LEGISLATIVE COUNCIL

Thursday 24 September 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:02 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:03): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

STATUTES AMENDMENT (COUNCIL ALLOWANCES) BILL

Adjourned debate on second reading.

(Continued from 8 September 2009. Page 3075.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:04): I rise on behalf of the opposition to speak to this bill. Members would be aware that this bill establishes a mechanism by which the Remuneration Tribunal will now set allowances for councillors and for mayors. Currently, councils determine on an annual basis the allowances for councillors; and it can be a figure up to $15,000 and a mayor may receive up to $60,000. I think that most members in this place have had some contact with local government; it may be through family members and some members have been on local government.

This bill does reflect genuine concern in the community about the need to recompense people who serve their community at the local government level. From my personal experience, my father spent 20 years as a councillor and then as chairman of the Tatiara District Council. He often made the comment that he was able to do that only because he had two sons who were able to carry on the farm work while he was away.

Often a council meeting would be on when we were shearing, so we would all be working twice as hard to cover him for the day that he was not there. It is interesting because a senior regional bank manager who once came through Bordertown made the comment to me that you could tell that the people in a rural community with the biggest overdrafts—often without looking at their bank accounts—were the people most active in community activities and on councils because of their personal sacrifice. Obviously, it was a passion they had for serving their community, but clearly it came at a personal cost to them.

The opposition supports the general thrust of this bill, which does suggest that the Remuneration Tribunal will look at council allowances as they are today and, when this is proclaimed, set appropriate allowances for councils. The bill proposes to offer a CPI increase every three years and once every four years. Therefore, once every term the Remuneration Tribunal will review its initial decisions.

While we support the general thrust of the bill (and the opposition has some amendments on file that it will move), we think it is reasonable for the Remuneration Tribunal to set the allowances at what we will call the base rate, or the new starting point, and then not have a CPI increase but allow councils to apply to the Remuneration Tribunal on an annual basis, for instance, or once every two years or every four years (or maybe a different time frame). Obviously, one would hope that a council would not be going back every six months to do so, and our amendments indicate that the Remuneration Tribunal is not obliged to consider a request from a council if, in the opinion of the Remuneration Tribunal, it has come back in too short a time.

I have a question for the minister that I wish to put on the record. Is it envisaged that the councils will apply individually or is it envisaged that they will group together as councils of a certain size (say, in land area, rate revenue or the number of ratepayers) so that the tribunal is not deliberating over all 69 councils? I would like some clarification on that. Also, with respect to the cost, I note that in the minister's second reading explanation she said:

From the opposition's point of view there remain some concerns about the advertising activities undertaken by the tribunal and the cost which would be recovered from the LGA.

We would like some details of the expected cost and also of the deliberations of the Remuneration Tribunal and its services. I do not think it has been outlined by the minister at this point how they will be apportioned. New section 76(13) of the bill provides:

> ...the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the Minister from time to time after consultation with the President of the LGA and the President of the Tribunal.

I would like the minister to offer some clarification of that, because I think that we as the legislators, and also councils and the community, have a right to know what the costs will be and how they will be apportioned. I am also interested in new section 76(3), which talks about allowances (I look forward to the Hon. David Winderlich's amendments) and which provides:

> The Remuneration Tribunal must, in making a determination under this section, have regard to the following:
>
> (a) the role of members of the council as members of the council's governing body and as representatives of their area;
>
> (b) the size, population and revenue of the council, and any economic relevant factors for that council area;
>
> (c) the fact that an allowance under this section is not intended to amount to a salary for a member;
>
> (d) the fact that an allowance under this section should not reflect the nature of a member's office;
>
> (e) the provisions of this act providing for the reimbursement of expenses of members.

I use the example of a small rural regional council with a relatively low rate revenue and I think most members would say a capacity not to pay particularly high allowances. The members who represent their community may make a greater personal sacrifice to serve the community than someone in let us say the Adelaide City Council or one of the large metropolitan councils who may be a business person with an office two blocks from the council chamber and can stroll to a council meeting and then get back to their business. It may be a bigger business but its size is not significant enough to influence the personal wellbeing of the owner or the councillor because they are not there.

