LEGISLATIVE COUNCIL

Wednesday 15 July 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:20): I bring up the 24th report of the committee.

Report received.

PAPERS

The following paper was laid on the table:

By the President—

Police Complaints Authority—Report, 2008-09

LEGISLATIVE COUNCIL REFORM

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:20): I have a ministerial statement made by the Attorney-General in another place but, given its subject matter, I think I should read it out to the council. It is on the subject of Legislative Council reform, and it states:

Mr Speaker, today I can announce to the house that the government will honour its pledge to introduce legislation to reform the Legislative Council through a referendum coinciding with the 2010 State Election.

In November 2005 the Premier announced the Government's intention to seek the views of the South Australian voters at the 2010 election through a referendum.

The Government has listened to the people of South Australia and decided it would be inappropriate to abolish the Legislative Council. We have received enough feedback from the community to know it would be a waste of time and money to go to the people with a question for which we already know the answer. Instead—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I am happy to answer the question in question time. The statement continues:

Instead, this Government believes that the appropriate question to put to the people is whether it is time to reform the Legislative Council.

In 2003, as part of the Government's Constitutional Convention, participants were interviewed after the Convention. The post-deliberation survey results of the South Australians interviewed indicated that there is support for the retention of the bicameral system. In particular, it disclosed these opinions: 80 per cent of those surveyed believed in the need to continue with two Houses of Parliament; 75 per cent of those surveyed believed that members of the Legislative Council's terms should be four years rather than eight.

Two bills will be introduced into parliament to reform the Legislative Council. One will seek to amend the Constitution Act 1934 and the other will ask for the consent of the parliament to hold a referendum on reforming the Legislative Council. The two bills, the Constitution (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Amendment Bill 2009 and the Referendum (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Bill 2009, include a series of changes to the structure of the Legislative Council and the system of electing its members. These changes include:

- reducing the number of members of the Legislative Council from 22 to 16;
- reducing the length of the term of office of members of the Legislative Council from eight years to four years;
- giving the President of the Legislative Council a deliberative vote instead of a casting vote; and
- providing a deadlock provision where the House of Assembly may resolve that it would be appropriate for both houses of parliament to be dissolved on account of the position taken by the Legislative Council on a bill. If that occurs, the Governor may dissolve both houses by proclamation and a general election would then be held.

This last mechanism is similar to that operating at the commonwealth level. It gives the Legislative Council several opportunities to consider and negotiate on a bill without what is effectively, today, a right of veto. This is far closer to the proper review character of the second chamber than the model we have today. Both houses of parliament must first pass the bills, and a referendum would be held in conjunction with the 20 March 2010 election.

The ball is now firmly in the court of the opposition and the minor parties to decide whether South Australians should get the opportunity to vote on this issue. The Liberal opposition, under its previous leader, demanded that we put to a referendum other questions, such as whether we have a new hospital or a new sports stadium, so it would be inconsistent for opposition members to vote against having a referendum on such an important question. Should the bills be passed and the referendum be successful, the changes to the election of members will take effect at the 2014 election, whereby all members of the Legislative Council would be up for election and only 16 vacancies would be filled.

The government cannot call a referendum on the issue without the passing of the bills. This means that for reform to occur the Legislative Council must vote to reform itself. Only time will tell whether opposition members of the Legislative Council and members on the crossbenches have the courage to allow the South Australian people to decide their future.

SWINE FLU

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) (14:25): I lay on the table a ministerial statement made in another place today by the Hon. John Hill on the issue of swine flu.

QUESTION TIME

LEGISLATIVE COUNCIL REFORM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I seek leave to make a brief explanation before asking the Leader of the Government a question about Legislative Council reform.

Leave granted.

The Hon. D.W. RIDGWAY: When the Premier announced in 2005 his plan to abolish the upper house, he promised four years of debate before putting several questions to a referendum, and in his media release he says:

> It will be up to the people of South Australia. They will have four years to debate the issue to form a view before the 2010 referendum.

With just 249 days until the next election, it leaves little time for community debate. Why has the Premier broken his promise, and why are we not getting the four years the Premier promised in 2005?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:27): Is the Leader of the Opposition suggesting that we have not been having a debate on the future of the Legislative Council? We certainly have been having it here for the past four years.

An honourable member interjecting:

The Hon. P. HOLLOWAY: We now have the specifics of the reform program. It is still over eight months before the election and the legislation—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Is the honourable member really saying that we need more than six weeks of parliamentary sitting to consider a fairly simple, straightforward concept? There are three propositions: do we reduce the numbers from 22 to 16; do we have an all-out system with four-year terms rather than eight years; and do we have double dissolution provisions like they have in the Senate and the House of Representatives in Canberra? They are three fairly straightforward positions and I am sure the voters of South Australia will understand them fairly quickly.

The issue is whether, as announced in the Attorney-General's statement that I just read out, it is up to members of this place as to whether they wish for that to proceed. We have been having a debate on the future of the Legislative Council for many years. That debate has been ongoing for many years. As was said in the statement, as a result of the debate we have been having the government has changed the proposal to the reforms we have put forward.

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

The Hon. P. HOLLOWAY: It is not focus groups. I referred to members who attended the constitutional convention held in this place some years ago. The government has consulted widely

and has listened to the public debate on the future of the Legislative Council, and that is why it has come up with these proposals. It is now up to both houses of the parliament as to whether or not we proceed with these recommendations.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink has the call.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Leader of the Opposition will have some respect for his shadow.

RESIDENTIAL TENANCIES ACT

The Hon. J.M.A. LENSINK (14:29): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the review of the Residential Tenancies Act.

Leave granted.

The Hon. J.M.A. LENSINK: Members may recall that questions have been raised in the past, in particular by the former Democrat member, the Hon. Kate Reynolds, and I also asked a question in November last year, about the review of the Residential Tenancies Act. We have seen two pieces of legislation coming forward to the parliament since then, but a number of other areas have disappeared into the ether. In her response in November last year, the minister said, 'Hopefully, I will announce something fairly shortly.'

On advising of this response to one of the non-government organisations involved in this area, they said to me that they had heard the other night that the government has 'archived' the review of the Residential Tenancies Act. They said that they put in an extensive submission and they know that there were many other submissions. The person to whom I refer goes on to say:

> I now understand that 'archiving' the Review means no action will be taken, and that whatever the recommendations were, they are not available under Freedom of Information.

Yesterday, I asked the minister about issues which have been raised by the Landlords' Association, which has correspondence from the minister, dated 2 May (some six months after I asked that question), which states:

> I have been informed of your concerns about delays in the progress of the review. I can confirm that the review is progressing and the Landlords' Association Submission—

which, I might add, was submitted in 2003—

> on the consultation paper is being carefully considered as part of this process.

Does the minister have a draft bill, and does she intend to table it this side of the election?

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) (14:31): Indeed, this has been a protracted process. I think that in 2002 a review was conducted of the Residential Tenancies Act, and I understand a discussion paper was prepared which received just under 200 submissions, during fairly extensive public consultation. A review working party comprising the Commissioner for Consumer Affairs and senior staff of the Office of Consumer and Business Affairs was established to look at and to report on those submissions. Obviously, the range of issues raised was extremely broad which then warranted separate consideration in relation to some of the quite technical issues involved.

The group delivered three reports to the Minister for Consumer Affairs at the time arising from that review. The first report contained recommendations proposing the introduction of new separate legislation setting out the rights and responsibilities of residents and operators of caravan and mobile home parks in South Australia. That has resulted in a very important piece of legislation, the Residential Parks Act 2007, which commenced in November 2007—so a tick there. The second and third reports contain views and draft recommendations of the working party relating to the Residential Tenancies Act and the Residential Tenancies Rooming Houses Regulations 1999. Those recommendations are still under consideration.

This government is very committed to ensuring that we make good legislation; that we do all the work and background research and consultation required to ensure that we explore all different points of view; and that we then consider those points of view carefully. Some complex

issues have arisen out of that review and we need to ensure that we get those right. It is important that we do not hurry it through at the expense of not getting it right. We will get it right. We are committed to reviewing this legislation; we have given that commitment. We are certainly not resiling from that, and those considerations are still under way.

At this point, I am not able to give a detailed time frame. We are certainly striving to do it as quickly as we possibly can, given, as I said, the fact that we strive to provide quality legislation and to get it right, and to ensure that we balance as many different points of view as possible to get the best and strongest legislation possible.

RESIDENTIAL TENANCIES ACT

The Hon. J.M.A. LENSINK (14:34): Sir, I have a supplementary question. Can the minister advise whether or not the working party still exists?

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) (14:34): I am not sure about that. I am happy to take that question on notice and bring back a response.

BURNSIDE CITY COUNCIL

The Hon. S.G. WADE (14:35): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the City of Burnside.

Leave granted.

The Hon. S.G. WADE: In answering a question from the Hon. David Winderlich yesterday, the minister repeatedly referred to the government's dealings with the Burnside council before she became the relevant minister. I indicate to the minister that my questions only relate to matters since she was appointed minister.

The minister was appointed Minister for State/Local Government Relations on 24 July 2008. Eight days later, on 1 August 2008, the minister's departmental head, Mr Knight, wrote to the Mayor of Burnside listing a number of complaints against Burnside council, including concerns that the council is placing inappropriate weight in a range of decisions on the views of a person who is neither an elected member nor a member of staff. The letter indicated that, before considering the need for a section 272 investigation, Mr Knight was 'providing the council with an opportunity to make submissions in relation to the allegations made' and strongly encouraged 'the submission to represent a unanimous position of the council and one that is approved by all councillors at a meeting'.

On 2 July 2009, almost a year later, the minister wrote to the Mayor seeking a submission from council before a section 272 investigation would be considered, but there is no mention of allegations in relation to the improper influence of an unelected person. At the conclusion of yesterday's sitting of this council, the minister provided details of the Burnside council's response to the 1 August 2008 letter. The minister is reported in today's *Advertiser* as stating that lawyers had assessed the complaints against Mr Powers and determined the complaints were unsubstantiated. She said:

> In light of that the complainants were informed of this outcome and invited to provide any additional information they may have. Nevertheless, they could still not be substantiated.

My questions to the minister are:

1. Did the Burnside council provide a submission on the influence of an unelected person on council decision making in response to Mr Knight's letter of 1 August 2008?

2. Which lawyers were engaged to consider the complaints against Mr Powers, as reported in her comments in this morning's *Advertiser*?

3. Who engaged the lawyers; when were they engaged; were the lawyers asked to advise on issues of undue influence; and were the lawyers asked to advise on issues of corruption?

4. Why did the minister fail to refer to this legal advice when she outlined to the Legislative Council last night the actions taken following the 1 August letter?

5. As the minister failed to mention the issue of allegations of undue influence on an unelected person in her letter of 2 July, will it be possible and is it the minister's intention for these concerns to be looked at in any proposed section 272 investigation?

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) (14:38): I thank the member for his question and for the opportunity to further clarify my position on this and the work that is being done around this matter. Obviously, investigating a council is a very serious step and one that I do not take lightly. As I have stressed in this council before, what most impresses me is that we adhere to a process that I am required to follow under the appropriate legislation but also that due process is given to all parties involved, and I have stipulated that very clearly in the past in this place.

In relation to the particular matters that the honourable member raised in relation to a letter from my former chief executive, Geoff Knight, at the time (I think it was around August 2008) the head of the department formerly responsible for state/local government relations, PIRSA, followed up with respect to complaints relating to Burnside council last year, writing to its Mayor and asking the council to respond to a range of allegations and advise how it proposed to avoid intra-council conflict in the future, and that is the letter to which the honourable member referred. The Mayor's response to my department in late 2008 detailed several approaches to deal with the conflict. They included a revised code of conduct, incorporating an independent investigation process, concerning which they stated they had had no complaints since its inception in April 2008; an elected members' grievance policy, under which no such grievances had been lodged; that the council had been reminded of its duty to make informed decisions in a professional and responsible manner and in the best interests of the community; and a mediation workshop for councillors and the CEO, which was to be arranged.

I am advised that these matters were further explored by the Chief Executive of PIRSA and that two meetings occurred between the Chief Executive and the Burnside Mayor. The recommendation of an appropriate mediator was canvassed, resulting in the council's appointment of Professor Bagshaw, who conducted the mediation. I am further advised that this mediation commenced in October 2008 and took a couple of months or so.

In relation to complaints we received, I am advised that the department, with crown law assistance, assessed the veracity of the complaints and determined that they lacked sufficient substantiating evidence. The Chief Executive reported back to me during a meeting in 2008 and advised that he was satisfied that measures were being taken by the City of Burnside to improve its internal operations and that there was insufficient evidence at that time to trigger an investigation under section 272 of the Local Government Act in relation to any of the complaints we had received up until that time.

The complainants were then advised that allegations 'are too general and lack sufficient evidence to support initiation of an investigation under the act'. Complainants were invited to provide any additional information they may have had that might assist in substantiating the allegations; nevertheless, I am instructed that the complainants still could not provide substantiating evidence. Complainants were advised by the CEO of the department that no further action was intended by the PIRSA Chief Executive. In a letter to the complainants, he said:

> Despite my request for further evidence to support your claims, your letter to me and your prior correspondence provide no substantiating evidence of a contravention of the law or a failure to comply with the law or a failure on the part of the council to discharge a responsibility or an irregularity in the council's affairs that would enable the minister to commence an investigation under the Local Government Act 1999.

Subsequent to this, between November 2008 and March 2009, one complainant continued to submit further complaints to my office. These complaints have been thoroughly assessed by the Office of State/Local Government Relations, in conjunction with crown law, but they were also deemed to be lacking the detail required to be able to substantiate the allegations.

There are two important points to be made and, although I have made them previously, I think I need to go through them again to complete this detailed response. An investigation under the Local Government Act requires a trigger and a reasonable belief of a breach of legislation. Last year, there appeared to be none and, importantly, an investigation was never recommended to me by the department at that time. It is also important to note that similar complaints were also forwarded to a series of other authorities for review, including the Police Anti-Corruption Branch, the Police Complaints Authority, the Equal Opportunity Commissioner and also, I believe, the

Ombudsman. I am advised that to date no action has resulted from those authorities either, and I will talk about the Ombudsman's report in a minute. I just wanted to clarify those remarks. Clearly, the resignation by the CEO of the City of Burnside in June this year was significant. In his statement, the CEO said:

> I find it impossible to condone actions which potentially compromise my responsibility to provide a safe workplace free from harassment and bullying.

I was obviously deeply concerned by this, and I took the opportunity to instruct officers from OSLGR to commence preliminary inquiries to ascertain whether a potential investigation may be warranted. This, and the prolonged high level of dispute and friction amongst members, now appears clearly to have reached a stage that will potentially affect the council's decision-making processes.

In considering an investigation, I obviously need to take into account the preliminary information gathered by my department last month, any council responses (which are due on Friday this week), as well as any possible patterns that may have become apparent from past complaints or more recent matters.

If an investigation is warranted, I can certainly assure South Australians that the terms of reference will be broad enough to capture any and all breaches, including whether inappropriate weight has been placed by the council in any decisions on the views of a person who is neither an elected member nor a member of staff that could constitute a breach of legislation. If anyone has any evidence of corruption, it should be forwarded immediately to the police Anti-Corruption Branch.

In relation to the Ombudsman's report, which dealt with a development application matter and appropriate administrative procedures, on 2 January 2009, in accordance with section 25(3) of the Ombudsman' s Act 1972, the Ombudsman provided me with a report setting out his findings on the matter of complaint against the City of Burnside. Based on the Ombudsman's investigation, the Ombudsman formed a view that there was no evidence to support the complaint and allegations. Nevertheless, the Ombudsman found that some of the council's internal controls were inadequate.

On 19 February 2009, I wrote to the council requesting that it provide me with a submission in response to the report, detailing how it has reviewed its internal processes and what improvements have been made in order to prevent recurrence of the incidents. The council responded to my request, advising that it has implemented appropriate internal measures to ensure that investigations are carried out, with a follow-up system for any such future complaints.

I am satisfied that the council has responded adequately to the issues outlined by the Ombudsman, and I will write informing it that I will not be taking any further action in relation to that, but I intend to seek a further update from the council on the operation of the installation of its follow-up system.

BURNSIDE CITY COUNCIL

The Hon. S.G. WADE (14:48): I have a supplementary question. I refer to the minister's comments in which I understand she expressed an assurance to South Australians that any investigation would include consideration of any undue influence on an unelected person. Considering the minister's obligations under the Local Government Act to give council an opportunity to make submissions on any proposed investigation before it is instituted, how could any inquiry include consideration of an unelected person, since the minister's letter of 2 July did not reference such an issue?

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) (14:49): The matter was referenced in my letter to the Burnside council. There was a reference to the way in which council conducts itself, and that would include undue influence.

BURNSIDE CITY COUNCIL

The Hon. DAVID WINDERLICH (14:49): As a supplementary question, have the investigations carried out to date by the Office for State/Local Government Relations involved any discussions with community members or business people, or any people outside the Burnside council itself?

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) (14:49): I am not sure of the extent of those investigations. I received advice that the allegations that we received had been assessed and that crown law advice had been sought in relation to that assessment. The advice to me was that they did not obtain a level of detail that enabled substantiation of those allegations, and the advice to me is that it did not warrant a triggering of section 272.

MOUNT BARKER

The Hon. B.V. FINNIGAN (14:50): My question is to the Leader of the Government and Minister for Urban Development and Planning. Will the minister provide details of the implications for Mount Barker with the 30-year plan and whether there have been any misconceptions about the proposed rezoning of some of the areas on the outskirts of the town?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): Directing the expected population growth in the Adelaide Hills towards Mount Barker is one of the policies contained within the draft 30-Year Plan for Greater Adelaide. One of the objectives of that plan is to channel growth into major townships, whether they be Mount Barker or Roseworthy, and that will ease much of the pressure to develop smaller townships. At the same time, the plan aims to place a check on urban sprawl by directing most of the population growth within the existing urban growth boundary. The government's objective is to have up to 70 per cent of the growth in housing contained within the boundary and 30 per cent in growth areas, which would be an improvement on the current mix of about 50 per cent infill and 50 per cent in the fringe areas.

The plan also acknowledges that there will still be a demand for people to live in the Adelaide Hills which will not be met by the existing supply of housing. The 30-year plan envisages that only 13,000 new dwellings will be needed in the combined Adelaide Hills and Murray Bridge region to house an additional 29,000 residents. That is a growth rate in the Adelaide Hills and Murray Bridge region of fewer than 1,000 residents a year for the next three decades. This a small proportion of the 560,000 new residents—about 5 per cent in total—that will need to be accommodated within Greater Adelaide during the next 30 years.

Many of those new dwellings will be concentrated in Mount Barker and Murray Bridge. By concentrating new residents in these regional centres, the 30-year plan helps to constrain growth in the smaller towns and villages in a way that protects their distinct heritage and character. The plan acknowledges that Mount Barker is already one of our fastest growing regional centres and requires specific structural planning to cater for the expected increase in demand for health, education, transport and services such as power, water and sewerage.

Research work by planners and the Grants Commission suggests that, through orderly growth, the regional centres can become self-sustaining and move beyond their initial development as commuter towns. That means that, while the initial growth at Mount Barker was led by commuters travelling to the city, the township will eventually grow to a size where much of the employment of those living in the area will be generated within the region.

The rezoning process for Mount Barker has already begun, with the Department of Local Government and Planning working closely with the District Council of Mount Barker. Consultation with the council has been invaluable in reflecting the genuine concerns of the Mount Barker community while identifying appropriate areas for development. This has allowed us to secure open space, including a $1 million grant from the government to assist the $4.95 million purchase of about 37 hectares of land on the town's outskirts to be set aside for sporting fields and other recreation.

As a result of this close collaboration with the council, the proposed expansion at Mount Barker will not encroach on the green curtain entrance to the town from Bald Hills Road but will focus on the area south of Springs Road. So, rather than threaten high value, high production farmland, the rezoning preserves areas such as the Brussels sprout farm and instead focuses on less productive land currently used for agistment and hobby farms and some grazing on the southern outskirts of the town.

The Hon. D.W. Ridgway: I like Brussels sprouts.

The Hon. P. HOLLOWAY: You'd be one of the few who do—but they are very good for you. In the absence of the 30-year plan and the draft development plan amendment, there have

understandably been some concerns. Now that the draft 30-year plan is available for three months of public consultation, hopefully debate about the government's intentions will be better informed.

Of course, there are those who are opposed to growth in any form. However, if we take the easy option and simply slam the door shut on all growth, then we would ultimately deny the children growing up in Mount Barker today any opportunity to continue to live their lives in their communities. The better alternative is to make those hard decisions now and plan for Mount Barker's population growth in a strategic way that prevents ad hoc developments and preserves high-value farmland.

Despite some misconceptions being peddled throughout the community, I want to stress that the Department of Planning and Local Government is undertaking work on the ministerial development plan amendment. This will be carried out in close collaboration with the Mount Barker council and will be assisted with input from landholders, some of whom have engaged professional planners.

Once the study work has been completed, a draft development plan amendment will be circulated for public consultation, and the residents of Mount Barker and all South Australians will have an opportunity to have their say on this proposed rezoning.

MOUNT BARKER

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:55): I have a supplementary question. What new public transport services are featured in the draft 30-year plan for the Mount Barker community?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:56): If the honourable member looks at the maps he will see that there is a proposal to investigate what form that public transport might take. It could follow the freeway corridor and, one would think, it might perhaps be an express busway along the corridor or some similar form of transport. Certainly that is contemplated within the 30-year plan. As Mount Barker grows over the next 30 years, then at some point that would need to be considered.

Again, I should remind the Leader of the Opposition of the point I made in answer to an earlier question, namely, that the whole purpose of the Mount Barker proposal is to try to make the town more self-sustaining in regard to employment generation. We want to see the development progress in such a form that will create jobs within the region and locally so that people will not need to travel. In other words, the future of Mount Barker should be less that of a commuter corridor suburb and more that of a self-contained town.

As I mentioned, under the work done by the Grants Commission and others, the estimation is that a town roughly the size of 25,000 people is about the appropriate size to guarantee a level of services and self-sufficiency, and that is taken into account in grant submissions for local government. That is another reason why the 30-year plan targets the growth in particular centres and why it aims for that size of development. The studies show that that is the most efficient size in terms of providing a good level of services. These days (and I am sure that my colleague the Minister for State/Local Government Relations would be well aware of the financial stability issues for local government), the evidence is that that is the sort of level which provides the best degree of sustainability.

MOUNT BARKER

The Hon. M. PARNELL (14:58): I have a supplementary question. In relation to the draft ministerial development plan amendment that the minister referred to, can the minister confirm whether the appropriately-qualified person required under legislation to take control of that project is, in fact, a person associated with the consulting firm of Connor Holmes?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:58): The honourable member was not listening. I said that the ministerial development plan will be under the control of the Department of Planning and Local Government as, indeed, all ministerial development plans are. As I also indicated in relation to that matter, the landowners—the honourable member can call them developers if he likes or landowner/developers; they are the landowners—have engaged their own planning consultants to provide documentation towards the process. However, the process will be under the control of the Department of Planning and Local Government and it will be conducted in conjunction with the Mount Barker council.

With these sorts of significant development plan amendments, particularly ministerial ones, some of that documentation is provided from the landowners or through the planning consultants that landowners employ but it is all double-checked by the department. We get input from other government departments but the process itself is very much under the control of the Department of Planning and Local Government.

CHILD ABUSE

The Hon. D.G.E. HOOD (14:59): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question.

Leave granted.

The Hon. D.G.E. HOOD: An answer that I recently received to a question on notice confirmed that Families SA regularly ignores pleas from the Family Court and the federal Magistrates Court for intervention in cases of very serious child abuse. Pursuant to sections 91B and 92A of the Family Law Act, judges and magistrates can request state child welfare agencies to urgently intervene in child custody and access proceedings if they fear that a child 'has been abused or is at risk of being abused.' These sorts of requests are usually made of Families SA when there are grave fears by a judge for a child's welfare or safety. They are not idle or ill-considered requests; these are pleas by family law judges and magistrates for welfare to intervene in respect of a child's safety.

An answer that I received recently to another question on notice indicated that, of approximately 30 such requests received by Families SA in 2007, it intervened only twice. In 2008, Families SA received 26 such requests for intervention from 1 January to 30 September that year, and the Minister for Families and Communities indicated that, in response to these requests for urgent intervention, Families SA provided 26 written responses. That indicates to me that there were zero actual interventions last year. Apparently Families SA did not respond to these urgent requests for intervention on even one occasion. My questions are:

1. Will the minister confirm that Families SA did not intervene in any Family Court cases in 2008, despite requests to do so from the courts?

2. If it did not intervene following a request, why not?

3. How many requests for urgent intervention in Family Court or federal Magistrates Court proceedings have been received by Families SA so far this year, and how many have been agreed to and acted upon?

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) (15:01): I thank the honourable member for his important questions. I will refer them to the Minister for Families and Communities in another place and bring back a response.

BUSINESS ENTERPRISE CENTRES

The Hon. J.S.L. DAWKINS (15:02): I seek leave to make a brief explanation before asking the Minister for Small Business a question about business enterprise centres.

Leave granted.

The Hon. J.S.L. DAWKINS: Most members would be aware of the network of business enterprise centres (BECs) which exists across metropolitan Adelaide. These independent organisations, a number of which have won national awards in recent years, receive funding from the three tiers of government as well as the business sector.

Under the current resource agreement with the Department of Trade and Economic Development, BECs are due to receive their annual state government funding component in the last week of each financial year. However, they were recently advised by DTED not to expect the funds before 1 July. Indeed, I understand that today—a fortnight into the new financial year—the funds have still not been provided to the BECs. This is affecting the ability of the centres to meet financial commitments within their local communities and beyond. My questions are:

1. Is the minister aware of this delay in funding?

2. Will the minister assure the council that the BECs will be paid the state government funding component immediately?

3. What action will the minister take to investigate this funding delay?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:03): I thank the honourable member for his question, because the business enterprise centres are a very important part of the services that government delivers to small business. My colleague the former minister for small business entered into a three year contract back in 2008 to fund the seven BECs and the two enterprise centres (commonly referred to as the BEC network). The purpose of that was to enable the network to provide an extension of its existing services, including information, advice and business assistance to small business operators.

The BECs receive varying levels of funding support from their respective local councils, and the funds are administered by independent agreements with each BEC. The federal government has committed to provide funding to 36 BECs across Australia, including funding to eight of the nine South Australian enterprise centres, and that funding varies from $200,000 to $350,000 per annum for a period of four years. State government funding of $150,000 per annum, excluding GST, is provided to each centre for a period of four years—that is, $450,000 in total per entity over the period.

The current arrangements are due to expire as at 30 June 2011. I will investigate the matter raised by the honourable member. Those arrangements were put in place to give the BECs longer-term certainty in relation to their funding, which will be delivered. I am not exactly sure of the agreed date for payment but, given that the honourable member has raised this issue—

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

The Hon. P. HOLLOWAY: Funding is for the year. Presumably it will be out of the current budget. I will investigate the matter. We appreciate the work done by BECs, and if there is any problem I will have it addressed quickly.

BUSINESS ENTERPRISE CENTRES

The Hon. J.S.L. DAWKINS (15:06): Has the Office of Small Business and Regional Affairs taken up this matter within DTED on behalf of the BECs?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:06): I have not had the issue raised with me. Had it been raised with my office, I certainly would have made inquiries of the department in that regard. If there is an issue, people may well have raised it with the department. I will get on to the issue as soon as question time is over and, if there is any delay, I will find out the reason for it and provide the honourable member with a response.

INDIGENOUS WOMEN

The Hon. J.M. GAZZOLA (15:07): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about indigenous women.

Leave granted.

The Hon. J.M. GAZZOLA: NAIDOC Week is a celebration of Aboriginal and Torres Strait Islander cultures and an opportunity to recognise the contributions of indigenous Australians in various fields. Will the minister inform the council about the joint project between the Office for Women and Radio Adelaide regarding NAIDOC Week celebrations?

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 am pleased to announce that during NAIDOC Week a collaborative project—Sistas Yarnin'—has developed between the Office for Women and Radio Adelaide. Sistas Yarnin' is about Aboriginal and Torres Strait Islander women from around the state sharing stories about their lives and experiences. The rich tradition of story telling and yarnin' is an important part of Aboriginal and Torres Strait Islander culture, and this project enables women's stories to be shared with the whole community.

Many women are leaders, role models, aunties and elders, whose stories about their community and culture have not been told. Sistas Yarnin' gives a voice to those remarkable women and allows us all to better understand one of the oldest cultures on earth. Office for Women staff are working with staff from Radio Adelaide to identify women in the community who will be willing to

tell their stories. The office will also assist in establishing a trusting working relationship with the women who may have had negative experiences with media in the past.

The office has a broad network of Aboriginal and Torres Strait Islander women with whom they work across South Australia, including delegates nominated to attend the state Aboriginal women's gathering and the national Aboriginal and Torres Strait Islander women's gathering, and members from the Premier's Council for Women. Women working in their communities and young women will also be targeted as these are the women whose work and stories often go unrecognised.

Radio Adelaide is a community radio station owned and operated by the University of Adelaide. The station provides diverse radio, with a focus on arts, ideas, local issues, current affairs and music, and is predominantly staffed by a large and committed team of volunteers. Radio Adelaide has been supportive of issues relating to Aboriginal and Torres Strait Islander people and in 2008 interviewed a number of women involved in the state Aboriginal women's gathering. Interviews for Sistas Yarnin' will be undertaken over the next few months and will be finalised in October. 'Interview' is probably not the correct term to use because many of the recordings will be in quite an informal setting, having a yarn over a cup of tea in a non-threatening environment. Radio Adelaide will program the stories across the station in short 10-minute segments and longer half-hour stories

Sistas Yarnin' will be available to be downloaded from the Office for Women website. I feel quite privileged to be involved in this project and look forward to hearing the stories of Aboriginal and Torres Strait Islander women being told in their own voice.

ROYAL ADELAIDE HOSPITAL

The Hon. J.A. DARLEY (15:10): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations, representing the Minister for Health, questions about the Royal Adelaide Hospital.

Leave granted.

The Hon. J.A. DARLEY: At present, the RAH exists on the Parklands, with the government's proposed new RAH planned for the North Terrace rail yards, with frontage to the River Torrens. There has been much debate whether the RAH should be redeveloped on its current site or whether a new hospital on the North Terrace rail yards is the more viable option. My questions are:

1. Developing a sprawling, low-level hospital building on potentially one of the most valuable sites in Adelaide with river frontage is not maximising the site's highest and best development potential. What assessment, if any, has been made of the loss of value by using this site as proposed?

2. I understand the current site includes five heritage listed buildings that cannot be demolished and that remaining buildings, ultimately, will be removed and the land reverted to parklands. What assessment, if any, has been made of the lost opportunity cost of this site?

3. What is the capitalised whole of life cost for doctors and teaching staff in terms of time and distance of commuting between the new site and existing facilities such as the Medical School, Adelaide University, the University of South Australia and the Hanson Centre for Cancer Research?

4. What is the accumulative cost of refurbishing and renovating the existing buildings over the past five years, and how much more is likely to be spent before the new hospital is built?

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) (15:12): I thank the honourable member for his most important questions and will refer them to the Minister for Health in another place and bring back a response.

LEGISLATIVE COUNCIL REFORM

The Hon. R.I. LUCAS (15:12): I seek leave to make a brief explanation before asking the Leader of the Government a question about the Legislative Council.

Leave granted.

The Hon. R.I. LUCAS: The minister and the Attorney in another place have read onto the public record the Rann government's proposals for reform (as they deem it) of the Legislative Council. One aspect of that was the reduction in the number of members of the Legislative Council by almost a third—from 22 members down to 16 members.

The Hon. R.D. Lawson: Just because they want to get rid of Russell.

The Hon. R.I. LUCAS: There are other ways of getting rid of Russell, I would have thought, than reducing the number of members from 22 down to 16. I think most people who have involved themselves with the operations of the Legislative Council in recent times have appreciated the significant work undertaken by the committees of the Legislative Council, the standing committees and the select committees of the Legislative Council. Under the Rann government's proposed reforms (as it deems them), when one removes up to three ministers—which generally has been the case, although it is not at the moment—and the President from the members of the Legislative Council, there would be just 12 members to continue the work of the committees of the Legislative Council. Some people have already commented to me that this is just one further attempt or mechanism by the Rann government to gut the accountability and effective control mechanisms of the parliament in relation to the operations of the executive arm of government.

