision for energy audits. This means that the energy retailer must make up the shortfall in audits in the next year, as well as pay the penalty, thereby ensuring the target number of audits is undertaken. The energy savings targets, as a key feature in designing the Residential Energy Efficiency Scheme, will ensure that the overall costs do not become excessive and thereby exceed the benefits. So, a 'make good' provision for this target is inconsistent with this feature. Importantly, it is also expected that the size of the penalty will be sufficient to severely discourage noncompliance.

As I have said, we will have that debate later, but I just want to indicate that the problem with the proposed amendment is that it would add this cost of establishing a scheme, including reporting and the like, when the expectation is that, if the scheme works properly, as we expect it will, there would not be any penalties because it should be a sufficient deterrent for companies to comply with the measure. As I have said, we can discuss that later.

There were also some comments made by, I think, the Hon. Mr Parnell in relation to the commonwealth's carbon pollution reduction scheme. I guess the first point we should make is that that scheme has not yet passed the parliament. I think it is before a committee as we speak. Certainly, we have to address this issue on the basis of our own goals within this state and not what form may come out of that particular scheme. However, there is a central point that needs to be made. I refer to what the Hon. Pat Conlon, the Minister for Infrastructure and Minister for Energy, said when this measure was debated in the House of Assembly:

> The central point is that it is an energy efficiency scheme for residences where people do it primarily, oddly enough in this world, because it will save them money. It will also, as a result of using less energy you would think, reduce carbon emissions. The audits have worked and it worked in an outstanding fashion when they were run by us. I thought maybe for some of the speakers on the other side it would be a bit of a give away that the scheme is particularly aimed at low income households for two reasons: they are the people we would like to see benefit from residential efficiency; and, they are also the type of people who have not had either the information or the capacity to make the investment to improve energy efficiency in their homes.

The minister later goes on to make the point:

> If voluntary action, voluntary improvement, saves people money and reduces the burden on industry, I do not have a problem with it and I do not know why you do. I certainly do not have a problem with it. I can tell you this: if you take your logic to its conclusion that we should not have these voluntary improvements in existing homes, you must then say that we should not mandate new designs for new homes to make them more energy efficient, because that just lets the polluters off the hook.

That is the important point. If you take it to the logical conclusion, that is where you end up. Then the minister goes on to say:

> In terms of the penalties going somewhere other than Consolidated Revenue, my view is that we will see very few penalties out of the scheme and I would hope that to be the case. The government is aiming to achieve not fines but outcomes.

I thank members for their contribution to the bill, and I guess we can discuss those issues further in committee.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. A. BRESSINGTON: I move:

Page 4, after line 3—Insert:

(11a) The Commission must establish a scheme for the use of any amount recovered as a shortfall penalty under this section for 1 or more of the following purposes:

(a) to assist persons who may have failed to benefit from activities relating to energy efficiency on account of any electricity retailer's energy efficiency shortfall;

(b) to support other programs or activities to promote or support energy efficiency or renewable energy initiatives within South Australian households.

I will speak to both my amendments, as they are consequential. They seek to establish a secondary scheme to the residential energy efficiency scheme, in which any moneys derived from the imposition of a shortfall penalty are, under the guise of the Essential Services Commission of South Australia, to be reinvested in renewable or energy efficiency initiatives as opposed to general revenue, as it is presently proposed. The residential energy efficiency scheme mandates that electricity and gas providers are to reduce greenhouse gases emitted by their consumers by supplying efficiency measures, such as providing ceiling insulation or halogen light bulbs.

A portion of these efficiency savings is to be targeted at low income households, defined as 'priority group households'. In addition, energy providers will be required to conduct a number of energy audits to priority groups. This scheme is meaningfully mandated by the fact that non-compliance will result in monetary penalty, known as a shortfall penalty. In drafting these amendments, I intended that money derived from shortfall penalties be reinvested with two priorities. The first would be those consumers who fail to see a benefit due to the non-compliance of their energy provider. This is self-evident. The second would be those priority group consumers who have had an energy audit conducted and had significant issues identified, but not had those issues addressed by their energy provider as part of the REES scheme.

Due to much of the REES scheme being governed by regulation, unfortunately only the first can be included in the bill without significant amendments being made. However, it is hoped that if this amendment gains the support of the majority of members this second intention will be reflected in the regulations. In addition to these two priority groups, my amendment provides a broad discretion to the Essential Services Commission of South Australia to reinvest money collected in any program or activity that promotes energy efficiency or renewable energy initiatives in households, which is quite simply a much more fitting outcome than swelling the coffers. I commend these amendments to members and am hopeful of their support.

The Hon. P. HOLLOWAY: As I indicated in my second reading response, the government opposes the amendment because we do not expect that there will be any income by way of these penalties because they are so severe and the whole purpose of having these penalties is to try to ensure retailers conduct the audits as required. The dilemma is that, if we pass these amendments, even though no revenue may be going into those schemes, as we hope would be the case because the companies have complied, they would then still have to meet the set-up, administrative and reporting costs, which would be passed on to consumers, of the type of scheme envisaged by the amendment. Essentially that is why we would oppose this, because it would add to these administrative costs, even though no money may be coming in. We hope there would be no money coming in because of the size of the monetary penalty that would be incurred, and the reputation and commercial risks associated with not complying with the REES scheme are a very considerable deterrent.

As it is designed, we expect few penalties, if any, to be incurred. Therefore, this is not about raising money but about trying to put sufficient deterrent into the scheme so that the retailers will meet their obligations in terms of the number of audits they undertake. For those reasons, the government opposes the amendment.

The Hon. M. PARNELL: I accept what the minister says in relation to the purpose of the penalty being a deterrent. I hope he is right, but I accept what he is saying is that, if the scheme is successful, there will be very little or no money recovered through these penalties. What flows from that is the government will not be budgeting for it. There will not be a budget line item in the same way that you could budget for speeding fines, because we know how many there are likely to be in a year.

The Hon. S.G. Wade: Then we get a windfall.

The Hon. M. PARNELL: The budget line would be zero. As the Hon. Stephen Wade says, any penalty that does come into this scheme is a windfall and therefore it will be a pleasure to someone to have to work out what to do with it. As the scheme currently exists, basically it would

go into consolidated revenue. The Hon. Ann Bressington's amendment, as I understand it, basically says that, if any money comes in through the payment of a penalty, it should be directed back towards the objective of the legislation, which is to encourage energy efficiency.

Looking at the honourable member's amendment, paragraphs (a) and (b) identify the two ways these funds could be directed. I can see some difficulties with paragraph (a), which is 'to assist persons who may have failed to benefit from activities relating to energy efficiency on account of any electricity retailer's energy efficiency shortfall'. I can see a difficulty in identifying real people who might have missed out, but I do not think that is fatal to the amendment because paragraph (b) is the catch-all. Basically it says that, if any money comes in, it can be used to support other programs or activities which promote energy efficiency or renewable energy.

It seems to me to be a reasonable amendment. However, one thing the minister said is that the money that comes in (which may be very little) will not be enough necessarily to even support the scheme. In the minister's answer, is he talking about the REES scheme or is he talking about the scheme that the honourable member's amendment says must be established, because the way I read the honourable member's amendment the commission must establish a scheme. I would have thought that the scheme could consist of as little as a letter saying, 'If we get a windfall of money, this committee will be established to work out how to spend it.'

It is not necessarily a scheme in the sense of having a dedicated unit that is engaged in thinking about it. It would not even come into existence unless a bucket of money appeared because someone had to pay their shortfall profit. Will the minister clarify what dangers he sees in terms of the money coming in not being enough to pay for the scheme? If he meant the REES scheme, is it the government's intention to fund the REES scheme through penalties?

The Hon. P. HOLLOWAY: No, I was referring to the scheme that would be established if this amendment were to get up, which would be a scheme for the use of any amount recovered. Clearly, you would have to set up accounts. You would have to dedicate members of the staff for that purpose. You would have to account for it properly in some way in terms of statements to treasury and the like. Even if it did have a zero amount, you would still have some administrative costs involved in reporting and accounting for it all. That is really the point that I was making.

The Hon. M. PARNELL: I thank the minister for his answer. I am not convinced that there would be a standing cost that would be prohibitive. Let us say a sum of $50,000 came into the system. Basically, you would pull together a team of people appropriate to dispense $50,000—and you would not spend $50,000 on the salaries of the people whose job it was to work out how to spend it because that would be inefficient government. I will not drag things on, but my inclination is to support the honourable member's amendment.

The Hon. P. HOLLOWAY: The point is that, once you have the money, obviously you have to develop criteria on how to spend it. The commission would have to dedicate resources not only to defining an account into which you put the money but also procedures, if you did get any money, about how you would have to spend it. These things do require significant resources. You only have to look at the number of funds we have in government to understand that, whenever any money is dedicated through legislation, it has to be accounted for separately and audited, and procedures have to be in place for both the receipt of the money and also the expenditure of it—and that is appropriate.

I think it is understood that, once you have any fund, you do need to have proper accounting, auditing, a receipt trail and so on. It does have a cost associated with it. The point is that, if the whole purpose of the scheme is to have sufficient deterrent that retailers will not pay a penalty because they will abide by their obligations, you are setting up a reporting scheme which may have no function but which will still have costs associated with it. That is the point the government makes.

The Hon. A. BRESSINGTON: I make the point that, if there are no penalties, there is no fund or administration. However, some of the shortfall deterrents, as I understand it, could be up to $1 million.

It would take one shortfall payment to establish quite a significant fund toward promoting renewable energy and energy efficiency. I think that, as the Hon. Mark Parnell said, there should be a committee to dispense those funds in the most efficient way. That would probably make consumers of electricity feel a little more confident knowing that prices of electricity are going to rise, as the Hon. Dennis Hood indicated in his contribution. It is a given. I think that people would

like to see some level of government accountability for these schemes that are set up to ensure that the taxpayers are not the only people wearing the burden for this.

We talk about these specific funds, but we had the fund for the River Murray, which had quite a significant amount of money in it, and I understand (and I stand to be corrected on this) that no-one is really quite sure where that money went. I do not believe that it is not possible. If the taxpayers of South Australia can see that government is prepared to put back in and share some of the burden of these initiatives to get greener and to reduce greenhouse emissions, it is basically an act of faith on the part of this parliament.

The Hon. P. HOLLOWAY: I understand the point the honourable member is making. Incidentally, the maximum penalty, I suppose, could be anything up to $5 million if it involved a retailer such as AGL doing absolutely nothing. However, I think that in terms of the commercial risk the reputation penalty would be so huge that its backers would be very nervous indeed if it were just to thumb its nose at the provision—apart from the penalty. In any case, the honourable member needs to understand that there is a make-good provision in here, so that, in terms of addressing any deficiency of action, they must undertake the energy audits within the next year. In a sense, that has been addressed. Anyway, again, I can only reiterate the government's point.

The Hon. J.M.A. LENSINK: I indicated in my second reading contribution that we would be supporting this amendment and, indeed, it was flagged by our energy spokesman, the member for MacKillop, Mitch Williams. I think that part of the rationale is that this could potentially be a nice little earner for the government, quite frankly, and we are a little suspicious about what those funds might go to. We think they should be clearly targeted towards things of similar merit.

The Hon. D.G.E. HOOD: Family First is not one to support anything that creates an impost on business. However, in this case, I think that the Hon. Ann Bressington has a point, namely, that if there are no fines, there is no administration and, therefore, there is no cost. From that perspective, I cannot see that it is an impost at all, and for that reason we are inclined to support the amendment.

