LEGISLATIVE COUNCIL

Wednesday 9 September 2009

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

CONDOLENCE MOTION: FLYING OFFICER MICHAEL HERBERT

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:19): I move:

That the Legislative Council expresses its sincere regret at the death of Flying Officer Michael Herbert, the last South Australian Vietnam veteran to be returned home, and gives thanks for the courage and sacrifice of a young man who died in the service of our nation and, as a mark of respect to his memory, the sitting of the council be suspended until the ringing of the bells.

On Monday last, I attended, along with a large number of other South Australians, including many from this parliament, a pontifical concelebration mass at St Francis Xavier's Cathedral to commemorate the return to South Australia of Flying Officer Michael Herbert.

Flying Officer Herbert was aged just 24 when, along with his navigator, Pilot Officer Robert Carver from Toowoomba, he failed to return from a mission in Vietnam on 3 November 1970. For almost four decades, the family and friends of Michael Herbert awaited news of his fate. The aircraft wreckage was eventually found near the border with Laos in April this year. Our last brave son who was lost in Vietnam has returned to us, and his funeral service closes a poignant chapter of a painful conflict.

The war in Vietnam continues to hold a central, challenging place in our collective memories. It divided the Vietnamese people for whom it was fought, and it brought suffering and loss to warrior, widow and orphaned child.

For thousands of Vietnamese families, the war precipitated a perilous voyage aboard flimsy craft, across rolling seas to this continent. Theirs is a story of immeasurable courage and commitment to their children and their new home. For thousands of Australian servicemen, the war brought unfair and undeserved blame and derision at home. Their courage and service to our nation was at first neither recognised nor honoured.

In 2006, this state took a significant step to full and proper recognition and reconciliation when the Premier unveiled the Vietnam War Memorial at the Torrens Parade Ground. It represented the first occasion that we as a state had formally honoured the 58 South Australians who lost their life in Vietnam and expressed sorrow to their families for their great loss. The memorial itself commemorates an alliance and a mateship shared by two very different peoples, which was forged by bravery and compassion and an honest, decent quest for freedom.

Fittingly, the two soldiers stand by side in perpetuity, dignified and resolute, proud and unbroken. For the next-of-kin and for both Vietnamese and Australian veterans, the memorial has become a place where they can sit and reflect and remember and find some measure of solace. I trust that Michael's return to the state of his birth, to his loved ones, school friends and fellow servicemen also brings resolution and peace.

Michael Herbert was born in Freeling in 1946. His parents, Jack and Joan, both served our nation during World War II—his mother in a searchlight battery with the Army; his father in the Royal Australian Air Force. Michael quickly developed his dad's affinity for the Air Force. As a schoolboy, Michael joined the Air Training Corps where, at one time, his father also served as his commanding officer.

Michael gained his civil private pilot's licence at age 16 while he was still a student at Sacred Heart College, and the following year he was appointed as a cadet at the Royal Australian Air Force Academy. Upon graduating with his pilot's wings, he was posted to No. 2 Squadron as a Canberra bomber pilot. Michael arrived in Vietnam on 25 February 1970. He knew that service in Vietnam involved significant risks. The 2nd Squadron flew in support of all the forces that were fighting in that part of Vietnam, but he accepted the risk because his goal was to serve his country in combat.

At 7pm on Tuesday 3 November of that year, Michael Herbert and Robert Carver took off for what was expected to be a routine mission. The weather was clear, the aircraft was flying well above the range of known anti-aircraft artillery, and there were no known enemy surface-to-air

missiles in the area. Having delivered their payload, they turned for home and received confirmation from the radar operator of the successful completion of their mission. A minute later their plane vanished from the radar screen and the two young men were lost without a trace.

It has since emerged that the plane was discovered by local people in the region some time in 1978, but the find remained a secret until January of this year. The first Australian servicemen to set eyes on it were taken to the wreck site, located in dense jungle not far from where it was reported missing on 14 April all those years ago. The remains of Flying Officer Michael Herbert and Pilot Officer Robert Carver were formally located on 18 July. Flying was Michael's life—a life he gave in the service of Australia.

Sadly, Joan Herbert, who devoted countless hours to writing hundreds of letters asking for help to locate her missing son, passed away in 2003. We were told at Monday's mass that she described the ceremony held to dedicate the memorial gates erected in Michael's honour at the main entrance to Sacred Heart College in 2002 as 'the funeral Michael never had'. The other members of Michael's family—father Jack, sister Kerryn and brother Shane—were together when Michael finally returned home.

Ceremonies such as Monday's are important for Australia's soul. They mark an everlasting companionship between the living and the dead—a handshake across the void. As the Premier said at Monday's service, so often we visit the war graves and try to touch with our minds the relatives who sometimes we did not even know—the ordinary heroes who made us proud. We sing hymns and raise the flag; we fire the guns in salute and hope that somewhere, somehow, they can hear us in our acknowledgement of the magnitude of what they did and what they lost on our behalf.

On behalf of the people of South Australia, we offer the family and friends of Michael Herbert our condolences for their loss and our admiration for their unyielding courage. To Flying Officer Michael Herbert, we offer a deep and abiding gratitude for his service and his sacrifice. He will forever hold a treasured place in the hearts and memories of our state and our nation. We are all so pleased that he is home at last.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): I rise on behalf of the opposition to second the motion moved by the Leader of the Government. I endorse his remarks and would like to offer some comments. On behalf of the opposition, I express our sincere regret at the death of Flying Officer Michael Herbert, and indeed our sincere regret for all young South Australian lives cut short as a result of war. Finally, 47 years after the first South Australian troops landed in South Vietnam, the last serviceman missing in action has been laid to rest.

Flying Officer Michael Herbert, who grew up in the beachside suburb of Glenelg, was just 24 when he was declared missing in action during the Vietnam War. On 3 November 1970, the Canberra bomber in which he was returning to base crashed in the jungle of Vietnam. Flying Officer Herbert was just two months shy of finishing his tour of duty. Flying Officer Herbert's body and that of Pilot Officer Robert Carver were found in the southern Vietnamese jungle in July this year. A service was held to farewell Robert Carver in Queensland last week, and a very moving state funeral was held for Flying Officer Michael Herbert in Adelaide on Monday.

The Vietnam War was the most controversial war in which Australia has been involved. It caused massive social unrest in this country, and in fact it was the cause of the greatest social and political dissent in Australia since the conscription referendums of World War I. It was also the longest conflict in which Australian troops have been involved. From the time of the arrival of the first Australian troops (known as 'the Team') in 1962 almost 60,000 Australians, including ground troops, Air Force and Navy personnel, served in Vietnam. Some 521 Australians died as a result of the war, and over 3,000 were wounded.

By 1969 the anti-war protests were gaining momentum and, as the American troops were gradually withdrawn, the focus of the Australian troops became training the South Vietnamese regional and popular forces. Many of the soldiers who served in Vietnam met a hostile reception upon returning to Australia as the community's anger about Australia's involvement in the Vietnam conflict was unfairly projected on to these returning soldiers. It is of some comfort to realise that over recent years there has been a significant change in the community's attitude and the respect given to our Vietnam veterans.

The sacrifices made by the Vietnam veterans and their families are today recognised, and it is with these sentiments that Flying Officer Herbert was finally laid to rest on Monday. Flying Officer Michael Herbert's farewell may have been 39 years overdue, but it was a fitting goodbye to

a young life cut short by the injustices of war. His death in the line of duty left a family back in Adelaide without a son and without a brother, a family left wondering what had happened to their beloved young man, and a family left wondering whether they would ever be able to say goodbye properly.

I was fortunate enough to be at Flying Officer Herbert's funeral on Monday, and I was moved by the many eulogies given. It may have been 39 years since Flying Officer Herbert disappeared, but the wounds are still very fresh for his family and friends. In this case I do not believe that time has healed all wounds but hopefully, now that their loved one has been laid to rest with the honour deserving of the last Australian missing in action to be brought home from Vietnam, some closure can be achieved.

The Hon. D.G.E. HOOD (14:28): On behalf of Family First I also rise to express my sincere regret at the death of Flying Officer Michael Herbert, the last South Australian Vietnam veteran to be returned home. As some members will be aware, my own father is a Vietnam veteran, a former soldier in the Australian Army, and through him I know something of the conditions faced by military men and women during that particularly horrendous war.

Along with Captain Robert Carver of Toowoomba, Flying Officer Herbert, who was from Glenelg, as the Hon. Mr Ridgway mentioned, was stationed at the Phan Rang air base in South Vietnam. Both officers disappeared on 3 November 1970; while returning to base after a night bombing mission, their Canberra bomber was lost without trace approximately 65 kilometres south-west of Da Nang in the Quang Nam Province. Despite some 67 rescue sorties covering some 16,000 square kilometres, the aircraft was not located, and the cause of the loss was not determined.

Following the disappearance of her son, Mrs Joan Herbert continued to hope that he was lost in the jungles of Vietnam. Over the next decade, as I understand it, she wrote some 600 letters to Vietnamese and other authorities trying to locate her son or ascertain his fate.

When Australia finally disengaged from Vietnam in 1971, six unaccounted for Australians were left behind. The bodies of Lance Corporal Richard Parker and Private Peter Gillson were discovered and repatriated in 2007, thanks to the work of the organisation Operation Aussies Home. Subsequently, the bodies of Lance Corporal John Gillespie and Lance Corporal David Fisher were discovered. The final two were considered by some to be lost forever, because no-one knew exactly where their aircraft had come down.

I put on record my appreciation and, indeed, I am sure the appreciation of this chamber of the work of the Army History Unit, which located wreckage of the Canberra bomber in April this year on a remote hillside in the Quang Nam province.

Michael was only two months away from coming home when he crashed. His return comes 39 years too late. He is long overdue and much missed, and on behalf of my party at least I belatedly say,' Welcome home, Flying Officer Michael Herbert. This state could not have asked you to pay a higher price. We will remember your loss and we express our most sincere condolences to your family and loved ones.'

Motion carried by members standing in their places in silence.

[Sitting suspended from 14:32 to 14:45]

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:49): I bring up the 25th report of the committee.

Report received.

ALCOHOL CONSUMPTION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): I table a copy of a ministerial statement relating to enhancing responsible service and consumption of alcohol made earlier today in another place by my colleague the Premier.

GLOBAL FINANCIAL CRISIS

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): I table a copy of a ministerial statement relating to economic indicators and investment fund performance made earlier today in another place by my colleague the Treasurer.

BURNSIDE COUNCIL DEVELOPMENT ASSESSMENT PANEL

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: Yesterday, I provided a preliminary response to the Hon. David Winderlich, who asked questions about female representation on the Burnside Council development assessment panel.

I can confirm that the issue of female representation on the Burnside DAP was raised with me in correspondence from a member of council in March and April 2009. I sought departmental advice on the matter and had a letter prepared reminding Burnside council of the provisions under section 56A(3)(d)(ii) of the Development Act 1993.

As members would be aware, my colleague the Minister for State/Local Government Relations launched an independent investigation into the City of Burnside on 22 July 2009, following departmental inquiries. As a result of the investigation process, the decision was made to not respond to the council at that stage but to refer correspondence in this matter to the independent investigator, Mr Ken MacPherson.

However, members should be reminded that the powers of the Minister for Urban Development and Planning to veto the appointment of independent members to council DAPs, which were contained in the government's amendments to the Development Act, were defeated in the Legislative Council.

QUESTION TIME

MINERAL EXPLORATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:52): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question relating to mineral exploration.

Leave granted.

The Hon. D.W. RIDGWAY: In the ABS figures released today it states:

> The trend estimate for total mineral exploration fell by $55.1 million, or 10 per cent, to $461 million in the June quarter 2009. The current estimate is 32 per cent lower than in the June quarter estimate of 2008.

It goes on to state:

> The largest contributions to the fall in this quarter were Western Australia down $31.6 million, or 10.8 per cent, and South Australia down $9.4 million, or 19.7 per cent.

I am sure that the minister will blame the global financial crisis for this downturn. Clearly, over the past year, when I have been asking the minister these questions, he has indicated that the PACE program has been the great saviour of mineral exploration. Will the minister now concede that the PACE program has not driven mineral exploration and that, in fact, it has been driven by demand and prices?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:54): Isn't it typical that the opposition in this state should try to knock the success and growth of our mining industry?

Members interjecting:

The Hon. P. HOLLOWAY: We will look forward to the support. If members opposite support the mining industry in this state, I look forward to their support over the coming days for the expansion of the mineral industry. We have already seen what they have done in relation to the Olympic Dam expansion. The Leader of the Opposition in another place has already come out and

said that she will add hundreds of millions of dollars to the cost of that project without any further scientific study, saying that the desalination plant should go to a different location.

When decisions are made in relation to new ports and so on in this state, we look forward to the opposition supporting them, but I suspect that it will not. I suspect that its local candidates will do what they have done with every other piece of development in this state, that is, rock them, and that is one of the reasons the economy was so poor in the eight years it was in office.

I am delighted that the honourable member raises the issue of mineral exploration. Independent indicators continue to suggest that the South Australian mining industry is recovering well from the impact of the global financial crisis. The turnaround in exploration expenditure, and the continuing development of major resource projects in South Australia, confirms that the industry remains strong.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I will come to the figures. One thing you never do with the opposition is trust its figures. The Leader of the Opposition has been peddling some quite erroneous figures on the contribution the minerals sector makes to this state compared with that of 10 years ago, and they just do not compute with those you get from the ABS.

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

The Hon. P. HOLLOWAY: No; I am talking about the ABS figures, and they show that the figures the Leader of the Opposition released a week or two ago—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I will come to those in a moment, and I will come to some other figures, as well. In fact, I could talk about the good economic statistics of this state for the rest of question time if honourable members would like me to because there is so much good news around.

The results in the ABS survey released today coincide with South Australia's being ranked as the fifth best mining jurisdiction in the world for resource investment in the *Resourcestocks* 2009 World Risk Survey. South Australia has been very successful in capturing opportunities during the recent boom times. Mining projects are continuing to proceed towards development and full operation.

Over the next 12 months, South Australia expects to approve four to five mines, and we can expect a continued resurgence in investment and expenditure once the impact of the global financial crisis recedes. The Australian Bureau of Statistics released its quarterly report today on Australia's mineral and petroleum exploration expenditure.

South Australia's exploration expenditure for the June quarter is $41.8 million, which has reversed the trend from the March quarter figure of $36 million. Overall, total Australian mineral exploration expenditure showed a rise of $80 million in the June quarter, up 19.8 per cent compared with the March quarter.

So, after the low figures of the March quarter, in June we saw exploration up not only in this state but also across the country. South Australia, New South Wales, Western Australia, Queensland and the Northern Territory all experienced a reversal of the previous downturn in mineral exploration expenditure for the June quarter.

Mineral exploration expenditure for the quarter of $41.8 million comprises $25.4 million in the ABS category for new deposits; in other words, 60.8 per cent of that exploration expenditure was on new deposits, and 16.4 per cent (which represents the remaining 39.2 per cent) was on existing mineral deposits.

One of the really good pieces of news out of these latest statistics is that it represents a significant reversal in South Australia towards exploration and frontier greenfield mineral regions, and there are probably good reasons for that. If we compare the figures with those of 12 months ago, many of the dollars being expended on exploration in South Australia were spent at the giant Olympic Dam mine proving out the resources out that mine. A number of drilling rigs were going 24 hours a day, seven days a week in that region.

That exploration ended some time ago, so it is very heartening indeed to see that over 60 per cent of this increased figure (up from $36 million in the first quarter to $41.8 million now) is for new deposits, which of course offers the prospect of further mines into the future.

So, the turnaround in mineral exploration expenditure for the June quarter is across most states. For the June quarter in South Australia it rose from $36 million to $41.8 million, which is a 16.1 per cent increase on the previous quarter. If we look across the whole financial year (because we know that quarterly figures can fluctuate) and look at mineral exploration expenditure for the entire 2008-09 financial year, it was $220.7 million or 9.9 per cent of the total Australian mineral exploration expenditure. So, South Australia has again significantly exceeded the South Australian Strategic Plan target of maintaining expenditure above $100 million per year.

Every time I have spoken on mineral exploration figures in this council—as I have every quarter—I have indicated that, yes, we would expect that in times when it is difficult to raise funds—and it does not get much more difficult when you have a global financial crisis—exploration will be the first to bear the brunt, but the fact that we had $220 million, which was more than double the original target we set back in 2004, is very heartening.

The components of that spend are 44.4 per cent of the national expenditure on uranium within this state and copper, 28.3 per cent of the national spend. They were the main minerals sought during the June quarter. Explorers also searched for gold, silver, lead, zinc, mineral sands, iron ore and nickel. The mineral exploration figure of $220.7 million for the financial year places South Australia third; again, we have retained that position behind Queensland and Western Australia, the two larger states; not only are they larger in size but they also have a longer mining history.

If one looks at petroleum expenditure, one sees that petroleum expenditure for the June quarter experienced a strong increase of $16.3 million from $17.9 million in the March quarter, so that is a total of $34.2 million in the June 2009 quarter. So, the combined mineral and petroleum exploration figure for South Australia for the financial year is $332.9 million; that is, the $220.7 million for minerals and $112.2 million for petroleum.

Many of the world class mining projects that have been identified in the past few years of prospecting and discovery are still being developed by resource companies looking beyond the global economic downturn to the next upswing. South Australia does remain a trusted jurisdiction for exploration spending. That continued confidence in South Australia was highlighted by the state's ranking in the top 10 in terms of mineral potential in the 2009 Fraser Institute survey of more than 70 mining jurisdictions worldwide. In the *Resourcestocks* magazine's 2008 and 2009 world risk mining surveys, South Australia was ranked fifth in the world and second last year, against all other mining jurisdictions.

South Australia was ranked fifth in the world against all other mining jurisdictions in the 2009 survey. This is an important point, because it comes to the last part of the question asked by the Leader of the Opposition about what role PACE played in this. I will quote the head of the Association of Mining and Exploration Companies (AMEC), who in a recent comment on 7 September on the *Resourcestocks* 2009 survey stated:

> South Australia's results combined with last year's second place finish, proved it is performing consistently. We encourage the other States of Australia to implement the strategy South Australia has been using for the last 5 to 6 years in order to improve their resources industry.

I think that adequately answers the question asked by the Leader of the Opposition.

APPRENTICESHIPS

The Hon. J.M.A. LENSINK (15:04): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question on the subject of early licensing.

Leave granted.

The Hon. J.M.A. LENSINK: In March this year I asked a question of the minister in relation to early finishing for trade apprentices under the Plumbers, Gas Fitters and Electricians Act 1995. At the same time it had been brought to my attention by contractors and industry stakeholders that the Commissioner for Consumer Affairs had been authorising trade licences to apprentices after they had finished off the job training but before they had finished their on the job training. The minister stated:

> In terms of the licensing in relation to the signing off of apprentices, I am not familiar with the details around our policy in that regard. I am happy to look into it and bring back that information to this chamber.

My office has again been contacted by industry representatives, who are still concerned about the early licensing as an ongoing practice, which they feel undermines the integrity of the industry as a whole. My questions are:

1. Does the minister have that information with her now that it is six months since the original question was asked?

2. If early licensing is occurring, what is the minister's response to industry stakeholders' view that the practice undermines the industry's integrity?

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) (15:06): To obtain a licence or registration, an applicant is obviously required to meet eligibility criteria that apply to their particular trade or profession. My understanding is that, in relation to the group of apprentices to whom the honourable member has referred, the appropriate standards and appropriate licensing are occurring. I have not received any detail to this date that I am aware of, and I am happy to take that question on notice and bring back a response.

CAR PARKING

The Hon. S.G. WADE (15:06): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about car parking.

Leave granted.

The Hon. S.G. WADE: I understand that it is not uncommon overseas for off-street car parking on a residential development to be collocated and charged separately. I am advised that collocated parking is not normally possible in South Australia, where development plans normally require car parking to be on the property.

Increasingly, as many households choose not to operate a vehicle, particularly in the proposed TOD developments, and some households, particularly in high or medium density developments, would prefer to house their vehicles separately, my question is: will the minister advise whether the government will review planning policies to support householders who choose to be less reliant on their car and design their home accordingly?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:07): The honourable member has raised an important issue. One of the objectives of the government's plans, as expressed in the 30 year plan, will be to move people away from car dependency, even though I think most people will continue to own a car. Hopefully, they will use their car less frequently, and they may have only one vehicle rather than two or more—certainly that has been the experience in the TODs we visited overseas and also those within Australia.