My question is: if the Rann government's proposed so-called reforms were to be successful and there were just the 16 members, does the Leader of the Government acknowledge that there would need to be a significant curtailment of the work of the standing and select committees of the Legislative Council and that whatever party happens to be in power, given that there would be three ministers and a President, potentially, there would be only three or so government members to serve on the committees of the Legislative Council?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:14): I find it a bit rich that the Hon. Rob Lucas talks about the government's gutting control mechanisms when one of the proposals is to have a Senate-like double dissolution provision. At present, the Legislative Council could block legislation, it could block a budget—it could do anything—and not be held accountable for it. Unlike the situation that exists in most other parliaments, if not every other parliament of the world, it can block legislation but there is no mechanism for resolving that. In fact, what would happen if a major bill was blocked by the Legislative Council is that it would have to be passed again after an election, and if it was blocked again you would then have an election at which the Legislative Council would not itself have to go to the people.

One of the problems with this council is that it has the least accountable provisions of any upper house probably in the world. In every other bicameral system there are provisions for dealing with deadlocks, as there should be. There are systems in the Senate that have worked. They have not been used very often—there have been only two or three double dissolutions in the 108-year history of the commonwealth parliament—but it is an important mechanism. The fact that we have not reformed the double dissolution provisions was an oversight in some of the changes made in the original reforms of this upper house back in the 1970s.

The Hon. S.G. Wade: People are sick of—

The Hon. P. HOLLOWAY: They are sick of what?

The Hon. S.G. Wade: The Labor Party promised four years' consultation.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: We can see that members (they have had about 10 minutes) are trying to think up, 'How are we going to block this? What excuse are we going to use for not having a debate?' I guess that is really what this is about, and I think that comment gave it away. To say that it guts the control mechanisms is nonsense. In fact, it brings accountability to the Legislative Council, in terms of the rejection of legislation. It provides a legitimate means of resolving disputes between the houses which does not currently exist in the South Australian constitution but which exists in other parliaments in every other bicameral system in the world.

The other question asked by the honourable member related to the work of committees. We know what has happened with committees here. We have already reached the stage where so many committees have been established that most of them do not meet, anyway, for want of a quorum and other issues. The other thing about four year terms is that the parliament would reflect more currently the wishes of the people.

The Hon. A. Bressington interjecting:

The Hon. P. HOLLOWAY: I would have thought that the Hon. Ann Bressington would be the last one to interject. She was voted in on a ticket for Nick Xenophon. She will be here for four years after the next election. She was carried in with a handful of votes on Nick Xenophon's ticket and the public will not have another chance to vote for her until four years after this election. I would have thought that she would be the last one to try to justify an eight year term, unless it is self-interest.

Will this council allow the people of South Australia to choose whether eight years is too long or whether four years is an appropriate term for a member of parliament? That is a simple proposition. If the Hon. Ann Bressington does not like it, she can oppose it. She can use her numbers, along with those of the opposition if they care to so vote, to block us from even having a referendum. However, this government believes that that is something that the public of South Australia should decide.

Will it have an impact on the number of members of committees? Yes; I think that with respect to the future reform of the Legislative Council there is a debate we should have about the role of this chamber. If it becomes more of a genuine house of reform and, I think, a more contemporary composition—and the four year term would help that—one would hope that this chamber would emerge towards more of a house of review operation. With respect to the composition of the parliament, indeed, there has been public debate about whether there should be ministers in this council or, if it is to be a genuine house of review, have no ministers, in which case committee membership would come to be less of an issue. These are issues that will need to be considered.

I remind the honourable member that reforms were made to the Tasmanian parliament. I think the Tasmanian parliament was based on the five federal seats which each originally had seven members in the lower house. I think it had 35 members in the lower house and 19 in the upper house, and those numbers have, I think, been reduced to 25 in the lower house and 15 in the upper house, which means it has fewer members than we have in this place—but that reduction in numbers has not caused the Tasmanian parliament to collapse or fail to provide the necessary scrutiny .

There is a parliament that has recently reduced its numbers. The question here is: should it be up to the people of South Australia to make the decision or should the Legislative Council dictate to them, as it has tended to do in the past, and try to refuse any discussion about its own reform? We will see when we have the debate.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! Honourable members should remember those poor workers out there who have faced redundancy during the past few years.

LEGISLATIVE COUNCIL REFORM

The Hon. R.I. LUCAS (15:22): I have a supplementary question. Now that the minister has referred to the reduction of the numbers in the Legislative Council and the convention that the Legislative Council has generally been half the number of members in the House of Assembly, why did he and the other Rann government ministers choose to reduce the number of members in the Legislative Council by six and not choose to reduce the number in the House of Assembly by 12?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:22): The Legislative Council does not have a nexus provision as is the case with the Commonwealth Constitution. There are reasons for that being the case in the Senate, which for a start has a different composition. Each state has the same number of representatives regardless—

An honourable member interjecting:

The Hon. P. HOLLOWAY: In Tasmania, the upper house has single-member electorates and the lower house has multiple member electorates. So, there are differences. The fact is that the Tasmanian parliament has reduced its numbers but, as I understand it from speaking to people from Tasmania, that parliament has been able to cope with all its traditional functions. There is no

nexus provision in the South Australian Constitution as is the case in the Senate and, as I have said, we do not have the peculiarities of the Senate, where each state, even the smaller states such as Tasmania, have the same number of senators as the larger states, such as New South Wales.

LEGISLATIVE COUNCIL REFORM

The Hon. M. PARNELL (15:23): I have a supplementary question. Given the minister's support for the Tasmanian reforms, why did the government not introduce multi-member electorates in the lower house in South Australia?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:23): As I have just said, Tasmania has a different system. It has single-member electorates in the upper house and multi-member electorates in the lower house. That is the Tasmanian system. We have a tradition within the Westminster system, which applies in every other part of the British commonwealth, other than perhaps Tasmania, where we have the single-member electorate composition. That has been the tradition of our system. The government is formed by the party or group, as the case might be, that wins the maximum number of seats in the lower house. That is our tradition, and this government certainly does not propose to move away from that system, which has been a part of our government ever since self-government in 1857 and, indeed, for much longer in the United Kingdom on which our parliament has been based. In fact, while I am using the example of the UK parliament, that parliament has reformed its upper house in significant ways to reduce its powers—

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: Well, yes; but it has also reduced its powers to block legislation, which has made that house much more accountable. So, I think the direction the government is proposing is very much in line with the reform in western countries. When the Hon. Nick Xenophon was here, I understood that he was a supporter of four year terms. It will be interesting to see what his views are and whether he still holds that view.

LEGISLATIVE COUNCIL REFORM

The Hon. A. BRESSINGTON (15:25): I have a question deriving from the minister's original answer and in relation to deadlock conferencing. Will the minister tell us how many times a deadlock conference has actually occurred through the blocking of legislation? As to the Magarey Farlam conference, who blocked that deadlock conference and stopped it from proceeding?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:25): The point is that this state does not have deadlock provisions such as those in the Senate. We do not have their provisions for a double dissolution. If there is a situation where an upper house blocks and insists on blocking legislation, there is no mechanism—

The Hon. R.I. Lucas: There is a mechanism.

The Hon. P. HOLLOWAY: There is no effective mechanism within the South Australian constitution for a double dissolution. The current provisions for a dissolution have never been used because they never could be used as they are not workable. You would have to have a disagreement across an election.

Having conferences between houses is one way of negotiating to see whether you can achieve an outcome but, if there is ultimately disagreement, there is no means by which you can go back to the people of South Australia and let them decide on the issue; there is within the Commonwealth Constitution. In the 108 years since Federation, the double dissolution provisions have been used on several occasions in the federal parliament because they provide a safety valve.

If the Senate blocks legislation and makes a decision of the government of the day ineffective, it has the option of going to a double dissolution to resolve the conflict. This parliament does not have any such effective provision. I would have thought that the people of South Australia, if not members opposite, would welcome the fact that we have the same sort of system the founding fathers of this nation deemed sensible to put in the Commonwealth Constitution for the ultimate resolution of disputes between houses by reference back to the people. How can you have a system where a house can block legislation but not go back to the people to resolve it?

ANSWERS TO QUESTIONS

WASTE COLLECTION

In reply to the **Hon. S.G. WADE** (3 March 2009).

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 Environment and Conservation has advised:

The Department of Health was consulted about the proposed Food Waste Pilot Program. The Department of Health sought the view of the Public and Environmental Health Council. That Council advised the Food Waste Pilot Program was not in breach of the regulations.

HOUSING SA

In reply to the **Hon. D.G.E. HOOD** (5 March 2009).

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 Housing has advised:

Housing SA provides a diverse range of accommodation solutions across the housing sector for South Australians. Housing SA aims to ensure housing applicants can easily access services through one point of contact, and are able to access accommodation and support when they need it most.

Housing SA is allocating significant new resources to the non-government housing sector. This is consistent with the Commonwealth Government's policy to develop the size and capacity of the not-for-profit housing provider sector through a range of initiatives. Along with increasing the availability of affordable housing, one of the key aims of this reform process is the growth of the not-for-profit housing sector.

Through the Commonwealth Government's stimulus package, South Australia will receive approximately $455 million, for an additional 1,500 new rental properties for people with high needs. 75 percent of these properties will be allocated to the not-for-profit sector.

South Australia will also receive an additional 3,800 new affordable rental properties through the National Rental Affordability Scheme. This is a partnership program, again with not-for-profit housing providers, using leverage and private funding together with Commonwealth and State financial contributions, to obtain a higher number of housing outcomes for the people of South Australia.

In addition, the South Australian Government established the Affordable Housing Innovations Fund in 2006. The Fund also focuses on the not-for-profit sector, developing flexible partnership arrangements with non-government housing providers to create affordable housing. To date the Affordable Housing Innovations Fund has resulted in 15 signed agreements with not-for-profit housing organisations and 82 new properties on the ground for high needs and low income groups in our community. There are 28 projects and a total of 443 new properties in the pipeline through this fund.

In time, through this array of programs and initiatives, we will see the development of a more diverse social housing system. Non-government housing is currently approximately 10 per cent of social housing, and Housing SA aims to increase this to approximately 15 per cent through the Stimulus Package and the other Commonwealth and State funded growth programs that are currently being introduced.

HOUSING SA

In reply to the **Hon. R.L. BROKENSHIRE** (5 March 2009).

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 Families and Communities has provided the following information:

The tenant in question occupied her property on 26 June 1993 and currently has a Category 4 transfer registered. Should the tenant wish to be reassessed for Category 1, she will be in line with all other Category 1 applicants and will need to supply documentation such as support letters which will enable her application to be considered for Category 1.

This situation is not symptomatic of an endemic problem. Housing SA responds to all maintenance queries based on priority. The timeframes are:

- Priority One (urgent) within 4 hours;
- Priority Two within 24 hours;
- Priority Three within 14 days (non urgent).

An appointment was made in consultation with the tenant for late March 2009 where a Works Manager and a Housing Officer would visit the house and action any necessary repairs. The tenant called and cancelled this appointment as she would not be home. It was rescheduled for 1 April 2009.

The Works Manager was again contacted by the tenant on the morning of 1 April 2009 who cancelled the appointment. The tenant then advised they would contact Housing SA during the school holidays where a friend would be able to provide support to her through the maintenance inspection. As at 29 April 2009, this had not occurred. Housing SA can only respond to requests for maintenance through cooperation with the tenant.

Of the 1872 properties that were vacant at 28 January 2009, 707 were undergoing routine maintenance (ie cleaning, redecoration, minor repairs etc) prior to being relet to other households and 135 were undergoing more extensive repairs prior to being returned for letting. The remaining 1030 were not lettable because they were either being prepared for sale through the property locator or the open market, or, were substandard and awaiting major refurbishment or demolition as part of an urban renewal project.

MATTERS OF INTEREST

COMFORT WOMEN

The Hon. I.K. HUNTER (15:28): Today, I wish to speak of the heartbreaking story of the so-called 'comfort women' of World War II, as 15 August marks the day for global action on the issue of comfort women.

Women—often very young women—were sent to brothels throughout Japanese occupied areas and systematically raped by the Japanese military. The numbers vary, but Amnesty International believes that more than 200,000 women were subjected to this horror—200,000 women subjected to terror we can only imagine, 200,000 women who were abused and who often moved on with their life after the war pretending that nothing had happened to them, and 200,000 women trafficked with the full knowledge of the Japanese government.

We should make no mistake about it: there is ample evidence to suggest that these were not rogue soldiers acting on their own; to the contrary, there is plenty of information to suggest that the trafficking of women was coordinated by the Japanese military. Since 1993, the Japanese parliament has acknowledged that the Imperial Army was responsible for these so-called 'comfort stations', but it has never apologised to the women abused in these facilities nor sought to provide them with restitution.

Following a US congressional resolution calling on the Japanese government to formally acknowledge and apologise for these atrocities in 2007, Japanese Prime Minister Taro Aso said in his then role as foreign minister that the US resolution was not based on fact. In fact, then prime minister Mr Shinzo Abe stated that he thought that the women who were abused in so-called 'comfort stations' were so abused of their own volition.

Then there are some in Japan who claim it was not their government that played a role in this shameful history: it was the Japanese empire. We have held the German government accountable for the actions of the Nazis, and we must take a similar stand with the Japanese government. We must not make the mistake of thinking that awful events that occur during wartime are in any way mitigated by the events that surround them.

The first comfort stations of the Japanese date back to 1932, when the military found it was unable to find enough women to voluntarily act as prostitutes in its brothels. Then began a long and

horrific trend, with women tricked into prostitution believing they were applying for other jobs, women abducted and trafficked into brothels and women taken from concentration camps to be used as sexual slaves for the Japanese military.

As the Japanese military gained more and more land, the network of comfort stations expanded through the Japanese occupied territories. It has been estimated that as few as 25 per cent of all those who were comfort women survived the war, and many who did so were so badly injured by their treatment that they were left unable to have children. We cannot begin to put any sort of statistic on the degree of psychological trauma that those who survived experienced.

Living in Adelaide today is one of the most vocal and visible of the comfort women, Ms Jan Ruff-O'Herne. Before I conclude my contribution today I will briefly touch on Jan's story to remind people of exactly why it is so important that this issue is not left to be buried by history. Jan was born in 1923 and grew up in the Netherlands East Indies, now called Indonesia. An idyllic childhood was shattered by the invasion of the Japanese in 1942. The horrors of being interned in a concentration camp could in no way prepare the young Jan for what was to follow.

In 1944, Jan was taken with six other young women from the camp to the House of the Seven Seas, a military brothel in which all the young women were subjected to repeated rapes and beatings. Their photos were displayed in the reception area of Seven Seas so the visiting Japanese soldiers could select which woman they wished to buy. This went on for four months before the girls were moved back to an internment camp with their families.

For 50 years Jan kept her silence, ashamed of what had happened and unable to find the words to tell the people who loved her what she had endured, but in 1992 a series of events occurred that prompted Jan to tell her story: the ongoing rape of women in war that was happening in Bosnia; Korean comfort women coming forward to tell their stories; and a request that Jan tell her story to an international public hearing in Tokyo. Since 1992, Jan has taken a more prominent role in seeking justice for the comfort women. Her story is told in her autobiography, *50 Years of Silence*.

Japan's ongoing reticence on this issue is wholly unacceptable. If Japan is ever to reconcile itself to the atrocities carried out by its government and troops during wartime, it must acknowledge and atone for these crimes. Until it does, Japan will never be free of the shame of this wartime atrocity and the stain on its national soul.

MARINE PROTECTED AREAS

The Hon. C.V. SCHAEFER (15:33): I wish to raise my concerns over the methods being used—or, rather, misused—in the introduction of marine parks in South Australia. My concerns extend to the parks in the South-East and across the state, but today I will focus in particular on proposed Marine Park 6, which includes the majority of Spencer Gulf. I stress that no-one I know is against marine parks, and everyone is keen to see the preservation of all sections of marine ecology. However, the boundaries announced earlier this year by the department of environment encompass over 45 per cent of state waters.

If one overlays the national marine parks such as the Great Australian Bight, plus protected areas under natural resources legislation and various other acts and exclusion zones which already exist, it is not difficult to see that commercial fishing, recreational fishing, diving, charter boat operation and even surfing are under considerable threat.

The government is at pains to tell people that zoning within the marine protected areas will allow all these activities to take place and that the exclusion zones will be, to quote the minister, 'a mere dot; less than 5 per cent'. However, the proposed exclusion zones in Marine Park 6 are placed in virtually each corner of the boundary, in effect making the areas within the park either very difficult or impossible to access.

The fishing industry most affected by Marine Park 6 has gone to extraordinary lengths to propose areas within the marine boundaries which encompass all the ecosystems required by the minister but which allow other activities to take place. It has even, at its own expense, sent divers into the areas to photograph the biomass and ecology that exist within the region.

It has also offered to assist the department in defining other deep water areas as required, yet its efforts have fallen on deaf ears. The minister, or at least his departmental staff, have continued to sit on their hands without making any definite decision. They well know (as do my constituents) that, if no variations are made to the current boundaries by 28 July, any subsequent changes will need to go before both houses of parliament. We also know that there are only two

sitting days remaining before 28 July and only 18 sitting days before the end of this year and probably the end of this parliament.

I am, therefore, forced to assume that this government will actually do nothing about zoning and will impose the current impractical and draconian boundaries until after the March 2010 election, thus leaving the stakeholders in limbo. This is not only wrong but scientifically debatable. Professor Robert Kearney, Emeritus Professor in Fisheries Management at the ANU, had this to say:

> There is no fish species in South Australia for which marine parks represent the appropriate management measure...The real threats to the marine environment of South Australia are pollution in its many forms, freshwater extraction, coastal 'development' habitat destruction (particularly in intertidal nursery areas) and introduced species and diseases...Marine parks as proposed for South Australia do not provide protection of anything against any of the known threats. They are not 'marine protected areas' and the government's claim that they are is merely a distraction from the urgent need to address the lamentable failure to protect our coastal environments.

It is easy to assume that those concerned are the commercial fishing industry and, certainly, there has been extensive representation from that group. However, the Tumby Bay council and the Eyre Peninsula Development Board have also expressed extreme concern about the lack of any decision by the minister.

A statement from the Tumby Bay council reported in the *Port Lincoln Times* suggests that up to $190 million of tourism and recreational fishing could be lost to the area if the matter is not made clear in the immediate future. The minister has apparently foreshadowed his intentions to those who are most concerned by setting the outer boundaries where they are; therefore, he has placed the views of a very few above the views (and, indeed, the scientific evidence) of the many, including local government.

His decision has been described as a mere water grab approach. The implementation of poorly-planned marine parks represents a real threat to jobs on Eyre Peninsula. Worse still, this government is again purporting to be doing something when, in fact, it is sitting on its hands and refusing to make a decision. Could this be because, under the act, loss of commercial effort must be compensated? Yet, there is no provision for compensation within this year's budget.

MONTEROLA, MR V.D.

The Hon. CARMEL ZOLLO (15:38): Today I would like to recognise Mr Vincent Monterola, a recipient of a Member of the Order of Australia Award (AM) conferred in the recent Queen's Birthday Honours List. Mr Monterola was awarded an AM for his service to the community through leadership in the fire and emergency services sector, particularly the Eyre Peninsula recovery effort.

Vincent Dudley Monterola was born in 1941. At the age of 22, he started work for the Electricity Trust of South Australia after graduating from the SA Institute of Technology. A year later, in 1964, he joined the Stirling CFS as a volunteer firefighter—45 years on, and he is still a volunteer firefighter with his local Adelaide Hills Brigade.

Vincent Monterola's contribution to his community extends beyond his local community, and it has been significant for the state of South Australia. After the 2005 Wangary fire near Port Lincoln, Vince (as he is known to his friends and family) was handpicked by Premier Mike Rann and the then minister for emergency services (Patrick Conlon) to head up the West Coast Recovery Committee.

Vince possesses a leadership quality that has allowed him to pool people together in often difficult circumstances. The day after the Wangary fires, when the Premier, the then minister Patrick Conlon and the now member for Mawson (Leon Bignell) witnessed the devastation firsthand, they knew that the circumstances the community found itself in needed a special person to help them. Vince was the immediate choice and had no qualms about putting his own life on hold to assist the community to get back on its feet.

In the post-Wangary environment, emotions ran very high with people expressing various opinions and, in that climate, Vince mediated and talked through things with many people from a diversity of backgrounds. In his own words, Vince recalled that it was a privilege to be appointed to lead the Black Tuesday recovery, and he felt it was a humbling and gratifying experience. He is on record in the media as saying of the Eyre Peninsula community:

> The loss they experienced was so dramatic. They're a very resilient community. They weren't just sitting back and letting people do everything for them. We were working with them.

Vince is revered by the locals over on the West Coast. His capacity to bring people together is further evidenced by his leadership in his role as the inaugural chairman and chief executive of the South Australian Fire and Emergency Services Commission (SAFECOM). As the minister for emergency services at the time of progressing the SAFECOM act through parliament, I had bipartisan agreement to amend the bill to see Vince remain as chair of the SAFECOM board for the first two years. Such is the respect with which he is held.

Vince has held the position of chief executive officer of the South Australian Country Fire Service, and he had an esteemed private sector career of 35 years prior to his appointment as the top brass of the CFS. Vince was awarded life membership of the CFS in 1984 and of Keep South Australia Beautiful (KESAB) in 2000, and he has two other medals to go with his AM: an Australian Fire Service Medal (AFSM) 1999 and an Australian Centenary Medal 2001.

There is one word in Vince's vocabulary that he just does not understand—that is, retirement. Vince has attempted to retire twice and was, until recently, in his third period of retirement, but he has taken up the cause to become the chairman of the CFS Foundation, which supports volunteer firefighters in need.

I know that best wishes and congratulations go to Vince not only from the cabinet and all government members but from all members of parliament—and, in particular, from now retired former premier the Hon. Rob Kerin. It was a pleasure to work with Vince Monterola during my time as minister for emergency services, and I am indebted to him for his wise counsel whenever it was required. I am also indebted to him for agreeing to conduct the Ministerial Review on Bushfire Prevention Management and for other emergency services tasks carried out for the government over several years.

Vince is a highly regarded and well respected person across the emergency services sector as well as political, business and media circles. I would like to quote some words from a note I recently received from Vince, which provide us with a window into the type of person he is. He said:

> Members of emergency services are so often rewarded simply through the opportunity to provide assistance to people in need. To be recognised in this special way is indeed both unexpected and humbling. As we usually achieve our best results through working as a team in emergency services, I am pleased to share this recognition with those men and women with and for whom I have worked for more than 45 years. I am genuine too in praise for Helen, my wife, who has unquestionably helped me achieve whatever success I may have.

PREMIER'S TWITTER SITE

The Hon. R.I. LUCAS (15:43): I refer to a story in this morning's newspaper that was headed 'Tweets make twit of Rann', a story by Michael Owen. Members will be aware that Mr Rann tells everyone, and prides himself on the fact, that he personally handles his Twitter account—and that is important in terms of the story. Mr Owen says:

> Mike Rann—a devotee of the social networking website Twitter—has been embarrassed after some of the Twitterers he chose to follow were found to be promoting hardcore pornography, adult services and links to gun sales…Mr Rann, who personally attends to his Twitter site several times a day, has chosen to follow more than 7,000 other individual Twitterers from around the world, including a range of unsavoury characters discussing and providing links to nude pictures and hardcore sex. One of those Mr Rann was following and has since blocked, named Carrillo, discussed her dislike for condoms and her preferred style of ejaculation.

I will not go on with that. Morning ABC presenters Matthew Abraham and David Bevan followed up the story and spoke to the Premier. They indicated that they had gone onto the website and had found a particular twitterer who said:

> Sheralyn99, a well-endowed young woman, and among other things she says 'my arse needs a good spanking. Anyone interested?'

That is an example of the sorts of things being referred to in the story.

Mr Rann's argument to the morning presenters was that he had automatically allowed himself to follow people who followed him on his Twitter account. The first issue there is that Mr Rann's Twitter has approximately 6,500 people who follow him, but he follows more than 7,000.

Of course, if this automatic argument were to follow, clearly there is something wrong with the numbers and with that explanation from the Premier. Secondly, the impression that he is trying to give, that this is something that happens automatically, may well mislead people who do not understand how this issue arises. If someone asks to follow the Premier, if he then wants to follow that person's Twitter account himself, he has to make a conscious decision when operating his Twitter account to follow that particular person. He will see the name of the person and, in many

cases, a photograph and the name of that account and then make a conscious decision to click or not click the 'follow' button. If he is not registered on, he may well have to undertake two or three functions—conscious decisions—to follow those particular twitterers on their Twitter account.

So, contrary to the impression he has given some media people that this is some sort of automatic thing, it is not and anyone who understands how Twitter operates would understand the falseness of that explanation from the Premier. The Premier on his Twitter account this morning again tries to spin the story by saying, 'The Oz is concerned about who my followers are'. *The Australian* did not raise questions about who was following him because it was a public site and all sorts of people, savoury or unsavoury, can follow people on public sites in terms of their political announcements or information.

The Australian was not questioning who was following the Premier but raised the question as to who the Premier had decided he wanted to follow on their Twitter accounts. It is not an automatic thing, as the Premier has been trying to give the impression to a number of journalists around town as a result of *The Australian* story.

The second issue I raise briefly this afternoon is a matter I referred to a few weeks ago, namely, the campaign being waged by the Hon. Mr Finnigan to unseat the Leader of the Government, the Hon. Mr Holloway. I noted that Labor people have been speaking to the Adelaide *Advertiser* as Mr Greg Kelton had a story 'Call for younger blood in the upper house', saying that pressure was growing among sections of the Labor Party for Mr Holloway not to contest the next election, or at least to stand down early in the next term. The article stated:

> Party sources said yesterday that influential members of the Right faction believed it was time for new blood in the upper house.

We know who that is. It continues:

> Even if he doesn't stand down at the election, there's a strong school of thought he should stand soon after to make way for a younger person', one source said. Mr Holloway turns 60 in August. Labor sources said there was tension in the upper house ranks because of moves by new MLC Bernard Finnigan to move up the ticket from the No.4 spot at the next election.

Clearly the rumblings are apparent; the media have now been told, and Mr Finnigan is clearly moving against the Hon. Mr Holloway in terms of his re-election.

Time expired.

SOUTH AUSTRALIAN COUNCIL OF SOCIAL SERVICE

The Hon. M. PARNELL (15:48): I rise today to acknowledge the work of the South Australian Council of Social Service (SACOSS), and to draw attention to an important series of principles papers it has released this month. The first five of these papers are targeted squarely at politicians, political parties and policy makers, in particular, in the lead up to the next state election. The first SACOSS principles paper deals with the topic of child protection, with the subheading 'Shift the focus to child health and well-being'. SACOSS points out in this paper the following:

> It is clear that the current model of child protection in South Australia is unable to effectively address the current burgeoning need, nor is it effective in stemming the incidence of abuse in the community. Our child protection system has relied too long on a crisis medical model, which places the bulk of scarce resources at the tertiary end of the continuum, with scant regard for prevention or early intervention strategies.

The paper goes on to advocate a public health model for child health and wellbeing, which focuses more on helping to keep children healthy and safe in the community rather than simply dealing with crises as they emerge.

The second paper deals with the topic of concessions, and SACOSS is urging a shift in the focus towards equity. It points out that, when it comes to state government concessions for things like utilities such as energy, the current system is not fair. SACOSS points out that a person with a federal government pensioner concession or health care card can be eligible for state government concessions, but those who are on a low income health care card are not. That means that a single person on a low income of $892 per fortnight is ineligible for an energy concession, whereas a single disability pensioner with an income of up to $1,557 per fortnight or a self-funded retiree with an income of up to $1,920 per fortnight are both eligible for a flat rate energy concession. Clearly, a lot of work is needed to ensure that concessions, whether they be for energy, other utilities or transport, are well targeted.

The third paper is an important one and it relates to housing, and SACOSS is urging a shift in the focus to access and affordability. It makes the important point in this paper that it is not only

about refurbishing existing homes or adding new housing stock but you also need to build communities. Constructing communities, it says, allows for greater social participation to be achieved by individuals who often experience detrimental effects such as social exclusion as a consequence of unaffordable housing and housing stress. That ties in with debates we are currently having in relation to outer metro housing estates such as Buckland Park, where the attention is all on low income bricks and mortar and not on the community that supports the future residents.

In relation to law and justice, SACOSS again urges a shift to crime prevention, and it bemoans the path that South Australia and other states have gone down in developing and maintaining a punitive criminal justice system, rather than any system that is aimed at keeping communities safer, rehabilitating prisoners or reducing recidivism rates. The final paper released this week relates to jobs and employment, and social infrastructure in general. It makes the point that, with the looming social, environmental and economic crisis facing us, the move to a less carbon intensive green economy is the direction in which we should be heading.

My purpose for raising these documents today is to commend them to all members. We are some eight or nine months out from the next election, and members could do worse than start with these five position papers to help formulate positions for the next election.

ROBINSON, MR S.A.

The Hon. R.D. LAWSON (15:53): The government's response to the case of Shane Andrew Robinson has provided a perfect case study of its unprincipled approach to so-called law and order issues, and its preferred device of creating a scapegoat to avoid taking responsibility for matters of public policy. As future readers of this contribution will not necessarily be aware of the facts of the Robinson case, I should briefly describe them. Last week, Robinson went on a crime spree in the Mid North. He was approached by a lone police officer stationed at the Manna Hill station on the Barrier Highway. Robinson stabbed the officer (who, I am pleased to say, has made a full recovery) and then drove off in the police car. He took a 75 year old woman on a remote station as hostage and assaulted her. He forced her to open a gun store and took weapons from it. He later shot himself.

Robinson had a long criminal history of some 80 convictions for a range of offences. At the time of his running amok last week, he had been released on parole after the expiration of a nonparole period. On 22 June, the chair of the Parole Board, Frances Nelson, was informed that Robinson had breached the terms of his parole and the chair issued a warrant for his arrest. At the time of the offences to which I have referred he had not been apprehended.

There was quite justified community outrage at the offences committed by Robinson in his rampage and also considerable community concern about the fact that Robinson was in a position to commit such serious offences because he was at large.

What was the government's response to this outrage? It was to seek to scapegoat the Parole Board for this series of events. Scapegoating is a time-honoured device of scurrilous politicians, and the Rann government has perfected the scapegoat game since its election. It has a number of favourite scapegoats. Criminal lawyers are one section, and the Adelaide City Council is another. Paul Nemer was a scapegoat for a certain time. However, the government has found that the best scapegoat is an individual rather than an institution; that is why it usually picks on councillor Anne Moran rather than the city council as a whole.

In relation to the current matter, the obvious scapegoat was the chair of the Parole Board, Frances Nelson QC. Ms Nelson has been on the board for some 26 years. She has been fearless, hardworking, knowledgeable and conscientious in the discharge of these very difficult duties that she has. There was also a difficulty about scapegoating the whole of the Parole Board, because all of its current members have been appointed by this government—and, indeed, Ms Nelson herself had been reappointed by the current government—and the deputy chair of the board was a Labor mate, Tim Bourne, who I might say has also been a conscientious, diligent and effective member of the Parole Board since his appointment, notwithstanding the fact that he did not at the time of his appointment appear to have any great qualifications for it.

However, there was a danger about using the board as a scapegoat, because to do so would mean that Mr Bourne would be attacked. The Attorney-General said yesterday, 'The first thing I have to do is to work out who was on the Parole Board when this very bad decision was taken.' Clearly, the scapegoat once again was to be Frances Nelson QC.

Time expired.

AIDS COUNCIL

The Hon. D.G.E. HOOD (15:58): My contribution today will focus on a letter I received from a constituent in May last year, which I forwarded to SA Health for comment by the Chief Executive, Dr Tony Sherbon. I received a response from him dated 1 July last year.

The letter that I received last year was from a whistleblower within the AIDS Council outlining a series of very serious concerns about the running of the organisation (this is a person from apparently within the council itself). The initial letter I received dealt with serious allegations of inexperience and a lack of qualifications on the executive team in dealing with HIV/AIDS; inappropriate hiring practices, resulting in several unsuitable people, including a person with a background of fraud, finding themselves in positions of influence within the organisation; a failure to connect with the HIV community, with little of the funds donated to the organisation finding their way to the people who required them; and the concealment of funds and high levels of frustration within the HIV/AIDS community as a result of that.

I forwarded the allegations to the department before taking any further action. The response from the department dated 1 July 2008 acknowledged that the former AIDS Council executive director had, indeed, engaged in (and I quote from Dr Tony Sherbon) 'inappropriate behaviour'. The exact nature of the 'inappropriate behaviour' by the director was not described, but the whistleblower's letter made allegations that this person was regularly drunk and had no experience at all in dealing with HIV/AIDS and that, upon this person's appointment, had hired friends and acquaintances, rather than those with experience in dealing with this insidious disease. I am unable to confirm or deny those allegations.

The whistleblower's letter also made mention of the appointment of a fundraising manager for the AIDS Council, a person who had been sacked from his previous employment for the misappropriation of funds. The response from Dr Tony Sherbon seemed to concur with the whistleblower's allegations, not denying the allegations and responding that the individual's 'employment contract presented a risk to the organisation', noting that the department intervened to negotiate a termination of this individual's employment. I wonder how much taxpayers' money was wasted in providing a termination payment for this individual.