The Hon. P. HOLLOWAY: I make the point that the legislation says that the commission must establish a scheme. The point is that you must establish a scheme even if there is no income. I suppose that, if there is no income, it may not involve a lot of resources in terms of processing but, presumably, you must still create an account at the bank because you are required to do so by this provision.

Amendment carried; clause as amended passed.

Clause 5.

The Hon. A. BRESSINGTON: I move.

Page 5, after line 36—Insert:

(11a) The commission must establish a scheme for the use of any amount recovered as a shortfall penalty under this section for one or more of the following purposes:

(a) to assist persons who may have failed to benefit from activities relating to energy efficiency on account of any gas retailer's energy efficiency shortfall;

(b) to support other programs or activities to promote or support energy efficiency or renewable energy initiatives within South Australian households.

The explanation for this amendment is the same as for my previous amendment. I will not take any more time with that.

The Hon. P. HOLLOWAY: The government's position is the same as with the previous amendment, so I will not repeat all the arguments. I assume that the votes will be the same way, so at this late stage we will not bother dividing.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

[Sitting suspended from 18:00 to 19:48]

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 26 March 2009. Page 1803.)

Clause 11.

The Hon. G.E. GAGO: I have some answers to some of the questions that have been asked in the committee the stage thus far. Perhaps I will put the responses on the record at this point. The Hon. Mr Lawson noted that the state government is a major provider of employment, education and housing. He noted that the Equal Opportunity Act binds the Crown. He asked whether the act has significant application in relation to discriminatory practices in respect of employment, education and housing which apply to the state government but which do not apply to the state government under the relevant commonwealth legislation. I believe that he was actually asking about the extent to which the commonwealth law now binds the Crown in right of South Australia and whether we are exposing the state to new obligations.

It is fair to say that these amendments would impose some new obligations on the state government in its provision of housing or education, just as they would on the private sector. An example is the proposed new obligation not to discriminate on the grounds of caring responsibilities. Another is a proposed new obligation not to discriminate on the grounds of the identity of a person's spouse or domestic partner. However, all the existing provisions of the act already apply to the Crown.

The question of how far the commonwealth's anti-discrimination laws bind the Crown in right of the states is a complex constitutional question, I have been advised. What one can say is that they purport to do so. The Racial Discrimination Act, the Disability Discrimination Act and the Age Discrimination Act of the commonwealth all expressly provide that they bind the Crown in right of the states. Indeed, the Disability Discrimination Act expressly refers to services provided by state governments, among the services to which the act applies.

Section 31 of the act expressly provides for the commonwealth minister to promulgate disability standards that will apply to transport, accommodation and educational services provided by the state or an instrumentality of the state. Doubtless, reliance is placed on the external affairs power to achieve these results as these acts seek to carry out Australia's international obligations under various treaties and declarations—whether and how far this result is achieved is a matter for judicial decision.

Secondly, the Hon. Mr Wade asked whether the commonwealth bill included a definition of the word 'act' similar to that proposed to be inserted here. On clarification, his reference to the commonwealth bill was intended to refer to the various commonwealth acts concerned with equal opportunity. I confirm that none of those acts includes a definition stating that the act includes an omission.

Thirdly, the Hon. Mr Wade asked whether, if interstate medical practitioners are entitled to practise here, the definition of 'medical practitioner' should be broadened. At present there is no automatic recognition of interstate medical practitioners, and to be entitled to practise medicine here the practitioner must be on the South Australian register. If the situation changes in future there may need to be consequential amendments to several of our laws, including, obviously, this one.

Fourthly, the Hon. Mr Wade asked about the definition of 'race'. He wished to know whether the inclusion of the expression 'nationality current, past or proposed' was derived from the commonwealth law. The answer, I have been advised, is no. Nationality per se is not expressly mentioned in the commonwealth Racial Discrimination Act and speaks instead of national or ethnic origin. Nationality has, however, always been expressly referred to in our act.

The amendment to the definition in this legislation is simply to separate out 'race of an associate', which is to be dealt with separately. The Hon. Mr Hood asked who made submissions to the framework paper published in 2003. I am advised that there were hundreds of submissions. The overwhelming majority of submissions came from private, individual South Australians, but some 60 or more came from either non-government organisations or from government agencies. I do not propose to read into the record the names of the many people and groups who made submissions. I do not think that those individuals would appreciate necessarily being named in this

place. However, if the honourable member believes that he needs to see these, he is obviously entitled to exercise his rights under the Freedom of Information Act.

Clause passed.

New clause 11A.

The Hon. S.G. WADE: I move:

Page 8, after line 36—After clause 11 insert:

11A—Amendment of section 26—Tribunal may not award costs except in certain circumstances.

Section 26(1)—after paragraph (b) insert:

(c) if in the opinion of the tribunal there are other good reasons for doing so.

The opposition has a range of amendments and this is the first one which seeks to promote equity in the equal opportunities jurisdiction and also to contain the cost of justice. My amendment No. 2 proposes to expand the tribunal discretion in awarding costs. Currently costs can be awarded only if, in the view of the tribunal, actions are frivolous, vexatious or for the purpose of delay or obstruction. We believe it is appropriate to expand those grounds to include a general provision if, in the opinion of the tribunal, there are other good reasons for doing so. The presence of a general power in our view would help maintain a discipline amongst the parties.

I appreciate that normally the balance of power in a case will be with the respondent, and often that will be an employer dealing with a complaint from an employee. However, I would stress to the committee that the amendment is at the discretion of the tribunal, and it is for the tribunal to determine in all the circumstances whether there are good reasons for awarding costs to another party.

The Hon. G.E. GAGO: The government opposes this amendment, which proposes to add to the situations in which the tribunal may award costs against a party. At present, they are very limited. The current law permits the tribunal to award costs only if the case is found to be frivolous or vexatious, or where it was brought for the purposes of delay or obstruction, otherwise each party will bear his or her own costs.

The amendment proposes that the tribunal should also be able to award costs where there are other good reasons for doing so. No guidance is offered to the tribunal about what might qualify as good reasons, but perhaps the provision will take colour from the foregoing criteria so that it expands the cases where the tribunal will award costs because of abuse of process. Alternatively, however, it might be read as a general power to award costs at the tribunal's discretion, and it might take some time before it becomes clear how the tribunal would actually use that new power. So, the amendment would create some uncertainty for parties, at least initially.

The government, as I said, opposes the amendment. The reason the tribunal is in general a no-cost jurisdiction is that proceedings are brought before the tribunal to vindicate people's human rights. By bringing a complaint, a person is not only seeking a remedy for himself or herself but is also seeking to have the tribunal examine an alleged unlawful practice which, if the allegations are well founded, will affect the rights of other employees, students, customers or tenants. For instance, if an employer is unlawfully taking into account the race of a prospective employee, that potentially affects all applicants of that race. The aim of the proceedings is, as much as anything, to get an unlawful practice corrected. There is, then, a public interest in the bringing of a justified complaint.

There is, of course, no public interest in the bringing of a vexatious or frivolous complaint or a complaint intended to obstruct or delay other lawful processes, and the act already provides protection in that regard. The government is concerned that this provision would effectively deter any complainant, even one who has a deserving case, from bringing a complaint before the tribunal. How many complainants will take even a small risk of bearing their employer's costs or the costs of a large trader? The effect of the amendment, whether or not it is intended, may very well be that no-one, or very few, will bring a complaint because the risk of bearing costs weighs more heavily with the complainant than the injustice that he or she has suffered. The government does not believe this provision is necessary or fair and, therefore, opposes the amendment.

The Hon. S.G. WADE: I will respond to some of the comments the minister has made about my amendment. The minister says the term 'good reasons' lacks clarity. That is true of most legislation until it is tried in the courts. In terms of the issue of public interest, the tribunal can consider that in its discretion.

I would encourage the committee to see this clause in the context of the range of other amendments. In the context of the other amendments we are seeking to contain the costs, so the disincentive will be reduced by the fact that there will be fewer legal practitioners involved and fewer costs involved. So, I believe that in the hands of a tribunal which, clearly, the parliament has entrusted with the jurisdiction, this provision merely gives the tribunal increased scope to promote equity in its jurisdiction and not merely limit it to frivolous and vexatious.

In response to the minister's comment about abuse of power, that is exactly the sort of situation we believe is a good reason that is not covered currently. By implication, the minister saw the value of an expansion, and I put it to the committee that we can trust the tribunal to be the custodian of public interests in its own jurisdiction.

The Hon. M. PARNELL: The Greens do not support this amendment. I have spent a fair bit of my career trying to help people with public interest cases, and one of the biggest disincentives to anyone seeking to exercise their rights is the risk that they will have costs awarded against them if they lose.

People have come to me as a lawyer with superb cases, excellent cases, where I think that it is a lay-down misère that they will win, and yet they have not exercised their right. They have not tested the facts or the law because of a remote chance that they might have costs awarded against them.

I am satisfied that a frivolous and vexatious test is sufficient to keep meddlesome busybodies out of the courts, and I am not satisfied that the words in the proposed amendment would give any comfort to people. The words are: 'including other good reasons for awarding costs'. In any system where lawyers are involved, the tradition has always been that costs follow the event, which means that, if you lose, you pay the other side's costs. When lawyers are interpreting 'other good reasons', a good reason might be, 'You lost; therefore, costs follow the event. Therefore, even though you had a reasonable case, you didn't win, and costs will be ordered against you.'

Whilst I accept what the honourable member is trying to do, and I accept that he has other amendments which do seek to keep down overall costs—and we will look at those when we get to them—for now, I am not inclined to support the honourable member's amendment.

The Hon. D.G.E. HOOD: Family First will be supporting the opposition's amendment. I think the reason has been put very succinctly by the Hon. Mr Wade himself. Quite simply, if we look at the wording of the amendment, which provides, 'if in the opinion of the tribunal there are other good reasons for doing so', the minister can outline a number of scenarios where the worst case could happen.

However, this is really just a fail-safe clause for the tribunal. If, for example, the tribunal has somebody who is clearly lodging a vexatious claim—they have done so on a number of occasions—then it is appropriate that the tribunal has as a last resort option the means to award costs in those sorts of rare, exceptional cases—and I think they would be extremely rare. For that reason, we will support the amendment.

The committee divided on the new clause:

AYES (11)

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G. (teller)	

NOES (10)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Winderlich, D.N.	Wortley, R.P.
Zollo, C.		

Majority of 1 for the ayes.

New clause thus inserted.

Clauses 12 to 17 passed.

Clause 18.

The Hon. S.G. WADE: My question relates to clause 18(1). My understanding is that new section 34 will replace a provision in the principal act that exempts employment in a private household, and I would like to explore with the minister the implications of moving away from a private household provision to the current arrangement.

My understanding from contributions from the government to this point is that the government has done this to try to cater for the development in employment relationships such as contractors. However, my concern is that, in doing so, we may well have created problems particularly for people with a disability who are living in what is, in effect, a private household but who may well need to engage private contractors and so forth. Their private household might well be managed by a non-government organisation or, for that matter, a government organisation.

A community house might have six people with a disability. My concern is that, by trying to update the legislation for the development of employment relationships, we may well have put people with a disability in the situation where they lose the choice over who they live with and who enters their home, while we are not taking that opportunity away from other South Australians.

The Hon. G.E. GAGO: The advice that I have received is that, no, that is not the effect that this provision will have. We have replaced a private household exception with an exception that relates to someone employed and engaging someone for the purposes not connected in a business. So, if you are running a business from your home and engaging people, you are not exempt. You cannot discriminate if you are running a business from your home. However, if you are engaging someone from your home for the purposes of, say, tutoring your child, learning to play tennis or assisting with caring in terms of a disability, you are exempt and you will be able to discriminate.