One of the instances where that can be supported is with the concept of 'go cars', and I am pleased to say the city council presently has three, I think, of these in operation around the city. They are very popular in cities such as San Francisco, for example, where these 'go cars' are available near all the major railway stations. You can simply use your credit card to open the car—the keys are in the car—and drive it away. There are a number of places where these cars can be left and, as soon as you lock the car, the charge for the use ends.

It is a way for people to have access to a vehicle without actually owning one themselves, and that system is becoming an increasingly successful operation in some of the major cities. However, the use depends very much on having good public transport because, the better public transport you have, the more successful schemes will be. Incidentally, there are cities—Paris, for example—that have a similar system with bicycles, where you use a bike to ride to set locations. For the most part, you can either walk or catch public transport. However, if you do need to go that little bit further, you can have access either to vehicles through these 'go car' schemes or to bicycles.

However, the honourable member is talking specifically about the link between car parking and the Development Act. The government is well aware that those provisions do need looking at, not just for the issue raised by the honourable member but also for the purpose of linking between a residence and a car park requirement and also the car parking you have within major cities.

It is interesting that in cities like Portland, for example, they have actually limited the number of car parks within the city itself to try to discourage vehicle use in their central business

district. Of course, they have had 40 years of developing public transport and have now reached the stage where that is very successful and most people would not even dream of using a car because the alternatives are so much more successful.

A city like Adelaide that has been built up on car dependency cannot suddenly transition to that overnight, but we may be able to do so over some years. That is clearly one of the key features in the 30 year plan: that we should become a city that is less dependent on the motor vehicle not just because it is a good thing in terms of greenhouse gases and reducing dependency on fossil fuel but also because we are also likely to lead a much healthier lifestyle as people walk more and exercise more. Also, it will mean less congestion in the city and more usable spaces. It has a whole range of benefits, and that is certainly the sort of model that we would like for Adelaide.

I agree with the honourable member that car parking issues, both in terms of being linked as they are in the Development Act to housing requirements but also in their broader use, are absolutely essential to the future direction of this city, and certainly we are reviewing those issues as part of that 30 year plan. Obviously, I welcome any contributions. The deadline for consultation on the plan is the end of September, and I would certainly welcome any specific views. I hope we will get lots of views in relation to the details of that plan and how the sorts of issues raised by the honourable member can be best addressed.

BANKSA STATE MONITOR

The Hon. CARMEL ZOLLO (15:12): My question is to the Minister for Small Business. Will the minister provide an overview of the current outlook for South Australian businesses following the release of quarterly business surveys such as the BankSA state monitor?

Members interjecting:

The Hon. CARMEL ZOLLO: Clearly, they don't want to hear what the minister has to say following the tremendous success in relation to mineral exploration.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:12): I thank the honourable member for her question.

The Hon. R.I. Lucas: It's in the ministerial statement tabled in this council. Why not just give her a copy of the ministerial statement? Can't she read?

The Hon. P. HOLLOWAY: What I do know is that many members opposite don't listen. Although it is probably futile trying to repeat it, sometimes there is just a chance that the facts might actually sink in.

The BankSA state monitor is based on a survey of 300 consumers and 300 businesses across South Australia. Bank SA released its latest state monitor publication on 27 August. The August survey was conducted between 4 August and 8 August immediately following the Reserve Bank of Australia's decision on 4 August to leave official interest rates unchanged.

The August state monitor found that business confidence rose sharply in August 2009 from 113.4 points in May 2009 to 123.2 points, showing an increase of 9.8 points. This follows on from a 17.1 point increase between February and May this year lifting business confidence to levels that were recorded during the boom years of 2003 to 2005. These increases come after a decline in business confidence since May 2007.

Rural business sentiment, which rose sharply in the previous survey, has again also recorded a significant increase. It is now at 121.7 index points, up from 107 points in the May survey. The manufacturing and agriculture sectors recorded the strongest lifts in confidence, with confidence in the manufacturing sector increasing 28.3 per cent and confidence in the agriculture sector up 22 per cent, which is particularly pleasing given the difficult seasonal conditions we have faced over a number of years in sequence now. The state monitor has revealed the following statistics:

- 68 per cent of businesses are confident that conditions will improve in the next year, and 66 per cent are confident that their own business conditions will improve;
- while half of businesses surveyed experienced a decline in turnover in the past three months, 76 per cent remain positive about their business situation;

- the number of businesses employing staff in the quarter has fallen, but 30 per cent expect to increase staff numbers or hours in the coming three months;
- 29 per cent of businesses took on staff or increased hours; and
- 38 per cent of businesses are likely to make a major purchase in the next 12 months.

Factors lifting business confidence include stable and low unemployment, positive media reports on the national and world economy, the share market, housing and retail markets, and car and housing sales. Bank SA's managing director Rob Chapman said:

> Business owners are confident about the economic outlook and are expecting to see immediate benefits for their own business. [However] despite the upbeat assessment, businesses remain cautious about making major investments in capital or staff. These worries are likely to disappear if we see a period of sustained economic growth and a return in consumer spending.

Several other quarterly business surveys have recorded a similar positive outlook. The *Sensis Business Index* survey for the quarter to June 2009 recorded a sharp increase in business confidence in South Australia's small and medium enterprises (SMEs). Nationally, business confidence also rose sharply.

The National Australia Bank's SME survey for the June quarter found that the profitability outlook for small businesses turned positive for the first time since September 2008. The report suggested that the start of improving economic conditions could be in sight; in addition, the NAB survey found that, whilst it remained tough for many SMEs across the country, there was a slight improvement in business conditions after a number of quarters of decline. SMEs in South Australia and Western Australia recorded the best business conditions closely followed by New South Wales, all performing above the national average. The *Hudson Report*, which involves a survey of 455 South Australian employers, revealed that in the June quarter employer confidence in South Australia was the second highest nationally, well above the national average.

CB Richard Ellis's most recent quarterly report states that most of the new tenant demand across Adelaide is for small tenancies which have a fit-out in place. This is due to capital for fit-out becoming increasingly difficult to raise. Vacancies across the Adelaide market have hit an all-time low of 3.3 per cent as at January 2009, and this is the result of limited new supply coupled with a strong growth in the South Australian economy, resulting in strong demand for office space.

Saville Adelaide's most recent report also indicates that commercial vacancies are limited in Adelaide. The vacancy rate of 3.3 per cent in January 2009 is down from 3.7 per cent in July 2008, and this is due to new supply coming onto the market in late 2008 being absorbed. Saville's research also found that annual absorption recorded in the year to January 2009 was 74,313 square metres, significantly higher than the 10 year average of 25,710 square metres. Approximately 42,000 square metres of office stock is due for completion in the second half of 2009, and 11,500 square metres has been precommitted. This represents 27 per cent of office stock due. So, as you can see, business confidence in South Australia rose sharply in August.

CRIME RATES

The Hon. D.G.E. HOOD (15:18): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning, representing the Minister for Police, a question regarding crime rates in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: I was concerned to note that a new Australian Bureau of Statistics report released on 27 August showed that South Australia now has the highest number of criminal offences per capita of any mainland state. 'Recorded Crime Offenders 2007-08' is the first publication in a new series released by the ABS that details the number and characteristics of alleged offenders aged 10 years and over for each state and territory. I note that Western Australia was excluded from the survey, but those figures were provided elsewhere.

The ABS release published details of crime rates by state for 2008, and they showed the following: New South Wales had approximately 109,000 reported offenders, or some 1,800 per 100,000 population; Queensland had some 79,000 offenders, or about 2,150 per 100,000 population; and Victoria had some 48,300 offenders, or about 1,050 per 100,000 population. Western Australia (based on University of Western Australia figures) had some 36,800 distinct offenders, or about 1,185 per 100,000. This compares to South Australia, which identified some 34,500 distinct offenders, which, for the population of our state, means about

2,454 offenders per 100,000 population. These new figures show that only Tasmania and the Northern Territory have higher per capita numbers of offenders than South Australia. My questions to the minister are:

1. How does the government account for these figures?

2. Is South Australia's tradition of lax drug laws, with cannabis in particular, which has seen gangs and bikie groups use South Australia as a base for their operations, a contributing reason for these high figures?

3. Is a lenient justice system partly responsible for failing to send a strong message to repeat offenders?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:21): I am no longer the police minister, so I do not have access to the latest statistics or analysis. What I do know—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, they were, actually. What I do know from that era is that there are two main ways in which crime is measured: one, of course, is victim-reported crime, and the other is the statistics in the courts. Because we have more police per head of population than every other state in the country—we have had big increases—it is not surprising that apprehension for crimes in this state may well be higher than in those states that have fewer police per capita.

If I understand the figures used by the honourable member, he is essentially talking about apprehensions. To get a good picture of crime, as I indicated when I was asked questions as the police minister, you need to look at victim-reported crime, which is done through an ABS survey and which gives you a more reliable indication of the actual crime rate. I am happy to refer the question to my colleague, the Minister for Police, and bring back a reply.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Perhaps I will add, if the interjections of the Leader of the Opposition cease—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I do not know that what anyone who runs around like a Teletubby in a blue boiler suit says will be taken too seriously.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes. One might have hoped that one would never see the day when a leader of an opposition in a major parliament would go around performing stunts in a boiler suit; but, there you are, we do live in changing times. One has to look at crime statistics, and one has to be careful in drawing conclusions. Like all statistics, the statistics for apprehension are likely to indicate and reflect higher apprehension rates, which in turn could reflect the higher police numbers in the state.

In relation to the other question that the honourable member asked about things like drugs, of course, with the honourable member's help I indicate that we have introduced tough laws in relation to bikies and we have also toughened up significantly in relation to laws on drugs. One would expect that to be reflected in, first, higher apprehension rates in the short term, and then, hopefully, when these people learn that they can get an easier time in Victoria or other states that do not have these sorts of laws, the problem will be exported there. However, we will have to wait and see. What I can say is that this state will not let up in its efforts to get on top of those sorts of issues.

In relation to the courts, I will leave it to the Attorney-General to comment upon the toughness of the courts.

AUSTRALIAN BIGHT ABALONE

The Hon. C.V. SCHAEFER (15:24): I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question about Australian Bight Abalone.

Leave granted.

The Hon. C.V. SCHAEFER: Australian Bight Abalone, which claimed a trading profit at the end of last financial year, is now in the hands of a receiver. It is a managed investment scheme publicly funded company. High hopes were held for this company on Eyre Peninsula that it would provide much needed work and a new industry for the region. Naturally, there is now widespread concern, not to mention quite a lot of financial loss within the area at this collapse. It is contended that ABA has its lease outside the marine park boundary, even though its licensed area abuts a seal colony.

I also note that the administrators have, as late as the 3rd of this month, been again granted an exemption from the Fisheries Management Act to harvest 500 tonnes of algae and seagrass from the shore. The usual exemptions, as I understand, are about 50 tonnes. It is further alleged that the size of the ABA lease is much larger than usual and that there is an exclusive lease over all of Anxious Bay for any aquaculture granted to ABA.

Professor Anthony Cheshire lists, among his many appointments, Chair of the Scientific Working Group for Marine Parks Authority and Chair of the South Australian Fisheries Research Advisory Board. As at the end of the financial year last year (30 June of last year), Professor Cheshire was also a director of ABA, as was the well known lobbyist Nick Bolkus. My questions are:

1. Are these two gentlemen still directors of ABA and, if not, when did they resign?

2. Was all due process used in assessing any possible conflict of interest for Professor Cheshire?

3. Was due process used and are there records showing why ABA was granted such a large lease on such a contentious site and, if so, will those records be made public?

4. What exemptions were granted to ABA by the South Australian or federal governments, and what were they for?

5. What role was played by Nick Bolkus or Anthony Cheshire in obtaining the original licence and lease and any subsequent leases or licences?

6. What, if any, assistance was afforded to ABA by this government or the federal government?

7. Is the state government a listed creditor of ABA?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:27): I will refer those questions to the Minister for Agriculture, Food and Fisheries.

The Hon. D.W. Ridgway: You were the minister for a while.

The Hon. P. HOLLOWAY: Yes, I was the minister for a time. In fact, I am very disappointed with the news about that, because as the minister who had the responsibility for the Aquaculture Act during its early phase—it was actually passed during the dying days of the Kerin government; in fact, I think the Hon. Ms Schaefer had a fair bit to do with that particular bill—I have always paid tribute to the opposition for introducing that legislation. I am sorry that honourable members opposite have perhaps lost some enthusiasm for the industry.

It is disappointing, but inevitably there were going to be failures in that industry. I spent the first two years as the minister for fisheries defending a number of attacks, particularly around the Fitzgerald Bay area, where people were saying that escaped kingfish were eating all the whiting, and so on. There were many attacks on the industry at that stage, and I was a staunch defender of it.

So, it is disappointing to see that this abalone industry has problems but, given the rapid growth that you have in these sorts of industries, it is probably not surprising that from time to time some of those industries will not survive. Obviously, if you are fish farming in a new area there will be issues that arise that were probably not anticipated. As I understand it, particularly with ABA being in a managed investment scheme, there are issues relating to the financing of that undertaking. I will refer the question to the minister in another place and bring back a response.

AUSTRALIAN BIGHT ABALONE

The Hon. R.I. LUCAS (15:29): Did the minister at any time discuss these issues, or related issues, with Mr Bolkus, or did any officer in the minister's office discuss these issues at any time with Mr Bolkus?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:29): I am not sure what issues the honourable member is talking about. If he is talking about the most recent issues being experienced, the answer is no; I have not been minister for agriculture since March 2004. So, it is over five years since I was minister for agriculture.

Certainly, some years back, when I was industry and trade minister, I looked at the operations of ABA when it was establishing near Waldegrave Island out of Elliston, but that was a long time ago. I am not sure whether or not Mr Bolkus was a member of the board, but he certainly has not approached me in relation to the issues of his company.

CONSUMER RIGHTS

The Hon. I.K. HUNTER (15:30): I seek leave to make a brief explanation before asking—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Hunter has the call.

The Hon. I.K. HUNTER: Thank you, sir. I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about consumer return and refund rights.

Leave granted.

The Hon. I.K. HUNTER: My question follows on from my question yesterday in relation to the role of the Office of Consumer and Business Affairs in regulating the trading environment so that weights and measures used by businesses are accurate. Another role of the office is to ensure that consumers are protected from other unfair trade practices.

To this end, OCBA undertakes regular monitoring and education programs, and the mid-year sales period is an ideal time for such a program, particularly in relation to the return of goods and refund rights. Will the minister advise the council about recent actions taken to ensure that consumers are not overcharged or misled about their refund rights?

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) (15:31): During the busy mid-year sales period, the Office of Consumer and Business Affairs conducted an audit of 25 different retail outlets to check compliance with fair trading laws. OCBA focused on practices relating to refund policies, lay-by sales, warranties, price scanning and advertising big price sales savings.

Eight stores were found to be either overcharging customers at the checkout or displaying incorrect refund signs, with statements such as, 'Please choose carefully. No refunds,' 'No cash refunds or exchange,' 'No refund on sale items,' and 'No exchange on promotional or end of season stock items.'

I can advise the council that incorrect signs were removed, and traders were reminded that signs that misled consumers about refund rights were a potential breach of fair trading laws. It is important that consumers know that they are entitled to a refund, even if the item is on sale, under certain circumstances. OCBA will revisit noncompliant retailers to ensure that breaches have been addressed appropriately, and enforcement action will follow for repeat offenders.

Two metropolitan traders were overcharging, and one trader was found to be overcharging during previous monitoring, and OCBA is now looking to take enforcement action against the retailer for that repeat offence. A formal warning was issued to a second trader, and follow-up checks will be undertaken after five randomly selected items scanned higher than the shelf price.

Unfortunately, it appears that some traders still do not clearly understand their fair trading responsibilities. Stores cannot become lax about providing correct information to customers just because items are on sale. This government will continue to monitor retailers and follow up all instances in which breaches of fair trading laws are detected. It is very important that consumers

have trust in this state's retailers, and this government remains committed to ensuring a fair marketplace for South Australians.

WATER RATES

The Hon. J.A. DARLEY (15:34): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Water Security, a question concerning water usage rate accounts.

Leave granted.

The Hon. J.A. DARLEY: About 12 months ago SA Water was required to make ex gratia payments amounting to millions of dollars as a result of incorrectly applying the water charges which came into force on 1 July 2008 to water used before that date. Following this debacle, SA Water introduced quarterly meter readings in place of half-yearly water meter readings. However, many ratepayers whose water accounts straddled 30 June and 1 July this year have found that they are still being overcharged for water. This is due to the fact that the price of water increased by approximately 30 per cent on 1 July this year, and the amount of water actually used from 1 July was less than what SA Water has estimated.

Given the implementation of quarterly meter readings, which have cost taxpayers an extra $1 million a year and there are still problems with overcharging, what action is SA Water going to take to correct this problem so that ratepayers pay an amount of water for water actually used and not estimated to have been used?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:36): I thank the honourable member for his question. I will refer it to the Minister for Water Security, but I do note that we had a lengthy debate when these changed charges came before the parliament. I know that briefings were provided to most members of parliament in relation to the impact of those changes, which are of course quite complex. I would have thought that most of the issues that had arisen were addressed then. I will refer the question to my colleague in another place and bring back a reply.

POLICE RECRUITMENT

The Hon. R.D. LAWSON (15:36): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question on the subject of police recruitment.

Leave granted.

The Hon. R.D. LAWSON: Yesterday, in a written answer to a question asked by me in May this year, the Minister for Police indicated that, since South Australia Police began recruiting from the United Kingdom in 2005, some 399 UK police have been recruited. The information also states that South Australian recruiting teams have visited the United Kingdom on six occasions and that the total cost of UK recruiting to date has been $450,501. My questions to the minister are:

1. How many of the 399 UK police who have been recruited are still serving in the South Australia Police?

2. What is the cost per recruit of recruiting local citizens to the South Australia Police, given that the cost of the UK recruiting is over $1,000 per recruit?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:38): I would have thought that was incredibly good value in terms of recruiting police officers from the UK, if that is what it is. I think that the great advantage those officers we get from the UK bring is that they have many years of experience. I think the average level of experience (certainly it was so in the time I was the minister) is about the 10 year mark in terms of experience. You cannot buy that; you cannot train police officers to have that sort of level of experience overnight. I think we are served particularly well in relation to that recruitment and, in place of those officers who do leave the force, as many locally recruited ones do, they have provided very good immigrants to this country. I think we should acknowledge that fact as well. I will refer the questions to my colleague in another place.

GLENSIDE HOSPITAL REDEVELOPMENT

The Hon. B.V. FINNIGAN (15:39): Will the Minister for Urban Development and Planning provide details of the government's plans for the Glenside campus?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:40): The major redevelopment of Glenside is for a centre of specialist mental health. The government's mental health reform process is aimed at rejuvenating the Glenside campus with a new 129 bed world-class hospital, including new purpose built specialist services for mental health.

The Glenside campus will be transformed not only by the new 129 bed specialist hospital but by intermediate care services; new housing, including affordable homes for those on low and moderate incomes; a retail development; and significant open and village green areas.

Last month, I announced the rezoning of the Glenside campus as being finalised, after a lengthy consultation process that took into account feedback from the South Australian community. The final version of the rezoning incorporates changes that address many of the concerns raised by members of the public during an extensive community consultation process. More than 40 written submissions were received, and some 150 people attended a public meeting, as the government encouraged community input into the proposed rezoning. Some concerns with the draft rezoning were raised during the process, prompting some changes to the final ministerial development plan amendment.

The rezoning reflects the changes envisaged in the master plan for the redevelopment of the Glenside campus, which was published in April last year following the public consultation. The rezoning will allow the redevelopment of the campus to accommodate new buildings, streets, pedestrian and bicycle paths, and open spaces and plazas, all located in an attractive and well landscaped environment that is safe and secure.

Policy prescriptions for the area covered by the development plan amendment encourage the construction of buildings that incorporate energy efficient and water sensitive design. Increased areas of open space, particularly in the north-west corner of the site, aim to encourage stormwater management which will enhance the pleasant environment for recreation and relaxation which exists on the Glenside campus.

Established large trees are to be retained in public open spaces, road reserves and areas set aside for landscaping, while the hospital zone will also incorporate courtyards and terraces. Landscaping is to include drought tolerant vegetation that complements the buildings and caters for different types of recreation.

Work is also scheduled to begin soon on the $42.95 million Adelaide film and screen centre at Glenside. The centre will mark the beginning of a brilliant new era for the local film industry by fostering the next generation of film makers and strengthening South Australia's national position as a leader and innovator in film.