Another serious allegation was that one particular counsellor within the organisation was dismissed following allegations of inappropriate behaviour with vulnerable clients. That person was apparently rehired in 2005 and has now partnered with one of his former clients. Without denying the allegations, the letter from Dr Sherbon calls them 'rumour' but confirms that the counsellor departed from the AIDS Council, subject to a confidentiality clause, to which the department does not have access. The letter declares that the allegation that he is now the partner of a former client is unsubstantiated.

A person claiming to be an eyewitness has made allegations that there has been regular illicit drug use on SAVIVE premises. I remain frustrated with this situation and the fact that taxpayers continue to fund the AIDS Council of South Australia, even when it is abundantly clear that it is not appropriately using the funds provided to it to deal with the effects of the AIDS epidemic but instead seems more interested in promoting its particular world view through the SAVIVE and SIN magazines and promoting its sexual education viewpoint to South Australian schoolchildren, through its links with SHine SA.

Family First's view is that this organisation needs to be thoroughly audited by the department before it is allowed to waste any more taxpayers' money. The reality is that AIDS is a very serious and terrible disease, which demands a serious response from a professional organisation in order to combat the disease. I have raised these concerns before, and I will continue to do so because what we are seeing from the AIDS Council, despite very extensive taxpayer funding, are largely ineffective results in fighting HIV/AIDS. In fact, we have unfortunately seen a dramatic upswing in HIV infection in this state. Some 61 new HIV cases were diagnosed in 2006, up from just 23 in 2000. Frankly, taxpayers deserve better.

Time expired.

NATURAL RESOURCES COMMITTEE: SOUTH AUSTRALIAN MURRAY-DARLING BASIN NATURAL RESOURCES MANAGEMENT BOARD

The Hon. R.P. WORTLEY (16:03): I move:

That the 29th report of the committee, on South Australian Murray-Darling Basin Natural Resources Management Board Levy Proposal for 2009-10, be noted.

One of the Natural Resources Committee's statutory obligations is to consider and make recommendations on any levy proposed by a natural resources management board where the increase exceeds the annual CPI rise.

The 2009-10 levy proposal for the South Australian Murray-Darling Basin Natural Resources Management Board exceeds the 5.1 per cent CPI rate, with the board proposing a 20 per cent increase in the division 1 land-based levy and a 10 per cent increase in its division 2 water levy. In line with its default position that levies should not generally exceed CPI, the committee originally recommended to the minister, on 14 May 2009, that both levy increases should be limited to CPI.

Upon receipt of this recommendation, the minister suggested a meeting between the committee and the board to discuss the proposed levies and works. Consequently, the committee took evidence from the board's general manager, Mr John Johnson, and the presiding member, Mr Bill Paterson, at Parliament House on 4 June 2009. Following this evidence, the committee advised the minister of its final decision not to object to the proposed levies.

The rationale behind this robustly debated decision was that, in its appearance before the committee, the board provided a good account of itself and a thorough justification for the planned expenditure. Critically, the committee also heard evidence, both here and in the Riverland, that the local community were generally supportive of the board's programs, and no evidence or submissions were received to contradict this.

While in the Riverland in May 2009, the committee took time to meet with board members and staff, as well as local irrigators and levy payers. The trip included an inspection of Lake Bonney, involving a meeting with local community members on the now greatly expanded banks of the lake, and a tour through the Loveday irrigation district, where we saw abandoned and dying grapevines.

The visit also included an inspection of the Yatco wetland water saving project. For members who are unaware of this project, it is an impressive board supported wetland rejuvenation project that has seen a formerly permanent wetland isolated from the main channel to reduce evaporation and reinstated to a wetting and drying cycle more closely mimicking a natural system.

The ecological response to this locally conceived project has been rapid and striking, and it serves as a positive example to others. In addition, the committee recognises that, even taking into account the proposed increases in both division 1 and division 2 levies, the South Australian Murray-Darling Basin Natural Resources Management Board levies remained the lowest in the state.

I thank all those who gave their time to assist the committee with its statutory obligation. I also commend the members of the committee: the Hon. Graham Gunn, the Hon. Steph Key, the Hon. Caroline Schaefer, the Hon. Lea Stevens, the Hon. David Winderlich and Mr John Rau, who was the chairperson. Finally, I thank the committee staff for their assistance. I commend the report to the council.

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

NATURAL RESOURCES COMMITTEE: NORTHERN AND YORKE NATURAL RESOURCES MANAGEMENT BOARD

The Hon. R.P. WORTLEY (16:07): I move:

That the 31st report of the committee, on the Northern and Yorke Natural Resources Management Board Levy Proposal 2009-10, be noted.

As I have previously stated in this place, one of the Natural Resources Committee's statutory obligations is to consider and make recommendations on any levy proposed by a natural resources management board where the increase exceeds the annual CPI rate. This obligation also extends to considering new levies where one has not been in place for the preceding financial year.

The 2009-10 levy proposal for the Northern and Yorke Natural Resources Management Board included a newly proposed division 2 water levy. In the previous two years, a division 2 levy was also proposed, but this committee recommended that it not be adopted on the basis of insufficient consultation and absence of a completed Water Allocation Plan, and this recommendation was subsequently agreed to by the minister.

It is the committee's default position that no division 2 levies will be approved for any NRM regions without an adopted Water Allocation Plan. This year, the committee heard that the Water Allocation Plan for the Clare Valley Prescribed Water Resources Area had been completed and adopted by the minister on 4 May 2009. With the finalisation of this new plan, and evidence of much improved community consultation around the board's regional NRM plan, members resolved not to object to the new division 2 water levy. No objection was made to the division 1 land based levy either, which displayed a modest increase per household.

Much of what I wanted to say regarding the committee's assessment of the levy proposal and its practices in visiting NRM regions has already been said in an earlier speech. However, I now take this opportunity to reiterate that this committee looks forward to the support of this parliament in being properly resourced to enable the kinds of activities that this committee relies on to make an informed decision regarding NRM boards and levy proposals. This committee discharges its statutory obligations seriously and considers proper resourcing integral to undertaking its responsibility in a considered and conscientious manner.

I thank all those who gave their time to assist the committee in its statutory obligation. Mr Mervyn Lewis, the Presiding Member, and Mrs Lynne Walden, the General Manager, both of the Northern and Yorke Natural Resources Management Board, appeared and gave evidence to the committee at Parliament House on 6 April 2009. I also commend the members of the committee, Mr John Rau, the Chairperson, the Hon. Graham Gunn MP, the Hon. Stephanie Key MP, the Hon. Caroline Schaefer MLC, the Hon. Lea Stevens MP and the Hon. David Winderlich MLC, for their contribution. All members of the committee have worked cooperatively throughout. Finally, I thank the committee staff for their assistance. I commend the report to the council.

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

NATURAL RESOURCES COMMITTEE: EYRE PENINSULA NATURAL RESOURCES MANAGEMENT BOARD

The Hon. R.P. WORTLEY (16:11): I move:

That the report of the committee, on the Eyre Peninsula Natural Resources Management Board Levy Proposal 2009-10, be noted.

As I have previously stated, one of the Natural Resources Committee's statutory obligations is to consider and make recommendations on any levy proposal of a natural resources management board where the increase exceeds the annual CPI rise.

The 2009-10 levy for the Eyre Peninsula Natural Resources Management Board exceeded the 5.1 per cent CPI rate, with the board proposing a 6.5 per cent increase in the division 1 land based levy. The proposed division 2 levy increased by 50 per cent for reticulated water supply; that is, the levy charged to SA Water was much higher than the CPI and, even without this increase, the Eyre Peninsula division 2 levy represented the highest water levy in the state.

Members were directed to a board minute noting the need to clearly justify the basis for the division 2 levy increases. Unfortunately, committee members were not supplied with any detailed evidence clearly justifying or explaining the rationale behind the proposed increase prior to considering the levy. It was therefore felt that members had no choice but to recommend that the water levy being applied to SA Water be amended to equal the CPI. This recommendation was subsequently accepted by the minister.

The committee was pleased to see that the board was continuing its stepped approach in working towards a common division 1 levy rate for all local government areas in the Eyre Peninsula region. Consequently, there were no objections to the slightly above CPI division 1 levy increase, as this was part of the equalisation process.

I thank all those who gave their time and assistance to the committee with its statutory obligation. Prior to the adopted plan being formally forwarded to the committee, evidence was taken from the Eyre Peninsula Natural Resources Management Board Presiding Member, Mr Brian Foster, and the General Manager, Ms Kate Clarke, on 29 April 2009. The committee received one written submission from SA Water relating to this levy proposal.

I also commend the members of the committee, John Rau MP (the Presiding Member), the Hon. Graham Gunn MP, the Hon. Stephanie Key MP, the Hon. Caroline Schaefer MLC, the Hon. Lea Stephens MP and the Hon. David Winderlich MLC, for their contribution. All members of

the committee have worked cooperatively throughout. Finally, I thank the committee staff for their assistance. I commend the report to the council.

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

BURNSIDE CITY COUNCIL

The Hon. DAVID WINDERLICH (16:14): I move:

That this council—

1. Affirms the important role played by local government in delivering and planning services, engaging South Australians in democratic processes and advocating for communities.

2. Notes—

   (a) the evidence of mounting conflict among elected members of the Burnside City Council including the resignation of the Chief Executive Officer, subsequent withdrawal of the resignation, legal action taken by some council members against another council member and complaints about code of conduct violations;

   (b) the mounting allegations of corruption and allegations about the influence of an unelected person on the Burnside City Council;

   (c) the fact that the reappointment of Burnside City Council Chief Executive Officer, Neil Jacobs, may have been in breach of the Local Government Act 1999;

   (d) that under the Local Government Act 1999 investigators appointed by the minister are able to require persons to answer questions an provide documents; and

   (e) that under the Local Government Act 1999 the minister has power to investigate breaches of any other Act thereby potentially enabling the minister to investigate allegations of corruption;

and therefore—

3. Commends the Minister for State/Local Government Relations, the Hon. Gail Gago, for immediately commencing the process of a full investigation of the Burnside City Council under section 272 of the Local Government Act 1999.

4. Strongly advises that an investigation of the Burnside City Council actively seeks—

   (a) interviews and submissions from:

      i. current staff and elected members;

      ii. staff who have resigned from Burnside City Council since November 2006;

      iii. residents of Burnside City Council;

      iv. developers and other businesses that have had dealings with Burnside City Council; and

   (b) consideration of complaints to the Minister for State/Local Government Relations, the Ombudsman and the Police Anti-Corruption Branch that have been lodged between 2004 and 2006.

I move this motion with two aims: first, to continue to pressure the Minister for State/Local Government Relations to initiate an investigation of Burnside council and, secondly, to add my voice and arguments to ensure that any investigation include consideration of allegations of corruption and undue influence of an unelected member of the community on Burnside council.

I have gone in hard on this issue because my experience of the handling of the controversy around the District Council of the Copper Coast last year has given me no confidence in how our authorities handle such allegations. I will briefly remind members of some of the salient details of the case of the District Council of the Copper Coast or, at least, the aspects of the investigation that I found less than satisfactory.

The Office for State/Local Government Relations was called in to make inquiries into allegations that the District Council of the Copper Coast had given favourable treatment to Lease Corp in the sale of land for a shopping centre. It somehow managed to conduct these inquiries without talking to either Mr Bob Soang, the manager of Drake's Foodland (who felt he was the injured party in this process and who took his complaints to the media and the ACCC), and Mr Tommy Tonkin, a councillor who also criticised the sale process and other aspects of the District Council of the Copper Coast.

The Office for State/Local Government Relations did work closely with the council but did not really talk to its critics. Earlier this year, the minister tabled a report from the Crown Solicitor's Office which, apparently, cleared the council of any wrongdoing but, of course, no-one gets to see that report so we have no idea of how broadly or how deeply it looked.

I was in contact with residents who had made complaints to the Ombudsman, some of which I thought raised quite important and well founded issues of public policy. However, the Ombudsman tended to reject them if they were not from people who were personally affected by the issue they were complaining about. In other words, if you were not directly disadvantaged by a council decision, if you were not a business that had missed out on a contract or if you were not a person whose development had been unjustly refused, the Ombudsman would not be interested even though important issues were being raised.

The police Anti-Corruption Branch also conducted an investigation of the Copper Coast last year. I do not know whether or not that has concluded, but the issue that came out of that investigation was that it could not compel people to appear. So, it appears to me that our watchdogs are blinded, blinkered and muzzled in this state and, hence, the need to have recourse to parliament. In the absence of effective or sufficiently resourced or wide-ranging investigative bodies, members of the community have to have recourse to members of parliament.

I believe that the first of my aims will be achieved and that there will be an investigation of the Burnside city council. It is clear that that council is verging on being dysfunctional. This is indicated by the minister's own letter to Mayor Wendy Greiner on 2 July 2009 which seeks the council's response on the following concerns:

- the failure of council to resolve the friction between elected members, notwithstanding a new code of conduct and independent investigation and mediation;
- the further deterioration in relationships between parties despite the various actions taken by the council as evidenced by current litigation between elected members;
- the circumstances surrounding the CEO's resignation and reinstatement and the effect this may be having on council's ability to bring an impartial mind to their deliberations;
- recent council meetings having to be adjourned due to a lack of quorum apparently caused by members abandoning meetings before their close;
- suggested leaking of confidential information;
- and bullying and harassment between elected members in meetings, between elected members and members of the public gallery and between members and staff of council.

Since that letter was sent, the council has called the police twice to force residents to leave the gallery, after they refused to leave when the council moved to go into confidence. Given all this, consider how this council would go about attracting staff or signing a contract at the moment. In fact, it has been said that one of the tenderers for the Chelsea Cinema is not willing to hold discussions with council because confidentiality cannot be guaranteed. Now, that may or may not be good news for the Chelsea but it is not good news for any other transactions the council might be involved in, or for its reputation, or for its ability to govern the community of Burnside.

It would be very difficult for the minister not to proceed with an investigation. That would be very hard to explain, especially since this is the second time in less than a year that the minister has been at this point. On 1 August 2008, the Chief Executive of PIRSA (Geoff Knight) who was, at that time, responsible for state and local government relations within the bureaucracy, wrote a letter to the Mayor of Burnside (Wendy Greiner) which summarises a number of complaints against Burnside council and in which he states:

> I have considered a number of possible conciliatory interventions but it seems more appropriate to initiate a course of action that requires the council to take responsibility and to demonstrate that the elected body can work together constructively and with the administration. Should this not be possible, consideration will be given to recommending to the minister an investigation pursuant to section 272 of the Local Government Act. However, before I recommend this course of action I am providing the council with an opportunity to make submissions in relation to the allegations made and summarised above.

That was dated 1 August 2008, almost a year ago. I will return to the letter shortly. Most of my remarks today will concentrate on my second aim, and that is to make sure that any investigation of the Burnside city council is wide-ranging and leaves no stone unturned. I think this is important because it seems that the minister is trying to limit the scope of any investigation.

If you look at the minister's letter to council (which I read out before), it appears that there is an attempt to restrict the investigation to what might be called 'council behaving badly'—the levels of conflict and what that means for the functioning of the council. You will note that neither the minister's statement to the council or the media nor her answers to questions have referred to the concerns about allegations of corruption or undue influence at the Burnside city council.

However, over the past two years the minister has received numerous complaints about this matter, and they have centred around a person whose name has already entered the public domain—Mr Rick Powers. Residents have been calling out his name in meetings and I have personally spoken to councillors who say that this person (Mr Rick Powers) is a problem in that he is trying to control council.

In my assessment, I believe that there are three factions on Burnside council: there is a majority group, what you might call the Jacobsen/Gilbert group, and a couple of what you might call independents. I have spoken to people from each of these groups. Given these deeply felt, widespread and now public concerns, why would this aspect of the problems at Burnside be omitted from any consideration of investigation by the minister? This is even stranger when you consider that less than a year ago the government was (again, in that letter I cited before) on the verge of an investigation looking at the alleged—and I stress it is alleged at this point; he has not been proved guilty of anything— influence of Mr Rick Powers.

A letter from Mr Geoff Knight to Mayor Wendy Greiner of 1 August—which I quoted before and which I will now quote at greater length—states:

> The Minister for State/Local Government Relations has received several complaints with respect to a range of matters concerning the City of Burnside…including allegations of maladministration. The Whistleblowers Protection Act 1993 protects the identity of complainants and places legislative obligations upon me not to divulge anything that would disclose their identity. The minister has directed that I advise her and manage the complaints on her behalf.
>
> Firstly, I am in a position to advise that the information provided suggests prima facie that the nature of the allegations do not require referral to the Commissioner of Police under the Whistleblowers Protection Act 1993. Two of the complainants seek the minister's intervention, and request that an investigation into the council is undertaken, with a view to the appointment of an administrator for the council.
>
> With respect to the complaints received, I advise that the concerns raised and allegations made can be summarised as follows:
>
> - that the conflict between certain groups of councillors and the CEO is now at a level that the council is dysfunctional;
> - that the council is placing inappropriate weight in a range of decisions on the views of a person who is neither an elected member nor a member of staff, namely Mr Rick Powers—

keep in mind that Mr Geoff Knight is here summarising an allegation and not actually making a finding or comment on it—

> - that various requests for information by certain councillors are being refused by the CEO;
> - that the council chose not to implement the recommendations from a report addressing allegations made against certain councillors, without good reason;
> - that minor breaches of the council's Code of Conduct by certain councillors have been subject to an overreaction by other councillors, motivated by revenge;
> - that the revenge sought relates to failed planning ventures by Mr Powers—

again, a comment on an allegation—

> It would appear that complaints have arisen largely from an apparent lack of mutual respect and trust between various parties, which has led to the breakdown of any constructive relationship. My concern is that this is not conducive to good decision-making, and is not in the best interests of the elected body, its administration or the community that the council represents and serves.
>
> I have considered a number of possible conciliatory interventions—

This is the paragraph I read earlier, so I will not repeat it. Two paragraphs down, the letter continues:

> Further, I remind each elected member of their obligation to [at] all times act honestly in the performance and discharge of their roles and duties, and of their undertaking to discharge their duties conscientiously and to the best of their abilities. I strongly encourage the submission to represent a unanimous position of the council and one that is approved by all councillors at a meeting. I anticipate that a copy of this letter will be forwarded to each elected member, and the CEO, and dealt with in confidence at a meeting of the council.

> I also request that the council and the CEO be reminded of their obligations under the Whistleblowers Protection Act, and particularly the need to ensure that no act of victimisation occurs as a result of these issues. Accordingly, I would welcome your submission, addressed to me, by Friday 29 August 2008.

So, a year ago a number of serious matters warranted investigation, and they included the alleged—and, as I said, this is alleged and not proven at this stage—influence of Mr Rick Powers.

Yesterday, I asked minister Gago about the difference between the letter of 2 July and the letter I have just read out of 1 August 2008, and these are extracts from her response:

> The Burnside council has certainly had a history of problems, which preceded my time as minister. However, my understanding is that certain problems were looked at earlier on in the piece and were identified. The council was requested to respond to those. My understanding is that it did, and I will need to check the records for this, but I believe that its response was to invite the government to investigate the issues involved.
>
> From there—and, again, these were arrangements that were put in place largely by my predecessor, and I will have to check the details of this for accuracy—my understanding is that there was an agreement that the council would deal with these problems through a process of conflict resolution and mediation…
>
> I understand that quite an extensive process was undertaken by council and councillors to participate in that process, at the end of which my understanding is that they reported to or wrote to the minister and determined that things had progressed well and that the matters were in hand and being resolved and fixed. My understanding is that, with further developments, that process then broke down to such a degree that council members lost confidence in it and it was disbanded…
>
> Certainly, my understanding is that, as I said, the problems had been protracted and that a great deal has been put in place to assist that council to resolve its own problems. That is how it should be; the state government should not be heavy handed. We should assist local government to manage and deal with its own problems, obviously within certain standards and certain parameters…
>
> Due process is most important. I know there are honourable members here who want a witch-hunt; well, not on my shift. We need to identify problems clearly; they need to be investigated thoroughly; and absolute due process to all parties needs to be adhered to.

Later that day the minister, having sought more advice, came back and added more detail, and I will read two of the three paragraphs of that answer:

> I am advised that the mayor's response to my department in late August detailed a revised code of conduct, incorporating an independent investigation process, which had received no complaints since its inception in April 2008; an elected members' grievance policy, under which no such grievances had been lodged; that councillors had been reminded of their duty to make informed decisions in a professional and responsible manner and in the best interests of the community; and a mediation workshop for councillors and the CEO was to be arranged.
>
> I am advised that the records have since been checked. I understand that a mediator was engaged. However, no formal report was provided to me or the chief executive of the department.

I will summarise that long extract. In August 2008, the chief executive wrote to the mayor and said (and I am paraphrasing the letter here), in effect, 'You are on the verge of a formal investigation. Please advise me why I shouldn't advise the minister to investigate you. I am saying this to you because I am concerned about dysfunction, the CEO withholding information, the role of Mr Rick Powers, your lack of action on a key report, and the way in which minor breaches of the code of conduct are being used to extract revenge'. Then the chief executive said, 'I want a unanimous submission from council that explains all these issues or else.' The council wrote back and addressed the issue of dysfunction but ignored the other five points. The chief executive of PIRSA and the minister said, 'Fine; okay' and ignored the situation.

As we heard from minister Gago's response, no-one sought to follow up the mediation process, which was critical to the resolution of these problems. In fact, I have been told by one councillor that, despite requests by a number of councillors to address the role of Mr Powers in this mediation process, the majority of councillors blocked any attempt to do this. So the situation festers and escalates and here we are, a year later, having come almost full circle.

The minister has implied that I want a witch-hunt. However, I simply want a proper investigation of the matters that are being raised by the community and by councillors.

I agree that the minister should go by the book. My point here is why the book was not followed in September 2008 instead of waiting until August 2009. The key point I wish to make today is that the role of an unelected member, which has been the source of friction in this council, was known by the state government but seems to have disappeared from current consideration of the issue.

I will now outline specific concerns about the role of Mr Powers and the sort of allegations people have made and the sorts of concerns they have. Most of what I am about to say is not

actually illegal behaviour on Mr Powers' part. There are perhaps one or two things that verge on that, but the great majority is not; none of it has been proved and all should be the subject of investigation. Mr Powers' colourful past, highlighted last night on *Today Tonight*, should not be held against him. What he was engaged in 20 years ago is irrelevant, unless some connection can be proved with what is going on today. Everyone is entitled to a second chance. I am much more interested in and want to focus on the way in which, at the very least, perceptions about his actions today are creating a problem and that therefore these perceptions and allegations should be the subject of investigation. To go back to where it all began, the Messenger *Eastern Courier* of 18 January 2006 featured an article headed 'Powers that be move in on Burnside', stating:

> An Auldana businessman is backing a stable of candidates in the November elections in an effort to overhaul the entire Burnside council. Rick Powers, a semi-retired former company CEO, said past clashes with Burnside over planning matters had driven his ambition to oust all of the sitting members. Mr Powers would not disclose the amount of money he has put behind candidates—Grace Scinto, Joanne Howard, Ian Chance, Peter Pavan, David Lincoln and Liz Clarke—but the figure is rumoured to be in the thousands.
>
> He said he would also offer support to candidates Lindsay Power and Julian Carbone. He is not backing any of the mayoral candidates—sitting mayor—Wendy Greiner—and challengers Cr Jim Jacobsen and former councillor Ruth Morley—nor would he say publicly of the three, who he would vote for. Mr Powers said the candidates he was backing were all independents who did not know each other before nominating several weeks ago, and were largely funding their own campaigns.

So, Mr Powers played a very active role in this council election and I think all but one of the people he backed were successfully elected. That, of course, is not illegal. I understand there was a subsequent investigation, instigated by the then CEO of Burnside, John Hanlon, now working for the Office of State/Local Government Relations, into some failure to declare donations from Mr Rick Powers, but that is probably not his issue but an issue for the candidate. So, no illegal behaviour there, but the start of a process that generated concerns later.

It did not take long after that for problems to begin to emerge. I have an email provided by the City of Burnside, following a request by a councillor, which is from a Rick Powers to Bruce Williams at Burnside, one of the senior management of Burnside, stating:

> Bruce, I am informed that there were also comments made, on March 20, 2007—

four months after the election effectively—

> by Crs Hillier, Morley and Collins, in relation to me and 'puppet' councillors. I realise we all have better things to do than waste time with sort of unprofessional behaviour. Unfortunately it seems that if this council is to get over its penchant for dysfunctional behaviour, there is no choice but to deal with it now and in a manner that cannot fail to be understood. I request that you provide me with a transcript of all references to 'corrupt or improper behaviour' by any member of council during the meeting of March 20, 2007. In addition, I need copies of all publicly available documents in relation to candidate election returns, so referred to by Cr Jacobsen, including his own, for election November 2006 and the by-election, if any have yet been filed.

So, four months after the election and it is already becoming quite heated at Burnside and concerns about this individual are to the fore, but there is no illegal behaviour: it could just be the vigorous cut and thrust of politics.

Since then residents and councillors have expressed concern that Mr Powers attends virtually every meeting of council, the Development Assessment Panel and council subcommittees (that was until the meeting started making the headlines). Attending council meetings is highly unusual and somewhat masochistic behaviour, but it is not illegal, either. I have encouraged residents on the Copper Coast to attend council meetings to keep tabs on their council, and I would do that in other areas as well. As part of a pattern of behaviour, it builds perceptions in the community and those perceptions can be laid to rest only with a proper investigation.

Residents and councillors have expressed concern that Mr Powers is alleged to have given directions to councillors from the public gallery. I have been told by two different councillors and two different residents that he has been observed giving directions to councillors he has supported. Mr Powers has denied this—I have spoken to him. This is hard to substantiate and he denies it, but it is one of the perceptions that is floating around and, as I go through the list, members will see how they form a pattern.

Of particular note in this argument about whether or not Mr Powers has influence over council was the fact that on 23 June, when the council met to discuss the resignation and reappointment of CEO Neil Jacobs, the agenda papers were issued with a motion to move into confidence, so the media did not attend. One person did attend and was in the gallery—Mr Rick Powers—and the council voted not to go into confidence. Nothing necessarily improper but, as

members would be aware, since that time Burnside has twice called the police to evict the public from the gallery because the council went into confidence. In this pattern of perceptions and allegations, all these things tend to reinforce each other. It is alleged that Mr Powers has unusually close relations with the Chief Executive Officer, Mr Jacobs.

Details of meetings and phone calls between the chief executive officer and Mr Powers have been obtained on request by a councillor. There is a list of meetings: 14 December 2007, introduction to the views of the City of Burnside and development approval processes; 8 February 2008, the topic was a personal development application; 20 February 2008, views on council agenda items and availability on the website; 12 March 2008, views and feedback on CEO performance; and 13 August 2008, feedback on staff members, views on Glenside lot 31 investment policy, skate park and new sporting facilities. A list of phone calls: 23 June 2008, the number of volunteers at the council nursery; 17 September 2008, local government provisions relating to non-attendance at council meetings; and 14 October 2008, a DAP applicant complaint and legislative provisions relating to the appointment of a deputy mayor.

Mr Powers met and conversed with the chief executive officer on a wide range of issues. Now again, not illegal, and in isolation possibly highly commendable, but also extremely unusual. As a former councillor, a resident or even a councillor meeting with that frequency with the chief executive officer, given that they are likely to meet as part of council meetings as well, is unusual but hardly a hanging offence, but, as I say, it feeds these perceptions.

There are concerns that Mr Powers is intimately involved in the assessment of development applications. This is an area where I think there is more concerning evidence. Again, I have sat on a development assessment panel and it was fairly proper, and the need to be very clear about what relationships were with applicants and objectors, staff and so forth were drilled into us.

I will read several extracts from emails relating to development applications with which Mr Powers is involved that were not his developments. On 18 January 2007, three months after the 2006 election, there is a discussion between Mr Powers and Mr Bruce Williams about a development. Mr Powers wrote to Mr Williams concerning a certain development. The response from Mr Williams reads:

Rick

The application is going to the DAP on 23 January. Con Zacharakis has been requesting information on this one so I should have remembered yesterday, however I've known it as '17 Godfrey Terrace'. I sent Con a detailed email highlighting that the application has been processed in accordance with the KPI for the class of development, ie, a category 3 freestanding dwelling. The property has this classification as it is a contributory item in a historic conservation zone. Twelve weeks is permitted for this type of development and the actual time taken by the administration minus mandatory public consultation and requests for information from the applicant is 11 weeks. Could you please remind me of the name of the other applicant? Short term memory lapse on my part.

Mr Powers responded as follows:

Gerard. Yes, Godfrey Tce. Up to DAP. OK well hope that solves the problem. Heritage zone. I hate them, but I could live with Character Zone.

I take it that will be heard at the DAP on 25/01/07.

Short term memory lapse. Yeah I know exactly what you mean…some days more than others.

Parrella of 45 Woodcroft Ave, St Georges, SA 5068—

that is the other applicant—

Fence. One neighbour, to the west wants it left as it is, for privacy reasons, another to the rear and west wanted it shortened, but stated he would remove his objection if the Parrella's built him a new garden (or similar) and actually did it in writing as well.

He subsequently decided to withdraw that, perhaps realising there could be some inference of extortion and there are now no objections. Last I heard Kishan—

one of the development staff—

wanted him to reapply (start the timer again) when we should just approve it and move on.

Thank you Bruce.

By the way, we have discussed the replacement tree. How about a donation, for one in a park? In the interim, we will still move along the lines discussed yesterday, while being sensitive to the greening argument.

We are discussing applications that are not Mr Powers'. He is acting as some sort of freelance advocate for others. Again, it is unusual.

What struck me most, as I said as a former member of a development assessment panel, was the tone. Three months after the election, he is very closely involved in discussing development applications, and that seems to be taken as par for the course in a very familiar and authoritative tone, and I find that extremely interesting. In another email exchange from 24 September 2007 to another member of council staff, he states:

> Roberto, here are the names of the two unhappy residents, I mentioned last Tuesday night, whose applications are still with planning.

And he forwards those on. In an extended discussion about a particular development case, he writes to a number of councillors and I assume interested parties judging from the variety of email addresses and CCs to the chief executive officer of Burnside and the mayor. The subject of the email is Ms Khodair and it states:

> From one extreme…My comments, for what they're worth…The Khodair saga appears to be moving in the wrong direction. The Administration is making noises about closing her down and Councillor's feelings wanting to 'shoot her in the ass' to adopting her as a holy cause, none of which is likely to resolve the issue to anyone's benefit, except perhaps the lawyers. Tomorrow, Administration seeks the authority to 'shut her down', while Davina [Davina Quirke] will introduce a rescission Motion. If it fails (likely), Khodair will inevitably assemble the media and her lawyers, to paint Burnside as a bully, while probably getting herself arrested to drive her point home. Has anyone actually asked what the glass balustrade is made of? Is it perhaps already 'safety glass'? If so, then approving a retrospective application validates her insurance policy, relieves Burnside of the onerous liability and resolves the problem for all. If not 'safety glass', then a few rolls of 3M Scotchshield would make the offending panels virtually bomb proof. Check out the web [gives a link]. Appreciate Ms Khodair's style is less than moderate. On the other hand, she sees herself as David fighting Goliath and regardless of whether her case is just, it is her 'constitutional right' to 'stick it to the man', if she chooses. She sees this as a fight for her livelihood. She will fight and Council will lose, even if it wins…This problem, in my opinion, has been fumbled by everyone involved, on so many levels. People, it's time to 'suck it up' and settle this damn thing, before the hole gets any deeper.

It should be remembered that he is speaking to councillors and members of the development assessment panel, the mayor and the chief executive officer. The email continues:

> The insurance argument is a circular one. While she does have insurance, it is not valid if the structure is not legal. If she has no insurance, she cannot trade. The correct way to deal with this [is] NOT to shut her down, (or escalate the matter with such threats) but simply to make it legal. The only thing really wrong with this situation is that the glass may be dangerous, in the event of an accident. The rest is just paper clips. In all other aspects, the area is attractive, essential to her ongoing success and well received by clientele. The minor issue of 'reflection' could also be simply dealt with by changing the angle of those corner panels...

And on the email goes. Again, what I find striking is the sense of authority and familiarity. There are more emails, with which I will not take up the council's time, but the sense of authority, familiarity and propriety I find quite striking. This person feels he has a really strong role—in fact, a leading role—in this process, and that is highly unusual. If one puts that together with all the other aspects, one can see how it is feeding perceptions of undue influence and how people might make allegations of corruption, even if they are as yet unproven.