The Hon. D.G.E. HOOD: I move:

Page 11—

Line 20 [clause 18, inserted section 34 (3)]—After 'educational' insert 'or other'

Line 21 [clause 18, inserted section 34(3)(a)]—After 'educational' insert 'or other'

Line 25 [clause 18, inserted section 34(3)(b)]—Delete 'educational'

Amendments Nos 2, 3 and 4 are all related, so 3 and 4 are consequential to this amendment I am moving now. Together, they are contingent with amendments Nos 6 and 7. They essentially expand the protection which is outlined in the bill and which currently includes educational institutions, giving them the freedom or the right, if you like, to employ or not employ people with a lifestyle that is in keeping with the religious ethos of that particular institution. It simply inserts the words 'or other' after the words 'educational', so that would mean that the protection would be expanded from schools to other institutions where appropriate.

The reason for this amendment is that we were lobbied quite extensively by a number of groups that thought this would impact negatively upon them. There were numerous groups, and I have an email from the managing director of one in particular—a Christian bookstore called Koorong. I do not know whether people are familiar with it, but they have a fairly large bookstore in the city, not too far at all from this place. I will read the brief email from the managing director:

> Koorong is a Christian bookstore whose primary purpose is to support the church and promote the Christian faith. We are concerned about the potential negative impact of the proposed bill on our business. We would like to propose that amendments be made to exclude businesses like Koorong from the scope of this legislation. Your support in seeking these amendments will be appreciated.

That facilitated our discussions and eventually resulted in this amendment.

In short, those bookstores and other institutions that are not necessarily schools would like to be able to continue to decide who they do and do not hire; that is, to have that religious protection that this bill allows for schools. It would not be just bookstores, of course. I am thinking of organisations such as the Festival of Light, to use an example that people in this place may well know of. I do not see how it will be of any benefit or how it will create any sense of equality for them if they are forced to hire people living a lifestyle that they do not see eye-to-eye with and do not want working in their place.

This amendment would protect those organisations, which are numerous and typically (although not always) very small. The Koorong bookstore is quite a large business—I understand it employs roughly 50 or 60 people—and has been there for many years. In conversations I have had with representatives from these places they have said things along the lines that if that protection is not preserved for their business or organisation, whatever it might be, it could potentially have serious detrimental effects.

So I move the amendment which, as I said, is a test for the next few. If it passes it would continue the current situation, and the question has to be asked: if we are to change the current situation, as proposed by the bill, what is the great need? What damage is being done out there at the moment by the law as it currently stands? My amendments seek to preserve the status quo—essentially, they leave the law exactly as it is now.

The Hon. G.E. GAGO: These amendments together propose to permit any religious institution to discriminate in employment on the grounds of chosen gender or sexuality. The present law allows such discrimination but, as far as the government has been able to discover, most of the institutions presently able to use this exemption do not, in fact, do so. We have not had representations from hospitals, for example, seeking to discriminate against homosexual doctors; we have not had aged care organisations seeking to turn away homosexual care staff; we do not have major church-run welfare organisations, sizeable employers though they are, asking to discriminate against these people. To the best of my knowledge, no-one else is asking us to do this.

Many, if not most, faith-based institutions find it in their hearts and creeds to treat people equally. However, there remain some who hold, as an article of faith, that they must turn these people away, and this amendment seeks to cater to them. The government accepts that these people are sincere in their beliefs but thinks that this exemption should be kept as narrow as possible and so cannot support that amendment. The government has been willing to compromise for religious schools because our consultation and ongoing conversations have informed us that religious schools want to be able to discriminate on the basis of chosen gender or sexuality; however, the government will not compromise any further on this particular issue.

I would like to ask members to consider the following scenario. There are many religious non-government organisations—aged care services, disability services, gambling hotlines, goodwill stores, loss and grief centres, gambling support, respite services, the Memorial and Calvary hospitals—and all of these would be included. Let us imagine that we have a longstanding employee in one of these aged care homes, and let us imagine that that employee forms a relationship with a person of the same sex: is it fair that that employee should be forced to leave their job or be sacked? Do members really believe it is fair for prospective employees of religious institutions to be asked about their personal and private sexual preferences? The regulation-making powers of this act, section 106, already make provision for exemptions to be made for particular organisations from any provisions of the act. For example, it would be possible to use that power in section 106 to exempt a religious bookstore if they are able to make out a reasonable case. We believe that there are already provisions within the act to cater for those sorts of exceptions that the honourable member is referring to.

The Hon. I.K. HUNTER: Is the minister aware that the equivalent legislation in Tasmania has no exemptions at all for religious organisations, and does she know whether the lack of such an exemption has caused any religious bookshops, any nursing homes owned by religious institutions or any hospitals owned by religious institutions to close down or cease functioning?

The Hon. G.E. GAGO: No; to the best of my knowledge. I am aware of that provision and I am not aware of any closures or adverse impacts on those businesses.

The Hon. D.G.E. HOOD: I thank the minister for her response. I point out that the institution she outlined and the situation that could occur there is in respect of somebody who is attracted to the same sex and develops a relationship, so it is as the law currently stands, and that could happen right now. What I am proposing to do is just to maintain that situation. I am not proposing a change in anything other than what is currently happening now.

The Hon. S.G. WADE: I want to clarify the minister's comments early in her initial response to Mr Hood. She mentioned that the government had not received any request for an exemption in relation to this sort of situation. However, I am bemused because, considering there is an exemption there, why would people be asking for it?

The Hon. G.E. GAGO: What I was referring to was the fact that we have not received any lobbying from any of those organisations raising concerns that putting them back into this provision will have any adverse impact on them. I would have expected that if that were so we would have, at least, heard from somebody.

The Hon. S.G. WADE: In relation to the minister's comments about the section 106 regulation-making power, will the minister clarify whether the government would be favourably disposed to an approach from an organisation such as Koorong Books or any other Christian bookshops? Presumably, the regulation-making power would be exercised as a class. Is the government inclined to make such a regulation?

The Hon. G.E. GAGO: It is a provision there outlined in the act. Such an application would have to be considered on its merits.

The Hon. R.D. LAWSON: Can the minister provide the committee with some examples or incidents of discrimination against people on the ground of chosen gender or sexuality in church-run welfare agencies, Christian bookshops, church-run aged care facilities or hospitals?

The Hon. G.E. GAGO: I am unaware of any; however, given that currently they have no form of redress, because they have no rights, if they are discriminated against we would not expect to know about it.

The Hon. DAVID WINDERLICH: The Democrats will be opposing this amendment. I think it is ironic that this amendment seeks to do what generally progressives and people of the left inclination are accused of doing, and that is social engineering. The equal opportunity bill we have in front of us is basically seeking to create one law for all. What is being attempted to be achieved through these sorts of amendments is different laws for different groups.

Realistically, overtly gay and lesbian people, transsexuals and others will not flock into Christian bookshops if there is no law giving Christian bookshops special exemptions from hiring them. If we have one law for all, as far as possible, things generally sort themselves out. People will not go to work where they are not welcome. What we are doing here is arguing about whether we are going to have one law for all, as far as possible, or social engineering with different provisions for different groups. I thought that was generally what the conservative side of politics tended to favour: one law for all.

The Hon. A. BRESSINGTON: I also rise to indicate that I will not be supporting this amendment, either. I would like to refresh members' memory in relation to an example I used in my second reading speech, involving a 45 year old teacher who had previously been in a heterosexual relationship. This person, who was married with two children, came to the realisation that she was not suited to that particular sexual choice, and she is now in a lesbian relationship. She has been teaching in a school for about 22 years. Under this amendment, based strictly on the fact that she is now in a same-sex relationship, she could be dismissed, even though there have been no issues in relation to her conduct and no issues have been raised by parents about her teaching methods or the conversations she has with children.

On the surface, nothing has changed. However, if it were to come out that she is now in a same-sex relationship, that would be grounds for her dismissal. I do not see—and I do not see how other members could see—how that could be deemed to be fair and equitable for anyone.

The Hon. D.G.E. HOOD: I just want to reiterate that this amendment will change nothing; it will actually preserve the status quo. In relation to the example the Hon. Ms Bressington has just given, presumably that person could be dismissed under the current provisions. I understand that this person resides in another state.

The Hon. A. Bressington interjecting:

The Hon. D.G.E. HOOD: Yes. Essentially, my amendment leaves the law as it is; it is the government that is trying to change the law.

The CHAIRMAN: If the amendment leaves the law as it is, why move it?

The Hon. D.G.E. HOOD: Because they are trying to change it.

The Hon. S.G. WADE: I appreciate that we are discussing the amendment but, considering that the amendment is trying to negate the impact of the bill, I wonder whether I can get clarification, in relation to the fact that the bill does not include a prohibition on religious discrimination, as to whether a religious organisation—the Koorong bookstore, or whoever—could

discriminate against a person on the basis of their religion, using as a basis for forming their view about that person's religious status indicators such as sexuality, materialism, or whatever indicators they want to take from the precepts of their religion; and, therefore, even with the government's change, the basis of the discrimination would not, in fact, be sexuality; it would be religion.

The Hon. G.E. GAGO: The short answer is no. The question would be whether these people are treated less favourably on the grounds of sexuality. If sexuality had been the grounds for the decision, that is discrimination.

The Hon. S.G. WADE: The ground for the decision was religion, but the facts supporting it, or the indicators towards the view being formed, were that sexuality, materialism or any other act within that person's lifestyle was indicative of their religion.

The CHAIRMAN: I remind members that we are discussing the Hon. Mr Hood's amendments. Perhaps the questions should be directed to the Hon. Mr Hood.

The Hon. G.E. GAGO: I have been advised that it will be a question of fact for the tribunal in terms of what the grounds of the decision are.

The Hon. M. PARNELL: For the record, the Greens will be opposing this and related amendments. I have already said that I think the government has gone too far already in providing the exemptions that it has for church schools, and the last thing I want to see is any further ground given. I see no grounds in any area of society—whether it be church schools, bookshops or any field of employment, accommodation or anything—to discriminate against people on the grounds of their sexuality, their chosen gender or any of the other related terms that relate to a person's sexual preference. So, I think the government has already gone too far, but I understand why it has done that. I certainly do not want to see the exemption extended any further.

The committee divided on the amendments:

AYES (4)

Brokenshire, R.L.	Hood, D.G.E. (teller)	Schaefer, C.V.
Stephens, T.J.		

NOES (17)

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

Majority of 13 for the noes.

Amendments thus negatived.

The Hon. S.G. WADE: I draw the minister's attention to the phrases 'educational institution' and 'educational authority' in subclauses (3)(a) and (3)(b) respectively. Would the minister explain why different terms have been used?

The Hon. G.E. GAGO: I have been advised that the distinction between 'institution' and 'authority' has always been in the act. I have been advised that we are not aware of any decision on the meaning in terms of a distinction between the two, so they would have their natural meaning. Therefore, 'authority' is likely to mean the governing body and 'institution' is likely to mean the organisation that actually carries that out, but if, ultimately, one day a decision was made then it would depend on that decision.

The Hon. S.G. WADE: Could I ask a question then as to how the government might anticipate that an independent school, a freestanding school, might be dealt with? There is a whole stream in the Christian education movement called Christian parent-controlled schools, which present themselves as autonomous schools. In that context, and considering that they are non-systemic, would the educational authority be the governing body of such a freestanding school?

The Hon. G.E. GAGO: I have been advised that that would seem to be a reasonable interpretation.