Some people have been spreading misinformation about our plans for redeveloping this part of Adelaide and asserting that the government plans to close Glenside Hospital and move all mental health services from this inner city site. Nothing could be further from the truth. During the remainder of this year, there will be more than 30 staged moves of services across the site, which will eventually see existing services consolidating into 14 existing buildings by late 2009.

The Glenside campus will be transformed not only by the new 129 bed specialist hospital but also by intermediate care services. This transformation of mental health services at Glenside will allow us to do more with this important site. This includes the provision of new housing, including affordable homes for people on low and moderate incomes. As normally happens during this process, the consultation on a proposed rezoning becomes a lightning rod for the community to raise other issues that are beyond the scope of the development plan amendment. However, having said that, I advise that the state government will seek to work with the City of Burnside to address site development issues raised in some of the submissions, such as traffic management.

GLENSIDE HOSPITAL REDEVELOPMENT

The Hon. J.S.L. DAWKINS (15:44): I have a supplementary question. Will the minister detail a response to community concerns about traffic flows incorporated in the DPA amendment?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:44): I covered that in the very last sentence of my answer when I said that the government will continue to seek to work with the City of Burnside to address site development issues raised in some of the submissions, such as traffic management. Obviously, those issues will flow on from any development on the site. As I have indicated, we will work with the council in resolving those issues. Those issues might be just

technical matters, such as finding the most appropriate location for an entrance into the residential areas, for example. They are not necessarily zoning issues as such. Clearly they can happen anywhere in the zone but they do require careful negotiation with the council and that is what I have indicated. Clearly we will look at those issues.

GLENSIDE HOSPITAL REDEVELOPMENT

The Hon. J.M.A. LENSINK (15:45): As a further supplementary question, is the minister aware that the proponents of the supermarket were proposing some eight to 10 storeys on that site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:45): I am not sure whether the honourable member is talking about the supermarket or the office building, but the development plan amendment, if the honourable member reads it, does make some reference within its policy to appropriate heights on that particular site: I think it was six storeys.

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

The Hon. P. HOLLOWAY: The honourable member should go back and read—

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

The Hon. P. HOLLOWAY: The honourable member is making an allegation that the government has done this, but what she does not realise, of course, if she goes and looks at it, is who originally agreed to sell—

Members interjecting:

The Hon. P. HOLLOWAY: It was your great colleague, your philosophical mentor, Dean Brown. When the Hon. Dean Brown was minister for health, he agreed to sell that land. It goes right back to that. I invite the honourable member to go back and read all the public submissions that have been made relating to the development plan amendment process. Look at the one from QED. I had to read them, and that is when I discovered, when I was reading that particular submission, that that is what was in there.

I think members opposite have very conveniently overlooked the fact that discussions on that matter were going on prior to the election before last. The honourable member may not like the sunlight reflecting on what has happened there, but of course there would be very good reasons why in fact you might want to reach some arrangement with the owners of the shopping centre on that corner.

Anyone who drives through that intersection regularly as I do would know that there are very good grounds for the widening of that intersection. It certainly makes a lot of sense and, when I first became Minister for Urban Development and Planning some years ago, I remember one of the first issues that came up was some proposals in relation to dealing with that site and about how that intersection could be improved with some sort of a land swap so that some of those traffic issues could be improved.

That is when it was certainly conveyed to me by the then head of the department that in fact there had been negotiations on that issue from some time dating back to the previous Liberal government in relation to land sales. There has been nothing new, not that I am suggesting that there was anything wrong with that. On the contrary, I believe it makes a lot of sense, but I just think that the sensitivity of members opposite who choose to turn their back on those sorts of issues is very interesting.

If the honourable member looks at the development plan amendment, if she is talking about the mixed use site on Fullarton Road which I believe she is, and if she looks at the policy that applies to that site, she will see that there are height limits that are not those which some proponents were seeking.

MARATHON RESOURCES

The Hon. M. PARNELL (15:49): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Marathon Resources.

Leave granted.

The Hon. M. PARNELL: In the *Government Gazette* of the 27th of last month, the minister gave notice of his intention to grant a new exploration licence over the Arkaroola Wilderness

Sanctuary to allow Marathon Resources to continue exploring after its current licence expires on 10 October this year. On 10 September last year the minister stated in this place, in response to a question from me about the future of Marathon Resources' exploration licence over Arkaroola sanctuary:

> When I made my statement I think I mentioned a number of other conditions that Marathon Resources will have to meet before any further exploration will be permitted in that area. One of the obvious ones is its relationship with the landholders. The view I have expressed to any mineral explorer is that, if they do not have good relations with the landholders, the future of mining within those areas is likely to be bleak.

The current landholders, the Sprigg family, have made it abundantly clear on many occasions that they do not want to see the spectacular and iconic Arkaroola sanctuary mined, and that they want Marathon's exploration licence cancelled. In fact, Marg Sprigg was in this very building just last week, when she again stated her complete and absolute opposition to Marathon Resources being allowed to remain in Arkaroola.

The Spriggs have every right to be concerned about the future of their sanctuary. On ABC Radio this week Marathon director and ex-Labor senator and lobbyist Chris Schacht showed that the company has not realised the seriousness of its past actions when he described the 21 separate breaches of its licence conditions—including the illegal dumping of 22,800 calico bags containing drill cuttings, 16 steel and four plastic drums, 1,500 empty plastic bags, folding seats, tyres, safety suits, aluminium trays, PVC pipes, oil and air filters, bottles and cans, and polystyrene foam in three separate sites across the wilderness sanctuary, as well as the deliberate vandalism of the Mount Gee national monument by a Marathon Resources employee using a mechanical digger—as mere littering. In addition, in an article on the front page of Monday's *Australian,* Marathon Resources' chairman Peter Williams stated that he believed that Marathon had the Rann government's full support. My questions are:

1. Does the minister stand by his statement made on 10 September last year that good relations with Arkaroola Wilderness Sanctuary landholders was a condition that will have to be met before Marathon Resources would be allowed to resume exploration in the sanctuary?

2. If so, considering the opposition by the Sprigg family to Marathon's continued exploration, why has the minister advertised his intention to issue a brand new exploration licence to Marathon Resources?

3. Does the minister agree with Marathon Resources' chairman Peter Williams that Marathon has the Rann government's full support?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:52): The renewal of a mineral licence is a relatively routine matter; there are 150 of them every year. In the 7½ years I have been minister I can recall only one occasion where I have been involved in a renewal issue, and that was with some chronic non-payment.

The Hon. M. Parnell: This isn't a renewal; it's a brand new licence.

The Hon. P. HOLLOWAY: It is effectively a renewal. It is a bit like having—

The Hon. M. Parnell: They have had their five years. It's a brand new licence.

The PRESIDENT: Order! You have asked your question.

The Hon. P. HOLLOWAY: As I understand it, the original licence for Marathon was issued back in the late 1990s for five years. There was a five-year renewal made in 2004, and now the company has applied again. Of course there is absolutely no link between an exploration licence and a right to mine, and that is why it has been quite mischievous for the honourable member and some others who attended the meeting to suggest that there is some proposal for mining. It is also mischievous to suggest, regardless of whether or not a licence is renewed—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It is always the same—

The Hon. R.I. Lucas: It's a waste of money otherwise; you don't explore if you don't want to mine, Paul.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: There is no link—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order.

The Hon. P. HOLLOWAY: I can well understand that the Hon. Mr Lucas would try to interject, because he does not want to hear the truth. The Hon. Mr Lucas is a master of disinformation; after nearly 30 years in this place he has mastered it well and is good at interjecting. Of course, what he has been an absolute failure at during his time in parliament is actually doing anything constructive. Rob had budget deficits every year when he was treasurer, and he spends most of his time in here trying to justify some of the appalling decisions he made when he held that position.

An example of that is the last budget before 2002 and the way the health deficits in individual units were handled. He is probably still stinging from the quite deserved criticism by the Treasury Under Secretary, whom he appointed, about the fact that those deficits in individual units were never sustainable. Now, of course, how appropriate it is that he is back on the opposition side. What does that say about the opposition? It has had to turn back to someone with that dismal record. He even has the gall to criticise this government in relation to health expenditure when, really, he should be hiding in shame for the exposure of what he did and the way the books were handled in the year that he was there.

Mr Lucas always tries to divert debate, because how terrible it would be if the truth got out! How terrible it would be if the facts were told! When the first licence was given to Marathon—Bonanza Gold back in the 1990s—guess who the environment minister was. It was none other than Mr Iain Evans, the Hon. Mr Lucas's great mate. I believe he would have been minister for environment at the time; he was certainly minister for environment just before the election.

That company had its licence renewed after the second 10 years. It is just like someone who has a driver's licence in that if you misbehave you can have your driver's licence suspended but, if you apply for it to be renewed, the normal expectation is that it would be renewed unless there are good reasons for it not to be. If you do not renew it, it might well be that there are issues of risk to the state, and not just sovereign risk issues, in the message it would send if you arbitrarily take off licences. I am sure the Hon. Caroline Schaefer knows what it would mean if you started taking licences off fishermen, whom you do not like, and say, 'We're not going to renew your licence this year, because of what—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes; and the state was paid a lot of compensation because that was done. They are some of the issues that need to be addressed. What has happened in relation to that licence is that the company has sought to renew it and has paid a fee. Under the act, the fact that it has applied has to go in the *Gazette*. That is the action that has been taken to date. Perhaps the honourable member is suggesting that somehow or another I should not allow that to be advertised; in other words, breach the act.

Isn't it interesting that all the people who want an ICAC are always the first to criticise you when you abide by the act? Why is it that all these great advocates of an ICAC are the first ones to demand that ministers do not behave properly, that they do not have due process, that you do not allow natural justice, that you do not allow the procedures in the act to take place? They are always the first ones to stand up and say that we need an ICAC. Well, certainly, if that lot opposite ever gets into government we would need an ICAC, because they clearly do not understand. They do not have the first idea about probity and good behaviour and about due process.

All that has happened in relation to Marathon is that the company has applied for a renewal of a licence; it has paid the appropriate fee, and it has been advertised in accordance with the law. As I have indicated on a number of occasions, any groundbreaking activities by Marathon are and remain suspended, and will remain suspended regardless of any renewal of the licence at least and until some of the issues in the act are repaired.

The other thing that the honourable member might not be aware of is that, if for some reason the licence is not renewed immediately, someone else could apply for a licence over that area. The preliminary advice I have is that the Warden's Court would almost certainly issue another licence over that area. There is no power within the act. One of the amendments that the government will be looking at will address that situation. Certainly, the preliminary advice I have is that, if a licence over a particular area is not renewed, anyone else could apply unless, of course, there is some other means of preventing it.

If the government were not to renew a licence, as it would in the fishing industry or with anyone else, that is arguably a matter that could be contested. It is all very well for someone like senator Minchin. Here is a man who is playing total politics. He was the resources minister, so he must know what the issues would be in relation to licence renewal and what sovereign risk issues would mean, but, of course, he is just playing games with us. He knows full well what the issue is.

In relation to Arkaroola, it has been made perfectly clear, as I have indicated on a number of occasions, that anyone who applies to mine that area would have all sorts of enormous impediments in their path. In relation to exploration, there have been exploration licences on that area for more than 40 years, including Mr Reg Sprigg himself, the father of Marg Sprigg; and, of course, that is how that area was first discovered. Indeed, the roads that are used to go to Sillers Lookout were actually mining exploration tracks.

There is no way that any government is going to allow significant ground-disturbing mining on the key sensitive parts of Arkaroola. However, there may be means, as technology changes, by which they can be exploited, but that is entirely the risk of explorers. It all very well for members opposite. As we saw from the first question today, they would love to see mining exploration in this state falter. They would love to create risk.

If you cannot win government legitimately because you are a hopeless opposition, what do you do? You try to sabotage the economy, and that is exactly what the people opposite are doing. They are a disgrace. They know they are a disgrace. They are not fit to govern at all, so what they are doing, through deliberate misinformation on issues such as this, in combination with the Greens, is trying to put this state at risk.

ANSWERS TO QUESTIONS

CONSUMER PROTECTION

In reply to the **Hon. J.M.A. LENSINK** (8 April 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): I am advised:

The seven recommendations and good practice model contained in the Choice report have been considered by OCBA and all other fair trading agencies in Australia. Similar recommendations had already been identified by OCBA during an internal review and processes for change are in place.

DISCRIMINATION

In reply to the **Hon. S.G. WADE** (29 April 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 Education has advised:

The Disability Discrimination Act 1992 provides the legislative framework within which DECS operates. After the Disability Standards for Education were introduced in 2005, DECS developed the resource On the Same Basis to provide support and direction for education staff in the provision of non-discriminatory education practices for children and students with disabilities.

DECS through its state office and regional staff, in conjunction with key disability agencies will continue to work with and support schools to provide for the learning needs of their students in accordance with the Disability Discrimination Act 1992.

DECS has a range of options for students with disabilities that range from placement in a mainstream class with additional support, a special class, disability unit or special school dependent on the needs and interests of the students and their families.

The educational needs and safety of all students, are paramount. The needs of students with disabilities in particular, can be very complex. Individual education plans are developed for all students with disabilities in consultation with their parents and appropriate agencies.

Strategies to meet the learning and safety needs of students with disabilities are developed in consultation with parents and advice is sought from key agencies to ensure the most appropriate

support is provided. The strategy for each child is individually negotiated and the involvement and support of parents is a critical aspect of these processes.

Fenced areas may be appropriate for students who have a tendency to run away or wander off to ensure all students are safe in our schools. Many schools do not have a fenced perimeter and a fenced area within the school can be essential to meet duty of care for students.

These areas are closely supervised and allow students to move in and out according to the strategies have been agreed upon for individual students.

They are not secluded areas and are used by other students as part of a supportive and safe environment. School and community play areas are often fenced to enable more appropriate supervision to occur and contribute to the safety of children.

DECS will continue to work within the legislative framework to support the educational needs of all students with disabilities through ongoing liaison with key government and non-government disability agencies, the continued development of resources and provision of professional development for staff and the involvement of parents in support planning for their child.

ISOLATED STUDENTS FUNDING

In reply to the **Hon. C.V. SCHAEFER** (12 May 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 Education has advised:

In December 2008, the Department of Education and Children's Services increased funding by 50 per cent for the provision of internet services to remote and isolated School of the Air families, bringing the funding to $30,000 annually.

In addition, the Open Access College receives $50,000 to provide assistance to remote and isolated families in the purchase of computers for their children's education.

The services accessed by remote and isolated School for the Air families are provided by commercial telecommunications carriers, and parents are free to select the service of their choice.

Pricing and service are set by the commercial telecommunications carriers.

The Department of Education and Children's Services does not own any telecommunications infrastructure. All services are procured from telecommunications carriers.

CONSUMER COMPLIANCE AND ENFORCEMENT

In reply to the **Hon. J.M.A. LENSINK** (17 June 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): I am advised:

1. During 2007-08 there was a spike in the number of investigations completed, specifically linked to security agent licensees who did not meet the licensing entitlement criteria. This was a one off event that occurred as a result of background checks being conducted by SAPOL of over 7,000 licensed security agents.

MATTERS OF INTEREST

MURRAY-DARLING ASSOCIATION

The Hon. J.S.L. DAWKINS (16:02): On 3 September this year, I attended the 65th national conference of the Murray-Darling Association, which was held at Elizabeth. The conference, the AGM and other associated events and tours were hosted by the City of Playford over several days last week. The welcome to the national conference was given by the mayor of Playford Mr Martin Lindsell, and the opening was performed by the Minister for Environment and Conservation (Hon. Jay Weatherill).

Delegates and observers attended the conference from across the Murray Darling Association's 12 regions, which take in parts of four states and the Australian Capital Territory. I will take some time today to mention two aspects in particular that relate to the Murray Darling

Association and its various arms. First, I refer to the Murray-Darling Environmental Foundation, which has two very well known South Australian Murray-Darling stalwarts as directors, Mr Jim Hullick OAM and Mr David Dalzell, who are both life members of the Murray Darling Association.

I will quote some excerpts from the 2008-09 annual report of the chair of the foundation Mr Brian Grogan OAM of Mildura:

> Negotiations are continuing to create substantial support for a useful, and at the present, small but growing water bank. The capacity of this asset to become a worthwhile instrument to assist niche environmental needs at a local government level across the Murray-Darling Basin, will be relative to size of water shares acquired and held over time…In 2008, the foundation became a member of the Water Stewardship Initiative Reference Group, providing input into the development of this initiative. The year has also seen some lengthy negotiations for funding support to allow the foundation to be a joint partner for the stage one field trials of the International Water Stewardship Standards. These standards, when finalised and licensed, will be a valuable contribution to future Australian and Murray-Darling Basin water operations.
>
> Throughout the year, the Foundation has seen continuing activity on implementing the Murray Valley Trail; the successful travelling bursaries for Local Government and catchment management personnel; continuing support for the Murray Darling Freshwater research centres; and the development of two complementary websites.

I also mention the presentation at the conference by Craigmore High School students. In May, the Murray Darling Association conducted a one day workshop for students of Craigmore High School about The Living Murray. This workshop was part of the program relating to the attitudes and understanding of city students about the river. The workshop was a mix of learning, presentations, interaction, fun and good science.

In early June this year, the same group was taken on a one day bus tour to the River Murray, Murray Bridge and the Coorong to see and speak with people involved in managing the river. The activities were supported by the Murray-Darling Basin Authority and encompassed 24 students from years 10, 11 and 12. I very much enjoyed the presentation they gave to the conference, including a DVD presentation about their experiences.

I pay tribute to Pauline Frost, a resident of the City of Playford and also a life member of the Murray Darling Association, for the support she gives to the students at Craigmore High School in a voluntary capacity. I also pay tribute to the retiring President of the Murray Darling Association, Mr Bill Gorman of Mulwala in New South Wales, after three years in that position. I wish the Murray Darling Association well under its new leadership and congratulate the City of Playford for successfully hosting the conference.

MULTICULTURAL AGED CARE

The Hon. J.M. GAZZOLA (16:07): I recently had the pleasure of representing the Minister for Multicultural Affairs at 'A day in the Italian culture' workshop held by Multicultural Aged Care in collaboration with various Italian communities and organisations across South Australia. This lifestyle activities and respite coordinators' workshop was funded by the Australian government Department of Health and Ageing and the Partners in Culturally Appropriate Care initiative.

Before I talk about the day, I will provide an overview of the state's multicultural population and the demography and problems confronting our ageing population. As we are aware, we are becoming a state and, indeed, a country of diverse nationalities and cultures. Figures provided by the publication *Multicultural Life* show that, in a state population of just over 1.5 million, according to the 2006 census, overseas born South Australians from a non English-speaking background comprise 11 per cent and overseas born English-speaking comprise 10 per cent.

Our top 20 source countries are well known: England, China, India and Malaysia, to name the largest contributing countries. Predicted big future groups will come from China, India, the Philippines, Malaysia and South Africa. Adding to our existing ethnic mix are South Australians from the Sudan, Zimbabwe, Kenya, Ethiopia and Liberia, again to name just a few.

The growth of and change to the composition of our state promise a rich and interesting cultural future. As to what is termed our traditional or established communities (those born in Italy, Greece and the former Yugoslavia), we are faced with a different problem—that of increasing age, where the proportion of people over the age of 65 is growing rapidly.

We know that there are 100,000 South Australians of Italian origin. Italian is our second most spoken language. We also know that, from 1945 to 1972, around 30,000 Italians settled in this state, and we know that we are an ageing state. According to the 2006 census, elderly Italians make up the greatest percentage of culturally and linguistically diverse communities in South

Australia—around 6 per cent of the population. It is further projected that, by 2016, Italians aged 65 and over will make up one-quarter of the older CALD population.

As Multicultural Aged Care Incorporated knows, there is a growing need for aged care service providers and communities to be more aware of and responsive to specific cultural sensibilities and mores.

The need to build better quality services was recognised by the South Australian Multicultural and Ethnic Affairs Commission through Multicultural SA and the roundtable conference on multicultural aged care in April this year. Key stakeholders within the aged care industry, including state and commonwealth agencies, peak non-government agencies and aged care providers are developing further strategies that will strengthen CALD aged care services.

Let me return, though, to the day of the workshop assisting ageing members of South Australia's largest ethnic group, our Italian citizens. In June 2008, Multicultural Aged Care launched a series of 10 cultural awareness resource sets known as CARS—and I take no responsibility for the acronym. The CARS launch on this occasion was the fourth such cultural awareness session held for the service providers, with each kit containing information on culturally specific groups as well as providing information on crafts, games and recipes.