The final piece of documentary evidence is an email exchange (which, again, an investigation can assess and verify) between councillor Jim Jacobsen and Mr Rick Powers. It is dated 28 January 2006 and it states:

> And on the subjects of pains in the ass your preoccupation with bloody northern windows delayed approval increased costs and nominated (cemented you) as one of the problem councillors in the minds of my prospective donor. There's $2,000 that will absolutely not be going your way in the election campaign...

A couple of paragraphs later the email states (this is Rick Powers talking to Jim Jacobsen):

> Mate this is not the first time. I'm starting to think you can't help yourself: that you want to lose. What if that $2,000 is the difference between winning and losing the election. Do you really want four more years of Rob Gilbert and co? I want to replace up to eight councillors; every damn cent counts.
>
> I'm not doing this for health and I'm certainly not doing this for money. I'm doing this to win. To give Burnside more representative governance and yes for revenge also. Loose cannons are dangerous and unreliable. I'm not getting rid of one bunch of ass-holes, only to replace them with another lot. I'm happy for there to be a voice of conscience (you) prodding us to lift our ecological game, but not for those values to get forced down our throats. You're not there to push your own little bandwagon, your philosophies; you're there to help the people of Burnside achieve their goals and dreams, each in accordance with equity. Encouragement and education but not extortion and bully boy tactics. Jim I like you a lot but sometimes I just don't understand you.

We need this investigation to come to a firm conclusion, but my own assessment is that this is not necessarily about this individual lining their pocket. I think that, in a way, as far as I can tell, he

does have some sort of sense of public service (if one could describe it as such), which is around the development of Burnside, and his views around the way in which developers should be given a much freer hand and the council should not be held back by what he would see as heritage obsessors, and so forth.

However, I think it is very hard to avoid the conclusion that this person is attempting to control the council and is exerting too much influence on the council. I think I would feel that way if this person was trying to impose a different sort of agenda—maybe the sort of agenda that I would want to impose. The elected members are there to follow the guide of their conscience and to represent their community, and if an individual wants to move in and influence the council in that sense I would have thought that the best way in which to do it is to run as mayor or councillor.

So, I think this issue and the question of Mr Powers has led to allegations of corruption. They are unproven and should not be assumed and he should be given the benefit of the doubt, but I think they undoubtedly raise at this stage already important questions about the level of influence that should be held by an unelected person over councillors. At the very least, I think that raises, if not issues of criminality, issues of public policy and good governance.

As I said, one of my objectives was to make sure that these issues were investigated. They are already in the public domain and they are persistent and consistent allegations made by many members of the community of Burnside and by many councillors. They will not go away. They should be investigated—and, in fact, an investigation is probably the only way to clear the name of either Burnside or Mr Powers. That investigation may in fact also turn the spotlight on other people in a less than flattering way; that remains to be seen.

However, I find it difficult to understand why the minister seems to be attempting to narrow the scope of the investigation only to internal council fights; why she is just looking at council behaving badly and why she appears reluctant to examine the role of external influences or, at the very least, if we want to understate this, only looking at the perceptions about the role of an external influence in the problems encountered by Burnside council.

I think this comes at quite a good time. I believe the minister said earlier that there would be a bill to amend the Local Government Act, and I think the kinds of issues that are raised in such an investigation would be very useful in informing our debate about that act. However, it is absolutely critical for the good governance of Burnside and for the confidence of the community of Burnside that the minister investigates Burnside council and, if that investigation does not look at this matter of the undue influence of this individual, it will be seen as having very little credibility and the problems at Burnside will continue in one form or another.

Debate adjourned on motion of Hon. Carmel Zollo.

MOUNT BARKER

The Hon. M. PARNELL (16:53): I move:

That this council notes the resolutions passed at a public meeting held at Mount Barker on Tuesday 7 July 2009 calling on the state government to:

1. Ensure that the wishes of the people of Mount Barker are central to any decisions made that affect their community; and
2. Put in place opportunities for public debate and genuine consultation about future directions for the development of Mount Barker.

This motion gives effect to a resolution that was passed at a meeting in Mount Barker on 7 July. This was a meeting that I called to give the people of Mount Barker an opportunity to have their say about development proposals for their local area. The meeting was a great success in that 200 people braved one of the coldest nights Mount Barker had seen for some time (the temperature was about 1 degree), and they came because they are passionate about their community and passionate about having a say about the future direction of their community.

At the outset, I acknowledge the support that my public meeting had from a number of quarters, including the Hon. David Ridgway, who attended and spoke on behalf of the Liberal Party. I was pleased that Mr Ian Nightingale, the CEO of the Department of Planning and Local Government, was there, basically to speak on behalf of the government. Ann Ferguson, the Mayor of the District Council of Mount Barker, spoke; and the meeting was chaired by Carol Vincent, the Chief Executive Officer of the South Australian Farmers' Federation.

As I have said, it was an important meeting because, despite government processes, there are still very sparse opportunities for people to have genuine input into future town planning decisions. The planning minister, the Hon. Mr Holloway, said in parliament today, and has said at other times, that Mount Barker is not the main focus of the government's urban expansion policies. Certainly, it is true that there are more houses proposed for a greater population in other parts of Greater Adelaide, such as in the Roseworthy area or east of Gawler, for example.

However, for the people who turned up at the public meeting at Mount Barker this is their home. Some people who spoke were farmers—at least one of whom has had family farming in the area for 150 years. Other people there were more recent arrivals. However, they all shared the desire to have their say about the future of Mount Baker.

When it comes to having your say, there are two current government processes in train. The first process is the one we have spoken about in this place on a number of occasions, and it is the proposed amendment to the planning strategy for outer metropolitan Adelaide, which is entitled 'Planning the Adelaide We All Want: The 30-year Plan for Greater Adelaide'. That document, as fate would have it, was released the day before the public meeting in Mount Barker. So, there was a concrete document we could point people to, and we could refer them to maps and show them the areas that were being investigated for future urban expansion.

When it comes to public consultation on this document, the government makes a great deal of the fact that it is out for public display and public comment until the end of September 2009. The document states:

> The plan is being exhibited for community, councils, business and industry consultation, under section 22 of the Development Act 1993, and public submissions are welcome. Submissions can be made...[on the government website] until 30 September 2009.

That is pretty much the extent of public consultation. I think that, on any interpretation of the phrase 'public consultation', this process is inadequate. For example, it provides no opportunity whatsoever for people to ask questions of government officers. There is no ability to ask, 'Why was this certain area identified as suitable for urban expansion but this other area down the road was not identified as suitable?'

According to this plan, the government is not proposing to hold any public meetings of its own but, in fact, has passed the buck to local councils. The document states:

> Councils will be encouraged to invite interest groups to regional briefings with expert presenters from the Department of Planning and Local Government, who will outline the intent of the draft plan and explain how people can comment on the document and the deadlines for contributions.

Even though this is the government's own document—it will form part of the statutory document, the planning strategy for outer metropolitan Adelaide—the government itself is not undertaking any consultation but is leaving it all up to councils. The document also states:

> Focus groups will be held in each of the seven regions that make up the Greater Adelaide area during the consultation period. The feedback from participants will be incorporated into the final document.

However, there is no indication anywhere in this document or on the government's website as to the composition of these focus groups; how you would get onto one of these focus groups; exactly how the focus group process will be run; and how input will be incorporated into the document. So, all in all, it is a most inadequate process. That is why I need to call public meetings to make sure that people have a genuine chance to have their say, and I would urge other members to do the same.

The other document that will come out of this process, not yet on public display but will be eventually, is the development plan amendment for Mount Barker. As recently as today, the minister said in parliament:

> …a draft development plan will be circulated for public consultation, and the residents of Mount Barker and all South Australians will have an opportunity to have their say on this proposed rezoning.

The arrangements for public consultation on development plan amendments are in many ways even worse than those for changes to the planning strategy. The process undertaken is that people are invited to make written submissions, and that is fine. They are invited to make verbal submissions to the Development Policy Advisory Committee, but at that point the process becomes secretive and farcical.

I have attended many Development Policy Advisory Committee hearings into development plan amendments, and they follow a simple format: residents turn up with an interest in a rezoning proposal, an interest in their local neighbourhood, and they want someone of whom they can ask questions. Some people are happy just to have their say, but most people want more of a genuine dialogue.

However, if they try to ask any members of the Development Policy Advisory Committee any questions about the process, they are told that it is not its role to answer questions and that they are here to have their say, sit down and move on. Members of the public ask the chair of the Development Policy Advisory Committee, 'Mr Chair, what will happen to the submissions we have made? What will you do with all the information you are hearing from us?' The response is, 'Our report to the minister is secret.'

On a number of occasions in this place I have asked for the minister to disclose the reports and advice he has received from the Development Policy Advisory Committee, and the answer is always the same: the minister does not disclose that advice. It is an insulting process to those people who are involved—people who make an effort to write a submission and make an effort to turn up on a hot or cold night to have their say, yet they cannot be given even the courtesy of finding out the advice the Development Policy Advisory Committee gives to the state government.

So, it is in that light that people are concerned about the public consultation processes, and that is why this motion calls for the government to put in place opportunities for public debate—in other words, not just public submissions but public debate—and genuine consultation about future directions since, because of the way the system is currently structured, there is not that opportunity.

The second important question raised by the people at the Mount Barker meeting, both in the meeting and with me afterwards, was in relation to their very real concern about who is driving the process, who is holding the reins and who is controlling the process for the potential rezoning of Mount Barker, and the farmland that surrounds it in particular, for possible future urban development. We know at one level who is driving the process because, in response to questions I asked in parliament, the minister advised that there is a consortium of developers on whose behalf the rezoning is, effectively, being undertaken.

The minister has named the consortium as comprising five 'organisations', as he describes them: Urban Pacific, the Fairmont Group, the Walker Corporation, Land Services Proprietary Limited and DayCorp Proprietary Limited. In his response to a question I asked, the minister further advised that Connor Holmes was not a member of the consortium, and I might come back to that firm in a moment.

We know that these firms, these property developers with interests in the area, are driving the process. In fact, for a considerable period of time—for at least a year and very likely much longer—representatives of some of these five organisations have been active in the farming community, approaching farmers and offering to buy their land.

Now that we have the release of the 30-year plan for Adelaide, and now that we know the names of those in the consortium who are driving the rezoning of Mount Barker, it is very clear why these developers were approaching farmers. They want first option on the land, and they stand to make a killing if the land is rezoned.

On a number of occasions, I have asked in this place about the involvement of Connor Holmes in Mount Barker. It is a private consulting firm which the minister has accepted undertakes work on behalf of government as well as on behalf of private property developers. I have a copy of a letter from Connor Holmes to the Chief Executive Officer of the District Council of Mount Barker, which commences, 'We act on behalf of the owners of a number of properties located in and about the township of Mount Barker.'

So, there is no hiding from the fact that they represent property owners. When the minister wrote to Ann Ferguson, the Mayor of the District Council of Mount Barker, on 19 May this year, he set out that there was a consortium of property developers who had asked him to commence a development plan amendment process. In the letter to the council, the minister said:

> The consortia is also required to advise me in writing, for my consideration, of a suitably qualified person under Section 101 and/or Regulation 86 of the *Development Act 1993*, who the consortium proposes to engage to prepare background investigations, associated draft Development Plan policies and a formal structure plan for the whole of the affected area. I have instructed that your Council also be advised once this part of the process is concluded.

Most members would not be aware of the meaning or the importance of this so-called 'suitably qualified person' under section 101 or regulation 86. However, it is an incredibly important role because these statutory provisions are designed to maintain the planning integrity of any exercise such as a rezoning. The regulations set out the types of qualifications that a person needs to have, which for example include corporate membership of the Urban and Regional Planning Chapter of the Planning Institute of Australia. So, the law provides that there has to be an expert qualified person effectively leading the process, leading it in the sense of undertaking the investigations and drafting the structure plans.

These provisions also include, importantly, conflict of interest provisions. Whether it is section 101 or whether it is regulation 86, the words are similar. Basically, it precludes anyone doing this work who has been involved for remuneration in any aspect of the planning or design of a proposed redevelopment or anyone who has a direct or indirect interest in any aspect of the proposed development or any body associated with any aspect of the proposed development. So, in every aspect the person who is envisaged by state law to be driving the DPA process needs to be a cleanskin.

That is why I am finding it remarkable that, each time I ask the minister whether it is the firm of Connor Holmes, the firm that has admitted that it represents the interests of property owners in the area, or persons associated with it who are responsible for driving this development plan amendment process, I am yet to get a straight answer. I think the straightest answer we have had so far was minister Holloway's comments on the Abraham and Bevan program on Monday morning, where David Bevan and the minister had the following exchange:

> Bevan:...is Connor Holmes now working on a development plan amendment on behalf of land owners and developers for land in the Greater Adelaide area?

The minister's response includes the following:

> They're being engaged by the land owners and I think that's developers have got options on that land, they're being engaged to do some input work to it...that is what regularly happens...

So, is the minister saying that someone associated with Connor Holmes is the person envisaged by the act and by the regulations as the person who is driving the process? If that is the case, the people of Mount Barker have absolutely every right to be concerned that important long-term decisions—30-year decisions—about future land use in the Mount Barker area are being driven by property developers and their representatives, and the supplementary question they would all be asking is: who then is looking after the public interest?

I think that the more we look at this whole exercise, whether it be in Mount Barker or other fringe areas in the Greater Adelaide area, we are finding that serious questions are arising. With those comments, I give the council an assurance that I will continue to pursue opportunities for genuine public input as far as the people of Mount Barker go, and I will be extending my work to residents of the northern areas as well, where there are even greater proposals for urban sprawl. Those people have in many ways the same concerns about valuable farming land going under asphalt, bricks and mortar. I commend the motion to the council.

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

CLAYTON BAY

The Hon. M. PARNELL (17:12): I move:

That this council—

1. Notes the establishment of the Fresh Water Embassy at Clayton Bay on 28 June 2009 and congratulates the River, Lakes and Coorong Action Group Inc. on this important initiative;
2. Notes that the Fresh Water Embassy was established to represent all the fresh water species, all the Ngarrindjeri totems and all the places and communities that will suffer as regulators, weirs, bunds and embankments divide up an interconnected ecosystem;
3. Calls on the Premier of South Australia and the Minister for Water Security to establish diplomatic relations between the Government of South Australia and the Fresh Water Embassy with a view to ensuring a fresh water solution to the crisis facing the River Murray, the Lower Lakes and the Coorong; and
4. Urges the state government to prioritise fresh water flows and bioremediation over engineering solutions such as the regulators currently being constructed at Clayton Bay and proposed for the Finniss River and Currency Creek.

This motion is in four parts, and I will go through each of them separately. First of all, the motion calls on this council to note the establishment of the freshwater embassy at Clayton Bay on 28 June 2009 and congratulates the River, Lakes and Coorong Action Group Incorporated on this important initiative. It is unusual to see embassies created in South Australia. We know we have consulates here, and later on we will be debating a very important consulate and trying to make sure it stays in South Australia, but this is an embassy. It falls into that category of embassies similar to the one that was established outside the Old Parliament House in Canberra back in the 1970s, the original Aboriginal Land Rights Embassy.

The embassy, for those who have not seen it at the Goolwa, consists of not terribly substantial infrastructure. There are three flags flying from the headland, and the local council picnic shelter has been cleaned up and modified to become an embassy headquarters. An ambassador by the name of Ngori, who happens to be a pelican, has been appointed and I am told regularly surveys the Lower Lakes and Coorong region.

The embassy is an important symbolic initiative, and it has also received recognition by some of this state's most important conservation groups, including the peak umbrella body for conservation groups in this state, the Conservation Council. At its awards ceremony recently, attended by the Hon. Jay Weatherill, the Minister for Environment and Conservation, who actually presented the awards, the Jill Hudson award for environmental conservation was presented, and one of the joint winners was the River, Lakes and Coorong Action Group.

The minister pointed out at the time that it is not a group that he necessarily always agrees with, but he was happy to present what is in effect South Australia's only peer awarded conservation award. There is no shortage of conservation awards out there where people self-nominate and panels of bureaucrats make decisions. The Conservation Council awards are awards where conservationists themselves decide who the deserving recipients are. So, we should be congratulating the River, Lakes and Coorong Action Group on the initiative.

The second part of the motion basically calls on us to note that the Fresh Water Embassy was established to represent all the fresh water species, all the Ngarrindjeri totems and all the places and communities that will suffer as regulators, weirs, bunds and embankments divide up an interconnected ecosystem. It is no news to members that the voiceless creatures with which we share our state do need their champions to represent them. Anyone who has been down to the Lower Lakes cannot have failed to be moved by the work that some of the schoolchildren have done there with the turtles.

They capture turtles in the lakes. The turtles are usually close to death because they are covered with tube worms, which need to be carefully removed. The turtles are not released back into the Lower Lakes where they would just be infested again but are released into other locations. There are a lot of people doing a lot of work to try to save the environment of the Lower Lakes. The Ngarrindjeri people have a long and continuing association with this area, and in their media release of 18 June their representative bodies, the Ngarrindjeri Tendi Incorporated, the Ngarrindjeri Heritage Committee Incorporated and the Ngarrindjeri Native Title Management Committee collectively stated:

> ...the construction of the regulators at Clayton Bay and across the Finniss River and Currency Creek will result in the damage, disturbance and interference with their lands, waters and sky.

The quote from Mr Tom Trevorrow, Chair of the Ngarrindjeri Heritage Committee Incorporated, is as follows:

> We will suffer pain and loss as a result of the actions of the state in proceeding with the construction of these regulators. In January 2009, we said that we did not support a weir at Clayton and that we supported an holistic approach to the problems occurring in the river, Lower Lakes and Coorong due to over-allocation of water. That is still our position, but now there are three regulators that will cut up our country and our waters...As traditional owners, we have an inherited sacred responsibility to care for the country. Our teaching is that all things are connected. The objective in undertaking activities upon Ngarrindjeri country should be to not cause violence to Ngarrindjeri culture.

I am very pleased that in the Fresh Water Embassy the Ngarrindjeri flag flies alongside the Australian flag. The third part of the motion calls on the Premier of South Australia and the Minister for Water Security to establish diplomatic relations between the government of South Australia and the Fresh Water Embassy with a view to ensuring a fresh water solution to the crisis facing the River Murray, the Lower Lakes and the Coorong.

It has not escaped me that pedants out there lacking in imagination would say, 'Well, it's impossible for a state of the commonwealth to form diplomatic relations with any entity, let alone a

manufactured one such as the Fresh Water Embassy.' But I think that to take such an unimaginative approach would be missing the point. The point is that here we have local communities who are desperate to do the right thing by their local environment and to do the right thing by the traditional owners and custodians of the area. They want to see what the government says it wants to see, that is, a fresh water solution to the crisis which is facing the Lower Lakes and the river.

I do not think it is too much to ask that the government formalise that arrangement with these people, at least by key ministers, including the Premier and the water security minister, by visiting the embassy at Clayton Bay.

The final part of the motion urges the state government to prioritise freshwater flows and bioremediation over engineering solutions such as the regulators currently being constructed at Clayton Bay and proposed for the Finniss River and Currency Creek. It cannot have been lost on members that we have had the very great good fortune in the past week or so to have had considerable rain. That rain, as I understand it, is now starting to have an impact on the Lower Lakes. In addition, we have programs supported by the state government, programs that the Greens managed to secure funding for through the budget negotiations at the commonwealth level, in relation to bioremediation.

Members would have seen the photograph in *The Advertiser* this week with the CEO of the environment department squatting down against some growth coming up through what was the barren lake bed, showing that bioremediation works. That is the type of remedy that the local residents down there (the River, Lakes and Coorong Action Group) have been advocating and which they are, in fact, trying to implement themselves with far less resources than those available to the state government.

Bioremediation and freshwater flows are the alternative to engineering solutions. Engineering has its place but it always needs to be a last resort. We have not yet reached that stage in the Lower Lakes. The government should abandon these proposals to artificially regulate the flows and should focus instead on what many of us here have been calling for (for over a year now) which is securing freshwater flows and looking at less invasive means, such as bioremediation, to prevent the build-up of acid sulphate soils.

With those words, I congratulate the Fresh Water Embassy on its establishment. I am happy to say that the Greens have formed diplomatic relations with the embassy, and we now call on the state government to do likewise.

The Hon. DAVID WINDERLICH (17:22): I am delighted to support the motion. I was also present at the launch of the Fresh Water Embassy and, together with the Hon. Mark Parnell, undertook to bring back a motion to this council to establish relations with that embassy. I think it is a creative and imaginative approach to publicising the plight of the Lower Lakes and also showing the determination of the community that they are not going to give in.

It is a very innovative embassy in that it not only represents local people, non-indigenous people and indigenous people and, indeed, all species in the terms of the embassy. I think that probably distinguishes it from any other embassy that has been launched in the past. The embassy continues to thrive. On the weekend apparently 350 people turned up to a freshwater fish barbecue. If the state government does decide to establish diplomatic relations, there may be some culinary benefits associated with its opening of a relationship with the embassy.

Over the past few months I have organised and hosted two 'acid trips' to the Lower Lakes. They are bus trips taking people from Adelaide to look at the processes of acidification going on in the Lower Lakes, and the evidence and efforts to advance bioremediation by people in the Lower Lakes. Those two busloads of people from Adelaide have come away with two firm conclusions: one is that they have seen nature begin to heal itself and have seen the sort of green growth coming through that the Hon. Mark Parnell has described; and they have come away with questions about how accurate the science is that is being used to justify the decision for the weirs.

There are questions to be asked about the transmission of acid sulphate soils. It may be that there is a high level of acidity in a particular stretch of water but, a few metres away, vegetation can be flourishing. So, people come away wondering whether it would be best to take a more low-intervention approach rather than attempt to solve things with a one size fits all weir solution.

But the problem on the Lower Lakes—the problem that is being highlighted by the Fresh Water Embassy—is not just about the natural environment; it is also about the pain. The Hon. Mark

Parnell spoke about the pain felt by indigenous people. I have been struck by the pain expressed by the non-indigenous community of the Lower Lakes—people who are losing farms or who are simply saying that the calls of the frogs and birds are declining; that the lakes are falling silent and that they can hear things in the night they did not hear before, like the sound of a fox taking a lamb when once that would have been drowned out by a cacophony of nature.

So, a social loss as well as an ecological loss is going on in this community that this community is valiantly resisting and fighting in all sorts of ways, including mainstream lobbying, writing submissions and through innovative approaches like the Fresh Water Embassy.

I detect a change of emphasis by the state government of a leaning more towards bioremediation, and that is positive. But the weir still has not been ruled out. I think it is time for us to ask questions about whether that is the solution to our water problems, because it appears to me now that even the head of the Department for Environment and Heritage is acknowledging that bioremediation is a much better solution for the Lower Lakes environment. That leaves only one justification for the weir: to safeguard Adelaide's drinking water.

However, there is reason to believe that the cure may be worse than the disease. Recently, in *The Advertiser*, Associate Professor Keith Walker was quoted on the danger of algal blooms in the water trapped behind the weir, because we are slowing the flow even more and, come the warm summer months, these will become ideal conditions. A slow flowing warm river—or a stagnant river because it has been cut off—are ideal conditions for algal blooms. We may be building a weir pool that is going to be choked with algal bloom, and that will be the source of Adelaide's drinking water.

That matter has not even been looked at in the draft environmental impact statement, which seems to be a striking oversight. I think we need an independent study into whether the water we are trapping behind the weir (if it goes ahead) is even going to be drinkable. The draft environmental impact statement contained a statement about the risks created by the weir to Adelaide's drinking water. Appendix 15, page 47 states:

> The increase in acid production, exposure of fresh sulfidic material and mobilisation of acid that are highly likely to occur during the construction phase of the weir are in turn highly likely to accelerate the rate of exhaustion of that alkalising power and thus rapidly tip the Lakes water body into an extremely acidic state.

The key point here is that it is likely to occur 'during the construction phase of the weir'. The view of the scientist who wrote that, Dr Kerry Muller, is that the actual building of the weir can trigger acidification because, not surprisingly, if you are dealing with acid soils and then you dig them all up you are going to accelerate a process of acidification. I think there is clear doubt as to whether the weir is going to be a poison or a panacea, as *The Advertiser* described it.

We have a community that is suffering but fighting valiantly and succeeding with amazing effort and initiative to impose this issue on the national agenda. It is only a very small community of 2,000 people. We have an environment at risk and a solution that is of unproved worth about which some very serious and sensible questions can be asked and should be asked. In that context, I think our duty is twofold: one, to support that community in their fight—and part of what they are asking for at the moment is recognition of their embassy, and I believe we should do that and encourage our parties to do that if they have not done so already—and two, to ask some of those hard questions about whether this is an intelligent response, even for the people of Adelaide, let alone the people of the Lower Lakes. Will this solve our water problems or make the situation worse?

By establishing this Fresh Water Embassy, the people of the Lower Lakes highlight and raise these questions again. I think they have shown determination and imagination. I think it is time for us to listen, to act and to ask some of those hard questions.

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

NATURAL RESOURCES COMMITTEE: ADELAIDE AND MOUNT LOFTY RANGES NATURAL RESOURCES MANAGEMENT BOARD

The Hon. R.P. WORTLEY (17:30): I move:

> That the 28th report of the committee, on the Adelaide and Mount Lofty Ranges Natural Resources Management Board Proposal 2009-10, be noted.

One of the Natural Resources Committee's statutory obligations is to consider and make recommendations on any levy proposed by a natural resources management board where the

increase exceeds the annual CPI rise. Now that the new boards have raised levies for a number of years, it appears that the levy paying public have become accustomed to these levies, with the result that this year we received just two submissions from levy payers for six levy proposals from boards proposing to exceed CPI for 2009-10. This is much fewer than the number of submissions received in previous years.

We believe that a number of factors have contributed to this. First, people recognise the good works undertaken by the various boards and the value for money that their levies represent; secondly, programs instated by a number of boards (including the Adelaide and Mount Lofty Ranges board) to equalise the levy rates across the council districts in their regions; and thirdly, a general trend towards restraint regarding levy increases. I should say that this trend has been wholeheartedly encouraged, and in some cases facilitated, by the Natural Resources Committee.

After reviewing the levy proposal for the Adelaide and Mount Lofty Ranges Natural Resources Management Board, the committee was pleased to see that proposed amendments to the board's regional plan were consistent with those in the plan presented last year and adopted by the minister in mid-2008. Subsequently, our recommendation to the minister was not to object to the levy increases.

To ensure that this committee discharges its statutory responsibilities under the Natural Resources Management Act in an enlightened manner, members have endeavoured to develop an appreciation of the various NRM regions and their most pressing issues. As such, committee members have always taken the opportunity to visit and tour as many NRM board regions as possible to meet with board and staff members as well as members of the general levy paying public. To this end, committee members undertook a full-day tour with NRM board members and staff focusing on the Torrens catchment. On that tour members inspected various works undertaken with the assistance of the NRM board. Site visits included:

- Cox Creek at the Woodhouse Scout Camp in Bridgwater, where the board, together with SA Water and the EPA, has constructed a highly effective sedimentation basin to reduce nutrient contamination of the Happy Valley reservoir;
- the Lenswood Recreation Park, where the board has supported Lenswood Primary School's excellent revegetation works; and
- the Grange Golf Club wetland urban stormwater ASR (aquifer storage and recovery) scheme at Seaton, where wetlands treat stormwater for injection into aquifers for subsequent irrigation use.

It must be said of this extremely valuable tour, and also of the evidence presented to the committee, that members were impressed with the dedication, commitment and enthusiasm demonstrated by the Adelaide and Mount Lofty Ranges NRM Board members and staff towards the challenging task of managing the region's natural resources. It also appears, from our conversations with landholders, that this dedication is appreciated by the many participants and beneficiaries of board projects.

While this particular tour was simple to undertake due to the close proximity of the sites visited, the other NRM board regions for which the committee has statutory responsibilities are more distant and consequently require more time and resources to visit. However, despite the extra time and costs that these visits entail, this committee considers that getting out and about in the community, and meeting face to face and on site with natural resource managers to look at these issues, is by far the best course of action and represents excellent value for money.

As well as serving to educate honourable members to improve the quality with which we devolve our statutory responsibilities, this committee has found these excursions to have effectively raised the profile of parliamentary committees and the parliament, with many community members commenting favourably on our willingness to go out and consult with them on the ground.

Members find these trips immensely rewarding and look forward to continuing with them for the life of the parliament, and beyond. In the next six months, for example, funds and time permitting, committee members hope to visit the South-East and Kangaroo Island—which they will do on Monday and Tuesday of next week—the Eyre Peninsula NRM region and the SA Arid Lands and the Alinytjara Wilurara NRM regions.

I wish to thank all those who gave their time and assistance to the committee with this statutory authority. I also commend the members of the committee, John Rau MP (the Presiding

Member); the Hon. Graham Gunn MP; the Hon. Stephanie Key MP; the Hon. Caroline Schafer MLC; the Hon. Lea Stevens MP; and the Hon. David Winderlich MLC, for their contribution. All members of the committee have worked cooperatively throughout. Finally, I would like to thank the staff of the committee for their assistance. I commend the report to the council.

Debate adjourned on motion of Hon. C.V. Schaefer.

ITALIAN CONSULATE

Adjourned debate on motion of Hon. Carmel Zollo:

That this council—

1. Strongly urges the Italian government to reconsider its decision to close the Adelaide Consulate in light of the important role it plays in promoting the cultural, social and economic relationship between South Australia and Italy; and
2. Urges the commonwealth government to lobby the Italian government to change its decision to close the Adelaide Consulate.

(Continued from 17 June 2009. Page 2677.)

The Hon. J.M. GAZZOLA (17:36): I rise to support the motion moved by the Hon. Carmel Zollo, an issue raised by the Premier in the other place and greatly supported by honourable members in the council. As the Premier pointed out in his ministerial statement, and as others have abundantly brought to our attention, we have a long and strong relationship with Italy and Italian culture. Indeed, as the Premier pointed out, our relationship with Italy is undergoing further invigoration and transformation through a number of educational, scientific, cultural and business initiatives, initiatives that are set to build upon the already strong ties that we have in this state with these Italian connections.

We are indebted to our Italian ties and our citizens from Italy who have so dramatically changed and enriched the cultural and social fabric of our country, a transformation that still continues and one that we wish to continue. It is also about preserving and building upon the ties between our citizens of Italian descent and their native country.

As the Premier pointed out in the other place, we have in South Australia some 100,000 people of Italian origin, with 14,000 holding Italian passports. As the Hon. Carmel Zollo pointed out, Italian is the second most spoken language after English, a powerful indication of a strong shared culture and interests. We have many commercial and trade connections; the cultural and artistic connections are well known; we share a sister state agreement, and the list goes on.

I for one certainly would not like to see any diminution in our cultural revolution. This motion also has the strong support of the broader Italian community and its representative bodies—as the Hon. Carmel Zollo pointed out in her speech—and the concerns of the General Council of Italians Abroad. She has also pointed out the importance and relevance of the consulate in South Australia to the wellbeing and health of those Australians of Italian heritage who have always been ably assisted by the consulate.

As we know, the consulate here and its offices have been central and immediate as a conduit for initiatives, a provider of care for citizens and a cultural bridge. We as a state and a cultural identity in all its guises would be much poorer for its closing. In conclusion, I commend the thoughts that have been expressed and strongly support the motion.

The Hon. M. PARNELL (17:39): The Greens also support the Hon. Carmel Zollo's motion. The Adelaide Italian Consulate is vital for reasons beyond just assisting in simple visa, passport and citizenship applications. Even more, it is crucial for aiding Italian communities and building and maintaining relationships between Italy and South Australia. The Adelaide Italian Consulate has played an important role in assisting the Italian community with language barriers and education, and the loss of the language education office within the consulate would make the transition for Italian migrants more difficult.

With the assistance of the Italian Chamber of Commerce and Industry the consulate has also created ties between South Australia and Italy in terms of research, trade and economic development, and over the years they have helped to promote South Australia and South Australian products to Italy. It is these ties in particular which have created many jobs for South Australian residents and resulted in positive economic outcomes for our state. It would be nice to see these relationships continue to improve with a vibrant functioning consulate here in Adelaide.

As pointed out by the Hon. Carmel Zollo, there are over 100,000 people of Italian origin in South Australia, making them the largest ethnic group in the state. Asking this community to rely on the Melbourne consulate is inconvenient to say the least. It is probably worth pointing out that the European Union is implementing a new passport system in 2009 in which the holder's fingerprints are required for the new passport. This means that all South Australian-based Italians will need to physically travel to the consulate in Melbourne in order to renew their passport.

As the Hon. Carmel Zollo mentioned, the ageing Italian community in South Australia would be the most affected by this decision. Without direct and convenient access to the consulate, these particular community members will find even the simplest services more difficult to access. Residency or citizenship applications, which involve long and arduous processes, already as it is, would also become more difficult. To close the consulate in Adelaide would further complicate the process and may in fact deter some migrants from choosing to live in South Australia.