The Hon. D.G.E. HOOD: I move:

Page 11, lines 28 and 29 [clause 18, inserted section 34(3)(c)]—Delete paragraph (c)

This is a whole new issue, if you like, and that is with respect to the faith-based schools, which would include not only Christian schools but also Muslim or Buddhist schools (or whatever it may be) being required, as proposed under the bill, to advertise their hiring policy on their website. I am seeking to delete paragraph (c), which provides:

(c) the policy is made available on the website of the educational institution (if it has a website);

My amendment seeks to delete that. Therefore, the school would simply have the hiring policy available on request. So, if someone rang up and said, 'I am thinking about applying for a position at your school; I'm just not sure what your hiring policy is,' that person could be sent a copy or go to the school and pick one up, or whatever the arrangements were, but the school would not be required to put its hiring policy on its website. The simple question is: why should the school have to put it on the website? What is the imperative that is driving that? It is not currently the case. My amendment really just preserves the current situation.

I should point out that Garry Le Duff, who heads the Association of Independent Schools of SA (I think most members in this chamber would be familiar with Garry), has sent me an email stating strongly that he opposes this provision in the bill, and is doing so on behalf of the independent schools association. In part, the email states:

Section 34(3)(c) requires educational institutions to make their policy relating to discrimination on the grounds of gender or sexuality in relation to employment or engagement available on their website. We are not aware of any other legislation that requires organisations to use their websites for such purposes. Some schools are concerned that this approach will subject their communities to abuse from others in the community. A more satisfactory approach would be to require the schools to provide a copy of the policy to prospective employees and contractors.

He went on to say:

I confirm that a very large number of schools within the independent sector are strongly opposed to the necessity to publish their employment policies as required by the EO bill on their websites.

This amendment is strongly supported by the independent schools association. It is very keen not to see paragraph (c) remain in the bill. My amendment simply removes it. So, schools would have to make their hiring policy available upon request but they would not be forced to put it on their website.

The problem is that, if they put it on their website, it is possible that they would be subject to some form of derision or potential negative reaction from the community (albeit a small number within the community, but it is possible). The question we have to ask ourselves is: do we want schools being subjected to that sort of thing? They should be getting on with the business of educating their students. I ask the committee to support my amendment, which preserves the status quo.

The Hon. S.G. WADE: The Liberal Party will be supporting this amendment for a number of reasons. First, as the Hon. Mr Hood mentioned, the current situation does not require schools to publish their policy. The government might suggest (I am not saying it has suggested this) that this promulgation of the policy is just consistent with technological developments. If that was the case, why has the government not also taken the opportunity, in clause 62 of this bill (which deals with sexual harassment), to require the schools to publish their sexual harassment policy on the web?

I remind the committee that clause 62 merely requires that they make it available to students. If students are the people most likely to access the web, they are the most likely to find that extra provision helpful. Also, clause 62 does not require them to make it available to the public. I note that the Hon. Mr Hood is not proposing to delete it, but subclause (3)(d)(iii) enhances this provision by requiring schools to make it available to the public. They are not being allowed to hide their policy. The government is not requiring other policies to be so vigorously promulgated, and that demonstrates the government's two-minded position on this exemption. On the one hand, a significant element of the government believes that this exemption should not be granted while, on the other hand, another portion wants to accept the pragmatic realities of the society in which we live. However, the government is being begrudging in this exemption and therefore wants to introduce an element of name and shame. We do not think that is appropriate. If the government

thinks this is an appropriate exemption in the bill, it should not put disincentives on people in accessing that exemption.

I reiterate the comments of Mr Hood briefly, as he put them well. These concerns go well beyond the faith community. It was made very clear to the opposition by the Independent Schools Association that a large number of schools that would have no intention of accessing this exemption do not welcome the government's requiring private schools, non-government schools, to publish their policies. Likewise, they did not appreciate the implied threats in previous statements of the government that, because they are publicly funded, they are expected to do what the government wishes. The Liberal Party will support the amendment.

The Hon. G.E. GAGO: The bill proposes that schools that intend to discriminate in employment on the ground of sexuality should have to make this fact known, not only to the school community but to anyone interested. That includes publishing the policy on the school's website, if it has one. This amendment would remove the requirement to publish that policy on a website. Apparently the member's concern is that people might criticise the school. Well, so they might. So what!

As the member said in his contribution to the second reading debate, our society is founded on the principle that we often do not agree and that we hold opinions in conflict. Indeed, one might argue that it is what has made our society so great. He warned us against censorship and encouraged the virtue of open disagreement. Does not that argument apply here? Why would a religious school that is sincere in its belief be shy or ashamed of publishing its policy? This is not about naming and shaming. Why would they be ashamed if they hold these principles to be so important and dear to their hearts?

The government's position is that if these are a school's sincere beliefs and it is offering education to South Australian children, the school should make its policy on this point public. Adding it to its website is obviously a cheap and efficient way of doing that. We therefore do not support the amendment. If schools are proud of their beliefs, as I understand they are, I fail to see why a school would not wish to make its policy publicly available.

On the issue of the further provisions in terms of making policy available to people, the bill does that but only to the people who ask for it, whereas this policy can quite clearly adversely affect the employment status of an individual. A person can actually be sacked if they are unaware of the policy. If they are employed by a school that does not make its policy clear during the interview and contract stage, and they are unaware of the policy, they could be employed and at a later date be sacked.

Further, as in the example of the Hon. Ann Bressington, a person might find further into their employment that they prefer a homosexual relationship after having had a heterosexual relationship, and that person could be sacked because of that. We very strongly oppose the amendment.

The Hon. A. BRESSINGTON: I also rise to indicate that I will not be supporting this amendment. I also make the point that publication of this policy has a different application as well. I have been approached by a number of parents—not a great number, but a number—whose teenage children had come out about the fact that they are homosexual and parents had decided that, in order to avoid these kids being bullied, harassed or given a hard time at school, they would put them into a Christian school because of the Christian values only to find that the independent schools and Christian schools are discriminating in this way against their students—and obviously would also discriminate against teachers—and those parents have regretted their decision to put their kids into these schools.

As I said, there have not been many parents but there have been some. The posting of this policy on a website would also be a very good indication to parents who are doing this for this reason as to whether it would be a productive and healthy move for their child to also know what the attitude of that particular school is towards same-sex individuals.

I will not spend too long on this but, as the minister said, if no shame is attached to this belief and if they are strong in their belief that their stand on this is correct, then there should be no shame attached to this at all. I wonder what would be made of a Muslim school, for example, being as outspoken as the Christian community has been about homosexuals and whether that would be seen in the same light as the situation being portrayed here tonight, or whether the Muslim schools and the Muslim community would literally be damned to hell for daring to have such an opinion as this, given the negative propaganda that is circulated about Muslim people over the internet. And

fair is fair: if they want to stand by this belief and they want to be able to discriminate against individuals, then I believe they should have the courage of their convictions to have it made available.

As far as inciting violence against schools and that sort of thing, I am sure that people have better things to do than run a protest outside an independent school, unless someone's life has already been adversely affected by this. The point I also made in my second reading contribution is that, if it is up there as a policy, chances are that lesbian people would know very well not to even bother applying for that position, and it could save them a great deal of time, effort and energy.

The Hon. M. PARNELL: This particular issue is probably the one on which I received the most communication—people urging me to support this particular amendment. However, it is probably fair to say that the people who contacted me on this wanted it to go even further and would have also wanted to remove the section that requires the policy to be made publicly available. I acknowledge that the amendment of the Hon. Dennis Hood does not go that far: it is only the website issues that he has looked at. The reasons that people gave when they wrote to me were similar to the ones that the honourable member has mentioned. It goes along the lines that, if people knew what we were like, if they knew what our policies were, they would think poorly of us. They would hold us in derision.

I do not think that any of them suggested physical violence or abuse, but, certainly, the thrust of the correspondence was, 'Our reputations would be diminished if people knew what we were really like.' I must say that my response was very like the minister's response, that is, when you hold views such as that and people find out those views they may well think poorly of you, and so be it. That is a natural consequence of holding policies such as that.

The clause, as well as the measure that provides for publication on the internet, also provides that a copy of the policy must be provided on request, free of charge, to other members of the public. At one level you could say, 'Well, it's only a matter of time before the website, homophobicschools.com.au is established and someone will write to every private, independent school in the state, determine what their policies are and put it on another website.' That is unsatisfactory. It is a one-stop shop, I suppose, if you wanted to find out the views of all schools, but schools can change their views over time. The school is in control of its own website, and, if a school's hiring and firing policies change, then it is their website that people should be able to go to, not rely on some third party campaigners to collect all that evidence together.

I will not be supporting the amendment. I know that it is not the minister's amendment, but one question that arises from this amendment is the consequence of failure to comply. There is no particular offence provision that I see. If, for example, a school does not put the policy on its website (if in fact that is how this act eventually becomes), or if they do not provide it on request to other members of the public, it would seem to me that the only consequence that flows from that is that they lose the right of exemption. They lose that right. In fact, if they were then to discriminate against someone who applied for a job or they tried to sack a staff member, the fact of their not having complied with this section or not having provided to a member of the public on demand a copy of their policy could make them in breach of the act.

The minister is nodding so I assume that is the response. No criminal penalty is required, but, if they do not comply they lose that right of exemption. I say that we should stick to our guns here and, having given this concession to them, we should make the schools stand up and be counted for their policies.

The Hon. G.E. GAGO: For the record, yes, the honourable member has answered his own question correctly.

The Hon. S.G. WADE: Almost in the nature of a supplementary, would the website need to have the policy on it at the time the person was employed, the time the act occurred or at the time the proceedings were instituted? It may be available on only one of three of those occasions?

The Hon. G.E. GAGO: I am advised that it would be at the time of the alleged act of discrimination.

The Hon. S.G. WADE: I merely note that the person may well have been employed with absolutely no knowledge of the school's policy.

The Hon. G.E. GAGO: Yes, and that is why I would urge people to make sure they ask for a copy of the policy before they accept employment.

The Hon. R.D. LAWSON: I mention the matter raised by the Hon. Ann Bressington and the parents who enrol their child at a school which was uncongenial to the child because the child was homosexual. As I understand, this particular provision relates only to employment within educational institutions and has no application in relation to the enrolment of students in educational systems. Am I correct in that?

The Hon. A. BRESSINGTON: The point I was making was that parents were unaware of the unfriendly attitude held within these schools towards people of same sex. It is well known that fish rot from the head down. Sorry, I cannot think of another way to put this. If there is discrimination at the top and it is known that same-sex people are unacceptable and outside the laws of Christ, or whatever it is, that will drift down to the students. I know of five kids who have gone through hell once they have enrolled at these schools. Their sexuality has been outed, if you like, and they have, literally in the schoolyard, been given a very hard time. The high suicide rate among these kids is extraordinary. If we can take any steps in this place to reduce the occurrence of that, the justification for that or the mixed messages for that, I say we are duty-bound to do so.

The Hon. D.G.E. HOOD: I have a final comment. I mentioned I had an email from Garry Le Duff saying the independent schools association is strongly opposed to this provision. I neglected to mention that I also have a letter from Lindsay Francis, who is the executive officer for South Australia of the Christian schools association, and he expresses similar views. It is quite a long letter but, to take one sentence, it states:

> The requirement to publish a written policy—

on the internet, he means, and he says that earlier—

> by faith-based schools is unnecessary, onerous and should be removed.

I remind the chamber that my amendment is about how that policy should be available. If this amendment passes, in very simple terms, the schools will not be required to publish their hiring policy on the internet, but they will be required to have it available on request. That is the difference. Is it on the internet or is it not on the internet? That is the only thing this amendment is about.

Can I also say something that has not yet been mentioned—or, if it has, I missed it. This is the only policy in this bill, as far as I am aware, that the government is requiring to be published on the internet. Of course, the question needs to be asked: why is it different from any other policy? I think the minister attempted to answer that in her summing up of the second reading. Basically, if you support this amendment then the hiring policy will not be on the internet; if you do not support this amendment, the policy will be on the internet.