I point out that, being of Italian parentage, I will one day (but not yet) be an appreciative recipient of multicultural aged care and aged care service providers.

I congratulate Multicultural SA and Multicultural Aged Care for the good and important work they are doing and thank and congratulate Rosa Colanero, the CEO of MAC Inc., and Maria Johns, manager of MAC, as well as those Italian organisations that attended (Co. As. It., Comites, PISA and IPF), not forgetting the sponsors, Australian Department of Health and PICAC.

In closing, I was acutely reminded on the day of the golden rule of the Italian card game, Briscola, a favourite of many of those present at the cultural workshop: always let your Mum win.

PRIVATISATION

The Hon. R.I. LUCAS (16:11): When the Premier returned recently from his 23rd overseas trip he lodged FOI applications for the water contract of the former government and the contracts in relation to the electricity privatisation as well and indicated that from his viewpoint privatisation would be a major issue at the next election. I indicate at the outset that Isobel Redmond has made clear that she is more interested in the issues that will affect people in 2010, such as water security, jobs, education and health services and is not worried about issues that in particular relate to the mid 1990s when she was not even in the state parliament.

I am happy, if the Premier defines the battleground, to at least engage, and I want to highlight the hypocrisy of the Premier and the Treasurer on the issue of privatisation and related issues. The now Treasurer on 23 February 1994 said:

> I am quite happy to stand here tonight and say that I support asset sales. Given the State's severe debt situation, asset sales are an appropriate tool with which the Government can attack debt. I have no problem with an asset sales program.

The now Premier said on 5CK on 15 January 1996, in defending privatisation:

> We have supported the privatisation of the State Bank; we have supported the privatisation of SGIC, the Pipelines Authority.

He did mention in that also the privatisation of SAGASCO, the Clothing Corporation and Travel Services by the former Labor government.

The Premier and the Treasurer were caught out in relation to the SA Water contract because, having tried to raise the spectre and ogre of privatisation, the Treasurer embarrassingly was forced to concede or confess on ABC Radio earlier this week that he, the Premier and the government had already taken the in-principle decision, if re-elected, to continue what they called the privatisation of SA Water. In fact, they have already employed a consultant to provide them with advice on how they would go about the process of managing the continued privatisation of SA Water, contrary to the claims they have been making in recent days.

The Premier is talking about using the 10 year FOI rule changes. I am happy also to look at the potential use of new flexibility in the new FOI legislation. Let me go back to the period leading up to the 1993 election, when Mr Rann was then the minister responsible for the Grand Prix. In 1993 he said:

As Minister for the Grand Prix I'm trying to secure the event beyond 1996 when the contract runs out. The Grand Prix attracts thousands of visitors who spend millions locally. It has also put us on the map internationally, with a world wide audience of 520 million.

On 23 September, he issued a press statement challenging the opposition to declare its support. He said:

We have to know, once and for all, where the Liberal Party stands on the future of the Australian Formula One Grand Prix for South Australia.

However, the Premier must have known that there was a problem with that. A week before that stunt, on 16 September, Fokker had already signed the event over to Victoria—and a week later he was involving himself in that stunt calling on the Libs to support the Grand Prix continuing. In 1993, Mr Rann—

An honourable member: The Hon. Mr Rann.

The Hon. R.I. LUCAS: —the Hon. Mr Rann was also the minister for the MFP, and we all know what happened to the MFP in the period leading up to 1993. He was also the minister responsible for the Business Asia Convention, which attracted significant criticism from the Auditor-General during that period, when the Auditor-General commented unfavourably on the management of that event and the significant losses and blow-outs involved in the management of that event.

Of course, the Hon. Mr Rann was the person who gave such glowing tributes to Mr Marcus Clarke. He admired the brilliance of Mr Marcus Clarke and, indeed, it was a major coup for South Australia to have Mr Marcus Clarke heading up the State Bank. So, it will be informative to have a look at some of the cabinet submissions involving Mr Rann on those issues and many others in the period leading up to the 1993 state election.

Time expired.

JUVENILE DIABETES

The Hon. R.P. WORTLEY (16:17): I rise to bring to members' attention a matter that should be of particular interest to us all, that is, type 1 diabetes in children and the annual Walk to Cure Diabetes.

As always, as we draw close to October, I have been reflecting on the impact of that disease on the children, the young men and women who manage the ramifications of this disease in a constant and very physical way every day, the impact on the parents and carers of young diabetics, some even babies, who deal with the diagnosis and a lifetime of treatment, the impact on the families and friends of those children, and the impact of the disease on every aspect of their life together. Presently, there is no cure for type 1 diabetes. The impact of the disease on the quality of life, not to mention life expectancy, is not only immediate but cumulative.

Diabetes affects almost every organ in the body. Blood vessels and the tissues and organs they supply are irreparably damaged over time due to chronically high levels of blood glucose. Serious complications, including diabetic eye, kidney and nerve diseases, and cardiovascular disease, can result. It does not take much thought to recognise the implications. Because type 1 diabetes starts early in life, children and young patients, who are at the beginning of their life, with all that entails, may be confronted with these and other serious complications while they are still in early childhood.

Do not think that this cannot happen to us or to our families, because it can and does. Some 80 per cent of people diagnosed with type 1 diabetes have no family history of the disease. As some members may be aware, the Juvenile Diabetes Research Foundation regularly brings me up to date on research developments and the latest statistics on this chronic and increasingly prevalent disease.

There are now 140,000 children and adults in this country living with type 1 diabetes, and about 1,000 children 14 years of age and younger are developing this type of diabetes each year. A report issued by the Australian Institute of Health and Welfare on 21 August 2009 shows that Australia is now in the top 10 countries with the highest rates of diabetes in children.

Diabetes is one of the most prevalent chronic diseases in Australia, representing an enormous health, social and financial burden not only for the individuals with the disease and their families but for the community as a whole—and, on this point, consider just for a moment the economic impact. Although only 10 per cent of the diabetic population suffers from type 1 diabetes,

this group accounts for 42 per cent of the overall cost of diabetes to our country. Sufferers incur medical and related costs between two and five times greater than a person without diabetes, and much of the cost is borne by the community. The cost is estimated to be in the billions of dollars each year.

A cure is the only way for people with type 1 diabetes to achieve the quality of life and the life span enjoyed by those who do not suffer this disease, and research is the key to finding a cure. The Juvenile Diabetes Research Foundation is the world's leading non-profit, non-government contributor of funds to diabetes research.

The foundation has been closely associated with almost every crucial step forward in diabetes research since 1970. These steps include research into islet sourcing and transplantation to restore normal blood glucose levels, the early detection of complications and the identification of ways to prevent type 1 diabetes, including the development of a nasal insulin vaccine.

It is the destruction of the beta cells in the pancreas that causes type 1 diabetes. So, pancreatic islet transplantation is a particularly exciting and promising area of research. Islets are hormone-producing cells. Already, donor pancreatic islets have been infused into the liver of recipients on numerous occasions around the world. When the transplantation is successful, the islets become embedded, producing insulin and restoring beta cell function.

An article published in the journal of the American Medical Association in April this year reveals that, although islet transplantation has been shown to offer protection against long-term complications of the disease and significant improvement of quality of life, impediments to the technique still remain; among these are limited acceptance of the donor islets within the recipient, immunosuppression and the fluctuating supply of human islets.

Scientists are now working to lengthen the survival times of islets and reduce the side effects of anti-rejection drugs, which can themselves include vulnerability to infection and nerve and kidney damage. It is clear that there is no easy answer, but we can help.

I am sure that all members will concur that the urgent need for a cure for diabetes outweighs our more usual party political exchanges.

Time expired.

FATHI SHAHIN

The Hon. R.L. BROKENSHIRE (16:22): I rise today to put on the record my extreme appreciation and also sadness at the loss of Fathi Shahin (commonly known as Fred), a special man to South Australia, a great family man and someone with whom I was privileged to have several meetings and attend functions. From him, I learnt a great deal about the ability to grow business by observing the ethical way in which he operated, as well as his honesty and integrity.

Fred Shahin was an exceptional man in every circumstance. Considering that he only came to South Australia in 1984, he built a huge business empire in just a short time together with his family and his lovely wife, Salwa, to the point where he created 1,000 jobs in this state. More than that, he showed that you can be successful with integrity, with loyalty to your family and the people that you employ and work with and that you can also do a lot for the community. In fact, in 2001, Fred received an Order of Australia for service to the community. I know, having visited Lebanon, his pride and his love for Palestine and Lebanon but also his passion and his deep love for South Australia and Australia.

What he was also able to achieve in those years was to illustrate to many—and I saw it first hand—that over and above his workload, his ethics, his integrity, his loyalty and his honesty was his absolute devotion to his wife, his family and his community. Salwa was a Rock of Gibraltar for Fred through these times when he was always very busy. They had four magnificent children who are obviously all grown up now—Charlie, Sam, Yasser and Amal—and 11 grandchildren.

Not only as a son-in-law but a great friend, Joe Hani, a man with whom I have spent a lot of time and highly respect, also had an enormous love and respect for Fred. I believe that, when you consider that someone makes a decision only 25 years or so ago to move from the Middle East to South Australia to set up a new life for their family and can contribute so much, it really does show how much this state and this nation have to offer.

I note with interest that a lot of my parliamentary colleagues have also made comments in the media about just how genuine he was, how much this man offered South Australia and the admiration that they all had for him. I think one of his great strengths was that he had seen a lot of

circumstances in the Middle East where there had not been fairness, where people were not given the opportunities to fulfil to their maximum their talents and abilities, and this particular gentleman was certainly able to capitalise on all of that.

He was also a generous man. I do not know all the families that he would have helped out, but I know that today a large number of families in this state are much better for the fact that Fred put such an effort into this state. In my opinion, he unfortunately passed away far too early at only 70 years of age. When you met the man, he was inspiring, genuine, always had a nice smile, and never stopped working, but in amongst that work he always had time to talk to you, to meet you and to give you advice.

His wisdom, his ability, his mental capacity and the business ethics that he had are something that I believe will carry on with his family because there is incredible ability there, too. Two of them are doctors and one of them is an agriculturalist. Yasser just has an incredible ability to continue to build on their On the Run business and their other associated businesses.

It is very sad that we no longer have Fred here, but he has made such a great mark for the state and for his family that he has set an example that all of us can try to follow. We would all be better off if we were able to put in the efforts and commitments to community and family as Fred has done over such a great period of time. Again, I offer my deepest respect and sympathy to Salwa, the children, the grandchildren and their husbands and wives, and I know that South Australia will continue to grow as a result of his great efforts.

Time expired.

LIBERAL PARTY

The Hon. B.V. FINNIGAN (16:27): Given that the Hon. Mr Wortley, my colleague, decided to eschew party political matters today, I am happy to make up the deficiency in my own contribution. I offer congratulations to Mrs Isobel Redmond, the member for Heysen in another place, and Mr Steven Griffiths, the member for Goyder in another place, on their elevation to the leadership and deputy leadership of the Liberal Party.

One could be forgiven for thinking that they were elected to the leadership of a monastery to begin with because they seemed to go into a couple of months of reflective silence rather than coming up with any policies to present to the people of the state, apart from the early slip-ups, at least by Mrs Redmond.

I also congratulate all six honourable members in this chamber who are now in the shadow ministry, although perhaps it should be commiserations to the two who missed out. You would have to feel a bit aggrieved, when 75 per cent of your membership in this council are in the shadow ministry, having missed out. It must feel as if you are being rather overlooked.

I hope they are all going to be able to be accommodated over there. I understand we are looking at getting a two storey front bench, a bit like bunk beds, so they can all fit in there. I am not sure whether the Hon. Mr Ridgway will be upstairs or downstairs. Given that he has the overalls, perhaps he can afford to get a bit messy as he goes up the stairs.

We now see that the Leader of the Opposition in this place, the Hon. Mr Ridgway, who aspires to be the Leader of the Government and could be the third most senior cabinet member in the state, someone who would regularly be acting premier, now has all the credibility of someone in a hotdog costume skulking up and down the Mall handing out free hotdog vouchers.

If this is his or the opposition's substitute for policy for any kind of alternative vision for the future of South Australia, rather than coming up with policies, rather than coming up with a budget and looking at how they are going to pay for all their promises, it is just one thing after another. We have new courts, more pay for teachers, new prisons as well as the new stadium—the Marty Memorial Stadium, of course. We have all those things, but instead of coming up with a plan for how they will pay for all that, instead what have we got? The Hon. Mr Ridgway donning a pair of overalls and lurking around the airport to leap out at the Premier. This is the alternative to policy and to a genuine vision for this state.

Mr Acting President, if you and the other members of the Liberal opposition think that the best thing you can do is run around in costumes rather than developing policy, consulting the people, engaging in parliamentary debate, meeting with people who can put forward their ideas, and bringing it together into a cogent policy and balancing the books, then I am more than happy to take you all down to Trims any old time and buy you all some overalls. You can then spend all your

time doing that. Whatever criticism I have of the Hon. Mr Lucas (and they are many), I do not think any of us believe he would be so foolish, so lacking in credibility, as to turn himself into the laughing stock of South Australian politics, as the Hon. Mr Ridgway has chosen to do.

The Hon. Mr Lucas spent some time today talking about the Grand Prix and about the involvement the Premier may have had with it when he was a minister in the Bannon and Arnold governments, yet when I sit in the meetings of the Budget and Finance Committee all we ever get from the Hon. Mr. Lucas is criticism; he knocks all the great events we currently have in this state. We have the Tour Down Under, we have WOMAD, we have the Fringe festival, the Adelaide festival, the Clipsal 500—all those great events—yet all we get from the Hon. Mr Lucas is criticism, and he demands to know how much it all costs and whether payments are being made here and there. It is constant criticism and carping from the Hon. Mr Lucas instead of congratulations for bringing to this state all these great events that make so much of an economic contribution.

If members of the opposition thought that promoting the Hon. Mr Lucas would bring him under control they are sadly mistaken, because he has now decided that he is the shadow treasurer—and he may as well be the shadow leader of the opposition. He is out of control.

Time expired.

OCEAN ENERGY

The Hon. J.A. DARLEY (16:32): I rise today to speak about renewable ocean energy. Whilst I have previously had a matter of interest on renewable energy, as Australia is the largest island in the world and the only country to be completely surrounded by water, I believe it is imperative that governments explore ocean energy as a method of power generation. Ocean energy is often seen as complex; however, today I hope to dispel some of the confusion that surrounds this potentially viable source of energy.

Ocean energy consists of two main types: ocean thermal energy conversion and ocean mechanical energy. Ocean thermal energy conversion involves utilising the difference in temperature between the surface water and deep water to produce electricity. There are different methods of conversion, but most involve using the warmer surface temperature to evaporate the water in order to turn a turbine, which activates a generator to produce electricity. Ocean mechanical energy utilises the energy of waves and tides. Whilst this method is reliant upon wave action and tidal movements, predictions of these movements have advanced to a point where forecasts are reasonably accurate.

Ocean mechanical energy can take several forms: those that harness tidal energy and others which utilise wave energy. The ebb and flow of tidal energy can be used to generate electricity by driving turbines connected to generators. Put simply, tidal turbines are similar to wind turbines but are located under water and are driven by tidal movements instead of the wind. Tidal movements can be further utilised by the use of underwater dams, which concentrate water through a channel to enhance these movements. Turbines are placed in the middle of the channel to utilise this concentrated movement.

I have uncovered many different types of wave energy, but they can be broken down into four main categories: channel systems; float systems; oscillating water column systems; and point absorber wave energy. Channel systems, or overtopping devices, direct water into a reservoir to the point where the water overflows. The kinetic energy of the falling water is utilised to generate energy. An example of a float system consists of a segmented tubular device which floats at a 90º angle to the waves. The segmented device bends and flexes with the movement of the waves, and drives a hydraulic pump at the connection point. Another system has been designed to convert the spinning movement of a barrel-like buoy into energy.

Oscillating water column systems channel air pressure caused by waves entering a confined area. As waves enter the space, air is pushed out of a funnel at one end of the structure, which contains a turbine turned by the air pressure. As the waves exit the structure the turbine is turned the other way from the air being sucked back into the space previously occupied by the water. Current absorber wave energy involves buoy-like devices which are anchored to the sea floor so that the buoys sit just below the water surface. The motion of the waves moves the buoys back and forth, which drives a generator situated at the base of the anchoring device.

The possibilities of the ocean seem to be limited only by the creativity of scientists, and trials and plants of different forms of ocean energy are situated all over the world. Australia has been identified as having some of the most viable locations for harnessing ocean energy but, as

with other forms of renewable energy, augmentation charges must be subsidised by governments to encourage further development within this area.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE: ANNUAL REPORT

The Hon. J.M. GAZZOLA (16:36): I move:

That the 2007-08 report of the committee be noted.

The committee continues to learn from Aboriginal people, and I wish to respectfully pay tribute to their enduring culture, their strength and resilience, and especially to honour the memory of those who have passed away.

Since the committee was established in 2003 its first priority has been to consult with Aboriginal people in their home communities and to engage with their elected representatives and leaders. In the reporting period, members of the committee have visited the Northern Flinders Ranges and Riverland Aboriginal communities and have been impressed by the strength of community leadership, community and family resilience, and the growth of community partnerships.

This reporting year has seen the establishment of South Australia's first Commissioner for Aboriginal Engagement, Mr Clinton Wanganeen, and the South Australian Aboriginal Advisory Council, both to provide, in distinct ways, a high-level Aboriginal voice to government. The committee is supportive of these new Aboriginal leadership positions. The Commissioner for Aboriginal Engagement, Mr Wanganeen, stated:

Wherever possible, link Aboriginal people into the social and economic environment within which the rest of South Australia fits.

Indeed, these sentiments are echoed by the committee. During this reporting period the committee has conducted and reported upon two specific inquiries: first, an audit of information that has been received concerning the Aboriginal Lands Trust Act 1966; and, secondly, the Australian government's changes to the Community Development Employment Projects program (CDEP).

An historic national event took place during the reporting year, which has positively affected the spirit of the nation and the lives of many Aboriginal and Torres Strait Islanders, their families and communities. On 13 February 2008, the federal parliament offered its apology to the stolen generation. On that same day, the parliament of South Australia extended its original apology, which was delivered in parliament on 28 May 1997. The parliament, with the committee and others, hosted over 150 mainly indigenous guests, who came to hear the apology in the House of Assembly and to share afternoon tea. It was, indeed, an historic day for the nation and an important and memorable day for Aboriginal South Australians and the parliament of South Australia.

Amidst a rejuvenated spirit of national reconciliation, whilst recognising the many and varied challenges in the area of Aboriginal affairs that lie ahead, the Aboriginal Lands Parliamentary Standing Committee continues to commit and apply itself to further developing positive relationships with Aboriginal South Australians and to work in partnership towards achieving and maintaining equity of opportunity and prosperity for all.

Finally, we need to thank all committee members past and present for their time, their dedication and for their invaluable contribution towards the very important work of the committee. However, we recognise that much more needs to be done. On behalf of all committee members I thank our executive staff for their contribution in producing the annual report and for their tireless and ongoing support to the committee.

It is appropriate that special mention goes to Ms Sarah Alpers and the current executive supporter, Mr Terry Sparrow, and to acknowledge and thank the individuals and organisations that presented evidence to the committee, whether through written submissions or by appearing before the committee. Through their evidence, the committee was able to gain a clearer picture of the issues. Of course, we need to thank all of the Aboriginal communities, organisations and representatives that the committee has met over the past year, appreciating their frankness, astute insights and generosity of spirit.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: PORT BONYTHON DESALINATION PLANT

The Hon. R.P. WORTLEY (16:39): I move:

That the 64th report of the committee, entitled 'Final Report on Desalination (Port Bonython)', be noted.

This is the second report on desalination by this committee in recent times. An interim report was tabled on 16 December 2008, and it related to the proposed Adelaide desalination plant at Port Stanvac. I will not repeat the relevant statistics that relate to the two reports.

This report was tabled out of session on 5 August 2009 in order to meet the environmental impact statement consultation deadline set for the proposed BHP Billiton plant at Port Bonython. The 19 recommendations in the report relate to environmental marine impacts, reflecting the inquiry's terms of reference. None of the submissions received or any of the witnesses who appeared were totally opposed to desalination per se, but they were concerned with the issue of adequate dispersal conditions, particularly in Spencer Gulf, and many suggested alternative siting outside of gulf waters. Saline dispersion modelling from oceanographers at both SARDI and Flinders University challenged the veracity of the BHP modelling.