To remove the services of the Adelaide consulate is unjust and unfair on a community whose economical, social and cultural contributions have helped shape South Australia. For these reasons the Greens are very pleased to be supporting the Hon. Carmel Zollo's motion.

The Hon. CARMEL ZOLLO (17:42): I wish to thank all members who have spoken in support of this motion: the Hons David Ridgway, Robert Brokenshire, John Gazzola and Mark Parnell. Because of his proud heritage, I would particularly like to thank the Hon. John Gazzola for his contribution. Like me, he personally knows of the struggles of his parents' generation and understands what the lack of a presence of a consulate office means for that generation in particular.

I thank honourable members for supporting the motion on behalf of those with Italian heritage. When I spoke to this motion I was asked to name them, so I would like to do so. Besides myself and the Hon. John Gazzola, the Hon. Gail Gago also has an Italian born grandparent; in the other place, the mover of the motion, the member for Norwood, Vini Ciccarello; the member for Light, Tony Piccolo; the member for Hartley, Grace Portolesi; the member for Unley, David Pisoni, whose father is Italian born; and the member for Florey, Frances Bedford, has Italian born grandparents as well.

At the federal level the member for Makin, Tony Zappia MHR, is also proud of his Italian heritage. From memory, I think Tony was born in Italy, but I may be wrong. More recently, I was pleased to join Tony and members of the community at a forum called 'Trading Places' held in his electorate at the Campania Club. The Hon. John Gazzola was there that evening, as was the President, the Hon. Bob Sneath.

Federal minister, Simon Crean MP, told the gathering of the importance of the Italian-Australian relationship, which has been used as a springboard for the healthy trading relationship we enjoy with Italy. He also pointed out that Italy is an economic heavyweight, a member and current president of the G8, and the world's seventh-largest economy overall. It is therefore a very significant market for Australian goods and services. I understand that currently Italy is our fourth largest export market in Europe, with traditional commodity exports such as coal, wool and leather dominating the relationship.

Also present on the evening was Marco Fedi, one of our Australian-based members of the Italian parliament. Minister Crean pointed out that Mr Fedi's position is a reflection of the very strong ties Australia's Italian community maintains with Italy. Minister Crean summed it up well when he said that Australia has every reason to capitalise on our strong Italian communities and connections by working to boost our trade and investment relationship with Italy. Our communities, our associations and the Italian Chamber of Commerce are all promoted and assisted by our consulate office, with a Consul of Italy in South Australia sitting on the board of the Italian Chamber of Commerce.

Grace Grace MP, a Queensland member of parliament, was in Adelaide a week or so ago for the Australia Italia MP Forum. Brisbane is the other Australian consulate office to be targeted for closure. For the reasons I mentioned in moving this motion, it does not make any sense to see the closure of that office either. The community in Queensland is similarly incensed at the proposed closure, which flies in the face of common sense.

In moving this motion I mentioned that the community was working on a strategy. The Committee of Italians Abroad (COMITES), headed by its President, Vincenzo Papandrea, has been working hard across all associations in the Italo-Australian community for a petition to be presented to Australia's House of Deputies MP abroad, Mr Marco Fedi, in order for him to lodge the petition

on behalf of the Australian constituency he represents. We have all been busy collecting signatures, with many thousands of signatures having already been collected, not just from those with Italian heritage, I am pleased to note. At the parliamentary level the member for Norwood is assisting with petitions.

Next Saturday there will be a protest at the Italian Consulate office to demonstrate the community's displeasure at the proposed closure. I will be pleased to offer my support as well. Wherever I go, I am aware of the passion felt by so many in relation to this issue. Last week the Italian Ambassador to Australia visited Adelaide, and the convenor of the Australia-Italia Forum, Mr Tony Piccolo, MP, set up a meeting for South Australian members to meet with the ambassador. Several of us had the opportunity to directly voice our opposition to the proposed closure and to reinforce to him the importance of the Italian Consulate and the significant role it plays in South Australia.

I thank members for their indications of support for this motion. Our end is to see the rescinding of this decree. All actions are important, so I appreciate the support of the chamber.

Motion carried.

COMMUNITY TELEVISION FUNDING

Adjourned debate on motion of Hon. A. Bressington:

That this council urges—

1. The Premier to call upon the federal government, in particular the Prime Minister and the Minister for Broadband, Communications and the Digital Economy, to provide appropriate and swift funding to enable community television to simulcast in both analogue and digital frequencies;
2. That the Premier, at the next meeting of the Council of Australian Governments, insists that his interstate counterparts do the same; and
3. That the resolution be forwarded to the Premier, the Prime Minister and the Minister for Broadband, Communications and the Digital Economy for their urgent consideration.

(Continued from 17 June 2009. Page 2684.)

The Hon. B.V. FINNIGAN (17:49): Responsibility for digital switchover is with the federal government. The costs involved in converting to digital transmission for existing analogue broadcasters is significant, particularly for community-based broadcasters. Assistance in the form of funding from the government would be welcome. The state government recognises the importance to the community of community broadcasting and the important and vital role volunteers play in supporting community station operations.

It is appropriate that this council urges that representation be made by the Minister for Science and Information Economy to the federal Minister for Broadband, Communications and the Digital Economy at a future meeting of the Online and Communications Council to explore options enabling simulcast in both analogue and digital frequencies for community television. I intend to move an amendment to that effect, and we support the motion with that amendment. I move:

Leave out all words after 'That this council urges' and insert the following:

representation be made by the Minister for Science and Information Economy to the Federal Minister for Broadband, Communications and the Digital Economy at a future meeting of the Online and Communications Council to explore options enabling simulcast in both analogue and digital frequencies for community television.

The Hon. M. PARNELL (17:50): I wish to speak briefly to this motion. I note that, if this council were to pass the motion, we would be following in the shoes of the Senate, which on 24 June, I think, passed a very similar motion—it was a Greens' motion—calling on the government to support community television's transition to digital broadcasting. Community broadcasting is an important aspect of life, especially in rural, regional and remote Australia.

It contributes to media training, and it broadcasts in over 30 ethnic languages. It brings information and entertainment to local communities and promotes indigenous cultures. Certainly, community radio is more common than community television but, with both forms of broadcasting moving to digital transmission, I think the arguments are the same.

Indigenous communities, in particular, have benefited from having their own broadcasting networks. There have been opportunities for them to broadcast in their own language and to educate the public about their culture, dance and music. Currently, there are some

460 independent community owned and operated radio and television stations and remote indigenous services. A report by the Community Broadcasting Association of Australia in October 2008 showed that 9.5 million Australians listen to community radio every month, and that is some 57 per cent of the population.

I mentioned that community radio and television can be a great training ground. Anyone who is a football fan would follow *The Coodabeen Champions* on ABC Radio and perhaps know that they had their start on RMIT radio some 20 or 30 years ago in Melbourne. The content of their programs has not changed in all that time, but they got their training in the community sector. Because community radio and television stations currently do not have the capacity to access the digital spectrum, they all face a loss of audience during the transition and eventual phase-out of analog services.

The Greens believe that community broadcasting should not be left behind in the digital transition. It has played an important role in radio and television history and brought diversity and localism to its audiences. We would like to continue to see this industry grow and benefit local communities, and so we are pleased to be supporting the Hon. Ann Bressington's motion.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

DEVELOPMENT (REGULATED TREES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 June 2009. Page 2694.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:54): The Development (Regulated Trees) Bill is the same bill I introduced into this parliament some two years ago. It has been reintroduced by the Hon. Dennis Hood. Members will recall that that legislation sat before this parliament for a very long time and, in the end, it lapsed. The fact that it lapsed was not through any wish on the part of the government to proceed with the bill; rather, there was an unwillingness to proceed with this bill by a majority of members of the council. However, given that it has been reintroduced by the Hon. Dennis Hood, I am delighted to indicate that the government will support the bill.

When that bill was introduced and there were discussions on it I introduced a number of amendments, and I have tabled those amendments again. Those amendments arose from the lengthy discussions that we had on this bill in order to improve it. I am delighted that the bill has come back. Of course, we support our own bill with the amendments that have been tabled. Indeed, I look forward to the rest of the parliament addressing this bill speedily, and I am even prepared to facilitate government time for this bill, given that it is a government bill, to proceed.

Having said all that, I will not go through the reasons for this, but I indicate that the issue of how one deals with significant or regulated trees is a very complex issue. There are many ways in which one can gauge the significance of trees. As we know, trees come in all ages, shapes and sizes and it is not easy in legislation to determine exactly the best way of dealing with every situation that can arise. However, I believe that the bill, which I introduced two years ago and which the Hon. Dennis Hood has now put forward, is a significant improvement on the situation that we have at the moment.

As I said in relation to a question that I was asked a week or two ago by the Hon. Dennis Hood, there are some complexities with the legislation. The original legislation that was moved by the Hon. Diana Laidlaw, I think, dealt with the situation (and it was supported by the then opposition and now government) that exists in many of the leafier suburbs of Adelaide where there were those river red gum trees, in particular, or large trees that were indigenous to the area and had been around for a long time. It was meant to deal with those trees and, of course, the classification of a significant tree depended on the size of the tree—whether it was two metres in girth a metre up from the ground—but it also had to contribute to the biodiversity of the area. I think that was meant to distinguish those large indigenous trees, such as the river red gums we see in the eastern suburbs, in particular, from the sorts of trees that people plant in their backyards which grow very quickly; they may be eastern state eucalypts or Tasmanian blue gums or they could be various varieties of pine trees and the like.

Often people will go to a nursery and buy an inappropriate tree and plant it too close to their house. The tree reaches a certain size and it starts cracking the house, but people have been caught by the legislation and are unable to deal with it because the trees have reached the

dimensions that make them significant and councils have required, in some cases, very expensive arborist reports before people can deal with that situation.

This legislation originally tried to deal with the situation where some councils had interpreted the original legislation more intensely than was ever intended, I believe, by the parliament. Indeed, in many of these cases where councils have made decisions, when they have been challenged in the ERD Court, the court (as I indicated in answer to that question) has I think pretty much upheld, as it should, the wishes of the parliament, in terms of the interpretation of that legislation. However, I believe that some councils have tended to use the legislation much more tightly and much less flexibly than was ever intended by the parliament. That is just one of the issues.

On the other hand, we have also seen cases where people have shown contempt for the law and have just ignored some of the provisions of this act to either destroy or cut down trees. While through this new concept of a regulated tree we were trying to make it easier to deal with those problem trees that were not indigenous to the area and were not appropriately placed, at the same time, we did want to deal with a situation where someone had come in, there was a significant tree on their property and they wanted to get rid of it because it was inconvenient and they had, basically, shown contempt for the law.

So, under the provisions in this act (and, certainly, through the amendments as well), that situation would be dealt with by the use of make good orders so that, if someone deliberately ignored and tried to circumvent the provisions of the act, in as much as they are there to protect those significant indigenous trees, they would not be able to get away with it as they can at the moment.

So, it really had two parts to it. I think it was an attempt, on my part, to try to balance up this debate and make it more workable, along the lines of which I think was parliament's original intention when the first amendments were made to the significant tree provisions of the Development Act back in the 1990s.

With those comments, the government supports this bill. I have tabled the amendments that we introduced last time. I would say, as perhaps a caveat, that because our negotiation with local government—and there was extensive negotiation at the time—is now some two years old it might well be opportune over the seven weeks' break that we have to consider whether there is some benefit in updating this, as I will be meeting with the Local Government Association during the break.

If any new provisions or evidence come up relating to the operation of the legislation, we would be pleased to look at that over the break. We believe that the legislation, with the amendments—as I said, it was the subject of very lengthy consideration—does seek to deal with some of the problems that are faced in the interpretation of the Development Act as it relates to significant trees.

As I said at the time, I do not believe that we will ever get perfect legislation in this area because it is extremely complex but, nonetheless, the changes are important, and the government will do whatever it can to facilitate the passage of the legislation. I would hope that everyone in the council would be prepared to deal with this matter very speedily when we come back here in September after the break.

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

The PRESIDENT: I remind honourable members that in private members' business the members concerned should be in the chamber to handle their bills. They want to introduce all this private members' business so they should be in the chamber to handle that business.

[Sitting suspended from 18:03 to 19:45]

WHISTLEBLOWERS PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 June 2009. Page 2714.)

The Hon. A. BRESSINGTON (19:47): I rise to support this bill, and I commend the Hon. David Winderlich on his initiative and the research he has put into the needs of the people

who would be affected by this bill. In doing so, I feel it is important to again make the observation that those who most claim to want to protect whistleblowers rarely actually consult with whistleblowers unless they are academics, professionals, ex-judges or senior public servants.

The Hon. David Winderlich made reference to the works of the Democrat Senators Andrew Murray and Andrew Bartlett, but I am advised that many members of Whistleblowers Australia could not even get their ideas heard or considered through their respective offices. We have not learned, and we seem to refuse to learn, the lesson about the whole field of whistleblower protection and anticorruption authorities.

The reason we are not successful, in my opinion, in what we are collectively trying to achieve and claim as our objective is that we as members in this place, for the greater part, neither truly identify with whistleblowers nor readily render our services to them. Not until they have reached the media on their own skin to gain vindication or win a Supreme Court victory to clear their name will we get involved. That is all well and good, but often that is cold comfort for those who have paid the ultimate price and have little to lose.

Where are the members who purport to support the protection of whistleblowers right here in this very state when they are about to be made bankrupt or lose their job or home? Where were these members when we voted in the government's workers rehabilitation and compensation bill last year decimating income support, the last of the meaningful protections whistleblowers might have had? We often talk about whistleblowers as if they exist in some other part of the world but not amongst ourselves in our very own community.

That may as well be the case as, if the media do not acknowledge someone as a whistleblower, rarely do we do so of our own volition. We do not call the John Ternezises or the Mark Moore-McQuillans of this world a whistleblower to advocate for their protection. We might if they were lawyers, ex-judges, or senior public officials. We might if the media were to relentlessly go in to bat for them, but they live in this state and for the greater part we do not think their vindication is important enough as it has not reached the right media.

Who in this place wants to be seen to advocate for the rights of someone labelled with the stigma of being held in contempt of court for calling a judge corrupt? How many of us have examined why a comment like that has been made and what led to the remark before reporting on the conviction and imprisonment of that person?

Mr Ternezis does not mix in Adelaide's establishment circles. He speaks with a heavy accent and he is passionate about child protection and holding authorities accountable. In other words, he might as well be an alien from outer space. Although some members are now sitting up and taking notice of Mr Ternezis' situation, which delights me no end, it is sad that this was not the case when he was first experiencing his problems with the department now known as Families SA.

In the current environment, I am sorry to say that the amendments to this bill will be meaningless and futile. Although I will support them in principle, it saddens me to know that we continue, by and large, to lack the political will to strengthen protections and, more importantly, impose penalties and sanctions on offenders. That is most likely the case because the offenders often hold positions of high authority and political or judicial power; thus, we enable corruption and maladministration to flourish.

Collectively, as a society and as elected representatives of the people of this state, we expect very little of the Crown Solicitor, the Police Complaints Authority, the Ombudsman, commissioners and ministers. We never question their competence, honesty or truthfulness, unless there is a media story to be gained or an election campaign to be waged. How many public interest disclosures have we individually or collectively put on the public record and how many have we vigorously pursued?

In probably the last nine months, my office has lodged almost a dozen public interest disclosure statements relating to matters affecting constituents. One has been responded to, and it was the most ineffectual response you could imagine; it did not deal with one of the issues raised in the public interest disclosure statement. With respect to the others, we have not had word.

Under the Whistleblowers Protection Act, authorities have a period of time to respond to these documents. It is part of the legal process, yet it is not upheld or enforced and, even when it is brought to the attention of certain ministers, their departments are failing to acknowledge these public interest disclosure statements, and still nothing is done.

Some of these whistleblowers have lost not only their job, home or car but also their children, particularly when the authorities have taken reprisals for their insistence, with those authorities following due process and fair treatment. These reprisals are often cleverly concealed from the public gaze as mere family disputes. Often, privacy provisions keep the reprisals highly secret from public scrutiny in the knowledge that the media do not report on personal, family or child protection issues.

Few members would know of the case of Stephen Perkins. His treatment was very much like that of Mr Bruce Yates, who received an ex gratia settlement from the Liberal government after his story made it to air on the ABC's *Four Corners* program. However, the same department responsible for Mr Yates' horrific situation had not learnt from the mistakes and misdeeds of the past.

Mr Perkins submitted a formal public interest disclosure in 1999, which resulted in not one but two commissioned reports condemning the conduct of the department now known as Families SA. In fact, Mr Perkins submitted two public interest disclosures. It appears most likely that the first public interest disclosure hastened the removal of Mr Perkins' children. The department's principal social worker at the time, whose job it was to investigate the first disclosure, found nothing wrong, even though the Hon. Sandra Kanck and many other professionals went in to bat for Mr Perkins, filing affidavits and appearing as witnesses at the Youth Court.

Following the original whitewash, the second public interest disclosure by Mr Perkins triggered the commissioning of the first independent report by former chief magistrate Cramond. After handing down his findings, much to the displeasure of the department, the executive ignored the Cramond report, stating that he had 'approached the report from too legalistic a point of view'. A second report was later commissioned through the University of Western Australia's School of Social Work Department, and that report was even less kind. However, there was still no attempt to remedy the damage caused to Mr Perkins and his children.

To add insult to injury, since 1999, not one person has lost their job or has been demoted over this particular case, and there has been no vindication of or apology to Mr Perkins. Instead, the department moved swiftly to remove his two children soon after the disclosures were lodged, and his children were ultimately placed in foster care until the age of 18. Meanwhile at the Youth Court, magistrate Clark passed opinion from the bench that those suppressed reports were 'marginally relevant at best', despite their significantly corroborating other expert testimony and the substance of Mr Perkins' public interest disclosures.

What many believe will be attested by the full disclosure of the documents concealed by the department is that several of the practitioners were not only incompetent or dishonest but also deliberately vindictive and in breach of all public sector codes of conduct. This was all but confessed to when Mr Perkins' solicitor informed him that, at a pre-trial conference in 2000 (which Mr Perkins was not permitted to attend), the solicitor acting for crown law commented, when asked by the bench the reason the department wished to return one of the children to the care of the mother (even though she had an extensively documented record of neglect and abuse) that, 'It is that the father has been such an irritant to the department.' An obvious question here is: why did the person representing the Crown never require her client and executives to behave with greater integrity; why did she fail to advise them that they were in breach of the Whistleblowers Protection Act at that very point in time; and why did she not distance herself from the persecution of Mr Perkins?

I cannot help believing that Dr Bob Moles and the countless cases he has advocated due to the corruption and cover-up of flawed forensic pathology practices are similarly regarded as an irritant by the Attorney-General's Department. It would, at the very least, explain why they will also never see resolution during the life of this government.

If Mr Perkins was an isolated case, his experience would be less relevant to this debate, but another recent whistleblower, Dianne Brown, had the same experience. Miss Brown lodged not two but four public interest disclosures, only to have her grandchildren removed with not one of her PIDs ever being acknowledged or investigated. Mr Perkins and Miss Brown live in the most socioeconomically impoverished areas of Adelaide. No *60 Minutes* reporter will be flying out from Sydney knocking on their door for a story. You can be sure of that. Their impoverished circumstances only serve to typecast them not as whistleblowers but as the very abusive and neglectful carers that the department would portray.

It is similar for whistleblowers who find themselves unwitting players in the WorkCover scheme. Labor and Liberal governments have campaigned heavily to ensure that public opinion regards all WorkCover claimants first as rorters of the system. They are regarded as little more than parasites, freeloaders, malingerers, liars and bludgers. Television campaigns for decades have called on the public to dob in the cheats when, in fact, the rate of fraud amongst injured workers has been proven to be far less than 1 per cent. However, both the government and opposition validated that perception by voting for last year's bill, stripping people of basic income, rights to health care and common law protections, while still richly collecting on the levies.

For years, I have spoken about the scheme critical list. Before that, the issue was featured in June 2000 on the SBS *Insight* program, and I am informed by injured workers that there could not possibly be a member of this place or the other place, and no member of the legal fraternity or judiciary, who could not have known about the practices that were going on within our courtrooms. However, the story would get no coverage from any media in this state and had to be compiled in Victoria to get any media air time. It took two journalists to vigorously pursue this story to even get it screened after the producers became fearful of retribution and almost pulled the story.

Not one member in this place has picked up on the issue to offer their support to that particular cause affecting countless injured workers. It scandalises our courts, but we remain silent. It demonstrates that there is a strong hold by the executive over the judiciary in violation of the doctrine of the separation of powers. Does any member in this place actually care? I can only ask and wonder.

We should all care. The judgments and outcomes in each of the scheme critical cases will prove the corruption but, when the time comes to examine them more closely, corrupt decisions will no doubt be explained away as resulting from little more than judicial discretion or put down to some other legal or technical anomalies. Commonly, when we speak with whistleblowers, it is often only to offer excuses, justifications and platitudes. The most common one used for ignoring the scheme critical cases, I am told, has been, 'WorkCover is not an election issue.' This was a standard line given by countless members from Labor, Liberal and the Democrats when the scheme critical list was first exposed in the mid 1990s, but that has been the case, whether in government or opposition, since that time.

When public authorities refer to whistleblowers they invariably refer to them in derogatory terms, using terms such as 'self styled'—the term used by the senior legal officer of the Attorney-General's Department who was himself the architect of the Whistleblowers Protection Act.

Like the verballing of witnesses among WorkCover and its various agents, I have become aware of another common and accepted practice among government agencies to remove letterheads, signatures, names of primary decision makers and other relevant markings when releasing FOI documents. Thus, not only are members of the public, seeking truth and answers to pertinent questions affecting their everyday lives, left to continue their quest for answers but, should they complain to the media, no media would be likely to report on their stories without credible documentation as to the sources of their information.

This is a corruption of the spirit and intent of the FOI act through and through. Once upon a time we would have expected the right to know and be able to access information about ourselves held by government departments through the FOI act but, under the previous government and, more so, under the current one, this has been eroded to the point of rendering the FOI act benign and little more than a white elephant.

In order to get our head around the difficulties of the South Australian Whistleblowers Protection Act, there is no better critique than an article entitled 'Whistleblowing', by Dr De Maria, author of *Deadly Disclosures*, but one then needs to follow the debate between Dr De Maria and Matthew Goode (senior legal officer to the Attorney-General and architect of the Whistleblowers Protection Act), the then state Ombudsman (Eugene Biganovsky) and the national secretary of Whistleblowers Australia at the time. The articles and letters were published in December 1995 and April and June 1996 and, as predicted, many of the warnings given by Dr De Maria have since come to pass, proving Mr Goode's faith in the act to be misplaced and his mocking dismissal of Dr De Maria's article entirely without foundation.

Yet, when internal whistleblowers are forced to go to the media because formal channels do not work to protect the whistleblower or uncover the corruption, they are invariably threatened with at least one of three things: first, an alleged breach of the Public Sector Management Act;

secondly, an alleged breach of section 10 of the Whistleblowers Protection Act 1993 (which covers false disclosures); or, thirdly, defamation proceedings.

Even this place has been guilty of denying whistleblowers full parliamentary protections that go with absolute privilege, which, in turn, has enabled corrupt individuals and authorities to persecute whistleblowers; but I will go further into this on another occasion.

However, most whistleblowers would say that the worst authority on which to blow the whistle or to make a disclosure in the hope of getting remedy or protections under the Whistleblowers Protection Act has to be the Attorney-General's Department and crown law itself. Time and again, we see that even when whistleblowers follow the Whistleblowers Protection Act to a tee, write to the authorities and provide irrefutable documentation, they can still find themselves on a path to their own demise rather than sanctuary.

On 13 February 2008, I presented one such whistleblower's case as the basis for a motion for an inquiry into the Public Trustee. At that time I quoted the story of Mr John Oliver, a redeployee from the Office of the Public Trustee who had provided my office with at least 120 cases requiring further scrutiny, many of which would raise alarm bells. I made passing reference to some of those cases during my speech on the motion and outlined the reprisals, including ostracism from the workplace, to which Mr Oliver had been subjected.

Since the Statutory Authorities Review Committee's inquiry into the Public Trustee commenced, Mr Oliver had sent a formal PID in March 2008 and even gave caution to his authorities that he would reserve the right under the WPA to go to the media if there was no appropriate response. None came for months. In the meantime Mr Oliver went to the media and *Today Tonight* and reported on the disclosures that had received no response or rebuttal. In short course, his employer—the Attorney-General's Department—wrote:

> Channel 7 television station and/or the producers of the *Today Tonight* program are not persons to whom it is reasonable and appropriate to make disclosure, nor is the general television viewing public.

Mr Oliver was threatened with an investigation into an alleged breach of the Public Sector Management Act and required to attend the government's Special Investigation Unit, which he declined to attend, claiming protection under the Whistleblowers Protection Act.

In the *Alternative Law Journal* article, Dr De Maria accuses the South Australian act of failing in almost every key area of protection, but, as you will see, Mr Goode asserts vigorously that South Australian whistleblowers are protected if they go to the media. He says:

> In table 2, Dr De Maria says that a person is not protected if they disclose to the media. Wrong. A disclosure to the media will be protected if it is, in the circumstances of the case, reasonable and appropriate to disclose to the media.

Mr Goode assured the public in 1996 that the Whistleblower Protection Act does intend to protect whistleblowers who go to the media (in fact, the Public Management Act does, too), yet this did not stop Mr Jerome Maguire of the Public Trustee's office from sending Mr Oliver a letter of reprimand which was placed on his personal history file.

One must ask how it is that no-one has been charged with an offence under the Whistleblowers Protection Act for instigating this act of reprisal against Mr Oliver. So, who was lying to or misleading whistleblowers and legislators in this state if not authorities representing the Crown itself? Among other things, Dr De Maria's main criticism is that it is the state that determines what is considered appropriate and not the whistleblower or the media. Mr Goode, however, contradicts this assertion over and over, suggesting that the acts and powers of protection are intended to be broader than that articulated by the act, not limited in the manner interpreted by Dr De Maria.

However, despite Mr Goode's assurances that the act can be applied broadly and not restrictively we see only the narrowest application of it, if at all. The fact remains that if the corruption does not get you under the Whistleblowers Protection Act it will get you via some other means. Mr Oliver is not accused of breaching the Whistleblowers Protection Act but the Public Sector Management Act. My office is bombarded by complaints day in and day out by constituents who have been treated appallingly by government authorities and public servants, but when complaints are lodged highlighting breaches in policy and procedure or due process they are typically confronted with the oft-adopted catchcry used by public servants as a shield, 'But we didn't break the law.'

Failure to comply with policy or procedure may not be a breach of a specific law, but it is often absolute and irrefutable evidence of corruption, especially when it is repeated and blatant. No law was required to tell British American Tobacco in the Rolah McCabe case that it was illegal to shred her particular documents. No law was required to tell James Hardie industries that it was illegal for it to deny the truth about the danger of asbestos on the health of the public or to block their claims for compensation.

This is much of the reason why crown law has been putting an argument to our courts that the state does not owe the citizens of South Australia a duty of care whether in health, education or child protection. Certainly our state courts have yet to rule convincingly and unequivocably that in any portfolio area the state does in fact owe a duty of care. Why the courts refuse to affirm the basic fundamental premise that the state does owe a duty of care is impossible to fathom, except if it is possible or likely that the judiciary is under the influence and/or control of the executive.

Should that day come when the courts find that the state does owe citizens a duty of care, it will be interesting to see how the state will defend itself from any negligence claims when policy and procedures have been violated. We do not visit a dentist who believes he is not required to sterilise equipment because it is not written into statute that he must do so, nor a mechanic who believes that he is not required to ensure that the lock nuts are tightened on your wheels or hoses and clamps properly fitted before your car leaves their workshop after a safety inspection.

We would condemn the professional body or association which would advocate anything less than the highest standards of care. Who would use such services if the professionals providing that service thought it unimportant to provide a high standard of care, yet mechanics and dentists do not require the law to articulate these basic occupational tasks to be carried out according to a best practice manual which one would expect the professional to have read and complied with in their day-to-day work.

The other week media reported that a massage therapy business was placed under investigation after the death of a child when a massage table collapsed because it had allegedly not been secured properly.

If it was a case of negligence, would the prosecution move to argue that, since there was no law specifically requiring the table to be secured, there was therefore no breach of duty of care? I will follow this matter closely but I doubt very much that that will be the crown's case. I will bet that, if the dentist, mechanic or massage therapist argued that they owed no duty of care because no laws specifically prevented them from acting negligently, the case would be dismissed.

Imagine a mechanic handing you a wrench and saying, 'Here, do it yourself', and, accordingly, placing the onus on you to do the job to your own level of satisfaction. Yet, this is what crown law advises us to do when we deal with health care professionals. One such example is that of Mr David Smith. Mr Smith had demonstrated a clear and indisputable breach of policy and procedure by the Child, Adolescent Mental Health Services and Child, Youth and Women's Health Services departments which led his wife to successfully sever his contact with his daughter by employing the adversarial medical assessment processes against him, ahead of a Family Court trial.

In short, the Child, Youth and Women's Health Services assessment processes were commenced with no regard to the Family Court orders which were in place, and the mother was never required to produce such orders before assessment and intervention were commenced, in clear breach of the then minimum professional standards as they were detailed at Appendix 9 of the Referral Intake and Allocation Procedures. Without going into the minute details of this case, when the breach of their own policy and procedures in respect of consent was highlighted by Mr Smith, the department's response was not a tightening up of professional compliance with existing policy but a rewriting of policy to weaken their protections and effectiveness.

Instead of the departmental chief executive demanding that staff take all necessary and reasonable precautions to ensure that they do not breach court orders if for no other reason than for their own protection, she wrote to Mr Smith suggesting that the onus was on him and his ex-wife to voluntarily provide such court orders to the department. One has to ask how Mr Smith could have done so when his wife approached the department without his knowledge or consent. The ultimate insult was that the person who breached the policy and procedure was then given the privilege of rewriting the new set of standards which have subsequently been watered down, of course.

This was also the template used in the Angela Morgan case, after she had alleged fraud by the wife of a senior WorkCover auditor. I have previously referred to Ms Morgan's story during my speech on ICAC on 26 September 2007, and in my motion on WorkCover corruption on 14 November 2007. Ms Morgan's disclosures alleged corruption by senior executive officers of the WorkCover Corporation who she alleges had set out to silence her public interest disclosures by actively but unlawfully assisting a private defamation suit against her with the full use of public resources and access to protected information.

In summary, Ms Morgan was successfully sued for defamation by a senior WorkCover auditor after she had revealed a WorkCover fraud by the senior auditor's wife. However, her appeal against the finding was then blocked by the denial of relevant documents, which are known to exist, to prove the truth of her disclosures. She was unable to secure access to those documents under either freedom of information or discovery.

In May 1993 Ms Morgan befriended the proprietor of a local seafood and chicken shop, and another shop employee, Sandra Mallard. At the time, Sandra was fully aware that the Pelican Plaza seafood and chicken shop was not WorkCover insured and she was working for undeclared wages. Sandra had a history of working for undeclared wages and had specifically requested of her employer that this be a condition of her employment for the takeaway shop on both occasions of employment with this proprietor.

The WorkCover fraud department would later commence investigations regarding the same proprietor through a separate WorkCover claimant—an investigation involving another restaurant. The worker involved in this claim was the subject of a covert surveillance operation which revealed that he was employed with the restaurant after allegedly sustaining an injury through working with a different employer.

Consequently, the corporation approached the proprietor of the restaurant to establish the wages this claimant was earning whilst on WorkCover benefits, and established from this contact that the restaurant was not WorkCover insured and that the same proprietor owned the Pelican Plaza pizza, seafood and chicken shop, which also was not insured.

By this time in the investigation process it was well known to the fraud department that Sandra Mallard, wife of a WorkCover senior auditor, was also an employee at the seafood and chicken shop and working for undeclared wages. As events unfolded, Ms Morgan came to believe that the senior auditor was himself aware of his wife's fraudulent activities and not merely a bystander, despite initially giving him the benefit of the doubt.

Amid these allegations, it did not take long for the corporation's executive rapidly to become aware of the implications of her allegations for the reputation of the WorkCover Corporation; that is, Ms Morgan claims the corporation closed ranks to protect its own and to persecute and destroy her and her son, Sean, in the process. Sean later committed suicide for reasons which suggest they were closely linked to her own persecution.

Although Ms Morgan initially declined to provide any testimony to WorkCover against the shop proprietors, she was issued with threats by the corporation under section 110 compelling her to give evidence, at which time she sought assurances of confidentiality to which she was entitled under the Whistleblowers Protection Act. Indeed, it would be many years later that the state ombudsman would make such a finding and table this in parliament to no effect—not enough to enable Ms Morgan's swift or timely justice. Neither did the then state ombudsman demand the corporation to produce documentation or hold it to account in any way.