The Hon. G.E. GAGO: On the question of why we are asking for the unusual practice of having this policy published on the internet, to the best of my knowledge it is the only policy I am aware of that we are requiring (there may be others, but I am not sure). The reason is that we are allowing discrimination to occur. We are permitting people's rights to be taken away, and that is indeed a very precious thing. I believe it is reasonable, and it is not onerous, in the taking of people's rights for at least that to be published, to be made public so that people are aware of it.

The Hon. S.G. WADE: I would like to respond to the minister's last comment. She said the reason this policy needs to be published is that it takes away people's rights. I refer the minister to the next clause, clause 19, which also takes away people's rights. By analogy, the argument that she is putting is not consistent with other provisions in this bill.

The CHAIRMAN: We will get to clause 19 after clause 18.

The Hon. S.G. WADE: All I am saying is that the minister is not correct in saying that this policy needs to be published on the website because it is the only one that takes away people's rights. There are other clauses in the bill that also do that, and they are not required to be on the website.

The Hon. A. BRESSINGTON: I would like to ask the Hon. Dennis Hood a question about the posting of this policy. In Queensland and Tasmania, there is not this kind of discrimination; is that right? I will ask that of the minister.

The CHAIRMAN: I think that has been answered. The Tasmanian part of it has.

The Hon. A. BRESSINGTON: My question to the Hon. Dennis Hood is: for example, if a teacher moves from Queensland to South Australia and is not aware that our equal opportunity bill

allows for this kind of discrimination, and it is not posted on the website, and they apply to one of these schools for a job and are hired but do not know to ask for the policy, if then they are employed and their sexuality is exposed, they can be fired. That could be a very good reason for having that particular policy posted, seeing that it is so different in South Australia. People coming from interstate and applying for positions as teachers in private schools simply would not know to ask for the policy.

The Hon. D.G.E. HOOD: I think the Hon. Ms Bressington makes a sound point. There could be some confusion for people coming from Tasmania, for example. I understand that it is only Tasmania that does not have those provisions. I guess a school could easily hide something on their website if they really wanted to, but that is not in keeping with the spirit of the law. Again, my amendment provides that, either way, the policy should be available. The question is whether it should be on the website or whether it should be available on request. That is the only difference here.

The CHAIRMAN: I am not going to prolong debate on this amendment much longer.

The Hon. R.D. LAWSON: The member might do me the courtesy of giving a reply to my question, which was—

The CHAIRMAN: Order!

The Hon. R.D. LAWSON: —does this clause have any application in relation to matters other than the employment of persons at education institutions?

The Hon. G.E. GAGO: Employment or engagement.

The committee divided on the amendment:

AYES (11)

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E. (teller)	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	

NOES (10)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Winderlich, D.N.	Wortley, R.P.
Zollo, C.		

Majority of 1 for the ayes.

Amendment thus carried.

The Hon. G.E. GAGO: I move:

Page 11, after line 29 [clause 18, inserted section 34(3)]—After paragraph (c) insert:

(ca) a copy of the policy is given to a person who is to be interviewed for or offered employment with the authority or a teacher who is to be offered engagement as a contract or by the authority; and

Parliamentary counsel will circulate a copy of this in a minute. It is a very simple, quite straightforward amendment. It would insert a paragraph providing that a copy of the policy is to be given to a person who is to be interviewed for or offered employment with the authority or to a teacher who is to be offered engagement as a contractor by the authority.

The effect is that it would require the school to give a copy of the policy to prospective employees. Rather than it being requested of the school, it would be a requirement of the school to provide it to prospective employees. This is a very straightforward, simple amendment.

We argued for (but lost) the requirement that a school publish on a website its policy in relation to sexuality. If members argued against that and if people are not prepared to have that policy published on a website, then, given that this is a policy position that does impact on the

contract position of a prospective employee or even a current employee, I believe that it should be incumbent upon the school to make very explicit its policy in terms of same-sex relationships.

I do not believe it is an onerous thing simply to be required to give a copy of the policy to a person who is to be interviewed for or offered employment with the authority or to a teacher who is to be offered engagement as a contractor by that authority.

The Hon. S.G. WADE: The opposition is more than happy to consider this amendment but non-government members of the chamber were only provided with the clause near the conclusion of the minister's remarks. I think it is unreasonable for us to be expected to consider this amendment on the run. I suggest to the minister that an appropriate course of action is either to report progress or—

The CHAIRMAN: Order! Independent members can speak for themselves.

The Hon. S.G. WADE: I am sorry. I was merely saying that the amendment had just been distributed.

The CHAIRMAN: Those members who are independent of the opposition can speak for themselves.

The Hon. S.G. WADE: Indeed, Mr Chairman. I would be extremely interested to know whether independent members got the amendment before opposition members, but I can assure the committee that opposition members were only provided with the amendment near the conclusion of the minister's remarks. In that context, speaking for opposition members only, I would put it that the view of opposition members is that it would be appropriate for the committee to report progress or, alternatively, for the clause to be recommitted.

The Hon. R.D. LAWSON: My question to the minister is: how is this different from the next clause that is already in her bill, which provides that a copy of the policy is to be provided free of charge to employees and contractors and prospective employees and contractors?

The Hon. G.E. GAGO: I believe that it is because it is only upon request. You are referring to the next provision where the policy is to be made available only upon request; whereas this amendment would require the provision of the policy to prospective employees rather than them having to request a copy.

The Hon. S.G. WADE: If it is therefore required, why would the person need to request?

The Hon. G.E. GAGO: The next provision allows for anyone who may or may not be considering, so they might not put in an application. It might, for instance, be a parent who is looking at enrolling their child as a student. The second provision provides for a much greater breadth, if you like, of people who might be interested in that particular policy. This provision ensures that prospective employees are made overtly aware of the policy of a school that could impact on their employment.

The Hon. R.D. LAWSON: What work does the next clause do? I assume this is included, that the prospective employee is actually given this. Then it goes on to say, 'A copy of it, on request, must be provided free of charge to prospective employees.' They already got it under the earlier clause.

The Hon. G.E. GAGO: It is only if they request it.

The Hon. R.D. LAWSON: What is the point of having to request it if they have been given it?

The Hon. M. PARNELL: There are two issues here. The first one is the general issue around amendments coming late in the piece. Normally, if they are of any complexity, we are reluctant to deal with them, but I do not see this one falling into that category. It seems pretty straightforward to me. I understand what it does. We are teasing out its meaning further through the questions that have been asked so far.

It seems to me that, even though it appears to have been prepared some hours ago, my guess is that it was perhaps being held in reserve to see what the fate of the website amendment was, in which case it would have perhaps been helpful if we had known earlier. It would not have affected my position on the earlier amendment but, in terms of this particular one, it seems to me that it does have work to do. I hear what the Hon. Robert Lawson says. Certainly, if you have asked for it and have been given it, I think that having to be given it again, you could say, 'Well, I've already got that.' I do not see that there is any great conflict.

It seems to me that it would overcome the dangers of the type that the Hon. Ann Bressington talked about, where a person coming from a non-discriminatory state does not realise that it is not just your fruit that you have to put in the bin when you cross the state border but other things as well. I can imagine a person who had perhaps relocated from another state only to find out a month into their job that their employer has a policy that they were not aware of, that they were not told about or that they did not think to ask, because it is not the way they do things back in their state and, all of a sudden, they are out of work.

So, great harm can be prevented by this very mild amendment, which is basically the package of materials that prospective employees are given—the various policies around the school; it may be their disciplinary policies, all sorts of things. The employment policy in relation to sexuality forms part of that package of measures.

The Hon. R.I. LUCAS: I would like to raise a general principle in relation to this issue. After the opportunity to consult it may be a provision that I am personally prepared to support, but this particular issue has been a party vote for the Liberal Party (as opposed to others, which have been conscience votes) and, clearly, as a party we have not had the opportunity to discuss this with our shadow minister who has responsibility for the legislation. This amendment was prepared no later than 4.30 this afternoon (the timing printed on it is 4.27pm), so it was done quite some time ago but has not been provided to members.

I think the position put by the Hon. Mr Wade is entirely reasonable, and that is that we are in a position where at least one other clause has to be recommitted at the end of the committee stage of the bill. So, we will go through the whole committee stage and then have to go back to, I think, clause 10 and recommit it. It seems not unreasonable to propose that we put this clause 18 on recommittal along with clause 10, and any other we may seek to have recommitted.

In the end, the committee may decide not to do that or not to report progress to allow us to consult with our shadow minister and other colleagues and for someone to touch base with individual groups that have been advocating passionately on this issue. I think the Hon. Mr Parnell even indicated that this particular issue of the legislation was the one upon which he had received the most lobbying, which surprised me. That seems an extraordinary proposition, but I do not disbelieve the honourable member. So it is an issue which is not insignificant to a large number of people, whichever way we end up voting.

In the end, if the committee chooses to bludgeon its way through by saying, 'Okay, the government has pulled it out of its back pocket and we are now going to force a vote on it', then let the government beware, because two can play that game. In committee stages in the future, when it may not be convenient to the government, if a majority of members of the committee want to pull an amendment out of their back pocket and bludgeon that through the committee stage whilst it is being debated, then so be it. That has not been the convention or the way the committee stage generally operates—

The Hon. B.V. Finnigan: You follow the conventions so scrupulously.

The Hon. R.I. LUCAS: I am delighted that the Hon. Mr Finnigan acknowledges that I follow conventions so scrupulously, and I would like that acknowledgement on the *Hansard* record. I thank the Hon. Mr Finnigan for acknowledging that; I think it is a fair comment, even though it was an interjection and so out of order.

Having had a quick look at it, I believe it is something that, if we had the opportunity to discuss it in the party room, I may be prepared to support, but I would like to hear from the shadow minister and from the individual groups who have lobbied on this particular issue. All that can be done, albeit quickly, tonight or tomorrow morning, and this particular aspect of the legislation can then be resolved on recommittal at the end of the committee stage.

The Hon. G.E. GAGO: We have a great deal of work ahead of us and there are a lot of very important issues that we have to address this evening. I believe that I am not able to recommit this amendment once it has been put, so I seek leave to withdraw the amendment and put honourable members on notice that I will then recommit it at a later stage. I understand I need to withdraw it at this point but will recommit it, so everyone can relax and we can move on and get some work done.

Leave granted; amendment withdrawn; clause as amended passed.

Clause 19 passed.

Clause 20.

The Hon. S.G. WADE: This clause repeals section 35A of the principal act. I ask the minister why section 35A was needed before but is not needed now. What is the implication of deleting it?

The Hon. G.E. GAGO: The clause just passed makes it generally unlawful for associations to discriminate on the grounds of sexuality. Therefore, section 35A is not needed because that section forbids trade unions and employer bodies from discrimination. The current provision states that no-one is allowed to discriminate; therefore, section 35A is not needed.

Clause passed.

Clauses 21 to 24 passed.

Clause 25.

The Hon. D.G.E. HOOD: I move:

Page 13, after line 13—Before the present contents of clause 25 (to be designated as subclause (2)) insert:

(1) Section 50(1)—after paragraph (b) insert:

(ba) the administration of a body established for religious purposes in accordance with the precepts of that religion; or

This is a very simple amendment; it just moves a section currently within the bill to another place, if you like. We have done that because the minister made some remarks in her summing up which were very helpful. I will quote from that and then explain why we are putting forward this amendment. In her remarks of a few weeks ago, the minister said:

> It may be helpful if I also point out that the bill does not affect the existing immunity that protects any practice of a 'body established for religious purposes' if the practice either conforms to the precepts of the religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion. I refer to section 50(1)(c). A church would clearly be a body established for religious purposes. Thus the suggestion that the bill would require churches to hire out their premises for so-called gay weddings is mischievous, to say the least, as is the suggestion that the bill would require churches to accept homosexual staff for administrative or clerical posts within the church.