The committee agrees that the key issue for Spencer Gulf focuses on the adequacy of brine dispersion and the accuracy of the modelling undertaken to ascertain dispersion profiles, particularly during the occurrence of dodge tides. The site selected for the desalination plant is in Upper Spencer Gulf within a region believed to experience slow turnover and which is also recognised throughout the world as the site of the only known mass aggregation of spawning Giant Australian Cuttlefish, the eggs of which would be impacted by increased salinity.

The committee believes that further investigation is required into alternative sitings of the desalination plants and that this process requires a regional engagement strategy with an emphasis on local, regional, company and governmental collaboration.

The release of the environmental impact statement by BHP Billiton addressed a number of design questions raised during the inquiry. The only strategy to prevent entrainment of larvae, eggs and plankton is the use of a low speed intake. Backwash sludge will be dewatered and disposed of on land, and modelling has been used to design a diffuser system to ensure that dispersion of brine occurs efficiently. Salinity toxicological studies were undertaken on a sample of cuttlefish eggs sourced from the site and on a small number of other local species, including Western King Prawns, a species also known to use this area as a breeding ground.

The committee believes that desalination can be a beneficial technology if established and used in a sustainable and environmentally aware away. Due to the paucity of information, the committee has concerns regarding the dispersive behaviour of the brine stream during the twice monthly event of dodge tides and recommends stringent monitoring take place during these periods to obtain actual live data to validate the modelling that has been used as the basis for the current plant design.

The original proposal discussed the option of storing return water on land during these periods of low dispersion, but no mention of this occurs in the current EIS. The committee suggests that consideration be given to suspending processing during periods of dodge tides or at other times when water or weather conditions may give rise to increased risk to the marine environment. The committee is also of the opinion that all monitoring regimes should be designed to include provision for measuring cumulative impacts, as the Spencer Gulf is already considerably impacted by industrial, stormwater and wastewater discharges.

Given the likely increase in interest in desalination plants, the committee also believes that reforms are needed to environmental legislation and policies to ensure that proponents have clear direction as to appropriate locations and operations of future desalination plants in South Australia, and that a framework should be established with explicit site selection criteria that includes the assessment of environmental, economic and social factors. I commend this report to the council.

The Hon. M. PARNELL (16:45): As a member of the Environment, Resources and Development Committee, I support the motion that this latest report be noted. The ERD Committee looked at desalination in two parts. First, we looked at the Port Stanvac desalination plant and we produced an interim report before the EIS period closed on that plant, and we have now produced this second report, again in time for the closing period of the EIS for the BHP Billiton Olympic Dam mine expansion. I want to speak primarily about one recommendation in the committee's report, and that is recommendation No. 1. The recommendation reads:

The committee recommends that the government require BHP Billiton to conduct further investigations into alternative sites for a desalination plant because of the high potential risk to the marine environment at Point Lowly. The government should establish a framework for explicit site selection criteria, including an assessment of environmental, economic and social factors.

That recommendation is, I believe, the most important recommendation that we have made, and we have not made that recommendation lightly. It is based on the evidence that was presented to the select committee by a range of eminent scientists from Adelaide University, Flinders University and, indeed, the government's own scientists from the South Australian Research and Development Institute, and in a moment I will go to some of the comments they made.

In our recommendation we urge the government to establish a framework for explicit site selection criteria. I draw the council's attention to the site selection criteria that BHP Billiton used in determining that Point Lowly was the best spot for a desalination plant. The EIS, in their main report, volume 1, page 78, identify three things that the company took into account in determining the location.

First: 'proximity to Olympic Dam with clean, deep'—that is, greater than 20 metres deep—'and fast flowing water (i.e., water of high plant intake quality and a high-energy environment in which to dilute and disperse return water safely)', and then they refer to the fact that they have an animation that you can download from their website. So, that is the first criterion: proximity to Olympic Dam; in other words, the closest location that they could find that had water that was suitable for their needs.

The second criterion is: 'accessibility and constructability of the water pipeline': again, a practical consideration, primarily emphasising cost. The third criterion is: 'availability of land and established utilities, such as power, roads and telecommunications infrastructure': again, a criterion that is aimed at the cheapest and easiest option for a desalination plant.

In that list of three things that I have just referred to, not one of them refers to minimising the impact on the marine environment: that was not a consideration. In fact, to emphasise this point, the EIS, under the heading 'Reasons for rejecting other options', sets out a range of reasons why they did not look seriously elsewhere and, again, all of those reasons are based on economics and cost.

At the end of the day, they chose the Point Lowly site because they believed they could manage the environmental impacts and it was the most cost effective of the options they investigated. They say in their EIS that they looked at other locations. They say they looked at Point Lowly, Port Augusta, Whyalla, south of Whyalla, south of Port Pirie; in other words, all locations in Upper Spencer Gulf, and they say they looked at Ceduna as well, but there is no detailed analysis of why other locations, in particular high energy West Coast locations, were not given serious consideration.

BHP has made a not unpredictable call, based on the cheapest option for them. That is why I think the ERD Committee's inquiry is most important: because we have gone beyond just looking at the economics and we have looked at the environment. The species that has had the most attention paid to it, largely because it is a very attractive and beautiful species, is the giant Australian cuttlefish. When we look at the government's own response to the BHP Billiton EIS, we find that a number of agencies express concern about the potential impact on the giant cuttlefish of brine discharge from a location at Point Lowly.

It was my great pleasure, only a month or so ago, to put a wetsuit on and have a look for myself at these giant cuttlefish. Even though it was quite late in the season there were still many cuttlefish that were within easy viewing reach. You do not even have to be able to swim: you can stand in waist-deep water, put your face mask on and you will see the cuttlefish there. The important thing about them, of course, is that they are a fairly fragile species in that they live for only one or two years. That means that, if we get something wrong in relation to the desalination plant, if the modelling turns out to be incorrect and if a dangerous slug of salt water finds its way into the cuttlefish breeding aggregation, there is the potential for catastrophic damage; in other words, a species could be wiped out with one incident.

That is not the case with other marine species. For example, snapper, can live for 20 or more years and, if something goes wrong once, there are probably plenty more to replace them but, when a species lives for only one or two years, something going wrong once can be catastrophic.

Evidence that was particularly impressive for the committee came from the government's own scientists, particularly the evidence and the statement provided by Associate Professor John Middleton, who is the oceanography program leader at the South Australian Research and Development Institute of Aquatic Sciences. Associate Professor Middleton is probably this state's foremost expert on these issues.

In relation to the predictions of what might happen to the waste stream from the desalination plant, he told the committee, 'The modelling is of a very good technical standard, but the amount of data used to validate the brine concentrations and ocean currents is inadequate,' and he recommended a range of measures to provide the modelling with more substance.

He went on to say that the data used to validate the hydrodynamic modelling of brine plume dispersal are inadequate. The ocean current data used in the EIS consists of only 30 to 60 days of current meter data, which was collected in different years, and 12 hours or so of a boat-mounted current profiler.

It is quite remarkable that here we have the biggest project ever planned in the history of our state, in which they are proposing to locate an important part of that project in one of the most sensitive marine environments in the state, yet they think they can get away with such inadequate science and inadequate modelling data.

In fact, it gets worse the more you delve into this issue. For example, whilst it arrived after the ERD Committee had finished its deliberations, the whole of government response to the BHP Billiton EIS makes very similar observations about the inadequacy of the data used to validate the BHP claimed models, and it is not just in relation to computer models predicting where water will go.

In relation to basic biological information about what is present in the marine environment, one of the things the EPA said was that it considered that using intertidal data from 1981 was not sufficient in characterising the habitats currently present. In other words, BHP has tried to get away with using information that is some 28 years old and think that that is good enough to tell us the current state of the current marine environment, particularly in relation to the intertidal area. As to the hydrodynamic brine plume modelling, even Primary Industries has this to say:

> The EIS does not demonstrate that BHP Billiton has rigorously validated the model predictions and has modelled the full range of extreme events that may occur. In particular there has been too little data collected to confirm or otherwise the predictive skill of the model. This is a critical issue, as the cuttlefish are an annual spawning species, and the population at Whyalla has been shown to be genetically distinct from other areas of Spencer Gulf.

I will not read through the hundreds of comments made by different government agencies, but many of them are very similar. The EPA also makes this observation:

> The EIS should have measured data on the extreme dodge tides that occur in late May and November. This would better inform the high risk period and extent for the plume.

Putting all these things together—inadequate data and the existence of these dodge tides—should lead to an outcome whereby the precautionary principle kicks in and BHP Billiton, if it is allowed to build its desalination plant in a location such as this, should be forced to close it down during those high risk periods.

The committee heard evidence from other oceanographers who said that, with a combination of temperature and certain wind events, upwelling could occur. Even though computer models may not predict slugs of hypersaline water travelling up into cuttlefish habitat, it can and has happened in other marine environments; therefore, you would expect BHP Billiton to have in place measures such as shutdown arrangements so that, in periods of high risk, that risk is reduced.

However, no such plans are in the EIS. BHP Billiton has no intention of closing down its desalination plant during periods of dodge tides, and it is reluctant to do the live monitoring that a number of scientists have recommended—again, largely because it is an expensive exercise. That is why the ERD Committee's term of reference No. 1 is so important, and I think it has been vindicated by the government's response to the BHP Billiton EIS.

I want to make one further reference to Associate Professor John Middleton's report because it arrived at the ERD Committee after we had reported on the Port Stanvac desalination plant—yet his submission covered both the Port Stanvac and the Point Lowly plant—so his recommendation was not included in our first report. Had we had his report earlier, we would have

no doubt made reference to his statements in relation to the SA Water Adelaide desalination plant. In relation to the SA Water Adelaide desalination plant he states:

> The regional modelling of ocean currents and brine concentrations near the proposed outfall site is of an inadequate standard. The amount of data used to validate the model is not adequate.

He goes on to say about modelling:

> ...the regional mid-field modelling of brine concentrations and ocean currents is generally not of an adequate standard, including questionable assumptions made for the specification of currents and sea level along the 'open boundaries' (edges) of the adopted model domain. It is unclear how the adopted assumptions will allow for the proper representation of wind-forced or density driven currents in the model.

I think any committee of parliament, when faced with evidence from the government's own scientists that the information relied on is inadequate, would need to pay careful attention to that.

Professor Middleton's concerns in relation to Point Lowly are in many ways similar to his concerns about the Adelaide desalination plant; in fact, in many ways his words are stronger in criticising the approach taken by SA Water for the Adelaide desalinisation plant. I commend the report to the council, and I would urge members of the government to pay very careful attention to the recommendations we have made as they deliberate over the next stages of the BHP Billiton EIS process.

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

SELECT COMMITTEE ON CONDUCT BY PIRSA IN FISHING OF MUD COCKLES IN MARINE SCALEFISH AND LAKES AND COORONG PIPI FISHERIES

The Hon. J.S.L. DAWKINS (17:01): I move:

> That the report of the select committee be noted.

On 27 November 2008 this select committee of the Legislative Council was established to inquire into and report on the conduct of PIRSA in relation to issues affecting the livelihoods of those involved in the fishing of mud cockles in the marine scalefish fishery and the Lakes and Coorong pipi fishery. The select committee advertised for interested persons to provide written submissions or register an interest in appearing before it. The committee visited Port Lincoln on 6 and 7 May and heard evidence in relation to the marine scalefish fishery there and made a site visit to Goolwa, Port Elliott and the Coorong on 8 May 2009. The committee met on 13 other occasions to hear evidence.

The evidence focused on the following main areas: inequities in quota allocation; the consultation process, in particular, the role of PIRSA Fisheries; and the impact of quota on fishers' livelihoods. These issues are all covered in the report. The two fisheries are dealt with separately throughout the report where it is appropriate.

The genesis of this inquiry is in the transformation of mud cockles and pipis in South Australia from a low value bait catch into a burgeoning high value human consumption industry over the past decade, with accompanying pressures on both fisheries and an associated rise in market prices. In the South Australian Lakes and Coorong fishery, pipis are taken from the Coorong beaches and the southern Fleurieu Peninsula. In order to comply with the seafood industry standard, the common name changed from Goolwa cockle to pipi in 2007. Pipi fishers need to hold a Lakes and Coorong fishery or marine scalefish fishery licence with an endorsement to take pipis.

The average total annual catch has increased substantially from an average of 307 to 457 tonnes in the period from 1984-85 to 1989-90 to an average of 1,100 tonnes in the period 2000-01 to 2005-06. Pipis need to be purged before they are consumed by humans. The mud cockle fishery is part of the marine scalefish fishery and is actively fished in three areas in South Australia: the Port River, particularly Section Bank; Coffin Bay; and the West Coast of the state, particularly Venus Bay, Streaky Bay and Smoky Bay. Coffin Bay and the Section Bank account for 90 per cent of the stock. Since 2003 the catch for the West Coast has averaged 50 tonnes per annum.

Mud cockles are slow growing, taking about five years to reach maturity, and are susceptible to overfishing. Unlike Goolwa pipis, mud cockles do not need to be purged of sand before they are suitable for human consumption.

The select committee considered the process leading to the introduction of quotas in these fisheries, hearing evidence from individual fishers, fishing organisations and government agencies.

The report found that the consultation process between PIRSA Fisheries and the industry could have been handled more effectively but acknowledged the difficulties which occur when new management processes are being considered. The committee noted that the future viability of both fisheries depends on a delicate balance between fishing interests and environmental sustainability and that both have been under threat since demand changed the industry focus from bait to human consumption.

While the committee heard evidence that there are inequities in the quota system, its report concluded that any such system is unlikely to satisfy all the interests involved. The committee heard a great deal of evidence about the inequities of the quota allocation but noted that the allocation was made by an independent and expert panel. It also noted that the nature of the process, that is, one designed to limit fishing activities in the interests of sustainability, is unlikely to satisfy all the players involved. The committee hopes that the industry will accept the new regime and focus on the future development of this important South Australian resource.

The committee recommends that the regulations for the allocation of quota be reinstated to allow the mud cockle and pipi fishers to prepare for the next season, beginning in November, and to restore some stability to the industry. It recommends that an audit be introduced in the future whenever a fishery goes to management as a way of informing the process more accurately. It also recommends more research into the fisheries to assist in their future development.

The report urges the fishers involved to settle their differences and work together with PIRSA Fisheries to ensure a positive and productive future for both the mud cockle and pipi fisheries in this state. I think that is an important point to emphasise. For those fishers on the West Coast of the state, there seems to be no active body, or no body whatsoever, that works as an advocate for the industry, and I think it is important that PIRSA takes a role in promoting such a body.

In relation to the Lakes and Coorong part of the industry, there are two organisations that are at opposite ends of the spectrum. The committee would like to see PIRSA take a strong role in trying to get those two bodies to work together; I think that is very important for the future of the industry.

I am delighted to say that the recommendations made by the committee following its consideration of the evidence and the submissions placed before it have been unanimously reached. I think the committee members worked together very well to come up with the following recommendations:

1. That the Minister for Agriculture, Food and Fisheries reintroduces as soon as practicable the regulations relating to quota allocation.

2. That PIRSA Fisheries reviews its consultation processes to ensure that they are transparent, comprehensive and effective.

3. That PIRSA Fisheries takes a more proactive role in working with the mud cockle fishers in the marine scalefish fishery to ensure that all interested parties are involved in future management decisions.

4. That the Minister for Agriculture, Food and Fisheries explores simpler ways for fishers to appeal against decisions, such as via an advisory body or a ministerial representative.

5. That PIRSA Fisheries commissions research, funded from general revenue, to establish the scope of the mud cockle and pipi resources in the state.

6. That in future, before any fishery goes to management, PIRSA Fisheries conducts a full audit to inform the accompanying process.

7. That the Fisheries Management (Lakes and Coorong Fishery) Regulations be amended to include a provision to prohibit off-beach grading.

The select committee extends its thanks to those who provided information and evidence to its inquiry, including the former minister for agriculture, food and fisheries, government agencies, professional bodies and individual fishers. I extend my personal thanks to the Hons Ann Bressington, Ian Hunter, Caroline Schaefer and Russell Wortley for the way in which they assisted me as chairman of the committee to take evidence from across the whole sector and to dissect and listen to often conflicting evidence but still evidence sincerely given. I appreciate the work of the committee very much.

On behalf of other members of the committee, I indicate how much we appreciate the contribution made by our secretary, Mr Guy Dickson, and our Research Officer, Geraldine Sladden. In relation to Geraldine, I want to say that the quality of the reports she has put forward to a couple of committees I have chaired recently have been extraordinary, and I compliment her on that.

In conclusion, as I think I said earlier, this committee has worked in a very bipartisan manner. I think all members of the committee are very keen that this industry goes forward for the benefit of the respective communities where the industry is based and the state as a whole.

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

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

Adjourned debate on motion of Hon. R.P. Wortley:

That the 28th report of the committee be noted.

(Continued from 15 July 2009. Page 2884.)

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: HEALTH DEPARTMENT HYPNOSIS REPORT

Adjourned debate on motion of Hon. R.P. Wortley:

That the report of the committee be noted.

(Continued from 13 May 2009. Page 2293.)

The Hon. S.G. WADE (17:15): I rise today to support the motion to note the 30th report of the Social Development Committee, entitled 'A review of the Department of Health report into hypnosis.' Due to a range of circumstances, I was not able to attend the meeting at which the report was finalised and do not agree with the thrust of the report. I do not suggest that the committee acted in any way inappropriately and appreciate that, in any event, I would have been in the minority. Yet I would like to take this opportunity to briefly make a few points.

In South Australia, the practice of hypnosis is regulated by legislation, specifically, the Psychological Practices Act 1973. Section 39 of the act restricts the practice of hypnosis to certain registered professions—that is, psychologists, medical practitioners and dentists—and under particular conditions to individual prescribed persons. The bureaucrats in the health department do not like this regulation. Conveniently, the national competition policy provided them with the opportunity to try to rid themselves of this meddlesome responsibility.

In broad terms, I consider that the national competition policy has been a major driver of economic reform in Australia for more than 15 years. However, I do not believe that economic reform should be driving our health practice. Mutual recognition of similarly qualified health practitioners is one thing; taking things out and putting things in our health tool kit is another. An NCP review of the regulation of hypnosis found that it was contrary to national competition policy. My view is that that view is wrong on two grounds.

First, section 39 allows the practice of hypnosis by people beyond the specified registered professions as individual prescribed persons. There are currently, I understand, lay hypnotherapists who are individual prescribed persons and a more active use of this power would allow competition. Secondly, as I suggested earlier, the national competition policy is a tool of economic reform and does not presume that economic considerations necessarily override other considerations. Accordingly, the NCP process itself allows for the overriding public interest. In this case, the government is trying to take competition policy too far. For competition policy to determine health practice is not in the best interests and should be opposed.

We need to decide whether it is in the interests of the citizens of this state to remove regulation of hypnosis. I do not consider that it is. Accordingly, I disagree with the first recommendation of the committee that the current legislative restrictions limiting the practice of hypnosis to certain health professions be removed on the basis of national competition policy principles.

In recommendation 2(a) the committee recommended that the Minister for Health examine the merits of other models to regulate the practice of hypnosis and hypnotherapy to determine their appropriateness and applicability to South Australia. The Minister for Health recently provided his response to the Social Development Committee recommendations. Not surprisingly, he rejected

this recommendation on the basis that he feels that the government has already examined other models and that hypnotherapy should be regulated under a regulatory framework applicable to all unregistered health practitioners.

This response is not surprising because the department has been trying to run away from hypnosis for years. It does not want to examine the merits of other models to regulate hypnosis and hypnotherapy, because it does not want to regulate the practice of hypnosis and hypnotherapy. In recommendation 2(b), the committee recommended that the Minister for Health introduce a new regulatory framework to cover the broad range of currently unregistered health practitioners and ensure that the practice of hypnosis and hypnotherapy falls within this framework.

This recommendation relates to the committee's work on bogus, unregistered and deregistered health practitioners. I support such a framework but see no reason why such a framework needs to replace direct regulation of practices. It can and it should complement direct regulation.

The committee recommended that restrictions on hypnosis should not be lifted until the new regulatory framework is in place to regulate currently unregistered practitioners. That seems to me to be an eminently sensible proposal; so sensible, in fact, that, sure enough, the minister has indicated that he does not support that comment. His response to the committee has been that there is no reason to single out hypnosis. This highlights for me a concern as to how the government is perceiving the committee's recommendations in another report, being the report in relation to the regulatory framework for currently unregistered health practitioners.