After being promised such confidentiality, Ms Morgan met with the fraud officers, only to find herself, she says, being pressured into changing the nature of her evidence against the senior auditor's wife due to the scandal this would have uncovered for the corporation. When she refused to do so, the corporation began its persecution by delivering details of a confidential and legally protected disclosure to the fraud section against the Mallards directly into their hands for their private defamation suit.

It is significant to Ms Morgan's vindication that only Rod won his suit; Sandra subsequently lost, and Angela even had to pay her own costs. In breaching their obligations and Ms Morgan's legal rights to confidentiality and protection (amongst other laws), the corporation breached section 26 of the Freedom of Information Act, sections 110 and 112 of the Workers Rehabilitation and Compensation Act and the entire Whistleblowers Protection Act 1993.

However, these breaches by the corporation are the tip of the iceberg; yet, even once the executives became acutely aware of their unlawful conduct, rather than set about making it right, they redoubled their effort to conceal their illegal activity. What makes this case so scandalous is proven through written correspondence by WorkCover executives showing their acute awareness of their own grossly unlawful conduct.

However, this did not deter them from knowingly continuing to conceal their wrongdoing from Ms Morgan, the state ombudsman and the courts with the clear intention of obstructing justice for Ms Morgan; concealing evidence of corporate negligence, malfeasance and corruption; and actively misleading the courts, often with judicial complicity in this conduct by the corporation.

I shall speak in more detail about this a little later, but suffice to say that Ms Morgan, to date, has paid in excess of $55,000 plus interest to the senior auditor for the privilege of helping South Australians detect fraudulent WorkCover claims and spent her life savings defending herself from defamatory and malicious allegations by the corporation and its officers ever since.

That the WorkCover Corporation and its board are actively and knowingly behaving in this manner is chronicled in the following memorandum, which I would like to read to the chamber in order for it to be put on the record so that the WorkCover Board members cannot claim plausible deniability at some future time when an ICAC is eventually established. Make no mistake: these pieces of correspondence are the smoking gun that vindicates Ms Morgan's allegations.

In a memo, dated 19 November 1996, it is suggested that Mike Terlet (Chairman of WorkCover Corporation) was handed a four page memo by Fred Morris (Chief Adviser, Legislation). In her disclosures, Ms Morgan claims that a copy of the four page memo, eventually obtained through FOI, is a forgery possibly carried out by the then acting CEO, Garry MacDonald. Evidence suggests that pages 2 and 4 were fabricated and that only page 1 may be the original content, but this would not be the only document suspected of being manufactured by WorkCover executives.

The purpose of this forged document is to suggest retrospectively, and with the intention of misleading the ombudsman's office, that an investigation into Ms Morgan's allegations were well underway. Suspected forgery aside, the memo dated 19 November 1996 states:

> As can be seen despite a guarantee which was sought and given Ms Morgan's statement was placed in the hands of Mrs Mallard. The Problem: the current activity of *The Advertiser* and Mrs Robyn Geraghty will most probably mean that Ms Morgan will also go down that path. She has already started making extensive FOI requests seeking all her files other than her claim file. If *The Advertiser* gets hold of this story—

and, remember, this is an internal memo—

> and they are true to their current approach then we will have a perception that we will have to manage. Fortunately the defamation decision is a public document and we could point them to the decision without any breach of confidentiality.

True to this intended management strategy, the corporation's defence against Ms Morgan's allegations of corruption throughout all these years has relied wholly and solely upon magistrate Hiskey's decision in the private defamation suit, which the corporation actively backed, to discredit Ms Morgan and mislead his court. Consequently, magistrate Hiskey's judgment ignored:

(a) that the WorkCover Corporation had lost its actions against Pelican Plaza Seafood and Chicken on appeal;

(b) that the court previously refused to grant Sandra's restraining order; and

(c) that Sandra was found to be lacking in credibility in her own defamation suit against Ms Morgan and therefore lost her suit.

In summation the memo confesses that:

- the corporation had a problem on its hands if Ms Morgan complained to the Ombudsman;
- the corporation's handling of her matters was clumsy and compounded at each step;
- Lew Owens did release Ms Morgan's letter to Rod Mallard;
- the fraud department had never investigated or reported on Ms Morgan's allegations as stated to the Ombudsman's Office;
- assurances to Ms Morgan of her confidentiality had been breached;

- Ms Morgan's personal and confidential details were leaked on multiple occasions to and by various parties; and
- the corporation's failure to discover all documents relevant to the defamation matter were crucial to the corporation's victory in court and Ms Morgan's subsequent finding of guilt.

Also, on 13 December 1996 Fred Morris, Chief Adviser Legislation, wrote to Mike Terlet, Chairman of WorkCover Corporation, in summation confessing that:

- the corporation was deeply concerned that Ms Morgan would seek to contact her local member, Ms Robyn Geraghty MP, who would raise these issues;
- the corporation was concerned that injured worker advocate groups were asking questions about why the suspected fraud by a spouse of a senior WorkCover auditor was not being investigated;
- there was a reluctance on behalf of the fraud department to allow for a proper investigation of Mrs Mallard's WorkCover claim;
- the corporation believed that the Ombudsman's investigation of the release by Lew Owens of Ms Morgan's letter would vindicate Mr Owen's actions; and
- Mr Mallard's response to the allegations by Ms Morgan required further investigation by the corporation, but not until after the Ombudsman's investigation was concluded.

This correspondence raises many questions, not the least of which are:

- Why was the corporation so sure that Lew Owens would be vindicated by the Ombudsman before any findings were handed down?
- Why would the corporation investigate Mr Mallard only after the Ombudsman had cleared Lew Owens?
- If Lew Owens had acted illegally, why would the Ombudsman not make such findings known, but choose to turn a blind eye, given that he has royal commission powers?
- If, as Ms Morgan suspects, documents have been forged, why did the Ombudsman not address this concern when it was before him, and why did the Ombudsman fail to pursue Ms Morgan's FOI request vigorously at the time, knowing how pertinent those documents would be to her appeal against the defamation case?

On 27 March 1997 Fred Morris, Chief Adviser Legislation, wrote to Keith Brown, Chief Executive Officer, a damning four-page memo stating, amongst other things, that:

- Lew Owens confronted Rod Mallard with Ms Morgan's letter and gave it to him;
- Lew accepted Rod's response and no further action was taken;
- fraud prevention also provided Rod Mallard with Ms Morgan's confidential letter;
- Rod Mallard's statements were questionable, and probably even false;
- the fraud report was 'lost' and never read by Lew Owens;
- it seriously questioned the conduct of Lew Owens, who readily accepted Rod Mallard's flawed explanations and was all too keen to assist Rod Mallard in any way to discredit Ms Morgan's allegations;
- Lew Owens' actions were 'less than professional';
- Ms Morgan's account of events was more chronologically correct than that given by the Mallards; and
- Ms Mallard was a liability to WorkCover.

Significantly, the memo also reads:

> The Problems: the corporation appears to have protected Rod. Ms Mallard has been proven to be a bigger liar than Ms Morgan.

Again, an internal memo. Documents exist that appear to indicate that fraud prevention has protected Ms Mallard's claim from appropriate investigation and that officers of that department

have been implicated in various ways against the proper conduct of the corporation's business. I quote this, 'Shit sticks to a blanket.' It is not the management of the facts but the management of the perception—the positives. Most of the corporation's questionable actions are questionable with the value of hindsight. Many of the allegations could have been pursued through the various litigations, but lawyers for Ms Morgan—and employers—declined to do so.

By 1997, the corporation breathed a sigh of relief knowing that Ms Morgan's ability to expose and sue the pants off the corporation was not realised much sooner, but this would not stop it from incapacitating her attempts to expose it over the next decade. If it was to be the corporation's defence in 1997 that it did not have the benefit of hindsight, since then its malfeasance has been self-evident, even to the corporation itself. If this conduct does not constitute corruption, I would like to know what does.

It is abundantly clear that, over and over again, the corporation did not see the Morgan matter as one needing resolution but 'management', presumably until they could wear her down for her scandalous allegations. Indeed, these comments were also made by Justice Olsson in the Supreme Court before striking out her matter. According to one eyewitness, Justice Olsson is said to have stated something along the lines of, 'Ms Morgan, do you understand what you are saying? What you are suggesting is that a senior WorkCover officer of such high rank is corrupt and dishonest. That's preposterous and outrageous, therefore it couldn't have happened', and ruled accordingly.

Years later, she would uncover documents to prove that the senior auditor and the CEO had actively colluded to secure her fraudulent defamation suit. These documents were concealed under FOI by the ombudsman's office for many years and by other judges who would not order their discovery.

What is scandalous is that corruption of this kind cannot be exposed. In 2000, when Ms Morgan set out to sue the WorkCover Corporation for disclosing her confidential statement, it was aided and abetted by two of the most senior executives of the corporation: the chief legal adviser, Mr Fred Morris, and the chief executive officer, Mr Lew Owens. Once becoming aware of the gravity of their indiscretions and appalling malhandling of the entire case, the corporation did not sit down to negotiate a quiet way out of its humiliating mess. It did not set out to apologise or settle the dispute with Ms Morgan as amicably as possible but, instead, became ever more determined to use the courts to crush her financially and morally at taxpayers' expense.

In total, at last count, Ms Morgan has spent over 140 days (over almost 11 years) in court on just one action alone—Morgan v WorkCover Corporation—in the District Court of South Australia (action number DCCIV00960, entered on 17 July 2000), with more than another seven actions, only to have her affidavit struck out by Master Norman on the grounds that the allegations contained in her affidavit would scandalise the corporation, as she was seeking, among other things, that the CEO be imprisoned for tampering with documents and concealing evidence after having waited for five years for discovery of documents.

Judge Kevin Nicholson dismissed Ms Morgan's appeal but, nine years on, she is still seeking that Master Norman rule and demand once and for all that WorkCover fully complies with the court rules and orders. Why after nine years is Master Norman still having such difficulty when the court rules require discovery within 21 days of pleading?

As in Mr Smith's case, when Ms Morgan was advised of the Whistleblowers Protection Act and how she might seek its protections, she was informed of the need to make a public interest disclosure to a responsible officer under the act. It was a requirement at that time that all government departments had such a person nominated and trained. WorkCover, not having such a person, sure enough promptly appointed the very senior auditor against whom Ms Morgan sought to testify.

As shown in the Morgan case, the template used in countless scheme critical cases has been the protraction of litigation and misleading of the courts through the suppression of information until an adverse judgment against a whistleblower is secured. Then the authorities regurgitate the adverse judgment ad infinitum to their own advantage. Invariably, these same judgments are relied upon by ministers and the Attorney-General as reason to do nothing to remedy wrongful or corruptly acquired court convictions or decisions. It is also—

The Hon. P. HOLLOWAY: On a point of order, the honourable member is alleging that courts have made corrupt decisions, if I heard correctly. It is completely out of order for such allegations to be made within this parliament.

The PRESIDENT: I remind the honourable member that under standing orders she should not be reflecting on the judiciary or its decisions. You might reflect upon an event that recently happened in the chamber, with an honourable member reflecting on judges' decisions. I remind the honourable member to stick to the standing orders and be very careful.

The Hon. A. BRESSINGTON: Thank you, Mr President, but I will make the point that I am only quoting from court documents. It is also important to observe time and again when the public authorities mislead or deceive courts that judges often become actively complicit if not squeamish, never requiring the authorities then to be brought back before their court to answer the charges of contempt or perjury but instead shielding those authorities from closer scrutiny.

Although I support these amendments, they are entirely insufficient to make any difference one way or another. In conclusion, the reason people are calling for an ICAC so vigorously and why so many people believe that action needs to be taken is that, if the Whistleblowers Protection Act and its policies and procedures were enforced, we would not need even to consider having an Independent Commission Against Crime and Corruption. Whistleblowers would be able to disclose, they would be able to get the protection (so-called) that they are guaranteed under this act, and they would also then be assured and guaranteed that proper investigations would follow and that decent outcomes for justice would actually be achieved.

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

DEVELOPMENT (MAJOR DEVELOPMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 April 2009. Page 1928.)

The Hon. CARMEL ZOLLO (20:33): I respond on behalf of the government to this legislation which provides that the Minister for Planning and Urban Development consult with local councils before a decision is made to declare a development as a major development or project. The government believes that the proposed legislation is unworkable for a number of reasons which I will outline.

First, the proposal by the Hon. Mark Parnell to require the minister to consult with local councils before declaring as major a development or project will cause a number of issues for the Department of Planning and Local Government and for the proponents. The honourable member has not indicated how the consultation would occur, but it is assumed that it would need to be by written communication. Councils usually meet on a monthly basis, and for the minister to receive a response from council may delay the declaration of a project by, possibly, up to six to eight weeks.

Whenever a consultation clause is inserted in a bill, and someone has an anti-development stance, it can be open to a number of protracted challenges. All sorts of reasons can be put forward as challenges, and they can end up being nothing but a delaying tactic. There are ramifications, in terms of delays, to the commencement of the major development project process and, for the proponents, delays and potential extra holding costs waiting for a response from the council. This would not support the government's red tape reduction programs and could result in significant delay. Proponents may also have issues with confidentiality, having the councils involved before declaration is made. Proponents could be reluctant to provide detailed information about a proposed development if they are concurrently purchasing options on land or have a competing interest with another developer.

The current legislation does not prelude the minister seeking informal advice from either the elected members or council staff, if he so wishes. I understand that the minister does do just that sometimes. The minister always informs the council of his decision to declare a development or project as major and invites them to be part of the formal assessment process for these proposals before an assessment report is forwarded to the minister and cabinet for consideration and before a decision is made by the government under section 48 of the act.

The current act provisions are a reflection of the nationally agreed ANZECC (Australian New Zealand Environment Conservation Council) guidelines for environmental impact assessment, signed by the states, territories and commonwealth in the early 1990s. Some states do consult with councils and/or other agencies before declaration occurs; some do not. In most cases consultation is an administrative act not required under legislation.

It is expected that, with the establishment of the new Department of Planning and Local Government, ties with local government will be strengthened as part of that process. It is not intended to marginalise council input in the planning process—quite the reverse.

For all the reasons I have just outlined, the government does not support the honourable member's proposed legislation. The government believes that considered legislation needs to be applied with every opportunity to succeed in its objectives. Our current legislation does just that, and I urge honourable members to consider the arguments I have just put before the chamber and not support the bill.

The Hon. A. BRESSINGTON (20:37): I indicate that I will support the Hon. Mark Parnell's Development (Major Developments) Amendment Bill. This is a relatively minor amendment to what is comparatively an extensive act, which seeks to require the minister to consult with the local council before declaring a development a major development under section 46 of the Development Act 1993. That the local council be consulted prior to a declaration being made should be, to my mind, due process, especially considering that it is the council that is required to service the facility once the development is complete. It is local councils that are charged with developing the area's development plan and consequent zoning, and to bypass this and make a declaration without consideration is unnecessarily impetuous.

While I recognise that the local council, along with other stakeholders, is given the opportunity to put forward its position under the consultation required by the environmental impact statement process, specifically by section 46B(5)(a)(ii), and required to be kept in the loop by the minister under section 46B(12), this opportunity follows the declaration by the minister. Logic and past examples show that, if a council is to have a meaningful impact on the trajectory of a major declaration, consultation must come prior to the minister publicly committing himself or herself.

However, with that said, I question what practical effect this amendment could actually have. I cannot recall a declaration that has not been opposed by the local community, at least in a minor way, earning the major development provision the deserving reputation of the unstoppable bulldozer.

As the honourable member made clear when introducing this bill, a declaration under section 46 is solely at the discretion of the minister, requiring only that he or she be satisfied that the development is of 'major environmental, social or economic importance'—a purely subjective assessment. While I am sure scenarios can be envisaged in which the minister has overlooked some crucial detail and, when alerted by the local council, the intention to declare is altered or withdrawn, under the aforementioned subjective requisites I find that I am not so imaginative.

The member also made clear that a declaration under section 46 is, by the indemnity provided by section 48E, 'bulletproof'. While I am not suggesting that for this reason the minister will not comply with the amendment, I do fear that, due to the ambiguity of the proposed amendment, particularly on what form the consultation must take and the weight to be given to it, it may simply be a 'call to the mayor' or a basic letter of intention. This may be viewed as insufficient by a court but, due to section 48E, we will never know. However, despite these reservations, I support the bill, and it is my hope that, if it is successful, the minister will comply with the full extent of its intent.

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

VICTIMS OF ABUSE IN STATE CARE (COMPENSATION) BILL

Adjourned debate on second reading.

(Continued from 8 April 2009. Page 1929.)

The Hon. R.L. BROKENSHIRE (20:41): I thank the council for the opportunity to conclude my opening remarks on my bill tonight and indicate (as I did to the whips) that we will not be moving this bill to a vote today due, in part, to amendments recently tabled by our colleague the Hon. Ann Bressington, which we want to consider in detail, and also while we await the government and opposition position on the bill. I want to recap on how we came to have this bill before concluding my remarks.

In large part, the opportunity to prosecute offenders who perpetrated abuse upon former wards of the state was made available by my predecessor's bill—namely, Family First's Hon. Andrew Evans MLC—to open the prosecution period for pre-December 1982 sexual offences, and that had an enormous impact on starting to get some justice for these very important people.

The Mullighan inquiry followed that bill, and one of the recommendations of that inquiry was that the government look at the redress schemes initiated in Tasmania, Queensland and Western Australia. To date, we do not believe the steering committee to act upon that recommendation has made or completed an investigation into those schemes. If, indeed, the government comes forward before the close of session in both houses tomorrow and does the honourable thing by these very important people, Family First would be the first to congratulate it, along with all my other colleagues, I am sure. However, we will soldier on because these people need redress.

The interstate schemes offer different ranges of compensation to victims, and our bill for $50,000 maximum compensation is the middle of the road of those proposals. So, we would not accept the fact that the government says that we are over the top when it comes to the compensation. The bill put forward by Family First is middle of the road.

The elements common to those schemes are: first, personal, direct apologies to the individual victim of abuse—not just a statement in the house or a ministerial statement saying that we are sorry but a personal and direct apology to the individual victims—as the thing the victims with whom I have been working want most is a direct and individual apology; secondly, time limits for when to claim compensation; thirdly, waivers of liability as a condition of accepting the compensation payment; and, fourthly, the pathway remaining open, as it is now, for victims of abuse to make a court claim against their state government for more damages than the scheme provides. So, it does give them an opportunity to go for more damages.

We see this bill as a natural progression in Family First's advocacy for victims of sexual abuse and for lifting what I can only describe as the dark cloud of secrecy, denial and pain that will hang over this whole state—not only those people who have been the victims—until that abuse is revealed and dealt with.

This is a powerful and important justice issue. Some submissions we have received on this bill suggest that wards of the state are like ordinary victims of crime, and these representative groups (I have great respect for these groups, so I will not name them, but their position disappoints me) spoke against creating a special category of victim by having a specific scheme for former wards of the state. These groups advocated (and I believe that the government, via the Attorney-General, said the same thing through one media outlet) that we have a victim of crime compensation scheme and that victims should use that scheme. That is wrong. Family First will oppose that, as will, I am sure, many of my colleagues. It is wrong. There is an argument for special circumstances here.

There are some serious and one could even say offensive elements to that argument. First, the perpetrator for these victims is, in effect, the whole state of South Australia, which failed in its duty of care to protect victims, irrespective of which party was in government at the time. The fact is that the state failed to protect the victims. Wards of the state are, therefore, different: they are special victims of crime.

Secondly, the burden of proof to achieve compensation in victim of crime matters requires you to prove that a crime was committed. You do not have to identify a perpetrator but you do need to prove that an offence occurred. Many of the wards of the state have had great difficulty in proving what occurred, because the perpetrators are deceased, unable to be located or too powerful to prosecute or the evidence has been lost or destroyed.

This scheme provides a $7,000 compensation payment by simply establishing basic criteria that are far lower than the burden of proof for victim of crime compensation. The state government by its apology has now admitted its failings with respect to these wards of the state, and it therefore follows from that apology that basic compensation should be paid now, together with a specific and individual apology.

Thirdly, there is the issue of $43,000 in additional compensation. My amendment that was circulated to members yesterday makes it clear that this is additional to the $7,000, not instead of the $7,000. So, this $43,000 is payable to those who can meet the criteria set out in this bill. These criteria have been created with wards of the state specifically in mind. Of course, it is the same maximum amount presently as victim of crime compensation, that is, $50,000. I believe that our colleague the Hon. Ann Bressington wants to take that figure upwards, and Family First will be looking at that very closely. We understand our colleague's amendments. We can have that debate. The council will have it in the spring, and let us hope that we get the best outcome for these special victims.

Fourthly—and, again, this exposes the folly of the 'keep them as normal victims of crime' argument—former wards of the state are largely out of time. The Victims of Crime Act requires an application for compensation to be made within three years of the commission of the offence. Already this offends the Hon. Andrew Evans' moves on offenders from before December 1982. Those offences are now at least 25½ years old; that is how far they go back.

Fifthly, the fact is that other states, albeit through policy initiatives rather than legislation, have created what we call special schemes of redress for former wards of the state. They have had no trouble whatsoever with a regime running parallel, if only for a limited time, with their own equivalents of victim of crime compensation.

I point out that there is one other model for compensation for wards of the state, and that is the Irish redress legislative package. Family First has looked through that, and it is an admirable and generous piece of legislation—although one would have to ask: what price for the pain? The state inflicted that pain, each and every one of us. What price for the pain?

As I said, we believe that the model we have proposed is modest, having regard to interstate comparisons. It is middle of the road, if I can put it that way. I admit that it is even more modest having regard to the Irish model, which we could consider the top shelf model. The Irish redress scheme has no cap on compensation, it has no time limit and it pays medical costs in addition to lump sum compensation.

The point—and I will say this slowly so that the government can understand this without any doubt—is not the model; the point is the concept. I repeat: the point of this bill is not the model; it is the concept. As we are doing with our move for an independent commission against corruption in this state, we are using this redress bill as a rallying point behind which other parties can gather in support of the concept, not the model.

In the committee stage we can sort out the specifics of the model, including our colleague the Hon. Ann Bressington's amendments, but I am seeking support for the concept of the redress. I indicate to those listening tonight: please do not get uptight about what you may or may not like about this particular model in this bill. Remember, we are here tonight debating and fighting for the concept of redress for former wards.

With all the support we can get, we hope that this government will see that there is merit in redress, that there is justice in redress, and there is a very pressing need for redress now. It is good enough for Queensland, it is good enough for Tasmania, and it is good enough for Western Australia; it should be good enough for South Australia.

Let me conclude by saying that this is about former wards of the state. They have gone through a lot, more than many of us have had to bear in our lives—in fact, more than most of us could ever imagine that we would have to bear. They deserve our respect and they deserve some dignity.

Former wards of state distrust all governments, naturally, because of what the government of the day—without naming colours, and it has happened under all colours—allowed to happen to them. I have read some of the books and I have met with some of the people involved.

It will take considerable leadership. As I said in my question about the Parole Board yesterday, it will take a brave acceptance of responsibility for the government and the opposition to agree to the concept of redress and to work with Family First and our other colleagues to find a model that is acceptable to all parties concerned.

Other state governments—and I have to say that these governments have all been Labor governments—have run redress schemes. In some cases they have actually concluded them. The abuse and neglect continue for former wards of state in South Australia. So far, as I see it—and anyone can debate against me—it has mainly been a case of lip service being paid to this matter until we give the closure. That is what this is about.

The government has not set up a one-stop shop for former wards. We are still battling to get them basic facilities. They are working out of a multipurpose facility with a mail box. That is not acceptable. The government has not provided the redress that wards have received interstate. I trust that the media will pick up on this and help us keep pressure on the government of the day—not that what has happened in the past is necessarily the responsibility only of the government of the day. However, it is the responsibility of the government of the day to fix the problem. It is high time that those parties who are undecided about this bill go away over the winter break, make up their mind and accept the concept of redress for wards.

In conclusion, I indicate that we will look to bring this bill to a vote in the earliest part of September. This bill has been on the *Notice Paper* since early April. We will consider all reasonable amendments. We want to work towards support for a concept, or a model, that will do justice to wards of the state and bring the urgent closure that these great people deserve, having had endured the most difficult of situations, which we in this place, who have not had that occur, will never understand. I look forward to other members' contributions, and I commend the bill to the parliament.

The Hon. M. PARNELL (20:54): The Greens are happy to support this bill. We agree with the Hon. Rob Brokenshire that, in many ways, it would be preferable for us to be discussing a government bill that achieved the purpose of his bill. We may yet see one before the winter break is over, in which case I may well transfer my loyalty to a government bill (and maybe the mover of this bill will do likewise) but, in the absence of a government scheme, I believe that this bill is workable.

The mover says that it is a modest scheme, and I accept that it is modest. The amounts involved are modest when judged against the hardship and the loss that the victims of abuse as wards of the state have suffered. When we look at the maximum compensation payable under this bill, we see that it is $50,000. The average full-time earnings for males in Australia are already over $50,000. It is less than a year's salary at those average levels.

However, for many of the people who may be eligible for compensation, whilst a small amount of money would no doubt be welcome, I would expect that the personal apology will, in fact, be the greatest reward that comes from this scheme—an acknowledgement on behalf of the state that we collectively and communally neglected our responsibility to the people who were in our care. I think that is a fundamental part of this legislation.

I accept the Hon. Robert Brokenshire's contention that these people are a special case and not simply a subset of victims of crime. All victims of crime suffer in different ways, but for me what earmarks this category of potential claimants as special is the fact that they were under the protection of the state, the one body that should have been able to be relied on to give people a safe and a nurturing environment and, as a community, through our agencies, we let them down.

I, too, look forward to the committee stage of this debate. It may be possible to finetune some of the details of this legislation. The principle is sound, however; the principle is just; the principle does not need any modification. These people, who were victims of crime whilst in the care of the state, are deserving of compensation and they should be able to access a scheme without having to go through the rigours of an adversarial court system which would, in fact, compound the injury that many of them have suffered.

In many ways, this regime is no different to those which were the subject of other similar inquiries such as the stolen generation where commissioners have called for a non-adversarial compensation fund where people can obtain some redress provided they can prove to a satisfactory standard that they are a deserving case. This is a similar situation. I congratulate the member on introducing the bill and I look forward to our debating it further in September. However, for now, the Greens are very happy to support the second reading.

The Hon. A. BRESSINGTON (20:58): I rise to indicate that I also support the second reading of the Victims of Abuse in State Care (Compensation) Bill 2009. In doing so, I commend the Hon. Robert Brokenshire on making a move to have victims of abuse in state care acknowledged and vindicated through fair and proper compensation. I will flag my support as 'in principle' but I also flag that I intend to move some amendments because I truly feel that this bill falls far short of what is deserved by these victims.

I acknowledge, though, that this bill is a step forward and will perhaps put a bomb under the government to bring forward a bill that is in line with other states that have made the decision to accept responsibility for the trauma and pain suffered by children who were removed from their families with the understanding that they would be protected and offered a better life.

We must never forget the magnitude of the abuse that took place, and we must also continually remind ourselves that the neglect at the hands of the state claimed the lives of 377 children who died while in state care. I propose that any legislation passed in this place to deal with this travesty must reflect the losses that have been inflicted on us as a society and more so on those who survived.

Our poor history goes back to 1908: that is the earliest death that could be tracked by the research undertaken by the Mullighan inquiry. It would be my hope, wish and dream that this

parliament could take meaningful steps to ensure that, from 2009 (almost exactly 100 years later), we could close the gaps, tighten the practices and make sure that such abuse does not happen again.

That is a big ask, I know, and I have no doubt that in the past steps were taken that have obviously failed. So, the answer is not to accept that this problem is bigger than all of us but to strive for best practice in all areas of child protection, and when problems are identified find the solutions rather than making excuses for why they are occurring or denying that it is happening.

It is also true that legislation alone is not the answer. As I have said many times, legislation without the political will to apply the law and without ministerial oversight, it is nothing more than an empty debate, with no visible outcome for anyone, especially the children.

I do not lay the blame at the feet of this government alone for what has been decades of abuse and neglect, and it is unfortunate that this government alone has been made responsible for finding the funds to provide victims with redress and services. However, my only thoughts at this stage are for the victims, past, present and future. I must say as a citizen, that in 2002, I was disappointed with the reluctance of this government to establish the inquiry and disappointed that the Attorney-General made light of the demand for an inquiry with the following comment made on FIVEaa:

> Graham Archer from Channel 7's *Today, Tonight* was calling for a royal commission into child abuse in South Australia covering a period from 30 to 40 years and barristers were all joking that this was a tremendous idea because it meant $35 million would be spent on them.

Well, I would say that it was money well spent and that the victims of such heinous abuse deserved every cent invested in the Mullighan inquiry. I also hope those barristers to whom the Attorney-General was referring feel some deep sense of shame after what has been uncovered during the course of the inquiry, and I hope that one day they will find it in their heart to own their comments and publicly apologise for their flippant attitude to this state's shame.

The report of the Inquiry of Children in State Care Commission Inquiry was difficult to read, and there is no doubt that it was a very difficult project for the Hon. Ted Mullighan QC, who wrote:

> Nothing prepared me for the foul undercurrent of society revealed in the evidence to the inquiry; not my life in the community or my work in law as a practitioner and a judge. I had no understanding of the widespread prevalence of the sexual abuse of children in South Australia and its frequently devastating and often lifelong consequences for many of them. I was not prepared for the horror of the sexual cruelty and exploitation of little children and vulnerable young people in state care by people in positions of trust and responsibility or the use of them at paedophile parties for sexual gratification, facilitated by the supply of drugs and alcohol. I had no understanding that for many the consequences of having been sexually abused as a child was the loss of a childhood and an education.

The Hon. Ted Mullighan went on to say:

> While the full extent of the sexual abuse of children in state care can never be known, it is possible that the people who gave evidence to the inquiry are just the tip of the iceberg.

We are all very familiar with Mr Ki Meekins and his persistence over the years to raise this issue in the public arena and to expose one of the best kept secrets of our history in South Australia. Although I am sure that Ki Meekins has been a thorn in the side of both major parties over the years, as is the case with most who find themselves on the wrong side of the state, he has gained the respect of many in his efforts to expose the abuses of the past and to change the system for the kids in state care.

In his book *Red Tape Rape*, he exposes the systematic abuse of children who were exposed to the predators who worked in or volunteered for or simply attached themselves to institutions responsible for the care and protection of those children. Ki Meekins' book is a chilling account of that abuse and of the process of literally turning our most vulnerable children into nothing more than 'street fodder'. Then, through ongoing neglect, the state continued the abuse by turning a blind eye and a deaf ear to the troubled and tormented individuals who were unfortunate enough to be under the guardianship of the minister.

Like most other members in this and the other place, I have had conversations with some of the victims of abuse in state care and, to this day, it is easy to see the torment in their eyes and hear it in their voices. Some 40 or more years on, many cannot recount their experiences without breaking down, and, of course that is a sure sign that the wounds are still wide open and that healing is a long way off. In fact, for some the word 'healing' has little or no meaning because they have not been treated with the respect and empathy they deserve.

We continue to ignore the fact that these children would have been no worse off if they had not been removed, and the state and every minister played a part in prolonging their pain and suffering and still do to this day. It is well understood that Ki Meekins does not represent all victims, and it is my heartfelt belief that this group (which should be cohesive) has been split and, with this split, as usually happens, we have some who want different outcomes for different reasons.

I personally do not believe that the demands made by Mr Ki Meekins and his group on behalf of those they represent are extreme. What he has been seeking is long-term, effective support that would enable those he represents to move forward with their lives. In short, he asks for:

- adequate redress in line with other state models;
- a health card (referred to as a Gold Card) that would provide ongoing support for people to recover emotionally over time and have all their health needs met;
- a healing centre where specific services can be provided to meet the unique distress of adults who suffer the ultimate betrayal as children; and
- a desire for all those who perpetrated the abuse of our children to be held to account.

Not too many would see any of these requests as extreme, and anyone who would has little regard for the harm that has been done in the past that now affects how the victims of this abuse function in the here and now. It takes courage just to get out of bed every day and carry around the baggage of 40 years of painful memories and, of course, the everlasting belief that to trust others will cause further pain and suffering.

As has been mentioned in this place many times, child protection workers have a very difficult job. They are damned if they do and damned if they don't. I do not believe that any one of us in this place envies the decisions that have to be made. We also acknowledge that mistakes will be made, because that is part of the human experience, and we all accept that government intervention is often less than ideal.

In saying that, we must also acknowledge the past in order to ensure a better future. By acknowledging the mistakes made and facing the consequences of those mistakes, we are less likely to continue to repeat what is a sad past in the area of child protection.