The minister has said that churches would have the right to refuse to use churches or a church hall or one of their buildings for a gay wedding, for example, and also have the right to hire whomever they want in administrative roles. The amendment that I am moving simply makes that crystal clear. It is doing exactly what the minister said. The exemption the minister referred to was section 50(1)(c). The minister said:

> ...any other practice of a 'body established for religious purposes'....[that] conforms with the precepts of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

What happened is that we had legal advice that suggested that the positioning of that paragraph (c) in the bill as proposed is somewhat open to misinterpretation in that it may be interpreted as applying only to the two previous sections, both of which deal with ministers of religion or priests. As the minister pointed out in her speech, that is not the intention of the government, and we are pleased that that is the case. All we are doing with this amendment is making it crystal clear by simply relocating paragraph (c) after paragraph (b) and calling it paragraph (ba) so that it stands alone and cannot be misinterpreted by those looking at this legislation down the track in years to come, once it has passed this parliament.

All this amendment does is exactly what the minister said she intended to do; it just makes it clearer by repositioning it in the bill. I hope I have explained that succinctly enough. The words will remain unchanged; it is simply the spot they are in. We have had legal advice that, having it as paragraph (c), it could be interpreted as relating only to paragraphs (a) and (b) when, as the minister has said, that is not the government's intention. We are simply moving it to its own section to make it absolutely clear that is not the intention of the bill.

The Hon. G.E. GAGO: For the record, we have been advised by parliamentary counsel that they do not recall that being filed with them. There is no record of it being filed, and we did not have a copy of the amendment, so I am not too sure what has happened. I beg the indulgence of the Acting Chair for a moment while I seek advice.

Indeed, the honourable member is quite right: this bill does not seek to regulate bodies established for religious purposes. However, bodies such as churches are already the subject of

exemption provisions, and we believe that they are more than adequately dealt with in section 50(1)(c), which provides:

> Any other practice of a body established for religious purposes that conforms with the precepts of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

We believe that exemption is already clearly articulated and that the amendment put forward by the Hon. Dennis Hood, which parliamentary counsel has advised was not filed with them, does not add any extra provisions whatsoever and is actually superfluous to the provisions in the act; therefore, we do not support the amendment.

The Hon. S.G. WADE: To clarify the minister's position, the amendment would not increase the scope of the exemption anyway; it may be unnecessary or superfluous, but it does no harm.

The Hon. G.E. GAGO: The advice that I have received is that, because we did not have this amendment previously, it is hard to be absolutely sure at this point that there would not be some adverse consequence. However, I believe that in the spirit of cooperation we should proceed. If we become aware of any significant problems, we can deal with that when the bill is between the houses.

The Hon. S.G. WADE: In clarifying the minister's comments, does she suggest that the government will be supporting the Hon. Mr Hood's amendment and considering the impact between the houses?

The Hon. G.E. GAGO: At this point, I am not able to say, because we did not have a copy of it and it was not filed, according to parliamentary counsel. If it is passed, even though I have already put on record that the government is opposing it, then we can deal with that between the houses.

The Hon. D.G.E. HOOD: To clarify, I have no idea what happened with parliamentary counsel, but it was filed in the normal way, so I am not sure what happened there. My apologies to the minister; I certainly did not mean to spring it on her in any way. Just to clarify for the sake of the chamber, this amendment is worded in the same way as what is already in the bill. All it does is relocate it to make it absolutely clear to anyone interpreting the bill what the intention of the bill is.

The Hon. S.G. WADE: This is a conscience vote for the Liberal Party. I indicate that, on the basis of it being superfluous or unnecessary but not extending the exemption, I will be—

The Hon. G.E. GAGO: We are not sure.

The Hon. S.G. WADE: Yes, that is right. On that basis, I said I will be supporting the amendment.

The committee divided on the amendment:

AYES (11)

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E. (teller)	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	

NOES (10)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Winderlich, D.N.	Wortley, R.P.
Zollo, C.		

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 26 to 60 passed.

Clause 61.

The Hon. S.G. WADE: I would mention in passing that we had hardly got back to our seats before we were moved on, and I did have questions on clauses, even if no amendments. Which clause has been called on now?

The CHAIRMAN: Clause 61 and your amendments.

The Hon. S.G. WADE: Clause 61, on religious dress and appearance.

The CHAIRMAN: You have a number of amendments.

The Hon. S.G. WADE: That is right. I move:

Page 21, line 25 [clause 61, inserted section 85T(1)]—Delete paragraph (f).

Page 23, line 34 to page 24, line 4 [clause 61, inserted section 85T(7)]—Delete subsection (7).

Page 24, line 9 [clause 61, inserted section 85U]—Delete ', caring responsibilities or religious appearance or dress' and substitute: or caring responsibilities.

Page 26, line 32 to page 27, line 5 [clause 61, inserted section 85Z(4) and (5)]—Delete subsections (4) and (5).

Page 28, line 16 [clause 61, inserted section 85ZD]—Delete 'caring responsibilities or religious appearance or dress' and substitute: or caring responsibilities.

Page 29, lines 1 to 13 [clause 61, inserted section 85ZE(4) and (5)]—Delete subsections (4) and (5).

Page 31, lines 34 to 40 [clause 61, inserted section 85ZN]—Delete section 85ZN.

The purpose of these amendments filed in my name is to eliminate in proposed section 85T the grounds to discriminate on the grounds of religious appearance or dress. According to information provided to the opposition by the commission, South Australia is the only jurisdiction without religion as a ground of discrimination. If we pass this clause as it currently stands, we would be in the situation of not having a ground of religious discrimination but having a ground of discrimination on the basis of religious appearance or dress. We would be the only jurisdiction with that ground of discrimination.

My view is that we should either have a ground of religious discrimination or we should not, and I see this clause as the worst of all worlds. The question before us is: is a half-baked religious ground better than none or is it worse, because part coverage is worse than no coverage at all. I would put to the committee that the half-baked religious ground is worse than having no ground at all. In my view, this provision mocks religion by suggesting that external manifestations of belief are more important than belief itself. It encourages explicit discrimination because, for example, an employer would quite legitimately be able to say, 'Let me make it clear that you are not getting the job because you are a Sikh and not because you are wearing a turban.'

It may even be seen to be more concerned to protect people using religious symbols as fashion items than as the basis of protecting religious belief. After all, apparently, a person who wears a religious symbol for no religious purpose would be protected under the government's bill and, to my mind, that is, if you like, protecting a right to fashion, not a right to religion.

I put to the committee that, if the government wants to bring us in line with all other jurisdictions and have a ground of discrimination on the basis of religion, it should put such a clause. Please do not mock religion by this half-baked religious appearance or dress provision.

The Hon. A. BRESSINGTON: I would like to raise the same concerns about all of these amendments that we previously raised about the minister's amendments. The time at the bottom of this page of amendments is 9.34pm, and they have only just been distributed to us now as we have resumed our seats. I have not had time to consider these amendments and what they will mean or put any thought into them at all. So, I request that the same action be taken with these amendments as was taken with the minister's amendments.

The Hon. S.G. WADE: I completely understand the honourable member's position. I note that it has been only 20 minutes since these amendments were produced. It was five hours for the government.

The Hon. G.E. GAGO: There are obviously two standards in this chamber, but I am very happy to proceed as an act of goodwill. The government believes that people should not be treated unfavourably in their work or their education because they are either obliged or conscientiously choose to wear dress or adornments of their religion. For instance, a devout Muslim woman may

wish or feel obliged to wear a hijab or a Sikh man a turban. The government believes that there is no case for unfavourable treatment on that ground. We believe it is quite straightforward.

The bill affords protection for employers. It proposes that proper exceptions for reasons of safety and reasonable identification be included so that those sorts of unfavourable outcomes can be avoided. In terms of its being a Clayton's provision, an extensive consultation process occurred in, we think, 2002, when the subject of discrimination on the grounds of religion was explored. It proved to be extremely controversial and, therefore, the government decided not to proceed.

The mainstream public felt that this was a very controversial provision and there was no clear consensus about this; so, therefore, being a responsible government, it decided not to proceed at this point. Instead, we have put this provision in place that says that the issue of the grounds of discrimination in relation to religion is not a provision for consideration. However, people who feel obliged or choose to wear clothing or adornments in line with the precepts of their religious beliefs should not be treated unfavourably, and that is what this bill seeks to achieve.

The Hon. S.G. WADE: I indicate that the opposition, with the agreement of the committee, would agree to my withdrawing this amendment and recommitting the clause at a later date if it would assist members, but if the committee wants to progress we can.

The Hon. G.E. GAGO: The government is happy to proceed, but if others want more time that is fine.

The Hon. M. PARNELL: If the government is happy to proceed, the Greens are happy to proceed also, but I take the point the honourable member made that more time to consider these amendments would have been helpful, especially since this bill has been on the *Notice Paper* for—how many months and its predecessors how many years? To be getting things a few minutes before we are asked to vote on them is not great, but it is late and this bill has already taken a long time and will take longer, so I am happy to proceed.

The Hon. DAVID WINDERLICH: I am happy to proceed, and I indicate my opposition to these amendments. There is a difference between being incomplete and being half baked. The purpose of the provisions which these amendments seek to undo is very clear. If you wear a hijab, a burka or a turban you are a target for discrimination in this society. That is what the various provisions in the equal opportunity bill are attempting to prevent. These amendments would undo that attempt to stop that sort of discrimination, so I oppose them.

The Hon. R.I. LUCAS: I rise to support the proposition as I did before, namely, that either progress be reported or the amendments be withdrawn and recommitted at the end of committee. If a member—in this case the Hon. Ms Bressington—and others have not had an opportunity to form a view, it is an entirely reasonable proposition for them to have the opportunity to consider their position on these amendments and we can still proceed. We have to recommit two sets of amendments and clauses and this would just be another provision to be recommitted tomorrow to finalise the committee stage of the debate. Whilst a number of members are expressing the view that they are happy to proceed, at least one member has indicated an inability to form a view. That is a reasonable proposition to put, and I will certainly support the position that that member should be entitled to reflect on the amendments, to consult if necessary and to form a view tomorrow.

The CHAIRMAN: The impression I got from the Hon. Ms Bressington was that she was attacking the short notice of these amendments on the basis of your contribution prior to any short notice on the government's part, but she has not indicated whether or not she is happy to proceed.

The Hon. A. BRESSINGTON: You are exactly right, Mr Chairman, about my concern, and I am quite happy to proceed with these amendments.

The Hon. J.A. DARLEY: I am quite happy to proceed with these amendments.

The Hon. S.G. WADE: I would like to ask a question of the minister in relation to her comments when she was talking about the religious discrimination clause in the 2002 consultation. In that context, why did the government not put this clause in the 2006 bill?

The Hon. G.E. GAGO: We cannot remember, it was too long ago, but I am happy to take that on notice and, if there is an answer, I will bring back a response.

The Hon. S.G. WADE: I submit to the committee that seven years ago we had a consultation. The government did not think of it in the four years leading up to the 2006 bill and its very late arrival now is indicative of a half-baked religious discrimination ground.

Amendments negatived; clause passed.

Clause 62.