It is not my view that the framework that the committee proposed in that context will be so tight and effective that we can assume that no other regulation will ever be needed. I think it is quite conceivable that health authorities in the future, faced by unsafe practices of unregistered health practitioners, not only will want to take action against the unregistered health practitioners but they may also seek to control access or even prohibit access to the tools used by unregistered health practitioners.

If we accept that such a prospect is possible, the committee is not singling out hypnosis. It is simply the only tool used by unregistered practitioners that is currently regulated. I do not propose to examine in detail the case for regulation of hypnosis. I have made my position on it clear, nonetheless. The fact is that we have a law that provides regulation that this government is currently trying to remove and we will have that debate when we consider that bill. I simply note, however, that the department report acknowledges that there are known harms from hypnosis.

Nobody is suggesting that the practice of hypnosis does not involve a risk of harm particularly when, disingenuously, the department report puts to one side the use of stage hypnosis, an area which the report itself refers to as having a particularly high potential for harm. In conclusion, I indicate that, while I support the motion that the report of the committee be noted, I do not support a number of the recommendations and do not support the deregulation of hypnosis.

Motion carried.

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

Adjourned debate on second reading.

(Continued from 15 July 2009. Page 2910.)

The Hon. B.V. FINNIGAN (17:22): I indicated to honourable members on a previous occasion that the government is happy to let this bill go through on the voices and reserve its position in regard to the lower house. The government does see some merit in what is being proposed but wants to further examine some of the technical details in respect of how it would be achieved, enforcement issues, and red tape compliance-related matters. The government will continue to look at those matters before the bill is transmitted to the House of Assembly for consideration. At this stage it will not oppose the bill and will allow it to go through without division; however, the government does reserve its position in relation to supporting the bill, or any amendments thereto, in the lower house.

The Hon. D.G.E. HOOD (17:23): I understand that the bill will go through on the voices, if members are in agreement. I would like to quickly clarify exactly what the bill does as well as thank a couple of people. I think members are familiar with the bill, so I will not go into great detail, but, essentially, it does two things. First, it requires that adult videos—that is, highly explicit videos—in

video stores, or places that sell or hire videos or DVDs, be kept in a separate area to non-adult (if you like) videos, and people have indicated to me that that seems to be a sensible idea. It also prohibits those types of explicit videos being played as trailers or promotional items, or being displayed as promotional items, within that same store.

I believe I outlined the many reasons for this bill in my second reading explanation but, essentially, it is my firm view that children should not be exposed to these things—under any circumstances really, but it is sometimes difficult for parents to avoid these things when they go into a video store. As a parent of a young child myself, it stood out to me as something that needed to be addressed. Hence the bill we have before us today.

I would like to quickly thank a few people, particularly the Attorney-General. I met with him to discuss this bill, and I must say that he was very cooperative and seemed genuinely interested in doing whatever could be done to facilitate its passage. I am grateful to him for that. I understand that the reality is that there are no votes in it for the government in letting minor party bills pass through the parliament, but it is a credit to him, and to those supporting him on this occasion, that he has done so. I would like to express Family First's thanks for that.

I would also like to thank the opposition, whose members have also been very cooperative on this issue. Some weeks ago the Hon. Mr Wade spoke on the bill and indicated opposition support, and Family First is very grateful for that as well. The opposition put a solid case forward and we are in sound agreement with it. I would also like to thank the Hon. Mr Finnigan for his contribution this evening.

Some people who have asked about the need for this bill have also asked whether video stores do not do this anyway. The truth is that some of them do. In fact, I wrote to all the major video chains in preparation for this bill, and I have an email here that I received from Mr. Rod Laycock, the general manager of Civic Video across Australia. I will not read it out, but in it Mr Laycock says that it is already the policy of his chain to have a separate area for adult videos, so there would certainly be no objection from that company should this become law. The point is that not all video stores do it, although I hasten to add that I have had no objections from the industry at all, despite writing to all the major and even some of the minor players seeking their input. With those few words, I look forward to the passage of the bill.

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

FISHERIES MANAGEMENT ACT

Notice of Motion/Order of the Day, Private Business, No. 32. The Hon. J.M. Gazzola to move:

That the regulations under the Fisheries Management Act 2007 concerning marine scalefish fisheries-cockle quotas, made on 16 October 2008 and laid on the table of this council on 28 October 2008, be disallowed.

The Hon. J.M. GAZZOLA (17:30): I move:

That this order of the day be discharged.

Motion carried.

CORONERS (RECOMMENDATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 July 2009. Page 2914.)

The Hon. S.G. WADE (17:31): In rising to indicate the opposition's position, I indicate that the opposition is very uncomfortable that we have not been provided with a substantive government response to this bill. Let us remember where this bill came from. It was first tabled by the Hon. Sandra Kanck at the end of October 2008, so it has been with us for 10 months. The Hon. David Winderlich took on the bill, and over the past three months he has been giving notice to members that he would like to bring it on for debate.

There has been ample opportunity for the government to form a view. In fact, the contribution from the Hon. Bernard Finnigan took only six lines in *Hansard* on 17 June. This was some eight months after the bill had been tabled. Not a word as to the implications of this bill. I understand that the government has concerns about the detail in the bill. As I understand it, it is not a fundamental disagreement about policy. If that is the case, why doesn't the government give the

courtesy to the Hon. Sandra Kanck and the Hon. David Winderlich and give a substantive response?

What's more, why doesn't the government show respect to this council so that this council has the opportunity to consider legislation with all the government's concerns? The Attorney-General might find it convenient that the house, where he does not have the majority, is not the house that has all the information; but, because he and his mate, Premier Rann, have failed in their attempt to abolish this chamber, we will be around here for quite a bit longer. They need to learn to work with members of the opposition and members of the cross benches.

It is the opposition's view that every member of this council is a democratically elected legislative councillor who deserves the respect to have their proposals properly considered. We from the opposition have had a detailed position on this matter for some time. We have been ready on every occasion, when the Hon. David Winderlich has called for a vote on this matter, to vote on it. Unfortunately, the government shows such disregard not merely to the Hon. David Winderlich but also to this council by not proffering a substantive response to the bill.

The opposition does not intend to reward the government for its insult by not progressing this legislation. We can act only on the information before us, and on the information before us we believe this bill deserves to be supported, and I now intend to outline why. The bill was initially introduced, as I said, by a former member of this place, the Hon. Sandra Kanck, and we note that her successor, the Hon. David Winderlich, is progressing the bill.

The bill seeks to amend the scope of recommendations which the Coroner is permitted to make in relation to an investigation. When considering the system of coronial inquests, it is important to remember that the purpose of these inquests is not simply to determine whether the cause of death of the subject of the inquest was due to some negligence or malpractice. Equally, coronial inquests are about identifying systemic issues and practices which led to the death and which could be addressed and thereby prevent future deaths.

There are many situations which require a coronial inquest, including: where a death occurs within 24 hours of a medical or surgical procedure or within 24 hours of discharge from a hospital; where the death occurs on a plane or maritime vessel; where the person is under some form of guardianship; and where the death occurs in custody, which includes as a result of a police pursuit. As part of the findings of the inquest, under section 25 (2) of the Coroners Act, the Coroner is entitled to make:

> ...any recommendation that might, in the opinion of the court, prevent, or reduce the likelihood of, an occurrence of an event similar to the event that was the subject of the inquest.

The problem arises in that this provision is understood to mean that the recommendations of the Coroner must directly relate to the event which is the subject of the inquest. In 2008 in the case of Saraf & Anor v Johns the Supreme Court held:

> ...the power to make a recommendation extends only to such matters as might prevent or reduce the likelihood of recurrence of a death in like circumstances.

Thus, the Coroner is not able to make more general recommendations about what we might consider systemic issues generally or recommendations relating to matters which occurred after the subject's death, only recommendations which specifically relate to the event. It is a narrow prescription which, in the opinion of the opposition, undermines one of the key purposes of a coronial system; that is, preventing similar events. Rather than addressing the causes or the roots of the event, it targets what I would call the last line of defence.

This is an issue that I came across frequently in my previous responsibility as shadow minister for correctional services. In the portfolio of correctional services I had cause to look at the findings of several coronial inquests into deaths in custody, some dating back a number of years. Due to the narrow scope permitted for coronial recommendations, they tended to focus on issues such as whether staff should carry knives to cut down prisoners who were attempting to hang themselves or whether the railings on the second floor should be higher; in that sense, very specific recommendations. Unfortunately the Coroner was not able to address some of the more systemic issues, in particular the impacts of practices such as prison overcrowding currently being experienced by our correctional services system.

Rather than trying to render it physically impossible for a prisoner to die in custody, a task which is very difficult indeed, I believe that there would be benefit from addressing the causes which might lead a prisoner to attempt suicide or lead to a death in custody. In fact, the Coroner

himself addressed this exact issue. In the findings of an inquest into the death of a prisoner in Yatala, the Corner observed:

> A basic problem is that the chronic over-crowding in South Australian prisons requires multiple occupation of cells. I agree that it is highly inappropriate that prisoners who have a communicable disease should be 'doubled up' with prisoners who do not. The health risks are obvious. If a prisoner does develop a communicable disease as a result of this process, then the department will have to bear the consequences. In this particular case, however, I am unable to find that Marshall Carter died as a result of this policy. I am therefore unable to make a recommendation pursuant to section 25(2) of the Coroners Act on this topic.

We are well aware of the overcrowding crisis in South Australia's prisons and the effects this has on the security and safety of our prison staff and prisoners, yet the government continues to deny the existence of this crisis.

Clearly, the government is not willing to listen to the comments and observations of our judiciary and magistracy, but maybe it would be forced to take notice of a coronial inquest which has the power to make recommendations. This is a prime example of the value of this bill in allowing the Coroner to make recommendations relating to systemic causal issues as well as specific 'front line' issues. In the findings of a coronial inquest handed down in 2004, the Coroner specifically stated:

> ...the Coroner should have the power to make recommendations about issues which are incidental to a death rather than...causally relevant to it. In several states of Australia Coroners now have that power. That power does not exist in South Australia...

I pause there to reflect on the implications that that statement has for the excuse given by the Hon. Bernard Finnigan for the government's failure to address this bill. When the council last addressed this matter on 15 July, the Hon. Bernard Finnigan said this as one of the reasons that the government has not addressed the bill:

> I indicated that the government was consulting the Coroner and, without further information, we would be opposing the bill as it stands.

The Coroner has already made his position clear. It was on the record in 2004. Another example relates to the inquest which was the subject of the Supreme Court ruling which I mentioned earlier. In this case, following the death of an elderly lady in a nursing home, a resident doctor signed a death certificate for the lady and she was cremated before a post mortem examination could be made, hampering the later coronial inquest.

The Coroner made recommendations designed to prevent such a situation occurring again but, because they related to events after the death, the Supreme Court ruled that they were beyond the Coroner's power. Following this event, the Coroner again raised his concerns as to the narrow scope in which he is permitted to make recommendations in his 2007-08 annual report, where he stated:

> In my opinion, it would be desirable to amend the Coroners Act 2003 to extend the power to make recommendations to include those relating to the administration of justice.

The Coroner also observed that several other jurisdictions have the power to make recommendations beyond the narrow scope provided in South Australia. So, here we have several clear statements from the Coroner that he considers that the scope of coronial recommendations should be expanded, as is proposed by this bill. The opposition respects the opinions expressed by the Coroner and we consider that the calls for change should be supported.

The bill also seeks to address a second issue, which is: what happens to the recommendations after they have been made? Currently, once the Coroner has handed down his findings, the Attorney-General, or another responsible minister, must, within six months, prepare and table a report outlining any actions taken or response to the recommendations of the inquest. The issue then ends there.

Under the bill before us, the Coroner would be granted additional authority to require a supplementary report from the minister that addresses any matter that the Coroner considers necessary arising out of the original report. The minister must then prepare and table the requested supplementary report within three months of the request. This provision for the requirement of supplementary reports seems a sensible measure which builds on the objective of the coronial system to prevent similar deaths occurring.

If we are serious about preventing future notifiable deaths, whether they be deaths in custody, deaths as a result of a medical procedure or otherwise, we need to take the recommendations of the Coroner seriously. The opposition believes that, even without the benefit

of the illumination that might have been offered by the government, this bill is a practical step to strengthen the coronial process and, accordingly, we support the bill and look forward to its progression through the remaining stages.

In conclusion, I indicate our disappointment that the government did not see fit to engage in the legislative process in this chamber. The opposition, of course, will give due consideration to any government amendments in the other place and in due course consider them in this place.

The Hon. DAVID WINDERLICH (17:43): I thank the Hon. Bernard Finnigan and the Hon. Stephen Wade for their contributions. I think the Hon. Stephen Wade summed up the logic of the bill very well. To begin with, he made some comments about the insult that the government essentially issued by not giving a substantial response to this bill. I am not particularly worried about being insulted; I will survive. I also think that my predecessor, the Hon. Sandra Kanck, has a pretty thick hide and she will survive.

The real issue of consequence in this case is that we are talking about matters of life and death. We are talking about giving the Coroner an additional capacity to make recommendations that could save lives and could identify systemic flaws that lead to deaths in the future, and if those flaws are identified then those deaths could be prevented. So, I think the real insult is actually much more important in that it is to anyone who in the future might die because the Coroner's range of powers are unduly narrowed, for reasons which are not quite clearly explained by the government.

The other thing to keep in mind is that this decision to not make a substantial response to what I think is a very practical but important set of recommendations is from a minister who was fond of issuing challenges to my predecessor, such as, if anyone were to die of an ecstasy overdose, their relatives should be apologised to. So, that is the pedigree—matters of life and death are used to score political points but, when there is an opportunity to make a very simple and practical reform to our coronial system, it somehow does not even warrant a proper response.

In relation to the government's response, such as it is, the Hon. Bernard Finnigan raised a couple of issues. He said that he was concerned about the time frame in which a report was required to be tabled under these amendments. It involves a minister having eight sitting days or three months to table a supplementary report for both houses to address the matters raised by the Coroner and to forward a copy of a supplementary report to the state Coroner.

If the government were genuinely constructive about this, and if it wanted to discuss amending the time frame, I would certainly be open to that suggestion. I have had no such indication and no such approach. The Hon. Bernard Finnigan indicated that the government would not support the bill unless it had a chance to consult with the Coroner. It has now had almost three months to consult with the Coroner but, clearly, this matter of life and death is not particularly urgent. Given that it is a fairly simply matter on which to consult, the only explanation is that the government had no intention to do so.

The government is apparently concerned about the additional financial resources that may be incurred as a result of a broader investigative scope. In general terms, it is often cheaper to deal with concerns as they occur, rather than wait for them to escalate into an endemic problem. I question how you could justify opposing the changes on the basis of potentially higher costs when there is the potential to save lives.

Justifying opposition changes on these grounds leaves the government open to criticism later down the track when it is inevitably found to have ignored or restricted advice from the Coroner that resulted from an investigation. The Coroner could very well end up investigating deaths that would otherwise be prevented if they had the ability to make wider recommendations in the first instance.

Another key point is that the government uses the word 'may', in that there 'may be' additional financial resources required. Clearly, it could not be bothered even to check and quantify whether or not this process would be more expensive.

In conclusion, I think that the bill is very practical, it is very simple and it has the potential to save lives. It is hard to find a reason not to support such a bill, and it is impossible to think why these proposals do not merit a considered response from the government. However, the only reason I can think of is that in some ways this is an accountability measure.

The fact that reports from a state Coroner have to be tabled within a certain amount of time and come back into parliament means that the recommendations do not just disappear into the

ether, so in some sense the government is held accountable. That is the only possible objection I can think of.

This brings me back to yet another phrase of which the Attorney-General and the government are fond, 'If you have nothing to hide, you have nothing to fear.' I think it is very disappointing that this did not get a considered or coherent response from the government, and it is disappointing that it will not be supported.

I look forward to the support of other members of the council so that we can at least make the point that this is worthy of support and put the onus of the refusal of very simple practical improvements in our coronial system back where it belongs—on the government.

Bill read a second time.

SERIOUS AND ORGANISED CRIME (CONTROL) (CLOSE PERSONAL ASSOCIATES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 June 2009. Page 2672.)

Order of the day discharged.

Bill withdrawn.

LIQUOR LICENSING (PRODUCERS, RESPONSIBLE SERVICE AND OTHER MATTERS) 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) (17:52): Obtained leave and introduced a bill for an act to amend the Liquor Licensing Act 1997. 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) (17:53): I move:

That this bill be now read a second time.

It is Government policy to promote a competitive business climate, responsible service and consumption of alcohol, and reduction in unnecessary red tape and cost for business within a framework of strong enforcement. The Liquor Licensing (Producers, Responsible Service and Other Matters) Amendment Bill 2009 is a reflection of that policy.

A survey of the holders of producer's licences conducted by the Liquor and Gambling Commissioner and the SA Wine Industry Association identified various proposals to ensure that the licence keeps pace with the growth of the wine industry, changes in structure, grape supply, production practices and new business models including capturing and catering to tourist markets.

Currently, the Liquor Licensing Act 1997 allows the holder of a producer's licence to sell liquor that is their own product, and to sell or supply liquor for sampling. The bill provides for amendments to the act that will benefit the holders of a producer's licence by allowing liquor other than their own product to be provided as a sample in comparative tastings, and to be offered to consumers in a designated dining area. This initiative will encourage further educational and innovative experiences to be developed at the cellar door. It will also enable a producer to provide a complete dining experience without the requirement to hold both a producer's licence and an additional licence to sell other types of liquor for special functions. This should reduce red tape and cost for business.

The bill provides that 'an amount of liquor of a particular kind will not be considered to be a sample if it exceeds the prescribed amount for that kind of liquor'. The 'prescribed amount' will be included in the regulations at a later date following consultation with industry.

Currently, a licence may only relate to one licensed premises. The bill provides that, in the case of a producer's licence, a licensee may have up to two licensed premises approved under a single licence, one at the licensee's production premises and one elsewhere, for example in a nearby town. If a licensee does not have a production premises or does not wish to have an outlet at the production premises, the licensee will only be able to have one licensed premises. In the case of a producer of wine with production premises in a wine region, the second outlet must be in

that wine region. The region for a wine producer is determined by the wine regions defined in accordance with the Australian Wine and Brandy Corporation Act 1980.

Currently, the act does not allow two or more licence holders to operate from the same premises. The amendments will allow the holder of a producer's licence to enter into an arrangement with other producers to participate in a collective outlet. A collective outlet is the part of the licensed premises where each of the producers can sell or supply their own products. The area to be used for the collective outlet will be approved under individual producer's licences and, to the extent that premises are shared, each participating licensee would be responsible for all compliance matters and the employment of a 'responsible person' at the collective outlet. An additional licence will not be required for the collective outlet thereby reducing cost to business.

The number of producers permitted to form a collective will be determined by the licensing authority, and an application will not be approved if the number of licensees involved or the nature and extent of the trade mean that it would be better authorised by the retail liquor merchant's licence or a licence of some other category. The establishment of a collective outlet is designed to enable producers to reduce administrative, staffing and other overheads and also to assist in the promotion of tourism in various wine regions.

Currently, holders of a producer's licence cannot sell or provide samples of their product off the licensed premises unless they apply for a limited licence each time they wish to attend a local market or festival. The bill will allow producers with production premises to sell or sample their products at regional festivals and farmers markets under their producer's licence. This will effectively extend the producers retail outlet to farmer's markets and will assist to optimise tourism. The details of the markets will be endorsed on the licence and, in the case of wine, the approval will be limited to sites and events occurring within the same region as the producer's licensed premises. The licensing authority will have the power to impose conditions of licence to ensure noise and disturbance issues are addressed.

It is not intended that large festivals such as the Schutzenfest, Glendi and various food and wine festivals be included, because the nature and scale of these are such that it would be more appropriate to continue to cover them by limited licence. This will enable the licensing authority, SAPOL, local councils and organising committees to develop appropriate conditions to address noise, behaviour and safety issues—and hygiene issues, I might add. Being a former nurse, it is something that does preoccupy me, I have to say.

The bill provides the licensing authority with the power to exempt a producer from the requirement that a substantial proportion of blended wine is the licensee's own product in special circumstances beyond the control of the licensee, such as a failed crop or a fire. This will allow producers to continue to operate, reducing the financial and other impacts of the circumstances on wine production. The amount of wine that can be purchased will be limited by the licensee's own production capacity. This does not in any way diminish the effect of laws applying to the labelling or marketing of wine.