It is even sadder to know that the same mistakes are still occurring, and one of the problems I have with this bill is that, in a fashion, it literally reinstates a statute of limitations, which I find curious given the hard work put in by the Hon. Andrew Evans to overturn that law and pave the way for victims of abuse in state care to move closer to being recognised.

With the wording of clause 4(a), I believe that this bill provides compensation only to those who turn 18 years prior to 1 February 2009. I am still not sure of the relevance of this date but, to me, it ignores the fact that abuse is still occurring, or at least that allegations are being made and, if proven, those abused children will need to be dealt with in the future. Children enduring abuse or neglect today are no less deserving than those who experienced it prior to 1 February 2009. By dealing only with past abuse, this bill condemns future victims to going through the same arduous and painful process as those in the past.

In my opinion, if we are going to have a bill dealing with neglect and abuse in state care, it must have foresight as well as hindsight and must be able to include those victims who are yet to come forward from the recent past and present. It is naive to view this as a problem that belongs in the past, because there are still many problems in the area of child protection and the services available to those children removed from their families.

Clause 5(4) also provides limited access to compensation by only allowing applications to be made within 12 months of the bill's proclamation or within a longer time specified by the minister. I have drafted an amendment to delete any reference to an application period because, as I said, I believe it is almost a return to the statute of limitations style of legislation the Hon. Andrew Evans worked so long and hard to have repealed.

Many whistleblowers in this state have been told that the reason they will never be acknowledged or vindicated by the state is that 'the state cannot afford to compensate all victims'. My response to that statement is: improve your systems, policies, practice, training and supervision, and make a commitment that the buck will always stop with the minister and the chief

executive. Close the loopholes and make sure that no level of abuse of power, position or negligence will be tolerated.

When we contemplate and justify what we will not do as though it is something we cannot do, when in fact we simply refuse, the grief and pain caused and suffered is only escalated by the insult that is carried out. In turn, our burden and liability do not diminish or disappear but become even greater. It was Nixon who said, 'It is not the crime that is the problem: it is the cover-up.' Who would know better than he, and would we not think that the government of the day would have lessons to learn from those who have suffered the ultimate embarrassment and public humiliation, if only to avoid the same?

This was the experience of the James Hardie victims when the company, after it was established that it had known of the dangers of asbestos, set out to silence the victims and stonewall the compensation. The same processes were used against victims of child sexual abuse within the Anglican and Catholic churches until, eventually, the tide of public opinion forced a formal apology and moves towards some compensation.

Why is it that we feel the Crown of South Australia should behave less honourably and with greater impunity than a private corporation or non-government body would ever get away with? Is it not the ultimate litmus test of how an oppressive dictatorship would operate?

The first necessary step in genuinely setting out to protect victims of the state is a full and complete acceptance of the premise, not that we cannot afford to compensate victims, but, rather, that we cannot afford not to. We impose harsher penalties on criminal offenders guilty of far less than the state has ever been held to account for and, as I recall it, our Premier (Hon. Mike Rann) made a promise to be the model litigant as far as victims of abuse in state care were concerned.

A media release entitled, '$22 million compensation fund available to former state wards', dated 2 April 2008, states:

> Any person who was sexually abused while in care, is eligible to immediately seek compensation through the Victims of Crime Fund that has $22 million available for victim compensation,' Premier Mike Rann said. Victims of sexual abuse while children in state care are eligible for a payment of up to $50,000 without having to suffer again by being dragged through the court process. And this fund is available to survivors now...While the state government will be considering what's happened interstate, survivors who want to pursue a civil settlement against the state and other non-government organisations that may be involved in their case are free to do so through the court process. The state government is committed to acting as a model litigant, and any civil claims by survivors will of course be dealt with compassionately and expeditiously.

So in April 2008 there was $22 million available to victims. What must be realised is that this money is not from the pockets of the state government but, rather, from the Victims of Crime Compensation Fund, for which many of the victims who gave evidence to Mullighan are simply not eligible. For those who are, and who have applied, paltry sums are the result.

In one notable example, a gentleman who has been left in the most sorry state, suffering agoraphobia and unable to trust anyone, received the sum of just over $20,000, following what was an arduous and painful application, and, of the amount received, nearly 75 per cent was taken in legal fees. How this government can feel a sense of satisfaction in this result and claim that its duty to these victims is discharged staggers belief.

It would also be reasonable to put to members in this place that the model litigant would be prepared to accept full responsibility for the situation created by the state, and the model litigant would ensure that redress and services were in place to meet the needs of the victims, rather than what we have at present.

The motion, moved last year and supported unanimously, did little to spur the government into action, and what we got was a good news story of what the government had already done, even though the services were poor, inaccessible and less than desirable to meet the needs of those victims. There was no admission that, in fact, improvement was needed, and there was no acknowledgment that there was any intention to expand and improve on what was in place.

Since the Mullighan report we have seen a government that has baulked at its responsibility to its most vulnerable citizens, and we have seen a government that has stalled in delivering promises that, no doubt, make good media on the day. This government has been called arrogant by political commentators, and Dean Jaensch, just last week, said that this government is the most arrogant government this state has seen, but there is also a belief that on this issue this government has shown a callous disregard for its citizens and, sadly, on this matter, I agree.

We are in the midst of a global financial crisis, we can expect to face some tough times and every government must prioritise but, please, it is hard to convince those who were abused in state care that when this inquiry began in 2002 there would not be demands for redress and adequate services, and some forward planning certainly would not have gone astray in putting things right.

South Australia has dragged the chain on this one, and it is a poor indictment on the value that we place on those who have suffered unspeakable wrongs and a poor insurance policy for future victims. I know that minister Rankine has some great initiatives in the pipeline to address the level of care children receive, and I know that she is a person with not only the intent but also the backbone to demand better of her department. I hope that the Premier and the Treasurer can also display a show of heart on this matter before much longer and make it happen.

The last thing that any one of us wants to hear is that the victims are still the victims and that only the face of the abuse has changed to that of rejection, delay, invalidation and, worst of all (the ultimate insult), penny pinching. This government has wasted far greater resources than these victims combined would ever need by stonewalling their claims and litigating them through the courts only to argue that the state never owed them a duty of care anyway. We expect convicted serious offenders, whether murderers or rapists, to admit their guilt before we release them on parole or rehabilitate them into the community, but our Crown does not have to give any undertakings never to repeat the deceitful or criminal conduct of the past.

To me, it is unthinkable that, under these circumstances, the state would even contemplate denying a duty of care because, after all, every minister and government employee was meant to be the replacement family for these children. They were meant to be the protectors of the children, not the protectors of those who preyed upon them. This bill before us is a dream come true for the government in actual fact, so much so that I was inclined to think that the government had some input into its drafting.

It provides minimal redress for victims ranging from $7,000 to $43,000 in two tiers. If a former state ward can demonstrate that they suffered significant physical or psychological injury as a result of the abuse, they are eligible for the maximum payment of $43,000, and I do believe that is being amended. If, however, they cannot demonstrate that the abuse caused significant injury, they are eligible for a maximum payment of $7,000, with the differentiation provided for in sections 6(1)(a) and (b). However, I am a little curious. If a child or an adult can prove they were sexually abused while in state care, I am a little befuddled as to why we would not consider they would have those long-term injuries and harms, because anyone in psychology and psychiatry knows that abuse and trauma stay with a person for life unless it is actually dealt with appropriately with appropriate services and therapy.

I do not mean to be critical of the Hon. Robert Brokenshire for putting forward this bill. I am sure his intentions were pure of heart but, as I have said, we have to get this very right—all aspects of it—because it will be the difference between making amends and continuing to fester disappointment and grief. Having applications made to the A-G in the first instance has several advantages; notably, an application will presumably be of negligible expense (if not free) and could possibly be prepared by a competent lay person.

It is also a matter of political nous that a denial or payment of a paltry sum will rest upon the shoulders of the A-G and, in turn, the government of the day rather than on the courts, which are above criticism. However, this bill lacks greatly by not allowing a decision of the Attorney-General to be reviewed by the courts, specifically by section 6(6). As such, the subjective determination by the A-G loses any enforceable structure, and there will be no precedence to guide the A-G's decision; no transparency in process and reasoning will be involved.

I will be moving an amendment allowing victims refused or dissatisfied with the determination of the Attorney-General to appeal to the District Court. The burden of proof is undoubtedly low, requiring only that the A-G be subjectively satisfied that the claimant suffered abuse or neglect and that significant physical and psychological injury did or did not occur. In my opinion, these figures do not recognise the severity of the abuse many victims suffered. While it will no doubt be argued that these figures are comparable to the figures under the Victims of Crime Act 2001 (under which payments are made for victims of rape, etc.), this argument ignores the distinguishing circumstances of these victims.

They were under the care of the state when the abuse and neglect occurred, and any payment made needs to reflect just this. It has always been my concern that the state will use a form of ex gratia payment for specific instances of abuse that occurred to abdicate its broader

breach of duty of care to wards of the state. This would be done by making a payment which is most likely to be a paltry sum on the condition that the state ward will not pursue a civil action for a breach of that duty of care. This bill allows that in section 6(3) which is then further reinforced by section 12.

Blackmailing victims into withdrawing their claims for further compensation and relinquishing their full legal entitlements to other forms of compensation is the kind of conduct we expect from unscrupulous and dishonest insurance companies, not of a purportedly civilised and democratic Western government. Why the Hon. Robert Brokenshire would seek to facilitate this is beyond my reasoning but, I repeat: the bill before us is, in its current form, a dream come true for the government.

This bill also fails to prevent the A-G from silencing the recipient of a payment. Although slightly different, because it was an out-of-court settlement, Ki Meekins was silenced from speaking out about the abuse he suffered and the amount paid to him. It is possible, due to the politically sensitive nature of the abuse and the payments, that the A-G will also attempt to silence recipients of a payment under this bill. This is something we cannot allow and, hence, I will be moving an amendment to prevent such an occurrence.

Where is our collective conscience? Do we simply breathe a sigh of relief, grateful that it was not ourselves or a loved one put through these experiences? How dare we tell victims that they can like it or lump it when we deny them the right to sue the state for a breach of duty of care in exchange for nothing more than a mere $43,000 or, when amended, $50,000. Is this the value we place on a lifetime of family breakdown, personal trauma and lost economic opportunity, amongst other things, that these victims may have suffered? If so, then shame on us.

Debate adjourned on motion of Hon. T.J. Stephens.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (R 18+ FILMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 June 2009. Page 2503.)

The Hon. S.G. WADE (21:22): I rise to indicate that the opposition supports this bill moved by the Hon. Dennis Hood. The bill requires that R-rated videos are put in a section of a store separate from children's material. It is a relatively simple measure and one that we anticipate will not be too onerous for the operators of rental chains.

The bill also prohibits video stores from screening R-rated trailers of movies. The Leader of the Opposition (Isobel Redmond MP) said on radio on 17 April 2009 that, in her view, the bill is a sensible measure. She said:

> It does sound fairly sensible that you simply segregate those things. Why would you ban the display of cigarettes in a shop and yet allow the display of R-rated videos in a different shop?

As families and individually, children and young people spend a lot of time shopping or at least spend time around retail outlets. Over recent decades the retail industry has worked hard to enhance the shopping experience so that it is increasingly being seen as a recreational and entertainment option in and of itself. Increasingly, shops are becoming public spaces with a diverse crowd of adults and children. Shop managers need to be sensitive to that reality.

It is important that retail services are managed so that children and young people are not exposed to adult products. This is not only an issue for video chains; it is an issue for magazines in newsagents, for books in bookshops and department stores, and for videos, DVDs and games in a range of outlets.

The two largest rental chains in the country (Blockbuster and Video Ezy) have 39 and 34 stores respectively in South Australia. Thousands of South Australian children would have access to these stores every week. After all, they are a major source of family entertainment material. They also carry a range of material where parental guidance is recommended. Often, the covers of this material are themselves directed at adults. The home entertainment hire business has wide exposure to the general public and we need to ensure that these places are family friendly.

In examining this issue, I think it is important to be clear what this bill is not about. This bill is not about censorship. The bill is not unreasonably limiting the access of adults to adult material:

it is simply trying to ensure that children are less likely to encounter the material. Parents should feel able to take their children to the video store without inadvertently exposing them to inappropriate material.

The evidence suggests that children should not be exposed to pornography. Earlier this year, the *Journal of the American Psychiatric Nurses Association* carried a study by Eileen Alexy and others entitled 'Pornography use as a risk marker for an aggressive pattern of behaviour among sexually reactive children and adolescents'.

The study found that sexually reactive children and adolescents (also referred to as juvenile sexual offenders) 'may be more vulnerable and likely to experience damaging effects from pornography use'. According to the report, the young people in the study who used pornography were more likely to display aggressive behaviours than their non-using counterparts.

Similarly, an article by Steven Martino and others in the journal *Pediatrics* reports on their research that found that pornography and listening to music with degrading sexual lyrics is related to advances in a range of sexual activities among adolescents. This study found that the degrading nature of the lyrics is significant. Sexual lyrics which were not degrading did not have the same effect. It is not the reference to sex that affected adolescents: it is the way that sex was referenced.

This finding highlights the fact that children need to be supported in their sexual development through appropriate sexual information and advice by parents and schools. It is in the best interests of the child and society as a whole that children are allowed space to develop a healthy attitude to sexuality. This development is not supported by inadvertent exposure of children to material which is not appropriate for their stage of development.

In conclusion, I reiterate that the opposition supports this bill as a sensible measure that protects young people without unreasonably interfering with the freedoms of law abiding adults. I commend the bill to the council.

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

INDEPENDENT COMMISSION AGAINST CORRUPTION BILL

Adjourned debate on second reading.

(Continued from 4 March 2009. Page 1488.)

The Hon. M. PARNELL (21:27): The Greens will be supporting the second reading of this bill, which creates an independent commission against corruption. I note that last year, when the Hon. Sandra Kanck introduced an ICAC bill, *The Advertiser* described it as the fifth of its type in 20 years, so I guess what we now have is the sixth of its type in 21 years. I believe that it is an idea whose time will come, whether it is by way of this bill or the next one or the one after that. I think that the government must be absolutely certain that members of the Legislative Council are taking very seriously our role in keeping the government accountable, and that includes putting in place legal measures such as an independent commission against corruption that help keep all our organs of government accountable.

I have had a detailed look at some of the differences between the bill before us now and the previous one that the Hon. Sandra Kanck introduced, and I find that most of the differences are close to cosmetic. The basic principle of the establishment of a commission and giving that commission functions and extensive powers is similar in all the models that have been presented to us.

One aspect of this bill that I like is clause 25, which provides for hearings and investigations to be conducted with a minimum of formality and technicality, and it provides specifically that the commission is not bound by the rules of evidence. That does not mean that an ICAC would become unaccountable. I think there are checks and balances built into the legislation but, if we were to require an ICAC to comply with the rules of evidence of a court of law, we may as well just use courts of law; there is not much point in having an independent commission.

The government's argument against an independent commission against corruption has been fairly constant over the years: it says that we do not need one, it says that there is no evidence of wide scale corruption and it says that, if there were, the existing law enforcement agencies and institutions would be capable of dealing with it. I do not accept that, and I have never accepted it.

It seems that in all jurisdictions where an independent commission against corruption has been introduced, they have found corruption they did not know was there. It can become a circular argument if the government continues to say that we do not need a commission because there is no corruption, but we do not know the extent of corruption because we do not have a commission. It is a classic circular argument.

In my second reading contribution, I do not propose to go through all the arguments in favour of a commission against corruption; I have done that previously when we dealt with earlier bills on this topic, and other members have done likewise. For present purposes, I want it on the record that the Greens support an independent commission against corruption and that we are happy to support the second reading of this bill and the model.

I note that the Hon. Robert Lawson has a number of amendments, and we will hear from him as to why he believes those amendments are necessary. I expect we will have a robust debate in the committee stage of this bill, but for now I believe it is important that as a Legislative Council—and, in particular, a Legislative Council under some threat of being made less relevant by proposed government legislation—we make clear that we take our responsibility seriously when it comes to holding government and the organs of government accountable, especially in relation to corruption. Therefore, I am happy to support the second reading of this bill.

The Hon. R.D. LAWSON (21:32): The Liberal Party also supports the second reading of the bill which, in almost all respects, follows the form of a bill introduced in another place by the then shadow attorney-general, Isobel Redmond, in November last year. The Liberal Party is firmly committed to the introduction of an independent commission against corruption.

Whilst the amendments I have placed on file may be numerous, they are relatively minor; in fact, 15 of them are identical in terms. The reason for putting those amendments on file is to indicate the differences that exist between this bill and the Liberal Party bill, introduced in another place and currently before the House of Assembly. Clearly, the government is not interested in progressing that bill there at all.

A very pertinent and sound explanation of the reasons for an independent commission against corruption were provided by former Queensland premier, Peter Beattie, in an item he wrote for *The Weekend Australian* of 8 and 9 December 2007. He said:

> The Queensland Crime and Misconduct Commission caused me, as Premier, enormous political pain and, more than any other organisation, put my government at risk on several occasions. CMC investigations or inquiries caused me to lose a deputy premier and two members of state parliament, while one former minister went to gaol, another is facing court and a couple of other ministers lost their portfolios.
>
> Since its inception in 1990, this standing royal commission has pursued crooked police officers, dishonest politicians and public officials to keep all the bastards honest, to borrow a line from Democrats founder Don Chipp.

Later, he went on to say:

> So, why am I consistently on the public record as one of the CMC's strongest supporters, and why did I, as Premier, refer many of the matters to the CMC that subsequently caused me such pain? The answer is simple. Queensland needed, and indeed all states need, a watchdog beyond government control to maintain honesty and integrity in public administration.

The only other line I would read from Peter Beattie is as follows:

> For politicians, these independent bodies are a political nightmare, but for public administration they act like a truth serum.

So, there you have it: a Queensland Labor premier pointing to the essential need for such a body not only, as he said, in Queensland but in all states. The South Australian Rann government is living in cloud-cuckoo land if it believes that we do not need an anti-corruption commission in this state. The Atkinson Ashbourne affair established beyond all doubt the need for such a body.

Briefly, the council will recall that a suggestion of corrupt conduct arose, which was reported to the Premier, the Deputy Premier and other senior ministers. What they decided to do was have a secret in-house inquiry which, not surprisingly, gave a whitewash, and the public was never informed about it.

Some six months later, when the matter was first reported to the Crown Solicitor of the day, he said, 'This matter should be reported immediately to the police', and it was. Investigations ensued and charges were laid. The fact that there was ultimately an acquittal does not alter the fact that the mechanism adopted by the South Australian Labor government was entirely defective.

The recent activities of local government in Wollongong, New South Wales, the Rail Corporation in New South Wales, and Brian Burke and Julian Grill in Western Australia all indicate that there is corruption in our community and that bodies of the kind which are established in those states are appropriate to ensure that the issues are appropriately addressed. It is very convenient for the South Australian government to say, 'But we already have a police force; we already have a police misconduct body and we already have an Auditor-General.' Of course, so do those other states in most respects. Certainly they all have a police force and certainly they all have auditors-general. The fact is that those authorities are established for a particular purpose and do not serve the important function of an independent commission against corruption.

I commend to the council and members who may be interested the second reading speech made by the member for Heysen in the House of Assembly on 27 November, which sets out the Liberal Party's position with great clarity. I might mention just a couple of differences between the bill proposed by the Hon. Rob Brokenshire and that which we have advanced and would support. The most significant difference is in clause 51 of the bill. The Hon. Rob Brokenshire's bill suggests that evidence taken by the commission under compulsion (that is, where a person cannot refuse to answer the question on the grounds of self-incrimination or privilege) can be used in evidence against that person in proceedings for an offence other than in proceedings in respect of the making of a false or misleading statement.

We do not believe that evidence should be usable in those circumstances. It is a feature of anticorruption commissions, crime commissions, royal commissions, and other bodies, which have the power to compel people to give evidence and do not allow them the usual privilege of refusing to give evidence on the grounds of self-incrimination, that the evidence they give under compulsion cannot be directly used in their prosecution. That is an important bulwark, and it is one which we believe ought be included in any legislation establishing an anticorruption commission. We do not believe in, as it were, throwing out the baby with the bathwater. There remain important protections which ought to be respected.

There is a very real fear amongst public officials and some members of parliament who have thought about it that they themselves can be the target of false allegations. They themselves can come under unfair scrutiny by these bodies, and that is certainly a danger which ought to be addressed. I think it is important also, as one of the elements of the proposal presently before us and also our proposal, that the commission reports to a committee of the parliament: that it does not report to a minister or to executive government, but that an all-party, joint house committee has an important oversight role. That is the model which is used in New South Wales, Queensland and Western Australia, and it is the model which we commend to the council.

I should also mention that the former auditor-general, Ken MacPherson, supported the establishment of an independent anticorruption commission in this state, notwithstanding the fact that the Attorney-General is saying that we have an Auditor-General who provides sufficient protection. Directors of Public Prosecutions in this state have also supported the establishment of a commission. We will be supporting the second reading.

The Hon. DAVID WINDERLICH (21:44): The Democrats will also be supporting the second reading of this bill. The Democrats made five attempts to introduce an independent commission against corruption in this state. Most of those were led by the Hon. Ian Gilfillan, so it is a longstanding commitment of the Democrats. Most of the allegations about corruption interstate tend to relate to local government. I think that is partly because local government tends to be a much more open sector of government than state government. One could imagine what would happen if cabinet minutes were put up on the web. The degree of scrutiny that would follow and the degree of complaints and fault found would massively increase. Currently most complaints relate to local government.

This highlights one of the lacks we have in our state in terms of fighting corruption, namely, that we are afflicted by a patchwork quilt of arrangements. We have the Anti-Corruption Branch, which can look at individual cases but not systemic issues, and cannot compel people to appear. Issues to do with local government are investigated by a minister of the government, which means there is a risk that political considerations come into play. The Ombudsman has considerable powers, but generally rules out complaints where there is not a direct interest on the part of the complainant, that is, a direct consequence or adverse result to the person complaining from a decision taken by a government body.

As is very often the case, the people who can afford to complain are those who are not directly in the line of fire—it is not their business that depends on the local council or state

government department for contracts, or they are not closely involved with some of the decision makers that have discriminated against them. So, the notion of having to have a direct interest tends to rule out those who can afford to complain, while those who cannot afford to make a complaint are the only ones eligible to complain. It is a catch-22 situation.

Of course, we have whistleblowers legislation, which directs whistleblowers back into the very organisations they are seeking to expose in terms of having to take their complaints up the line to designated superiors within the organisation. All the various investigative bodies lack resources and none have a systemic approach or the sort of preventative role that an independent commission against corruption can have.

I note in the Hon. Robert Brokenshire's bill that there are several provisions in the functions of the commission that indicate that sort of systemic and educative approach: clauses 7(1)(g), (h), (i) and (j) all cover issues such as reviewing laws, practices and procedures, education and advising public authorities, educating and disseminating information to the public, and so on—a systemic and educative approach, which is completely lacking from anything we have in this state. That is another important role of an independent commission against corruption.

The lack of any such channel means that community members go through this bizarre snakes and ladders exercise of following different investigative bodies and their processes down different dead-end paths and being knocked out on technicalities or a failure to know the rules or simple limitations in the system, and as a result they become disillusioned and cynical, which undermines confidence in governance in the state in general, which is extremely unhealthy.

Finally, the most striking aspect for me about the whole debate is the state government's refusal to consider an ICAC or anything like it. We have an extremely strange situation in this state where, apparently, we have crime—organised crime, bikies, paedophiles and hoons. The state government tells us frequently that we have all these threats and that it is acting to crush these threats in various ways, but we do not seem to have corruption, white collar crime. By some very strange result of how this state was settled, we have ended up with as much or more street crime than anywhere else, which must be fought by the government, but we do not have white collar crime and do not have to worry on that count. It is very hard to understand how this came to be.

This bill is inevitably doomed to failure: if it gets through this place it will be knocked off in another place by the government, which is sad. In getting the support of this council, it is at least keeping the debate alive and highlighting to the South Australian community that there really is only one barrier in the way of an independent commission against corruption in this state, and that is the state government itself.

The Hon. B.V. FINNIGAN (21:50): The government opposes this bill. It was good to hear the Hon. Robert Lawson speaking so eloquently about the Liberals being groundbreakers on this proposition to introduce an ICAC, championed by Martin Hamilton-Smith and Isobel Redmond, but apparently not championed so well that the Hon. Mr Robert Lawson could bring himself to vote for either of them in recent events. We have also heard the Hon. Mr Lawson and the Hon. Mr Brokenshire (who sponsors this bill) talking about the need for an ICAC when, of course, they sat in cabinet not so long ago. I would like to know how vociferous they were on those occasions in pushing for an ICAC and saying that it was required in this state. Where was it a policy of the previous government? Suddenly, because they are not in government, they assume that there must be something rotten going on—or probably they hope something rotten is going on—therefore we need an ICAC because they are in opposition—

The Hon. J.S.L. Dawkins: What about Randall Ashbourne, Bernie; you know all about that?

The Hon. B.V. FINNIGAN: We have the Hon. Mr Dawkins interjecting about the Ashbourne matter, which was brought up again by the Hon. Mr Lawson, who will probably have something written on his tombstone about the Atkinson/Ashbourne affair, as he likes to characterise it. It was a matter that was investigated over and over again, including by the Anti-Corruption Branch. It was the subject of a criminal trial and the subject of a select committee in this place and still no evidence was found to indicate that the Attorney-General was engaged in any wrongdoing—and that is what upsets the Hon. Mr Lawson. He wanted a scalp, he did not get one, and he will never get over it—and to suggest that that should be our motivation for bringing in this lawyer's frolic and spending $20 million or $30 million a year of taxpayers' money on an ICAC is extraordinary.

As the Hon. Mr Parnell and, indeed, the Hon. Mr Winderlich have indicated, we have been over this ground many times. In fact, I think this might be the third contribution that I have made in just three years on an ICAC, if memory serves me correctly. As I have indicated before, the government does not support the establishment of an ICAC. It will be an expensive and unnecessary exercise that would please lawyers and sensational media and no-one else.

We have a whole range of institutions and mechanisms, including the Anti-Corruption Branch of the South Australia Police—the South Australia Police in which the government does have confidence, unlike the opposition. We have whistleblowers protection; we have the Auditor-General who reports to parliament and who is an independent officer; we have the Ombudsman, who has the powers of a royal commission in terms of questioning people; and we have the Police Complaints Authority. A range of mechanisms are already in place, and the suggestion that we can have some sort of $30 million one-stop shop for corruption that will fix everything is extraordinary.

I mean, where does that leave all those institutions I have just talked about? Does that mean we get rid of them and replace them simply with an ICAC? That seems to be the vein of thought that is coming from members opposite; that is, there will be this one body that suddenly will be able to handle everything and solve all allegations or suggestions of corruption when, of course, we reiterate that there is no evidence to suggest that there is wide-scale corruption that needs to be dealt with.

The Hon. A. Bressington: If you don't look for it, you won't find it.

The Hon. B.V. FINNIGAN: As the Hon. Ms Bressington says, 'If you don't look for it, you won't find it.' Their entire argument is that something has to be wrong; something has to be rotten; there has to be corruption; something is going wrong out there. Somewhere someone is taking a brown envelope full of money and we need an ICAC to find it! There is no evidence at all that this is happening, but let us set up an ICAC because it must be happening, there must be something corrupt about this government! This is an extraordinary proposition. It is not based on any evidence. The government opposes the establishment of an ICAC openly and proudly because it is an expensive lawyers' frolic that will not serve the taxpayers, and it will not serve accountability for public administration in this state.

The Hon. R.L. BROKENSHIRE (21:55): I have much admiration for the Hon. Bernie Finnigan, but I am very disappointed that on behalf of the government he has had to come up with so much nonsense—no defence whatsoever from the government. Frankly, if there is nothing to hide, open it up and be transparent. If it would cost a mere $20 million or $30 million in a $14 billion budget to keep our state pristine and snow white—the only one in the world where there is no corruption—I say let us make a good investment and keep this state away from the snakes and have a snow-white state long term.

I rise to thank all honourable members for their indications of support for this bill. However, I am really disappointed that the Labor government remains (to use the words of former prime minister Paul Keating) recalcitrant in its opposition to an ICAC. As I have said in relation to the debate tonight on the Victims of Abuse in State Care (Compensation) Bill, this bill is also about a concept, irrespective of what one thinks about the model.

I will conclude the second reading debate on this significant bill and then adjourn it until the spring, because I am hoping that government members will have a change of heart and thought pattern over the winter recess and that they will come back and say, 'We will honour the Premier's 2002 commitment to have an open, honest, accountable and transparent government and state.' You never know: we might wake up when we come back here in the spring and find the Premier making this announcement.

It is almost ironic that today at 4pm Eastern Standard Time a significant development in corruption occurred in Australia. Where? In Queensland—the only state in Australia without a Legislative Council. I will read from the *News Limited* story's opening lines:

> Former Queensland government minister Gordon Nuttall has been found guilty of corruption. The Brisbane District Court jury returned just after 4pm after deliberating for almost five hours. The jury found the 56 year old former Labor MP guilty of corruptly receiving a total of [about] $300,000 from mining magnate Ken Talbot between 2002 and 2005. He was also found guilty of receiving $60,000 on April 12, 2002, from businessman Mr Harold Shand.

Here again we have another example of the benefits of an ICAC, with the Queensland equivalent, called the Crime and Misconduct Commission, involved in interviewing former minister Nuttall and taping key evidence, which was produced at his trial.

In my second reading contribution, I outlined the national models and the Hong Kong model, but I want to place on the record a couple of further examples. Now Indonesia has one: its Corruption Eradication Commission (I will not try to pronounce its proper name: Komisi Pemberantasan Korrupsi). South Korea, until February 2008, had a Korea Independent Commission Against Corruption.

An honourable member: Zimbabwe?

The Hon. R.L. BROKENSHIRE: Zimbabwe would like one, but it does not have anything like a democracy. Indonesia's ICAC equivalent (KPK for short) was established in 2002, and it is difficult to find out more about it since its public information is in Indonesian. However, its vision (which is very relevant) is 'realising a corruption-free Indonesia'.

By contrast, Korea maintains information in English with respect to its ICAC equivalent. Korea formed an ICAC on 25 January 2002 in response to a campaign by non-government bodies and watchdog groups, which bravely called for such anti-corruption measures in response to the 1997 Asian financial crisis. It is not about attacking governments: it is about corruption in the corporate sector and so on and so forth. Their coalition took the name Citizens Coalition for Anti-Corruption Legislation.

Given the current global financial crisis I thought it appropriate to retrace the Korean ICAC just a little for honourable members. I say Korea had an ICAC, because it now has a new, larger body which is called the Anti-Corruption and Civil Rights Commission, and that was formed on 29 February 2008—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: South—as a merger of the Korean ICAC. They merged the country's ombudsman and Administrative Appeals Commission. So, even over in South Korea they did not think that the ombudsman had enough teeth so they merged it there, but in South Australia we cannot—we cannot even have an ICAC.

Notably, the KICAC, as it is now called, assists Indonesia's KPK as well as the UN development program to assist four other Asia Pacific countries in combating corruption. Korea's ICAC equivalent won praise from the 2005 17th APEC Ministerial Council for its coordinating work in that regard.

Corruption is prevented when you have a healthy number of independent non-government bodies, which I note that the Premier wants to get rid of as of today but, notwithstanding that, the South Australian voters will make the decision, not the Premier.

One such body that readily comes to mind, because I am standing in it, is our Legislative Council. It is timely that we have this debate today. I respect you, sir, and I have not had a chance to talk to you, but I believe that you would be very happy with the democracy in the Legislative Council with 22 members, because you understand about democracy, having worked through the shearing sheds and done the hard yards to get to where you are; you understand all about democracy.

Again, it is timely that we have this debate today as we reflect upon a state government that today has shown (and I understand that caucus did not necessarily agree with the Premier and, of course, probably the cabinet did not either, but we know that the cabinet is one, possibly two, and at an absolute number three) that it is determined to dismantle this Legislative Council and silence crossbenchers and Independent voices.

I noted today what the Leader of Government Business, whom I have a great respect for and say publicly that he is one of the best ministers, the Hon. Paul Holloway, said about former member the Hon. Nick Xenophon. An interesting point is that Nick Xenophon would never have got into parliament under the Premier's model put up today, because he got 2.8 per cent the first time. He would never have been here—never have got here.

The Hon. G.E. Gago interjecting:

The Hon. R.L. BROKENSHIRE: No; he would never have got here under the Premier's model, because he only got 2.8 per cent the first time in 1997, and under that he would never have got here.

The Hon. G.E. Gago interjecting:

The Hon. R.L. BROKENSHIRE: Do not look at 2006: look at 1997. He would never have got here. It would have been the absolute dictatorship of all time. Together with the changes it proposes to the Electoral Act, you really have to wonder how far we are living in a dictatorship.