The Hon. D.G.E. HOOD: I move:

Page 32, line 18 [clause 62(1), inserted subsection (3)]—Delete '16' and substitute: 18

This amendment changes the age of 16 to 18, the minimum age for which children can be hauled before the tribunal. The reason for this is simply that Family First believes it is too young. Other jurisdictions across the state have decided that 18 years of age, or when a person becomes an adult and accepts full legal responsibility for their actions, is the appropriate time for them to appear before the courts.

For instance, the Magistrates Court and District Court will not hear matters involving children as defendants, except on extremely rare occasions, and, as far as I am aware, the only jurisdiction that does hear matters involving children is the Youth Court. We see no reason why the Equal Opportunity Tribunal should be any different. For that reason, we have simply moved this amendment. I indicate to members that I understand the numbers are against me on this potentially. If that is the case, I will not be dividing.

The Hon. G.E. GAGO: This amendment is misguided. The member implies that a child coming before the tribunal as either a complainant or a respondent in a sexual harassment case could be publicly named—naming and shaming, the member called it, I think. In fact, the bill makes it quite clear in clause 71 that it will be an offence to publish any report of proceedings that identify a child, and the proposed penalty is $10,000. The member overlooks the provision of section 28F of the commonwealth Sex Discrimination Act which already provides that a complaint of sexual harassment can be brought against a student aged 16 or over in the Human Rights Commission.

The member argues that a 16 year old is simply too young to be the subject of a sexual harassment claim—not some of the 16 year olds I have seen. He or she can drive a car; he or she can hold a job; he or she can be prosecuted for a criminal offence either in the Youth Court or, depending on the circumstances, in an adult court, and detained in a training centre for anything up to three years; and he or she can be the subject of a complaint to the Human Rights Commission. Why should they not be equally answerable to our local equal opportunity commissioner for sexual harassment of a fellow student or a teacher?

It is not preferable for such matters. Obviously, we would prefer that to be dealt with locally. Remember that in this jurisdiction conciliation is the main remedy. The commissioner convenes a meeting between the parties at which efforts are made to resolve the complaint amicably. Often that does succeed, I am pleased to say, as these students may well have to continue to see each other at school and may, perhaps, be in the same classes. It will be a good thing if the complaint can be sorted out in this way, and our bill encourages that to happen. Occasionally, however, no resolution can be reached and it is necessary to resort to the tribunal.

It is only after that other means fails that that could occur. The act proposes to protect child respondents in two ways: first, by protecting their privacy, as I have explained; and, secondly, by ensuring that they cannot be ordered to pay money, which, I think, seem to be very reasonable and adequate protections. We hope, of course, that this provision will be seldom used because the bill requires that efforts are first made to resolve the problem at the school using the school's own conciliation processes. In cases where that fails, however, it is useful to have a back-up. The government believes that 16 year olds are old enough to face the consequences of their actions, and for these reasons we oppose this amendment.

The Hon. A. BRESSINGTON: I indicate that I will not be supporting this amendment. I raised earlier the circumstances of children who are same sex, who are going to independent schools and who are being harassed in the schoolyard. They have literally nowhere to go to report this. They know the policy of the school. They perceive that they will not get a sympathetic hearing. In fact, a 16 year old is quite old enough to perpetrate this sort of abuse and harassment on another school student. I have seen the consequences of this in my previous life, and I think that anyone who does not want to hold a 16 year old bully to account literally needs their head read, because they are old enough to understand what they are doing. They are old enough to accept the consequences if they are imposed. This tribunal will also give the kids who are being victimised and persecuted an arena in which to seek their justice.

The Hon. M. PARNELL: I will not be supporting this amendment, either. I think that we are at risk of losing sight of the focus of this legislation, which is about appropriate standards of

behaviour rather than focusing too much on the forum in which those standards will be tested. The Hon. Dennis Hood talked about various ages and the criminal justice system. Well, people much younger than 16 can be held to account under the criminal justice system and, yes, we may have a separate forum for dealing with those people, but the question is one of criminality and responsibility.

When it comes to sexual harassment, certainly 16 year olds—in fact, I think there would be a good case for having an age even younger than this—are capable of knowing what they are doing. I think that we should have a system whereby their behaviour can be brought to account. I think that we are losing sight of the fact that it is the standard of behaviour, rather than trying to protect 16 year olds from the particular forum that has been created to deal with that behaviour.

The Hon. S.G. WADE: I indicate that the Liberal Party has decided that this will be a party vote, and it will be opposing the amendment.

Amendment negatived; clause passed.

Clauses 63 to 66 passed.

Clause 67.

The Hon. D.G.E. HOOD: I move:

Page 36, lines 25 to 32—Delete the clause

This amendment removes the commissioner's powers to investigate and initiate complaints even when no complaint has been lodged, and removes the power of the commissioner to lodge their own complaint with the tribunal, whether or not the complainant wishes proceedings to be initiated.

The reason for this amendment is that essentially there is a great deal of opportunity for a commissioner—not necessarily reflecting on the current one but on future commissioners, possibly—to have a particular focus in their mind that they want to pursue, or a particular policy they want to pursue, and, even when no complaint has been made, if this section passes unamended, they would be able to initiate a complaint and pursue it through the tribunal of their own accord.

I do not feel this is appropriate. It leaves a lot of power in the hands of someone who is unelected to make those decisions, and I think that is not something that is ideal or that we would like to see occur because, as I say, that person is not elected and their view may not reflect the view of society in general. Our amendment would revoke the proposed new power and leave the current powers and procedures in place. So, if this amendment is successful, there would be no change to the current situation.

I have to mention that the minister made some comments in her summing up about the bill as proposed bringing our state in line with the commonwealth commissioner, but that is not entirely correct because, whilst the commonwealth commissioner does have these powers and the power to make recommendations, those recommendations are not enforceable. That is very important. Whilst the minister had made the statement in her summing up that the commonwealth Human Rights and Equal Opportunity Commission Act 1986 at a federal level gives that ability to the commonwealth, the reality is that, whilst it does give the ability in terms of making recommendations, it does not mean they are enforceable. That is very important.

The bill before us would mean that the South Australian Equal Opportunity Commissioner would have the power to enforce those decisions—or findings, if you like. So, our bill as proposed gives substantially more power to the South Australian Equal Opportunity Commissioner than is the case with the commonwealth. We feel that is inappropriate and, for that reason, we are seeking to make it so that the commissioner can act only when a complaint is made.

The Hon. G.E. GAGO: These amendments together propose to delete the provisions of the bill that would allow the commissioner to instigate her own investigation. Again, I wonder whether the member properly understands what the bill proposes. He has said it is not up to an unelected commissioner to determine what is appropriate and inappropriate behaviour. This is the role of parliament. In saying this, I am quoting him.

Of course, that is quite true, and I could not agree more. The act does not give, and the bill does not propose to give, to the commissioner the role of deciding what behaviour is or is not lawful. The act itself specifies that the conduct is unlawful and, in a case of dispute, the tribunal, not the commissioner, makes a decision. All that the bill proposes to give the commissioner here is a

new power of investigation where it appears that someone may be acting contrary to the laws that parliament has fixed. The bill provides that, if it appears to the commissioner that a person may have acted in contravention of this act, the commissioner may investigate. That includes requiring the production of documents, though not—as some may wrongly imagine—a power to compel people to testify.

As an example, the act itself states that employers are not to discriminate on the ground of race in hiring their staff. That is in the act: it is the law. If, then, the commissioner has reason to think that an employer has a policy of refusing to hire African workers, for example, the commissioner could make inquiries to try to find out whether that was true. She could ask the employer to make records of job applications available to her. She could not force anyone to speak to her, but if someone did wish to speak to her—for example, a group representing the interests of the African community—she could receive whatever information they wished to supply. If she could collect evidence establishing a breach of the act, she could then lay a complaint before the tribunal to which the employer could then respond.

The tribunal would then make a decision based on all of the evidence about whether or not the law had been broken. What is wrong with that? If someone is breaking the law why should something not be done about it? The commissioner is not, as the member suggests, pursuing far-reaching social policy initiatives. The policy is set by parliament in the words of the act. It is the parliament that states, for example, that there should be no race discrimination in employment, but what is the point of us making those laws if nothing happens when the law is broken?

The government believes the new power will be beneficial in safeguarding equal opportunity for all South Australians, and we obviously oppose the amendment. I remind members that the commissioner works within the confines of the Equal Opportunity Act. The commissioner does not make law; the law is made by parliament and then followed by the commissioner.

Contrary to what the Hon. Mr Hood suggests, our commissioner has no enforcement powers. All she can do is bring the complaint before the tribunal. It is the tribunal that decides whether there has been a contravention of the act. Only the tribunal can make an enforceable order.

The Hon. R.L. BROKENSHIRE: What guarantees or protections are contained in the amendment to prevent a commissioner (I am not saying our current commissioner, but a future commissioner) from taking a business to task if the commissioner has potential problems with that business with respect to equal opportunity and decides to have a go at the business just to keep the pressure on? I understand from that clause that that would be possible, and that would concern me.

In the case of an ombudsman-type position, can the minister give some examples of where other authorised commissioners and ombudsmen can, by their own intention, take on a business or an individual to the point of asking the tribunal to investigate and deliberate without any allegations or complaints?

The Hon. G.E. GAGO: Those sorts of protections are included in section 14 of the act. It requires that the commissioner publish an annual report, which is tabled before parliament, in which he or she is required to outline the operation and administration of the act.

Under section 10, she is also responsible to the minister for the general administration of the act and carrying out that function and is subject to the general control and direction of the minister. They are a couple of the safeguards. I quote the Hon. Robert Lawson's second reading contribution where he outlines provisions in other jurisdictions, as follows:

> However, on examining the legislation in other jurisdictions, I find that it is by no means unusual—in fact, it is almost invariable—that legislation of this kind vests a similar power in the person who holds a position the equivalent of the commissioner. I think it is only in Victoria that there is no such explicit provision...

He goes on to give the example of the commonwealth jurisdiction, where the Human Rights and Equal Opportunity Commission does have the power to initiate inquiries and he gives details. He continues:

> In New South Wales, section 119 of the Anti-Discrimination Act empowers the Anti-Discrimination Board to carry out investigations...Likewise, in Queensland, section 155 of the Anti-Discrimination Act sets out…

So, there is plenty of evidence on record in terms of similar provisions in other jurisdictions.

The Hon. R.L. BROKENSHIRE: Using the police as an example because they have certain powers, if a police officer actually abuses or misuses those powers, for vexatious or other reasons actually uses their position as a sworn police officer, there are serious penalties not the least of which is dismissal.

I am concerned that your answer is that all the commissioner has to do is put something in an annual report and/or advise the minister. That does not give me any confidence at all, with this particular amendment, that a vexatious situation could not occur with harassment to that individual or business as a result of this clause and the open powers that it gives the commissioner of the time.

The Hon. S.G. WADE: In the minister's comments in responding to this amendment, she posed the question: what is the point of having a law if it is not enforced? My understanding is that the two key ways that this legislation is enforced is through complaints initiated by people who suffer discrimination and by government-initiated inquiries.

There is no change through the government's bill. They will still be complaint-initiated or government inquiries. What this bill proposes to do is to take off the review by the tribunal, or the role of the tribunal and the minister in signing off what is an appropriate commissioner-initiated inquiry. The Liberal Party will be supporting the Hon. Mr Hood's amendment because we believe that those two avenues are appropriate, but that it is appropriate that, on application by the commissioner with the approval of the minister, the tribunal authorise the inquiry.

The Hon. G.E. GAGO: In terms of addressing some of the issues that the Hon. Mr Brokenshire raised, another safeguard is the fact that the decisions of the tribunal are on public record and are able to demonstrate quite clearly whether a decision has been proven to be justified or not. Obviously, if the commissioner were thought to be abusing that power, through being vexatious or harassing an employer, that would be a matter that the minister would consider on reappointment of that particular position.