The bill amends and inserts various sections that are consequential to the amendments of section 39 and relate to the addition, removal or variation of licensed premises on a producer's licence. Previously, producers had to obtain a special circumstances licence to conduct their business if the nature of their operations was not permitted under a producer's licence within the current act. Transitional provisions are included in the bill to enable those producers to convert their licence to a producer's licence or satisfy the licensing authority that the licence could not appropriately be converted.

The act currently provides for the Liquor and Gambling Commissioner to issue codes of practice that minimise the harmful and hazardous use of liquor; and promote responsible attitudes in relation to the promotion, sale, supply and consumption of liquor. A code of practice effectively contains mandatory licence conditions.

The bill provides for the scope of the codes to be broadened to allow a code to deal with any matter designed to promote compliance with the provisions and objects of the act including: requiring staff to undertake specified accredited training; prohibiting advertising that is likely to result in the liquor having a special appeal to minors; regulating schemes for the promotion of liquor on licensed premises; preventing offensive behaviour on licensed premises (including offensive behaviour by persons providing entertainment); measures designed to minimise offence and disturbance to residents, protect the safety, health or welfare of minors, customers and staff; and ensuring public order and safety at events attended by large crowds.

The bill provides for an expansion of section 108, which relates to the sale and supply of liquor to intoxicated persons. It is currently an offence for liquor to be sold or supplied to an intoxicated person. The offence is committed by the licensee, responsible person and the person by whom the liquor is sold or supplied. The bill also makes it an offence to serve liquor to a person in circumstances in which the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.

The current defences will apply. It is a defence for bar staff if the defendant believed on reasonable grounds that the person to whom liquor was supplied was not intoxicated and for licensees and responsible persons if the defendant exercised proper care to prevent the sale or supply of liquor in contravention of the provision.

The amendments will bring the provision more into line with the approach in other jurisdictions and are designed to make it easier for licensees, bar staff and those enforcing the act to make an assessment of a person in those terms.

The act provides powers to refuse entry to or remove a person from licensed premises if the person is intoxicated or behaving in an offensive or disorderly manner. The bill provides an additional power to remove persons it is reasonable to suspect have supplied liquor, or are about to supply liquor, to an intoxicated person or to a person in circumstances where that person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.

These amendments will encourage licensees and responsible persons to take a more proactive role in managing the sale and supply of liquor on licensed premises and were refined following comments made by the industry during recent consultation.

Currently there is no provision in the act that enables the minister to ban certain liquor products that appeal to minors in the way they are packaged. For example, alcoholic milk, such as Moo Joose and alcoholic ice blocks and icy poles have been banned in other jurisdictions because of the potential for them to be confused with products that traditionally have been consumed by minors, such as flavoured milk and ice blocks.

The bill gives the Minister for Consumer Affairs the power to prohibit the manufacture, sale and supply of undesirable liquor products in South Australia if satisfied that because of its name, design or packaging the liquor is likely to have a special appeal to minors or be confused with confectionery or non-alcoholic beverage. This further supports harm minimisation as the first object of the act. Except where an exemption under the Mutual Recognition (South Australia) Act 1993 is in force, a ban on the sale of a certain product will be enforceable for a period of 12 months.

A ban can be brought into effect quickly by means of a *Gazette* notice. Such a ban expires after a maximum of 42 days. Before any permanent ban is brought into effect by means of regulations, a consultation process must be undertaken and the manufacturer, distributor or importer given the opportunity to show cause why the product should not be prohibited. Ministerial power to ban undesirable liquor products operates in the interstate jurisdictions of New South Wales, Queensland and Western Australia.

The bill provides for the expiation of certain offences. Expiation notices will only be issued for offences which are ‘clear cut' and of a less serious nature where the breach is clearly defined in law, the facts are easily verified and the evidence is non-controversial. The use of expiation notices to deal with these types of offences will enable enforcement in a quick, easy and inexpensive process without costly court action, as is currently the case. As minor offences will be diverted from the court system, this proposal will result in a reduction in the time and costs involved for the offender, the police, the Office of Liquor and Gambling and the courts. The bill provides for expiations that range from $160 to $1,200.

Currently, section 104 of the act permits a person who has brought liquor onto licensed premises for consumption with a meal provided by the licensee to take the unconsumed portion home from the licensed premises. The bill will extend this concept in order to enable a patron to remove from the licensed premises a partially consumed bottle of wine purchased on the premises. This will have a positive impact on the community as it will facilitate the responsible consumption of liquor on licensed premises.

The bill makes it an offence for a licensee to provide entertainment, unless the entertainment is provided while the licensed premises are open for the sale or supply of liquor, or

unless the licensing authority has expressly allowed entertainment to occur at other times. This is designed to ensure that licensed premises cannot be used as entertainment venues at times that have not been taken into account in relation to disturbance and noise in the neighbourhood.

Finally, the bill makes some technical amendments designed to improve the administration of the act including:

- empowering the licensing authority to release information held by the authority in whatever manner it considers appropriate, in the exercise of its absolute discretion;
- empowering the licensing authority to seek further documentation as part of the application process;
- and amending the defence provisions in section 110 to restrict requests for evidence of age to prescribed forms of identification.

I commend the bill to members. I seek leave to insert the remainder of the second reading explanation into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 4—Interpretation

A definition of sample is added to enable the regulations to limit the quantity of liquor that may be sold or supplied as a sample.

5—Insertion of section 11A

New section 11A takes the place of current section 42(1). The Commissioner's codes of practice effectively impose mandatory licence conditions. Under the new section the codes will be subject to disallowance by resolution of either House of Parliament and must be approved by the Minister. The new section lists matters that may be the subject of codes but also allows a code to deal with any matter designed to promote compliance with the provisions and objects of the Act.

6—Amendment of section 39—Producer's licence

This clause makes some significant changes to the activities authorised by a producer's licence.

Currently a producer may have an outlet located either at the producer's production premises or with the approval of the licensing authority at some other location. The new provisions allow a producer to have an outlet at both a production premises (if the producer has one) and at another location. It also allows licensees to share premises as a retail outlet for each of the licensees or as a production outlet for 1 licensee and as a retail outlet for other licensees.

Currently a producer may, if the conditions of licence so provide, offer samples of the producer's product on a part of the licensed premises approved for the purposes by the licensing authority. Under the new provisions the producer will also be able to offer samples of other liquor of the same type as the licensee's product for the purposes of comparison.

Currently a producer may, if the conditions of licence so provide, sell the licensee's product in a dining or other approved area. Under the new provisions this is, in the case of the dining area, extended to any liquor.

Currently a producer may obtain a limited licence to sell product at a market or special event. Under the new provisions standard authorisations of this nature may be included in the producer's licence by way of a producer's event endorsement.

In order to facilitate the promotion of wine in a region, the new provisions require that second outlets and events authorised for a producer of wine with a production premises in a region be located in that region.

The new provisions also allow the licensing authority to temporarily authorise a producer of wine to produce wine other than wine comprised of, or including a substantial proportion of, wine fermented by or under the direction of the licensee or a related body corporate. This may be allowed where warranted by circumstances beyond the control of the licensee.

7—Amendment of section 42—Mandatory conditions

This clause is consequential on the insertion of new section 11A.

8—Amendment of section 45—Compliance with licence conditions

The section currently relies on the penalties set out in section 132. The amendment enables the regulations to specify breaches of licence conditions that will comprise expiable offences.

9—Amendment of section 48—Plurality of licences

This clause is consequential on the amendments to section 39.

10—Amendment of section 51—Form of application

The form of an application is already a matter for the Commissioner. The amendment expressly contemplates the Commissioner requiring an application to be accompanied by particular documents or material.

11—Amendment of section 52—Certain applications to be advertised

The amendment requires a notice advertising an application to specify where and when the application and associated material may be inspected.

12—Insertion of section 52A

The new section requires the Commissioner to make material associated with an application available for inspection to a person with a genuine interest except in circumstances described in subsection (2) requiring confidentiality.

13—Insertion of section 62A

The new section clarifies that application for removal of producer's licence in respect of one outlet to another is to be dealt with in the same way as an application for the removal of the licence to premises or proposed premises under the Division (even if the licence is not removed in respect of some other outlet).

14—Insertion of Part 4 Division 4A

This new Division contains new sections 62B and 62C. Section 62B (Addition of outlets to producer's licence) provides for the addition to a producer's licence of premises or proposed premises as a production outlet or retail outlet. It mirrors the current provision of the Act (section 60) relating to the removal of a licence to premises or proposed premises. Under the provisions an outlet is assessed in the context of its construction, planning issues and disturbance to the amenity of the surrounding area. Similarly, section 62C (Certificate of approval for addition to producer's licence of proposed premises as outlet) mirrors current section 62 of the Act, albeit in relation to a production outlet or retail outlet.

15—Amendment of section 68—Alteration and redefinition of licensed premises

This amendment allows for the removal of a production outlet or retail outlet from the licensed premises without it being substituted with another outlet.

16—Insertion of Part 4 Division 8A

The new Division contemplates variation of a producer's event endorsement and is consequential on the amendments to section 39.

17—Amendment of section 97—Supervision and management of licensee's business

The amendment makes an offence comprised of a responsible person not wearing identification expiable.

18—Amendment of section 100—Supply of liquor to lodgers

The amendment makes certain offences relating to the supply of liquor to lodgers expiable.

19—Amendment of section 101—Record of lodgers

The amendment makes an offence of failing to keep records relating to lodgers expiable.

20—Amendment of section 102—Restriction on taking liquor from licensed premises

The amendment makes an offence of taking liquor away from licensed premises when this is not authorised by the licence expiable.

21—Amendment of section 103—Restriction on consumption of liquor in, and taking liquor from, licensed premises

The amendment makes an offence of purchasing or consuming etc liquor in a manner not authorised by the licence expiable.

22—Amendment of section 104—Liquor may be brought onto, and removed from, licensed premises in certain cases

Section 104 currently contemplates a person taking the unconsumed portion of BYO liquor brought for consumption with a meal away from the licensed premises. The provision is amended to require the liquor to be in the container in which it was brought onto the licensed premises. The provision is extended to enable the unconsumed portion of bottled wine purchased on the licensed premises for consumption with a meal to be taken away.

23—Amendment of section 105—Entertainment on licensed premises

The amendment makes it an offence for a licensee to use a part of the licensed premises or an adjacent area for the purposes of entertainment unless, in the case of a licence that authorised consumption of liquor on the licensed premises, the entertainment is provided while the licensed premises are open for the sale or supply of liquor for such consumption or unless the licensing authority has expressly allowed entertainment on the premises without the premises being open for the sale or supply for such consumption. The amendment also makes the offences in the section expiable.

24—Amendment of section 108—Liquor not to be sold or supplied to intoxicated persons

Section 108 makes it an offence for liquor to be sold or supplied on licensed premises to a person who is intoxicated. The amendment extends this to sale or supply to a person in circumstances in which the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.

Section 108(2) currently makes it a defence if the defendant believed on reasonable grounds that the person to whom the liquor was supplied was not intoxicated.

25—Amendment of section 109—Copy of licence to be kept on licensed premises

The amendment makes an offence of failing to display a copy of the licence expiable.

26—Amendment of section 109B—Returns

The amendment limits the expiable offence to one of failing to make an annual return.

27—Amendment of section 110—Sale of liquor to minors

Section 110 makes it an offence to sell liquor to a minor. One of the elements to a defence is that the licensee or some person acting on behalf of the licensee required the minor to produce evidence of age. The amendment requires the request to comply with the requirements of the regulations.

28—Amendment of section 113—Notice to be erected

The amendment makes an offence of failing to display a notice relating to minors expiable.

29—Amendment of section 124—Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour

Under section 124 an authorised person may remove a person from, or prevent the entry of a person onto, licensed premises if the person is intoxicated or behaving in an offensive or disorderly manner. This is extended, in line with the amendments to section 108, to any person whose speech, balance, coordination or behaviour is noticeably impaired if it is reasonable to believe that the impairment is the result of the consumption of liquor.

It is also extended to a person who it is reasonable to suspect has supplied or is about to supply liquor to another person on licensed premises in circumstances in which the other person is intoxicated or in which the other person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.

30—Amendment of section 131—Control of consumption etc of liquor in public places

Dry areas are set up under section 131. If a person in taking the unconsumed portion of a container of liquor away from licensed premises under section 104 enters a dry area and the person is prosecuted for the dry area offence the question of the lawfulness of the action under section 104 will arise. The amendment places the onus of proving that the possession was lawful under section 104 on the defendant.

31—Insertion of Part 10A

New section 131AA enables a Ministerial notice or regulations to be made declaring certain liquor to be prohibited. The Minister must be satisfied that, because of its name, design or packaging or for any other reason, the liquor is likely to have a special appeal to minors or be confused with confectionery or non-alcoholic beverage.

If the declaration is by notice it will expire after a maximum of 42 days. Before a regulation is made the Minister must give manufacturers, importers and distributors of the liquor known to the Minister at least 7 days within which to comment on the proposed regulation.

32—Substitution of section 131A

Section 131A makes it an offence for a person not to leave licensed premises when requested in certain circumstances. The provision is extended in line with the amendments to section 108 and 124.

33—Amendment of section 138—Regulations

The amendment fixes the maximum expiation fee that may be imposed by regulation.

Schedule 1—Transitional provisions

1—Conversion of special circumstances licence to producer's licence

This clause gives certain holders of existing special circumstances licences 2 years within which to seek conversion of the licence into a producer's licence or convince the licensing authority that the licence could not appropriately be so converted.

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

HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 September 2009. Page 3066.)

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) (18:09): I thank the honourable member for his contribution to the second reading debate on this most important bill and look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: In my zealous eagerness to proceed with this bill, some questions were raised during the second reading that I would like to put on record at this stage. In relation to some of the issues raised, on the matter of recreational fishing, it is acknowledged that the recreational fishing industry brings in a significant amount of money via tourism and activities in regional and rural South Australia. Since its introduction in 1996, the recreational boating facility levy has significantly improved access for this activity. However, the funding of artificial reefs is not a matter for the harbours and navigation legislation nor the proposed Facilities Fund.

In relation to the Treasurer's role in the Facilities Fund and how the moneys are to be used, the Treasurer is responsible for the manner in which the fund is to be kept. This is to ensure that the fund is properly established and meets Auditor-General and public fund accountability requirements. It does not relate to how the funds are to be applied. This is a standard provision that is used in many cases where specific funds are established—for example, section 79 of the Aquaculture Act 2001 and section 24 of the Environment Protection Act 1993.

In relation to the investment of uncommitted funds, the Minister for Transport, with the approval of the Treasurer, may invest any funds not immediately required for the purpose of the fund. This is prudent and appropriate as the Treasurer is the financial authority of the state and approval is to ensure consistency and appropriateness of any investment strategy. As the Minister for Transport said in another place, it is an investment; it does not say you can spend it on anything you want. It says that you can invest it.

The ordinary meaning of investment is somewhere to put money in order to get more than that money back over time, which is why new section 90A(3)(a) of the bill provides that the fund is to consist of the facilities levies payable on the registration, inspection or survey of vessels; and (b) income from investment of money belongs to the fund. The intention of the bill is clear. Where an act establishes a fund, it generally also includes a power to invest with the approval of the Treasurer or any other authority established for the purpose of the fund such as a statutory board. Similar provisions are found in the Rail Transport Facilitation Fund Act 2001, the Aquaculture Act 2001 and Environment Protection Act 1993.

The Minister for Transport, and not the Treasurer, may apply the fund for establishing, maintaining and improving facilities for use in connection with vessels. The fund cannot be used for any other purpose. New section 90A(6) makes the application of funds clear. The question has been raised as to how the levy is to be applied to commercial vessels. As with recreational vessels where the levy is part of an annual registration fee, the levy on commercial vessels will be part of their survey fee. New section 90A(4) of the bill provides that payment of the levy is required before a vessel's registration or survey certificate can be issued.

New section 90A(6) of the bill also makes provision for the Facilities Fund to cover administration costs. As just mentioned, the payment of the levy is tied to the registration or survey of vessels and, as such, the levy is collected at the time of payment of the registration or survey fees and before the issue of a registration or survey certificate that enables a vessel to operate on state waters. Therefore, the cost of administering the levy would be small, as no new system or systems development is necessary.

The administrative costs will cover receiving and assessing applications for funding, executive assistance to the committee, meeting audit and financial accounting reporting requirements and reporting on expenditure.

With a levy to be applied to all facility users, it is reasonable that the expenses of the fund be covered by that fund. It is worth stressing again that both recreational and commercial sectors use marine facilities and this bill is about equity. Both sectors will pay the same levy rate which is calculated according to the size of the vessel.

The new structure of recreational boating fees was announced as part of the 2008-09 budget process. While this is not related to the bill, I will respond. The changed registration facilities levy fees started on 1 July 2008 and apply according to the length and type of vessel. The result was an increase of less than $20 for the registration of more than 80 per cent of the state's 55,000 recreational vessel registrations, these being boats of less than six metres in length. The additional revenue generated is to fund a range of marine safety and marine infrastructure initiatives across the state.

The new fees structure will raise almost $8 million over the next four years to fund a range of marine safety and infrastructure initiatives, including improved radio repeater stations and 24-hour, seven day VHF marine radio coverage across the state, upgrades to navigation aids statewide and replacement patrol vessels for compliance activity.

Lastly, I foreshadow that I will be moving a minor technical amendment to the schedule to correct a reference to the Harbors and Navigation Regulations 1994 and substituting the Harbors and Navigation Regulations 2009. The 1994 regulations expired and were replaced by the 2009 regulations on 1 September 2009.

Clause passed.

Remaining clauses (2 to 7) passed.

Schedule.

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

Page 3, lines 35 and 36—Delete part 14 Division 3 of the Harbors and Navigation Regulations 1994 and substitute:

Part 15 of the Harbors and Navigation Regulations 2009

Amendment carried; schedule as amended passed.

Bill reported with an amendment.

Bill read a third time and passed.

STATUTES AMENDMENT (PROPERTY OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 8 September 2009. Page 3069.)

The Hon. D.G.E. HOOD (18:19): Until recently we had some 43 specific sections containing different offences for the damaging of property and causing arson. These are provisions inherited from the Imperial Malicious Damage Act 1861—a long time ago—which lasted in this state right up until 1986.

It was an unusual scheme in that there were different offences and different penalties depending on the type of object that was destroyed. There were different offences depending on whether the object destroyed was a house, for example, or a tent, a stable, a coach house, an outhouse, a warehouse, an office, a shop, a mill, a malt house–and on it goes. Even various types of different crops had different offences, whether they be hay or corn, grain or cultivated vegetables, wood, etc.

This has been remarked on elsewhere in other second reading contributions in this place. The Criminal Law Consolidation Act amendment (No. 90 of 1986) replaced all those different offences with a much simpler regimen found in sections 84 and 85. The specific offences were replaced by a general regimen of offences relating to property damage as a whole, and the government argues that the offence and penalty structure implemented in 1986 is still not optimal.

Indeed, the government is critical that the section offers different penalties depending on the value of the property damaged or attempted to be damaged. South Australia is unique in applying different penalties depending on the value of property damaged, and our approach has been criticised by the Model Criminal Law Officers Committee.

One example given to illustrate the problems inherent in offering different penalties dependent on the value of the property damaged was a man setting fire to a single tree resulting in a whole forest catching fire. Another example focused on a person with no knowledge of art causing damage to two paintings, one of which is priceless. On the current rules he would face a minor summary offence for the low value piece of art and a District or Supreme Court hearing for the other one, even though he may not have been able to tell the difference between them. It is quite an unusual situation indeed.

Because of the current regimen, I understand that a youth who burned down the Seaford Primary School in about 2002 ended up being convicted only for burning down a clothes locker despite the fact that the whole school burnt down, apparently because that was the only intent that could be proven. That does not make much sense to me.

I am aware of another case dealt with by the District Court several years ago, a southern suburbs case, in which a defendant was charged with burning down the house of a former partner. In fact, the evidence was that he set fire to the bed in which she allegedly had an affair and, unfortunately, the flames took hold. The question therefore is: was it his intention to burn just a bed or the whole house?

The truth is that fire is so unpredictable that it is unreasonable to assume that an offender can accurately calculate the amount of damage that flames will do once they take hold, and it is no doubt inappropriate to put too much weight on the final damage figure that may result from the fire caused by a particular defendant. Intent is the issue, surely.