The Hon. B.V. FINNIGAN: I rise on a point of order. I was under the impression that the Hon. Mr Brokenshire was closing the debate on the ICAC bill.

Members interjecting:

The Hon. B.V. FINNIGAN: Sorry, are you in the chair?

The PRESIDENT: Order! Are you suggesting that he is repetitive?

The Hon. B.V. FINNIGAN: I cannot hear myself think with the noise going on over there, Mr President. I do believe that the honourable member was summing up in the ICAC bill, and he is not addressing that at all.

The Hon. R.L. BROKENSHIRE: I was trying to talk about corruption.

The PRESIDENT: I do remember the honourable member saying that he would be brief.

The Hon. R.L. BROKENSHIRE: Yes, sir; I will be. I thank you for your guidance, and I listen to you, Mr President. As a country person I am always brief, and I talk fast, as we all do in the country. An ICAC is a great compliment to an independent watchdog Legislative Council—it is parallel, it works together, it fits like a glove—because an ICAC, rightly, can investigate and make recommendations, but it will be parliament that can determine whether to act upon those recommendations—absolute democracy.

The Family First model gives greater oversight and responsibility to the Legislative Council, because traditionally it is the house of review and it has not always been a house controlled by the government—thank God. This is a healthy thing, both for democracy and for preventing corruption.

The model we have proposed is the subject of amendments proposed by the Hon. Robert Lawson and we will look at those more closely over the winter break. Again, in conclusion, I thank all my colleagues who have contributed to the debate on this bill and I look forward to the committee stage. This is a very important bill in the history of this state and, as I have said, the conviction of Gordon Nuttall for corruption as a minister in Queensland—the only state without a Legislative Council—simply reinforces today how important that debate is. I commend the bill to the council.

Bill read a second time.

CORONERS (RECOMMENDATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 June 2009. Page 2718.)

The Hon. B.V. FINNIGAN (22:06): I will be very brief, because I sought leave last time to conclude my remarks. I had indicated that the government had a number of reservations about the bill particularly in regard to the extent of Coroner's inquiries that would be envisaged by this bill. I indicated that the government was consulting the Coroner and, without further information, we would be opposing the bill as it stands. That was only a month or so ago, so I have no further information to report to the council and I again indicate that, if it comes to a vote when we return, in the absence of any change, we will be opposing the bill.

The Hon. S.G. WADE (22:07): I am not surprised by the government's tardiness on this issue, but it does not really need to wait for a response from the Coroner. The Coroner has said time and again in his annual reports what his attitude is, and I propose to reference those in my contribution. I rise to indicate that the opposition supports this bill and I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

LOCAL GOVERNMENT (ELECTIONS) (MISCELLANEOUS) AMENDMENT BILL

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) (22:10): Obtained

leave and introduced a bill for an act to amend the Local Government (Elections) Act 1999 and to make related amendments to the City of Adelaide Act 1998. Read a first time.

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) (22:10): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is derived in large part from the work of the *Independent Review of Local Government Elections*. The Review was established on 20 April 2007 following completion of the 2006 local government election process. My predecessor acted in cooperation with the then President of the Local Government Association (the LGA) to commission an independent and comprehensive post-elections review.

The Review was jointly funded by the Government and the LGA. The terms of reference for the review were drafted in consultation with both the Electoral Commissioner and the LGA.

The Independent Reviewer had the benefit of advice from a Reference Group chaired by the Hon Ian Hunter, MLC and including officers from the:

- Local Government Association;
- the Office for State/Local Government Relations;
- the Electoral Commission;
- Office for Women;
- Multicultural SA;
- Aboriginal Affairs and Reconciliation Division;
- Office for Youth; and
- South Australia's Strategic Plan – Cabinet Office.

The Review began by reviewing the reports of previous reviews and examining literature published worldwide on local government elections. It then produced three Issues Papers, which were published in June 2007.

Consistent with the Review's Terms of Reference, the three *Issues Papers* covered three broad themes:

1. Improving Local Government *voter participation*;
2. Improving Local Government *representation*; and
3. Improving the Local Government election *process*.

The Review also considered it important to reach out to a broader audience than the few who would have the time or the inclination to peruse and respond to three long documents. Therefore, with the assistance of the Reference Group, a more compact questionnaire, characterised as a '10-minute survey leaflet' was produced.

The Review intended this survey to be distributed as widely as possible, and attract comments from not only people within local government, but also the wider public. More than 6,000 copies of the 10 minute survey leaflet were printed and distributed. A further 500 (translated into Vietnamese) were distributed in the Port Adelaide Enfield Council area. Another survey, asking similar questions, was conducted entirely online at a website hosted by the Office for Youth.

Through this process, input was obtained from 313 individuals and 26 organisations through feedback sheets or through detailed submissions and from 19 organisations through discussion at meetings.

The Review set up a website on which all its documents, submissions and comments to the Review were published. The website is still operating and has been updated to include not only the Review's *Interim Report* and *Final Report*, but also responses by the Government and by the LGA.

Voter turnout—South Australia's Strategic Plan

The *Independent Review* was undertaken in the context of South Australia's Strategic Plan. The Plan contains a number of topics and targets that guided the Review, but the most direct reference is the target to increase voter participation in Local Government elections in South Australia to 50 per cent by 2014. This Target 5.5 is regarded as a measure of strong, connected communities with citizens engaged in local decision-making.

Other relevant targets in the Strategic Plan, considered by the Review, are to increase women's participation in leadership roles, as well as targets to increase the number of Aboriginal South Australians participating in community leadership (T5.7) supporting multiculturalism (T5.8) and to increase the proportion of eligible young South Australians enrolled to vote (T5.4).

In the last local government elections, in 2006, only 31.6 per cent of eligible voters exercised their right to vote (a decline of 8.5 per cent since 2000). The South Australian Strategic Plan target to increase voter participation to 50 per cent by 2014 is therefore seen as particularly important to enhance the credibility of local government and as an indicator of strong and involved communities and healthy local democracies. Very low voter participation rates also result in some individual councillors being elected with a very small vote.

The Review noted that in general, local governments did not appear to have embraced the 50 per cent voter participation target. Although 20 councils achieved the target of 50 per cent participation rate in 2006, these were all small council areas and represented only 5.6 per cent of all eligible voters. In 2006, the 13 largest council areas all had participation rates of less than 30 per cent.

None of the councils with voter participation of less than 50 per cent presented the Review with any plans to try to achieve the SASP target. The Review noted that many councils had the view that the SASP target was a State Government target that did not concern them.

If there is to be progress towards achieving the SASP Target, effective measures must be targeted towards the largest councils; ie those with turnout below 30 per cent at their last election, who together represent about 800,000 enrolled voters (two thirds of SA's total). These councils are all in the Adelaide metropolitan area. In addition it will be important to support smaller and rural councils to maintain, and if possible increase, their existing, higher voter participation rates.

To that end, the Review noted two key aspects in which South Australian local government elections differ from local government elections in other States:

South Australia is the only State in which a State Electoral Office or Commission does not take responsibility for a central publicity and promotions campaign for local government elections. Leaving aside provisions for capital cities, the Review noted South Australia is also the only State in which property franchisees (ie non resident owners and business lessees) are automatically enrolled without taking any action to seek enrolment.

Recommendations accepted

The Review's *Final Report* was released in March 2008. It made a series of 27 recommendations. The key ones dealt with these two differences between South Australia and other States. The overall thrust of these key recommendations was to divert resources away from what the Review saw as unnecessary administrative tasks associated with compiling a separate voters roll, and towards activities that heighten awareness of the role of local government and elected members, its elections, and individual candidates for election.

In December 2008, the State Government considered the *Final Report* of the *Independent Review*, and made decisions to adopt 23 of the 27 recommendations. The list of the Government's responses to each of the 27 recommendations is published on the Review's website.

Four recommendations rejected

Recommendations 14 and 25 involved altering the date of future local government elections so that they would fall 18 to 19 months after the date of State elections. This would have required extending the current term of office of all elected councils by 10 to 11 months, to conclude with an election sometime in September or October 2011, and every four years thereafter. The Government rejected both recommendations 14 and 25, and decided to leave the election date unchanged, on the basis that the present local government term is the first ever to run for four years and an extension of the current term to almost five years would unreasonably postpone the opportunity for democratic evaluation of current councils.

Recommendation 19 was to institute dual candidacy. The Review recommended that in council areas with a popularly elected Mayor, any candidate ought to be able to nominate for both Mayor and councillor. The Government rejected this recommendation, on the basis that that dual candidacy could confuse voters, would also add to election costs, and delay finalisation of results.

Recommendation 23 was to provide voters roll data to local government election candidates in electronic format. The Government rejected this recommendation, on the grounds that electors supply their information to the Australian Electoral Commission with the expectation that it will be used for electoral purposes only; and that the more widely the electronic roll is distributed the greater the risks that this information may be misused.

The remaining 23 recommendations were supported by the Government. To the extent that these recommendations require legislation to be implemented, this Bill seeks to do that.

Publicity campaign

The Local Government Association is supporting most of the measures in this Bill. However, I am aware that the LGA is opposed to Clause 6, which proposes to insert a new section 13A. This new section establishes responsibility for information, education and publicity for local government general elections.

This clause is one of the two key reforms in this Bill recommended by the *Independent Review of Local Government Elections*. It would place the responsibility for promoting elections into the hands of an independent statutory officer, the Electoral Commissioner. This is one of the centerpieces of the proposed reforms.

Despite the LGA's concerns, the Government is strongly of the view that it is appropriate to have the Electoral Commissioner, as an independent statutory officer, authorising and coordinating publicity for local government elections. It is also appropriate to have the Electoral Commissioner setting the budget for this campaign, albeit in consultation with the Local Government Association. This reform is necessary because in the past, local

government has not taken sufficiently seriously the task of promoting its own elections. The *Independent Review* found that some local governments contributed as little as $300 to promoting the 2006 local government elections.

Authorising the Electoral Commissioner to carry out this function would bring South Australia into line with the practice in every other Australian State, and ensure for the first time, that local government elections are promoted vigorously, throughout South Australia.

Proposed subsection 13A(2) also places some responsibility onto local government to directly inform landlords, business lessees, and resident non citizens (perhaps via fliers that accompany rates notices) about the proposed change under which they would need to enrol if they wish to exercise a vote.

Property franchisees voters roll

The LGA is fully supportive of the other major initiative in this Bill, which is to reduce the administrative burden associated with compiling a separate voters roll. The Government and the LGA both agree with the *Independent Review* that it makes little sense for local governments to spend many thousands of dollars, of employees' time, updating a voters roll comprised of absentee owners, landlords, and business renters, when most of these people historically have shown no interest in voting. Under the provisions of this Bill, these people will still be able to exercise a vote, but only if they choose to enrol themselves in a local government election year. These proposed changes will not apply to the City of Adelaide because their implications would be significantly different for the capital city.

Bodies Corporate and groups

There is a related reform that applies to property franchisees who are bodies corporate or groups. This includes companies, incorporated associations, and couples or family groups who own property in two or more individual names.

Under the provisions of this Bill, a body corporate or a group that wishes to exercise a vote in a local government election will need to nominate someone to be a 'designated person' for that purpose.

The purpose of this restriction is to prevent individuals voting multiple times in the same election. The main effect of this reform is that a person who already has a vote as a resident in a council area will not be able to exercise any additional vote or votes (for example as a landlord) in the same council area. Under the provisions of this Bill, some groups and some bodies corporate will not be able to exercise a property franchise vote through any designated person. They may be unable to appoint a designated person who is not a resident. Nevertheless, their members or officers would not be disenfranchised, because each of their adult members or officers would have a vote as a resident.

Under this scheme, a designated person is not considered to be an elector. The 'elector' would remain the body corporate or group that authorised the 'designated person'. However, a designated person would be entitled to vote after:

- having been authorised to do so by the body corporate or group; and
- having his/her name placed on the voters roll as the designated person of the body corporate or group.

Under the present Act, a body corporate that has property in multiple wards of the same council, may nominate a different officer to stand as a candidate in each of the wards, and another different officer to stand as a mayoral candidate. The same right exists for a group that has multiple voting entitlements, to nominate different officers as candidates in different ward and mayoral contests.

Clause 10 adopts the concept of a 'designated person' who is authorised to exercise the rights of a body corporate or group for the purposes of a local government election. It provides that only this designated person (and not any other nominee) may be a candidate for election on behalf of a body corporate or group.

Again, the above reform will not apply to the City of Adelaide. Voting in more than one capacity in the City of Adelaide is already prohibited.

Prohibition on withdrawal of a candidate

There is an underlying concern that existing provisions in the Act, that permit a candidate to withdraw for medical reasons after the close of nominations, are capable of misuse to affect the outcome of local government elections.

For example, a person who already has a known medical condition may nevertheless nominate as a ward candidate, with no intention of remaining in the contest. The late provision of a medical certificate and the withdrawal of the candidate during the election period would cause the election in that ward to wholly fail, forcing a supplementary election at a later date. That outcome may be to the advantage of others.

Clause 5 of this Bill would prevent this occurring, by preventing the withdrawal of any candidate after the close of nominations. This would make the *Local Government (Elections) Act 1999* consistent, in this respect, with the *Electoral Act 1985*.

Any candidate who becomes too ill to continue as a candidate might consider urging his or her supporters to switch their support to another candidate.

Publication of candidate statements etc

Clause 11, which proposes to insert new section 19A— would provide voters with the ability to look up each candidate in a local government election, and obtain information about each candidate and his or her policies.

For candidates, it is intended to provide an effective campaigning tool. This scheme deals with some of the concerns that have been expressed about the necessary limitations of the printed candidate profile that accompanies the printed ballot papers.

Subject to any technical considerations to ensure the feasibility of the scheme, the LGA will be able to permit candidates to fully express their views, and provide links to additional information at the candidate's discretion.

Although this proposed new section would remove any civil liability from the LGA, and from the web hosts of such candidate statements, this would not give candidates authority to publish falsehoods or defamation. The candidate would remain legally liable for the content of these statements, and would face consequences in the same manner as if the offending material had been in printed form.

Publication of misleading material

Clause 12 would insert, into section 28, provisions that are drawn from section 113 of the *Electoral Act 1985* that apply to State elections. These provisions give the Electoral Commissioner the power to 'request' the withdrawal or retraction of a statement 'purporting to be a statement of fact that is inaccurate and misleading to a material extent.' Just as under the equivalent provisions in the *Electoral Act 198*5, there may be legal consequences for a candidate who does not co-operate with such a request from the Electoral Commissioner. Failure to comply with a request will be a matter that a court may take into account when determining a penalty for a breach of section 28.

Caretaker policy

Clause 20 would require each local government to adopt a caretaker policy governing the conduct of the council and its staff during the election period. The provisions are modelled on similar legislation in Victoria. They would, at a minimum, prohibit a council, during an election period, making decisions about:

a) the employment or remuneration of a chief executive officer, other than a decision to appoint an acting chief executive officer; or

b) to terminate the appointment of a chief executive officer; or

c) to enter into a contract, arrangement or understanding the total value of which exceeds whichever is the greater of $100,000 or 1 per cent of the council's revenue from rates in the preceding financial year; or

d) allowing the use of council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of council resources by all candidates for election);

Other reforms

Other reforms in this Bill provide for:

- the provisional enrolment of 17 year olds, reflecting the practice for State and Commonwealth elections and allowing them to exercise a vote if they have turned 18 by election day;
- setting a definite time, 4:00pm, for the drawing of lots to determine the order of names on the ballot papers. This is intended to allow candidates and other interested parties to schedule their time to attend the draw, if they wish;
- reducing the length of time (from six weeks to 30 days) for provision of a campaign donations return after the completion of an election; and
- requiring campaign donation returns to be retained for four years, rather than three.

I commend this Bill to Honourable Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government (Elections) Act 1999*

4—Amendment of section 4—Preliminary

This clause inserts a definition of *designated person* for the purposes of other amendments contained in the measure. A *designated person* is a natural person, of or above the age of majority, who is an officer of a body corporate and is authorised to act on behalf of the body corporate for the purposes of voting or who is a member of a group, or an officer of a body corporate that is a member of a group, and is authorised to act on behalf of the group for the purposes of voting.

5—Amendment of section 7—Failure of election in certain cases

Currently the Act provides that if, after the close of nominations, a candidate withdraws his or her nomination on the ground of serious illness or ceases to be qualified for election, the election will be taken to have failed. This clause removes that provision and 2 other subsections that are consequential to it.

6—Insertion of section 13A

This clause inserts a new section 13A as follows:

13A—Information, education and publicity for general election

This proposed provision allows the returning officer (after consultation with the LGA) to arrange certain advertising and recover the costs from councils. In addition, the provision requires each council, during an election year, to inform potential electors of the requirement to enrol to vote.

7—Amendment of section 14—Qualifications for enrolment

This clause alters the section dealing with qualifications for enrolment to include a requirement that a person enrolling on the basis of residency have been so resident for a continuous period of 1 month prior to applying for enrolment and to require lodgement of an application for enrolment from all persons entitled to vote other than natural persons who are enrolled as a House of Assembly elector for a residence in the relevant area or ward. The provision also allows for provisional enrolment and inserts an offence relating to the provision of false or misleading information.

8—Amendment of section 15—The voters roll

This clause amends section 15—

- to ensure that an entry in the voters roll relating to a group or a body corporate will include details of the designated person for the group or body corporate;
- to provide for the expiry of the voters roll on 1 January in each election year (subject to a provision regarding the holding of a supplementary election to fill a casual vacancy);
- to limit the entitlement to obtain a copy of the voters roll (in printed form) to nominated candidates;
- to ensure that the first copy of the roll provided to a nominated candidate is free (however further copies may incur a charge).

9—Amendment of section 16—Entitlement to vote

This clause makes amendments that are consequential to provisional enrolment and to the introduction of the 'designated person' concept and provides that a natural person may only vote in 1 capacity at an election or poll.

10—Amendment of section 17—Entitlement to stand for election

This clause is consequential to the introduction of the 'designated person' concept.

11—Insertion of section 19A

This clause inserts a new clause 19A as follows:

19A—Publication of candidate statements etc

This clause provides for the publication, by the LGA, of any electoral statements by nominated candidates and the candidate profiles under section 19(2)(b).

12—Amendment of section 28—Publication of misleading material

This clause inserts a provision equivalent to section 113(4) of the *Electoral Act 1985*.

13—Amendment of section 29—Ballot papers

This clause provides that the drawing of lots to determine the order of names on a ballot paper is to occur at 4 pm or as soon as is reasonably practicable thereafter on the day of the close of nominations.

14—Amendment of section 39—Issue of postal voting papers

This clause is consequential to the 'designated person' concept.

15—Amendment of section 47—Arranging postal papers

This clause substitutes a new subsection (2)(a)(ii) which is consequential to clause 9 and makes 2 other amendments that are consequential to the introduction of the 'designated person' concept.

16—Amendment of section 80—Returns for candidates

This clause shortens the time for lodgement of a campaign donations return from 6 weeks after conclusion of the election to 30 days after conclusion of the election.

17—Amendment of section 81—Campaign donation returns

This is consequential to clause 16.

18—Amendment of section 87—Public inspection of returns

This clause extends the time for keeping returns from 3 years to 4 years.

19—Amendment of section 89—Requirement to keep proper records

This clause extends the time for keeping records relating to returns from 3 years to 4 years.

20—Insertion of section 91A

This clause inserts a new section 91A as follows:

91A—Conduct of council during election period

Councils will be required, under this proposed provision, to adopt a caretaker policy to apply during election periods. The policy must at least include provisions prohibiting certain decisions of a kind set out in the definition of *designated decision*, but the clause makes provision for the Minister to grant an exemption in relation to a designated decision in extraordinary circumstances.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *City of Adelaide Act 1998*

This Part makes related amendments and amendments of a statute law revision nature to the *City of Adelaide Act 1998*, and also ensures that the status quo is maintained in relation to various matters relating to enrolment , entitlements to vote and entitlement to stand for election.

Part 2—Transitional provisions

This Part makes provision relating to the conduct of comprehensive reviews required under section 12 of the *Local Government Act 1999*.

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

STATUTES AMENDMENT (COUNCIL ALLOWANCES) BILL

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) (22:11): Obtained leave and introduced a bill for an act to amend the Local Government Act 1999 and the City of Adelaide Act 1998. Read a first time.

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) (22:12): I move:

That this bill be now read a second time.

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

Leave granted.

For some time, the Government has recognised the difficulty that elected members of local government face every year, when considering the question of their own schedule of allowances and benefits.

Section 76 of the *Local Government Act 1999* requires each council to revisit the question of allowances every year. Therefore, once in every 12 month period, members of each council must determine what they should pay themselves, subject of course to limits imposed by the regulations.

The *Local Government (Members Allowances and Benefits) Regulations 1999* set upper and lower limits within which councils can fix allowances. The maximum allowance limits were last adjusted in November 2006, by doubling and then rounding up the previous maxima.

Therefore, councillors may now receive a base rate of allowance of up to $15,000 and a Mayor may receive up to $60,000. Many councils set allowances that are less than these maximums.

The Local Government Association has long been pursuing legislative change under which allowances for elected members of councils would be set by an independent body or mechanism.

The Government is also of the view that it is no longer appropriate for local government elected members to continue to directly determine their own allowances. On the one hand, some might argue that councillors have an obvious incentive to overpay themselves. On the other hand, it is indisputable that few, if any councillors would view serving their local communities as a money-making proposition. It is a part-time and mostly honorary position. As such, it is obvious that most councillors are unwilling to vote themselves payment of amounts that would properly compensate them for the long hours involved in performing their duties. Having to make this decision, and review it annually, puts councillors in a no-win situation.

There is no obvious public policy reason why councillors should be placed in such a situation, and be required to revisit their decision every 12 months. Members of Parliament (either State Parliament or the

Commonwealth Parliament) are not placed in this invidious position. MPs have their remuneration set by an independent body. So too, should local government.

Recognising this, in 2007 the Government undertook research into a number of proposals, to explore the details of independent mechanisms existing in other jurisdictions, and held discussions with the Local Government Association.

Discussions were also held with the President of the Remuneration Tribunal to inform the deliberation on various options. A number of options were explored in order to identify a preferred option that would:

- remove the Minister and State Government from the process;
- remove individual councils and local government from the process; and
- establish and provide for a truly independent mechanism for determining elected member allowances.

The preferred option was to utilise an existing independent body. To that end, the Remuneration Tribunal was identified as an appropriate body to determine allowances for Local Government elected members. The Remuneration Tribunal is indisputably independent and already established and resourced.

This Bill requires the Remuneration Tribunal to determine local government allowances only once in every four-year local government term. The Tribunal itself suggested that determinations might be made annually. However the Government wishes to limit the cost impact of this process upon ratepayers.

The Bill therefore, proposes a determination be made in a local government election year, and that allowances would be varied in the next three years only by movements in the Consumer Price Index.

The process of making this determination must conclude no later than the day on which nominations open for local government elections. The purpose of having this timetable is so that a person considering nominating as a local government election candidate will be aware of the level of allowances associated with the position. This is only fair to potential candidates.

The Bill includes some provisions to guide the Tribunal in making its determinations; and to ensure that the cost of its deliberations is recovered from local government, rather than the State Government. The Bill also prevents the Tribunal from applying its determinations with retrospective effect.

Finally, the Bill makes corresponding amendments to the *City of Adelaide Act 1998*.

I commend the Bill to Honourable Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government Act 1999*

4—Substitution of section 76

This clause substitutes section 76 of the *Local Government Act 1999*

76—Allowances

Allowances for council members are currently fixed by councils. Proposed section 76 provides that the setting of allowances for members of council is to be determined by the Remuneration Tribunal.

Proposed subsection (2) provides that the Remuneration Tribunal must make determinations for the setting of allowances on a 4 yearly basis before the designated day (the day that is 14 days before the day on which nominations close) in relation to each set of periodic elections held under the *Local Government (Elections) Act 1999*.

The provision requires the Remuneration Tribunal to have regard to certain specified matters in making a determination. The Remuneration Tribunal must allow entitled persons and the LGA to make submissions to the tribunal in relation to a determination that relates to council members.

The proposed section makes provision for the variation of allowances from office to office and council to council and the adjustment of allowances on anniversary dates according to the Consumer Price Index under a scheme prescribed by the regulations.

Proposed subsection (13) provides that despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination are to be paid by the LGA under an arrangement established by the Minister from time to time after consultation with the President of the LGA and the President of the Tribunal.

Part 3—Amendment of *City of Adelaide Act 1998*

5—Substitution of section 24

This clause substitutes section 24 of the *City of Adelaide Act 1998*

24—Allowances

Allowances for council members are currently fixed by the Council. Proposed section 24 provides that the setting of allowances for members of council is to be determined by the Remuneration Tribunal.

Proposed subsection (2) provides that the Remuneration Tribunal must make determinations for the setting of allowances on a 4 yearly basis before the designated day (the day that is 14 days before the day on which nominations close) in relation to each periodic election for the City of Adelaide held under the *Local Government (Elections) Act 1999*.

The provision requires the Remuneration Tribunal to have regard to certain specified matters in making a determination. The Remuneration Tribunal must allow entitled persons and the LGA to make submissions to the tribunal in relation to a determination that relates to council members.

The proposed section makes provision for the variation of allowances from office to office and the adjustment of allowances on anniversary dates according to the Consumer Price Index under a scheme prescribed by the regulations.

Proposed subsection (13) provides that despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination are to be paid by the LGA under an arrangement established by the Minister from time to time after consultation with the President of the LGA and the President of the Tribunal.

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

STATUTES AMENDMENT (PROPERTY OFFENCES) BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:14): I move:

That this bill be now read a second time.

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

Leave granted.

The general criminal damage offences (including arson) are to be found in sections 84 and 85 of the *Criminal Law Consolidation Act* 1935. These provisions were enacted by the *Criminal Law Consolidation Act Amendment Act,* No. 90 of 1986. Those amendments replaced specific property-damage offences, inherited (originally) from a host of old English statutes (collected in the *Malicious Damage Act* 1861 (Imp), with a general regime of offences. The old English system created specific offences for damaging (for example) a house, tent, stable, coachhouse, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, hovel, shed or fold, not to mention crops of hay, corn, grain, pulse or cultivated vegetable, wood, coppice, furze or fern—and so on. There were pages of this, in all, 43 different sections, containing hundreds and hundreds of offences.

That was not a sensible modern legal system. The new Part 4 inserted in 1986 had just three sections covering the same field and contained a structured series of offences sorted by (a) whether or not the damage was by fire or explosives; (b) whether or not the offence was an attempt or complete; and (c) the value of the property damaged or attempted to be damaged. In the first instance, the value dividing line was set at $2,000 but it is now more complicated, with penalty divisions at $2,500 and $30,000.

This current offence and penalty structure, although better than that which it replaced, is still not optimum. Graduating offences by reference to the valuation of the property concerned is not sensible. It has been criticised.

This Bill proposes sensible reform of these offences.

The desirable form of this set of offences, and criticism of existing South Australia law, was dealt with in detail by the Model Criminal Code Officers Committee (MCCOC) in its Report on *Criminal Damage*. It said of the South Australian legislation:

South Australia is exceptional among Australian jurisdictions in providing three levels of penalty for property damage, calibrated by reference to the financial cost of the damage done to the property. Australian Capital Territory legislation limits the penalty for criminal damage to 6 months imprisonment if the property was worth less than $1,000. The South Australian scheme, which makes the cost of the damage determinative, suggests an additional conceptual issue. What principle determines whether penalties are graduated by reference to the value of the property damaged, as the Law Commission contemplated, or by the South Australian practice of counting the cost of the damage sustained by the property?

Apart from the likelihood of bracket creep and other considerations to which the UK Law Commission drew attention, damage to valuable property may be trivial in extent. If South Australian practice is followed, however,

making the cost of repair or replacement determinative, this sum may bear no relationship to the loss imposed as a consequence of the damage or destruction. Sabotage of machinery resulting in loss of a day's production can impose losses which far exceed the cost of a minor but essential repair to restore the machinery to working order. It is preferable to rely on exercise of the sentencing discretion in particular cases than attempt to discover legislative formulae which will dissolve these complexities.

MCCOC based its recommendations on the conceptual scheme embraced by the UK Law Commission:

The UK Law Commission discussed and rejected proposals to divide the offence of criminal damage into a basic and an aggravated offence by reference to the value of the property involved:

'The test of the value of the property damaged has obvious disadvantages consequent upon the changing value of money. In addition, we doubt whether a valuation of the property damaged is necessarily co-extensive with the real seriousness of the offence. A man may, for example, set fire to a nearly valueless tree, knowing that there is a risk that a whole forest may be destroyed. On the other hand, a man may destroy two paintings, one valueless and the other priceless, thinking them both to be of little value.'

The Law Commission proposed instead a distinction between aggravated and basic offences which depend on whether criminal damage involved fire or endangering life. The Committee has followed the first of these proposals, retaining arson as an aggravated offence of property damage. There is, however, no offence of endangering people by destroying property. That would involve an unnecessary duplication of offences found elsewhere in the Code.'

MCCOC recommended the enactment of a general criminal damage offence with a maximum penalty of imprisonment for 10 years (thus matching the current general theft maximum penalty). That, of course, does not mean that all offences should be dealt with as major indictable offences. As with theft, the *Summary Procedure Act 1921* should classify offences as summary, minor indictable and major indictable for the purposes of court jurisdiction, and the only sensible way of doing that is by value - as is the case with theft.

MCCOC recommended restricting arson as an offence to setting fire to structures or conveyances. That was its historical and general limit before expansion to the general destruction or damage to a wide and varied range of, for example, a variety of crops—and beyond—in the middle of the nineteenth century. Setting fire, say, to brush fences should not be regarded as arson and punished with a maximum of life imprisonment. Destruction of buildings and conveyances is quite another, much more serious, matter. MCCOC took the view that there was no sense in the provisions about monetary limits and separate penalties for attempts.

South Australia has enacted the other components of the MCCOC recommendations in respect of sabotage, computer damage and bushfires. It is now proposed to complete the task.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of section 19—Unlawful threats

Currently, this section makes unlawful a threat by a person to cause harm to another person, or to the property of another person. It is proposed that new section 85 (see clause 6) will make provision for threats against property. Hence, section 19 will be amended as a consequence so that it is restricted to threats to cause harm to a person.

5—Amendment of section 84—Preliminary

It is proposed to insert a definition of *building* for the purposes of Part 4 of the Act (Offences with respect to property).

6—Substitution of section 85

It is proposed that current section 85 will be repealed and a new section substituted.

85—Arson and other property damage

Proposed subsection (1) of the new section provides that a person will be guilty of arson if the person, without lawful excuse, by fire or explosives, damages property that is a building (defined in section 84) or a motor vehicle (defined in section 5), intending to damage the property, or being recklessly indifferent as to whether his or her conduct damages the property. Such unlawful behaviour will constitute arson whether the building or motor vehicle so damaged belongs to the offender or another person. The penalty for arson is imprisonment for life.

Proposed subsection (2) provides that a person will be guilty of an offence if the person, without lawful excuse, damages (other than by fire or explosives) the property of another that is a

building or motor vehicle, intending to damage the property, or being recklessly indifferent as to whether his or her conduct damages the property. The penalty for such an offence is imprisonment for 10 years.

Proposed subsection (3) provides that a person will be guilty of an offence if the person, without lawful excuse, damages the property of another (other than a building or motor vehicle), intending to damage the property, or being recklessly indifferent as to whether his or her conduct damages the property. The penalty for such an offence is imprisonment for 10 years.

Proposed subsection (4) provides that a person will be guilty of an offence if the person, without lawful excuse, threatens to damage the property of another—

(a) intending to arouse a fear that the threat will be, or is likely to be, carried out; or

(b) being recklessly indifferent as to whether such a fear is aroused.

The penalty for an offence against subsection (4) is as follows:

(a) for a basic offence—imprisonment for 5 years;

(b) for an aggravated offence (other than an offence to which paragraph (c) applies)—imprisonment for 7 years;

(c) for an offence aggravated by a threat to commit arson—imprisonment for 15 years.

A threat may be directly or indirectly communicated by words and/or conduct.

Part 3—Amendment of *Summary Procedure Act 1921*

7—Amendment of section 5—Classification of offences

This proposed amendment is related to the substitution of new section 85 in the *Criminal Law Consolidation Act 1935* and includes provision that an offence against Part 4 of that Act involving $2,500 or less that is not an offence that is listed below is a summary offence. The offences excluded from being classified as summary are—

- an offence of arson or causing a bushfire; or
- an offence of violence; or
- an offence that is 1 of a series of offences of the same or a similar character involving more than $2,500 in aggregate.

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

ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT BILL

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

HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT BILL

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

PETROLEUM (MISCELLANEOUS) AMENDMENT BILL

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

At 22:15 the council adjourned until Thursday 16 July 2009 at 14:15.