The Hon. R.L. BROKENSHIRE: I would like the minister to further qualify what she is saying, because I understand that she has basically admitted that there could be a deliberate attempt by a commissioner at that time to discredit a business as an example, and that business could then easily be exposed to all sorts of public damage because, once you get taken to the tribunal, one way or another, the media can pick up on it and other situations can occur. That business, which might be a totally reputable business, is then damaged, and there is no compensation. The answer is that the minister may not then appoint that commissioner again when the contract is finished. That is totally unacceptable to me.

The Hon. A. BRESSINGTON: I would just like clarification from the minister, because I was of the understanding that the commissioner could start an investigation against an organisation or a business person, but that there first had to be a complaint made to the commissioner.

An unofficial complaint was all that would be needed to draw the commissioner's attention to the fact that there could have been an issue here. The commissioner would then investigate the circumstances, but it would only then be if the complainant decided to go ahead on the advice of the commissioner that there was actually a case to answer and that it would then go to the tribunal.

If that is not the case, I would be inclined to support the Hon. Dennis Hood's amendment as well, because it gives me little satisfaction to know that it could just be up to the minister to take action one day. We have seen this too often in this place with too many other government departments—for example, Families SA and WorkCover—and all of these other things that we continually debate cyclically every 10 years.

The Hon. G.E. GAGO: I have outlined a number of provisions that provide public accountability and transparency in terms of the actions of the commissioner. I have already put those on record, so I do not need to go through them again. I believe that they are more than adequate to ensure that the actions of the commissioner are proper and that there is transparency in terms of the publishing of the annual report and that decisions are on the public record. As I have said, I believe that that is open and transparent in terms of the actions of the commissioner.

I am sorry if the honourable member has misunderstood. This provision would enable the commissioner to launch an investigation of his or her own volition without a complaint being received. Obviously, common sense would determine that. The commissioner would need to have

some concerns, and some grounds for concerns, for her to be prepared to use her time in public office to pursue that. There would be no other reason for her to do that.

I would remind honourable members that these are only powers of investigation to determine whether a breach could have been made. The commissioner does not have the power to make a decision as to whether or not that has occurred, and has no enforcement powers. So, they are very limited provisions indeed. They are only to go to the purpose of an investigation.

The Hon. A. BRESSINGTON: So, the commissioner can make the investigation, and that can be progressed to the tribunal if it is clear on the evidence that there has been a transgression, with no complaint made, but then the employer, organisation or individual that the investigation has been launched against has to pay legal costs for representation to disprove what the commissioner may have found. It may be that the commissioner has got it wrong, and that expense is then at the hands of people who have been dragged into this tribunal who could actually be quite innocent of all this. So, where is the recourse for a person where the commissioner's investigation has been flawed?

The Hon. G.E. GAGO: This particular provision is about protecting individuals who may be particularly frightened or who feel intimidated by their employer. There are often significant power differences between the parties involved in these sorts of complaints. They are usually complaints of employees against an employer, and very often there are significant differences in terms of access to lawyers and the capacity to pay for representation. Often, in the case of particularly young women who may feel too fearful to make a complaint in their own right, this allows for the commissioner to at least pursue an investigation of that matter.

In terms of the position of the respondent, that remains unchanged. If the matter goes before the tribunal, they are in an identical position in terms of their responsibilities to that commission. So, I do not believe that this provision particularly disadvantages respondents. It is clearly going to disadvantage those who are in breach of the legislation, which is what we are trying to do.

The Hon. A. BRESSINGTON: I remind members that some of the aspirations that the minister has expressed in explaining this section of the bill were also expressed when the council debated the Whistleblowers Protection Act. I have been told by many eminent lawyers and legal eagles that that particular act is not worth the paper it is written on, and that has been proven over and over again. I think there needs to be more safeguards than are provided for by this bill. I indicate that I will be supporting the amendment of the Hon. Dennis Hood.

The Hon. DAVID WINDERLICH: I will be opposing this amendment. The minister has explained that there is a check, and that is the tribunal. However, I think it is important to reflect on the purpose of this. There is a real problem with complaints-based procedures: they rely on two things. They rely on people having the confidence to complain and they rely on people being secure enough to complain. My recent experience in relation to the Copper Coast and the Ombudsman highlighted two deficiencies there, and I will bring a bill to this council later on about that.

Under the Ombudsman's Act, if you do not have a direct interest in a matter, if you are not directly affected, your chances of getting a hearing are much weaker than if you do have a direct interest, so if you were denied a contract or you were mistreated in some way. The problem is that many people who do have a direct interest, in terms of the Ombudsman's Act, cannot afford to complain because they rely on future business from the council, or whoever else the party in question might be. I think that highlights the weakness of complaints-based processes. Not everyone is confident enough to complain, and not everyone is secure enough to complain. So, when you have bodies such as these investigatory bodies, they have to be able to initiate investigations based on other information to uncover patterns of discrimination, maladministration or whatever the question might be. I am very strongly in favour of the commissioner being able to initiate investigations without a complaint. I think that is essential.

The Hon. Stephen Wade outlined an alternative which seems to go via the minister, if I understood him correctly, which is the proposal in the current act now. The problem with that, as I see it, is that it then makes it subject to a decision being made on political grounds. I would rather have a more objective process, with the commissioner being able to initiate complaints, rather than having to have that approved by the minister. There is always a risk of abuse, which is part of what the Hon. Ann Bressington is talking about, but I think that at the moment the much greater risk is that people are being discriminated against without recourse, because they are not confident

enough to complain and because they are not secure enough to complain. I think that is going on every day in this state. I think it is not just a risk but a reality.

Against that, we have the risk of abuse of these powers by the commissioner. I am open to other ways of building in checks and balances, which is possibly around additional reporting, but I am absolutely adamant that you cannot just build your process around complaints, because that shuts out too many people who are not confident enough or secure enough to initiate complaints. So, I am against this amendment.

The Hon. M. PARNELL: The Greens will be opposing this amendment. I referred to it in my second reading contribution, and I will not repeat the reasons that I gave then. Quite simply, without this provision, without the ability of the commissioner to investigate on his or her own volition matters that are deserving of investigation, discrimination will go undetected, and that is a bad outcome. I support the bill as it stands.

The Hon. A. BRESSINGTON: I want to make it clear that I do not have a problem with the commissioner investigating a complaint or a suspicion. My problem is that the commissioner can then, without a complainant, progress this to the tribunal. So, it could be, and I am not saying that the current commissioner would do this, because she seems like a pretty decent sort of person, but you could get somebody in the future who has a grudge—and do not tell me that this does not happen already—who could pursue an individual, an organisation or a business on a grudge. We have seen so many times where, when people make these claims that they are being victimised or whatever, they are not believed. They are labelled as beligerant, vexatious, crazy, or whatever. There is no safety net in this particular section for that to happen, and that is my concern.

The Hon. G.E. GAGO: It might be helpful to point to other examples that are clearly working without the sorts of adverse outcomes that the honourable member is obviously concerned about. An example is the Health and Community Complaints Commissioner, who has powers under section 9(1), an 'own motion' power to inquire into and report on any matter. So, they have that capacity, which is a very similar capacity to the—

The Hon. A. Bressington interjecting:

The Hon. G.E. GAGO: Sorry?

The Hon. A. BRESSINGTON: When they inquire into and report on any matter, who are they reporting to, and are they progressing that to a tribunal, or what is that process?

The Hon. G.E. GAGO: There are examples of other jurisdictions that are operating with commissioners with similar powers. We are not aware of any adverse consequences because of that.

The Hon. A. BRESSINGTON: This is the last time that I am going to get up on this. I make the point that the minister says that there is no evidence of adverse affects of this sort of structure, but let us look at the WorkCover Tribunal. How many of us in this place have not had 100 complaints about the fact that people have been victimised, persecuted, treated unfairly, unjustly, or whatever, and here we are now setting up, as I see it, the same kind of structure. There is abuse happening. We all know that there is abuse happening in the WorkCover system. Nobody wants to admit it, but we know that it is happening. What is going to make this any different for this particular tribunal when people make claims that they are being unfairly treated? What is the mechanism?

The Hon. J.A. DARLEY: I will not be supporting this amendment, for the reason that on at least four occasions I recall employees had legitimate complaints but, after speaking to the commissioner, they were too frightened to proceed with that complaint.

The Hon. R.L. BROKENSHIRE: First of all, I ask the minister to explain, with the example regarding the health complaints commissioner, how she can justify that as an example when the advice I have is that, whilst it costs several hundred thousand dollars a year to run that commissioner's office, the commissioner has not reported to parliament since the position was actually finalised and is technically, as I understand it, in breach of the act? I do not find that that is a good example at all; in fact, it is something I intend to bring further to the parliament with information that I have.

What we have here is the potential possibility, and it is a very real possibility, that an individual or a business can effectively have their name blackened and their goodwill done over. It is not very hard for anyone to not be intimidated at all, and to ring the commissioner from a public phone box down the road. Most people know how to ring somebody, or get a friend to ring and

report. I ask the minister: how can the commissioner be given powers that I personally see as more powerful than that of the South Australia Police? My understanding of the police force is that there has to be an allegation, there has to be a complaint, there has to be a written report and a statement signed, or adequate intelligence, before they can actually go and investigate. That is clearly a very important part of democracy and the justice system at law, and the police accept that when they sign on and swear to the job. So, what does the minister tell this chamber is so much more important than general law and the protection of 'innocent until proven guilty' that gives this clause to a commissioner to give them more power than the police?

The Hon. G.E. GAGO: I gave a different range of examples, showing the different sorts of provisions in other jurisdictions. They were not meant to replicate an identical situation, and I think I have addressed most of the other issues in relation to this.

The committee divided on the amendment:

AYES (11)

Bressington, A.	Brokenshire, R.L.	Dawkins, J.S.L.
Hood, D.G.E. (teller)	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	

NOES (10)

Darley, J.A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Winderlich, D.N.	Wortley, R.P.
Zollo, C.		

Majority of 1 for the ayes.

Amendment thus carried; clause negatived.

Clause 68.

The Hon. D.G.E. HOOD: I move:

Page 36, lines 35 and 36 [clause 68(1)]—Delete subsection (1)

Amendment carried.

The Hon. D.G.E. HOOD: I move:

Page 37, lines 10 and 11 [clause 68(2), inserted subsection (2)(b)]—

Delete 'an investigation initiated by the Commissioner' and insert:

a matter referred to the Commissioner for investigation

Amendment carried; clause as amended passed.

Clause 69.

Members interjecting:

The CHAIRMAN: Order! You might take notice of the chair, instead of Mr Wade, and that way you will not get into so much trouble. You might want to leave this and do it under recommittal after you have done 10A.

The Hon. D.G.E. HOOD: Thank you, Mr Chairman.

The CHAIRMAN: The Hon. Mr Wade has an amendment to clause 69.

The Hon. S.G. WADE: If the committee wants to recommit Mr Hood's, it would make sense to recommit them all because they are all alternatives to the same issue.

The CHAIRMAN: We will recommit clause 69 and leave the amendments on file.

Clause passed.

Clause 7 passed.

Remaining clauses (70 to 78), schedule and title passed.

Bill reported with amendments.

ARCHITECTURAL PRACTICE BILL

The House of Assembly agreed to the bill without any amendment.

FAIR TRADING (TELEMARKETING) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

AUTHORISED BETTING OPERATIONS (TRADE PRACTICES EXEMPTION) AMENDMENT BILL

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

At 22:56 the council adjourned until 8 April 2009 at 11:00.