I still have several concerns regarding the drafting of this bill, and I am surprised that proposed section 6(3) provides that the penalty for damaging property other than by fire or damaging property other than buildings or motor vehicles by fire is imprisonment for 10 years. Nevertheless, in proposed section 6(4), the offence of threatening to damage—so not actually damaging, but threatening to damage—in its aggravated form carries imprisonment for 15 years.

The bill would bring into effect a strange situation in which the penalty for the threat can be more than the penalty applied for the actual act of setting fire to the property. This seems unclear to me. As the member for Goyder pointed out in another place, the bill also results in a penalty for threatening to commit arson at 15 years' imprisonment being greater than the penalty for threatening to kill someone which is actually 10 years' imprisonment.

Even putting those inconsistencies aside, the bill also appears to leave in place section 85B of the Criminal Law Consolidation Act which provides for a maximum 20 year penalty for setting a bushfire. I find it difficult to understand that arson of a house or a motor vehicle results in life imprisonment under this bill while setting a bushfire that may consume dozens of houses results in a lesser maximum penalty, being 20 years' imprisonment. This seems to me to be clearly inconsistent.

I will place a question on notice to the minister as to whether there has been any thinking as to better contextualising the penalties in this bill, or maybe the government has a reason why it believes this is appropriate. If so, I would certainly be interested in hearing that. Perhaps the minister would be kind enough to address that during the appropriate stage of the committee. With that being said, Family First is certainly happy to support the general thrust of this bill despite the fact that it does appear to have some inconsistencies. I look forward to the committee stage of the bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (18:24): I thank honourable members for their contributions to this important bill. The Hon. Mr Wade is, I believe, right: this is, at base, a straightforward reforming measure. The Hon. Mr Winderlich asked two questions. First, he asked why it is that special attention is paid to criminal damage caused by fire and explosives. It has always been so. The reason lies in the threat that damage by fire and explosives posed in closely inhabited towns centuries ago. One need only draw to mind the Great Fire of London. Blackstone's Commentaries states:

Arson, ab ardendo, is the malicious and wilful burning of the house or outhouse of another man. This is an offence of very great malignity and much more pernicious to the public than simple theft: because, first, it is an offence against that right of habitation, which is acquired by the law of nature as well as by the laws of society; next, because of the terror and confusion that necessarily attend it; and lastly, because in simple theft the thing stolen only changes its master, but still remains in esse for the benefit of the public, whereas by burning the very substance is absolutely destroyed. It is also frequently more destructive than murder itself, of which too it is often the cause: since murder, atrocious as it is, seldom extends beyond the felonious act designed; whereas fire too frequently involves in the common calamity persons unknown to the incendiary, and not intended to be hurt by him, and friends as well as enemies. For which reason the civil law punishes with death such as maliciously set fire to houses in towns, and contiguous to others; but is more merciful to such as only fire a cottage or house standing by itself.

Secondly, the Hon. Mr Winderlich asked why the maximum penalty for arson is life imprisonment. The answer lies partly in what has gone before. Because of the severity with which the old law treated arson, the penalty was death. When in the early 1800s the death penalty was removed from any offences (such as rape, forgery, counterfeiting and the like), it was also removed from arson. But the heat of the debate was about the death penalty, so the remedy in each instance was to substitute life imprisonment. That is why we still have it for rape, for example, and, for the same reason, arson. No government in this state has yet seen fit to reduce the maximum penalty applicable to arson.

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

FIRE AND EMERGENCY SERVICES (REVIEW) AMENDMENT 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) (18:29): 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 purpose of the *Fire and Emergency Services (Review) Amendment Bill 2009* is to amend the *Fire and Emergency Services Act 2005* to incorporate recommended legislative changes emanating from three bodies of work that relate directly to or impact on the Fire and Emergency Services Sector.

The *Fire and Emergency Services Act 2005*, creating the South Australian Fire and Emergency Services Commission and incorporating the previous Acts governing the Metropolitan and Country Fire Services and the State Emergency Service, was passed in Parliament and assented to in October 2005.

When the Act was assented to in 2005, it specified that the Minister must cause the operation of the legislation to be reviewed after the 2-year anniversary of its commencement. On 1 October 2007 the review of the Fire and Emergency Services Act commenced.

Mr John Murray, a former Assistant Police Commissioner South Australian Police, and Deputy Commissioner Australian Federal Police, was appointed to conduct the review.

The reviewer made 49 recommendations, which have been analysed and, after taking into account the views of sector stakeholders, responded to by the government. Some of the recommendations require legislative change while others relate to changes in practice and administrative policy.

In addition, this Bill contains proposed amendments arising from the recommendations of the Ministerial Review of Bushfire Management in South Australia and the recent work undertaken after the Coronial Inquest into the Wangary Fires to bolster fire prevention and mitigation strategies and compliance.

The Bill proposes the following changes:

The South Australian Fire and Emergency Services Commission Board is to be expanded and voting rights be given to all members. The newly constituted board will comprise of the presiding member being the SAFECOM Chief Executive, the three respective Chief Officers of the Emergency Services Organisations, two Ministerial appointments, one CFS Volunteer Association nominee, one SES Volunteer Association nominee and one United Fire-fighters Union nominee. This constitutes a total of nine members with deputy members to act as proxies

The role of the SAFECOM Board is to be more focussed on strategic responsibilities for the whole sector and less concerned with the day-to-day administration of the Commission. This will become the responsibility of the Chief Executive in a manner more consistent with other government agencies and departments.

The general view of the emergency services sectors key stakeholders is that the sector has matured and does not require two formal Boards. Accordingly, a sector advisory committee that reports directly to the SAFECOM Board is proposed to replace the Statutory Advisory Board. The Volunteer Associations and the Fire-Fighters Union, who are key stakeholders in the current Advisory Board, support this approach.

The current three-tiered bushfire committee structure will be condensed to a two-tiered structure. A State Bushfire Co-ordination Committee is to be established. This committee will have the power to recommend to the Governor the establishment of bushfire management areas. It will also be given the responsibility to establish a bushfire management committee for each designated area to undertake bushfire management and planning functions.

Bushfire and fire prevention powers and procedures in both the metropolitan and regional areas have been amended to place increased responsibility on owners of land to prevent or inhibit the outbreak of fire. The legislation will also recognise that bushfire risks may extend into SAMFS areas, by establishing a scheme under which the Commission may identify urban bushfire risk areas. Various controls and responsibilities traditionally associated with CFS areas will extend to these designated urban bushfire risk areas.

The sometimes costly and protracted process of appeals for disciplinary matters within SAMFS has been removed from the District Court to the jurisdiction of the Industrial Relations Commission.

The Local Government Association has been an advocate for flexibility in the amount of resources that councils can attribute to the risk factor of fire in their districts and this has been addressed through amendments relating to council fire prevention officers.

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 *Fire and Emergency Services Act 2005*

4—Amendment of long title

This clause amends the long title of the principal Act, to provide further clarification of the role of the South Australian Fire and Emergency Services Commission.

5—Amendment of section 3—Interpretation

This clause amends definitions used in the principal Act. Of particular note is the amendment to the definition of *officer*, with the designation of officers now to be done by the Chief Officer of the relevant emergency service.

6—Insertion of section 4A

This clause will facilitate a new scheme to designate areas of urban bushfire risk. The Commission will be required to undertake a consultation process before such an area is established.

7—Amendment of section 8—Functions and powers

This clause amends section 8 of the principal Act to clarify the role of the Commission in respect of its strategic role in emergency management.

8—Amendment of section 10—Establishment of Board

This clause amends section 10 of the principal Act to provide guidance in respect of the responsibilities of the Board in terms of the Board's management of the Commission.

9—Amendment of section 11—Constitution of the Board

This clause amends section 11 of the principal Act, changing the makeup of the Board by adding 1 additional member who is to be a person nominated by the UFU. The clause also corrects an obsolete reference.

10—Amendment of section 14—Proceedings

This clause amends section 14 of the principal Act to change the quorum of the Board from 4 to 5 to reflect the change in numbers on the Board, and further provides that all members may now vote at Board meetings, rather than simply the *ex officio* members (that is, the Chief Officers and the CE of the Commission) as is currently the case.

11—Repeal of section 15

This section deletes section 15 of the principal Act, as the relevant conflict of interest provisions are now to be found in the *Public Sector Management Act 1995*.

12—Amendment of section 16—Chief Executive

This clause amends section 16 of the principal Act to clarify the role of the Chief Executive of the Commission.

13—Insertion of section 17A

This clause inserts new section 17A into the principal Act. That section requires the CE of the Commission to submit a workforce plan to the Commission at least once each year for approval. Appointments of staff to the Commission must then only be done in accordance with the plan. This brings the staffing arrangements of the Commission into line with the emergency services.

14—Substitution of Part 2 Division 5

This clause substitutes Part 2 Division 5 of the principal Act, in effect abolishing the Advisory Board and committees established under that Division. In their place, the Commission will be required to establish a committee to advise the Commission in respect of matters pertaining to employees and volunteers of emergency services, with the capacity retained to refer any other matter to the committee for advice.

15—Amendment of section 42—Powers

The amendments to section 42 will facilitate greater coordination between SAMFS firefighters and the management of key classes of land—especially government reserves—in fighting certain classes of fire. The amendments 'mirror' the arrangements that already apply under section 97 of the Act in relation to the SACFS.

16—Amendment of section 48—Suspension pending hearing of complaint

This clause makes a consequential amendment to section 48 of the principal Act to reflect the fact that complaints may be determined by the Industrial Relations Commission rather than the District Court.

17—Amendment of section 49—Appeals

This clause amends section 49 of the principal Act to require appeals to be made to the Industrial Relations Commission rather than the District Court.

18—Amendment of section 50—Representation of parties

This clause makes a consequential amendment to section 50 of the principal Act to reflect the fact that proceedings will be before the Industrial Relations Commission rather than the District Court.

19—Amendment of section 51—Participation of assessors in appeals

This clause makes a consequential amendment to section 51 of the principal Act to reflect the fact that proceedings will be before the Industrial Relations Commission rather than the District Court.

20—Repeal of section 56

This clause repeals section 56 of the principal Act, as the substance of the section has been moved to section 105F in proposed Part 4A (inserted by this measure).

21—Amendment of section 68—Establishment of SACFS

This clause amends section 68 of the principal Act to allow the Chief Officer of the SACFS alone to set out requirements attaching to constitutions of SACFS organisations. The clause also deletes the express consultation requirements in relation to proposed dissolutions of SACFS organisations, with the consultation requirements to be shifted to the regulations.

22—Amendment of section 69—Country Fire Service Volunteers Association

This clause amends section 69 of the principal Act to correct an obsolete reference.

23—Substitution of Part 4 Division 7

This clause substitutes Division 7 of Part 4 of the principal Act as follows:

Division 7—Fire prevention authorities—country areas and urban bushfire risk areas

Subdivision 1—State Bushfire Coordination Committee

71—State Bushfire Coordination Committee

This clause establishes the State Bushfire Coordination Committee, and sets out procedural requirements in relation to the committee.

71A—Functions of the State Bushfire Coordination Committee

This clause sets out the functions of the State Bushfire Coordination Committee. The clause also provides that SACFS is to provide an Executive Officer for the committee, and further that the committee is subject to the general direction and control of the Minister.

71B—Power of delegation

This clause provides a standard power of delegation for the State Bushfire Coordination Committee.

71C—Use of facilities

This clause provides that the State Bushfire Coordination Committee may use the staff, equipment and facilities of certain bodies.

71D—Validity of acts

This clause provides that an act or proceeding of the State Bushfire Coordination Committee is valid despite a vacancy in its membership or a defect in the appointment of a member.

71E—Annual reports

This clause requires the State Bushfire Coordination Committee to provide an annual report to SACFS.

71F—Specific reports

This clause enables the Minister or the Commission to require the State Bushfire Coordination Committee to provide reports on specified matters.

Subdivision 2—Bushfire management committees

72—Establishment of bushfire management areas

This clause enables the Governor to divide the State into bushfire management areas. Such division may only occur on the recommendation of the State Bushfire Coordination Committee, which must have regard to specified matters when formulating the recommendation.

72A—Establishment of bushfire management committees

This clause requires the State Bushfire Coordination Committee to establish a bushfire management committee for each bushfire management area in the State.

The clause provides that the bushfire management committee will have the composition determined by the State Bushfire Coordination Committee, and makes procedural provisions relating to the committees.

72B—Functions of bushfire management committees

This clause sets out the functions of the bushfire management committees. The clause also provides that SACFS is to provide an Executive Officer for each committee, and further that the committee is subject to the general direction and control of the State Bushfire Coordination Committee.

72C—Power of delegation

This clause provides a standard power of delegation for bushfire management committees.

72D—Use of facilities

This clause provides that a bushfire management committee may use the staff, equipment and facilities of certain bodies.

72E—Validity of acts

This clause provides that an act or proceeding of a bushfire management committee is valid despite a vacancy in its membership or a defect in the appointment of a member.

Division 7A—Bushfire management plans

73—State Bushfire Management Plan

This clause requires the State Bushfire Coordination Committee to prepare and maintain a plan to be called the *State Bushfire Management Plan*.

The clause sets out what must be in the plan, and provides for a 4-yearly review of the plan by the committee. It also sets out procedures in respect of consultation on the proposed creation or amendment of the plan. The public are also to be given an opportunity to inspect any proposed plan and certain amendments and to make submissions in respect of the proposal.

The plan must be approved by the Minister before it has effect, who must consult with the Chief Officer of SACFS before doing so.

73A—Bushfire Management Area Plans

This clause requires each bushfire management committee to prepare and maintain a *Bushfire Management Area Plan* for its area.

The clause sets out what must be in a plan, and provides for reviews of the plan by the relevant committee. It also sets out procedures in respect of consultation on the proposed creation or amendment of the plan. The public are also to be given an opportunity to inspect any proposed plan and certain amendments and to make submissions in respect of the proposal.

The plan must be approved by the State Bushfire Coordination Committee before it has effect.

24—Amendment of section 78—Fire danger season

This clause makes a consequential amendment to section 78 of the principal Act.

25—Amendment of section 79—Fires during fire danger season

This clause amends section 79 of the principal Act to delete the expiation fee provision for contravention of the section, which will be shifted to the regulations. This clause also deletes the circumstances in which a fire may be lighted or maintained in the open air, which will also be shifted to the regulations.

26—Amendment of section 81—Permit to light and maintain a fire

This clause amends section 81 of the principal Act to allow an application for a permit to light and maintain a fire to be made in a manner and form determined by the Chief Officer of SACFS. The clause also allows the regulations to establish a scheme for the review by the Commission of a decision to revoke a permit.

27—Repeal of Part 4 Division 8 Subdivision 5

This clause repeals sections 83, 84 and 85 of the principal Act. The relevant provisions are to be recast and will appear as part of proposed new Part 4A—Fire prevention.

28—Repeal of section 88

This clause repeals section 88 of the principal Act (dealing with fire extinguishers in caravans), with the requirements under that section to be shifted to the regulations.

29—Amendment of section 89—Restriction on the use of certain appliances etc

This clause amends section 89 of the principal Act to delete the expiation fee provision, which will be shifted to the regulations.

30—Repeal of section 90

This clause repeals section 90 of the principal Act (dealing with burning objects and materials), with the requirements under that section to be shifted to the regulations.

31—Amendment of section 91—Duty to report unattended fires

This clause amends section 91 of the principal Act to expand the list of government officers to whom an unattended fire can be reported.

32—Repeal of section 92

This clause repeals section 92 of the principal Act, as the substance of the section has been moved to section 105C in proposed Part 4A (inserted by this measure).

33—Insertion of section 95A

This clause inserts new section 95A of the principal Act to clarify that nothing in Part 4 Division 8 of the Act limits or prevents requirements or prohibitions under the Act from applying at any time.

34—Amendment of section 101—Annual reports

This clause makes a consequential amendment to section 101 of the principal Act in relation to annual reporting of the activities of the State Bushfire Coordination Committee and the bushfire management committees established under the Act as amended by this measure.

35—Insertion of Part 4A

This clause inserts a new Part 4A into the principal Act, consolidation requirements and powers in respect of fire prevention.

Part 4A—Fire prevention by owners of land etc

Division 1—Interpretation

105A—Interpretation

This clause defines terms used in the Part. In particular, it sets out who are authorised persons in relation to particular land.

Division 2—Fire prevention officers

105B—Fire prevention officers

This clause requires each council that is a rural council or that has a designated urban bushfire risk area within its area to appoint at least 1 fire prevention officer. In doing so, the council must take into account any policy developed by SACFS for the purposes of the proposed section. A fire prevention officer must be suitably qualified or experienced.

105C—Functions of fire prevention officers

This clause sets out the functions of fire prevention officers.

105D—Delegations

This clause provides a power of delegation for fire prevention officers.

105E—Reports

This clause enables the State Bushfire Coordination Committee, or a relevant bushfire management committee, to require a fire prevention officer to provide reports on specified matters.

Division 3—Duties to prevent fires

105F—Private land

This proposed section imposes a duty on owners of private land—

(a) to prevent or inhibit the outbreak of fire on the land; and

(b) to protect the land from the spread of fire through the land; and

(c) to protect property on the land from fire.

Failure to comply with the duty can result in a $5,000 fine.

The clause sets out procedural matters in relation to determining whether a person has complied with the duty, and, most notably, deems compliance with a code of practice prescribed under the section to amount to compliance with the duty. Conversely, failure to comply with a code will be taken (in the absence of proof to the contrary) to be a failure to comply with the duty.

The clause also provides that an authorised person can require an owner to take certain action (and, in doing so, the authorised person must comply with guidelines published by the Minister). Failure to comply with the notice will result in a fine of up to $10,000.

105G—Council land

This section replaces section 83 of the principal Act. It will apply to council land in the country or in a designated urban bushfire risk area.

105H—Crown land

This section replaces section 84 of the principal Act. It will apply to land under the care, control or management of a Minister or an agency or instrumentality of the Crown if that land is situated in the country or in a designated urban bushfire risk area.

Division 4—Related provisions

105I—Additional provision in relation to powers of authorised persons

This clause sets out powers of authorised persons in respect of the administration, operation or enforcement of this proposed Part.

If an owner of land refuses or fails to comply with the requirements of a notice under proposed section 105F, an authorised person may proceed to carry out those requirements, with the costs of doing so recoverable from the owner. No compensation may be claimed by or on behalf of the owner in respect of action taken under the proposed section.

105J—Review by Chief Officer

This clause confers a right of review by the Chief Officer of SAMFS or SACFS on a person given a notice under proposed section 105F(5).

36—Amendment of section 116—SASES units

This clause amends section 116 of the principal Act to allow the Chief Officer of the SASES alone to set out requirements attaching to constitutions of SASES units. The clause also deletes the express consultation requirements in relation to proposed dissolutions of SASES units, with the consultation requirements to be shifted to the regulations.

37—Amendment of section 127—Protection from liability

This clause makes a consequential amendment to section 127 of the principal Act.

38—Amendment of section 148—Regulations

This clause amends section 148 of the principal Act to insert a standard regulation making power to adopt codes and standards etc by reference.

39—Repeal of section 149

This clause deletes a spent provision.

40—Amendment of Schedule 1—Appointment and selection of assessors for appeals under Part 3

This clause amends Schedule 1 of the principal Act to reflect the fact that matters are to be heard in the Industrial Relations Commission rather than the District Court.

41—Repeal of Schedule 3

This clause deletes Schedule 3 from the principal Act, the relevant provisions having been deleted from the Act by this measure.

42—Repeal of Schedule 4

This clause deletes Schedule 4 from the principal Act, the relevant provisions having been deleted from the Act by this measure.

43—Amendment of Schedule 5—Regulations

This clause amends Schedule 5 of the principal Act to make it clear that the regulations can be made to regulate or prohibit any activity, practice or act, or the use of any plant, equipment, apparatus or device. This is to enable certain matters to be shifted from the Act to the regulations. The clause also inserts a regulation-making power to make regulations of a saving or transitional nature following the amendment of the Act (including by this measure) and increases the maximum penalty available under the regulations to $10,000.

Schedule 1—Transitional provisions

1—Transitional provisions

This Schedule makes transitional provisions in relation to the measure by stating that certain amendments effected by the measure do not affect proceedings instituted before the commencement of the clause.

The clause also preserves any right of appeal in existence before the commencement of the clause by deeming the right to be a right of appeal under the Act as amended by the measure.

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

LEGISLATIVE REVIEW COMMITTEE

The House of Assembly appointed the Hon. I.F. Evans to the committee in place of Mrs Redmond.

At 18:30 the council adjourned until Thursday 10 September 2009 at 11:00.