I am a little intrigued, because it appears that this bill will value the contribution to the community on the basis of the size of the council and not on the length of service that the person gives. As I said, I have had personal experience of this. I am very happy for my father (and, I think, the Ridgway family), in that it has been only about 20 years since approximately 1920 that a Ridgway has not served on the local council at Bordertown or on the Tatiara council.

So, certainly, from a family point of view, we have had first-hand experience of this. Those family members did it out of a sense of service and duty to their community. However, I know that we need to attract good quality people into local government (and, I think, all levels of government). I think it is a serious issue that we need to confront. It always raises issues in the wider community when we talk about council allowances and the salaries of MPs and the like; it always tends to raise some debate within the community.

I would hope that this legislation will not have different classes of service to the community. The person who gives up their time in the Far West of the state to serve their local community may travel a long way to do so. They make a bigger personal sacrifice. I will use the example of a football club. Some people who moved into our community lived about 60 kilometres north of the football oval, but the three boys always attended training twice a week and went to the matches. They travelled about 10,000 kilometres a year just to play footy, yet the guys who lived right next to the footy oval spent no time there. Those boys were happy to play and they enjoyed their footy, but if those sorts of community-minded people live further away from the community they wish to serve there is a bigger cost. Of course, there are also other issues when it comes to people representing their local community at a higher level within the LGA.

The opposition is happy to support the thrust of the bill, but I would like some answers from the minister in relation to the costs. I look forward to the support of other members for the bill. We feel that it is a sensible way forward. We also look forward to receiving support for the amendments that I will move during the committee stage of the bill.

The Hon. R.P. WORTLEY (11:14): I am pleased to have the opportunity to contribute some brief remarks in relation to the Statutes Amendment (Council Allowances) Bill 2009. Local government is an essential component of our community's democratic framework. Local government provides people with the opportunity to actively participate in grass roots public affairs

and put their views about issues that are of concern to them, either personally or at a community-wide level. It is also a major employer and plays a significant role in keeping often sizeable local communities functional.

Our 68 South Australian councils possess an enormous depth of knowledge about local issues and the characteristics that make their municipalities unique and worthy of enhancement and protection. Clearly, our local government representatives work hard and give generously of their time for the benefit of their communities. The 68 councils, between them, manage more than $8 billion worth of community infrastructure as well as about $1 billion a year in service provision. That means a high level of commitment and responsibility on the part of all councillors.

To add to this, our local government areas vary enormously in size. On Saturday 19 September, the Adelaide *Advertiser* listed the 2008-09 budgets and ratepayer numbers for all the 19 metropolitan councils. With more than 72,000 ratepayers, the budget for Onkaparinga council is $104.5 million. Salisbury has nearly 55,000 ratepayers and the budget is $81 million. By contrast, Prospect council has 9,486 ratepayers and a budget of $16.6 million, and Walkerville has 3,383 ratepayers and a budget of $5.7 million.

Differences in council size, budget, population, demography, geography and environmental factors are all good reasons why it is important that local government issues are reviewed, scrutinised and, where necessary, improved. These issues include: voter participation, representation, election processes, rates and expenditure, and allowances and benefits. That is what the government is doing with this bill and with the Local Government (Elections) (Miscellaneous) Amendment Bill.

For some years now, councils have been obligated by the Local Government Act 1999 to consider on an annual basis the matter of allowances for elected members. Section 76 of the regulations under that act sets out the allowance limits, minimum and maximum, and each council then determines what the amount will be. Theoretically, a mayor may receive up to $60,000 and a councillor up to $15,000, but I believe that many councils set amounts that are much lower than these limits. The situation is clearly inequitable. Just as we and our federal counterparts have our remuneration set by an independent tribunal, so, too, should councillors. The Local Government Association agrees. This bill determines the Remuneration Tribunal as the body best placed to determine local government allowances. The tribunal will set the allowance rates—not annually, but in conjunction with each local government election. For the three ensuing years, allowances will vary according to the CPI.

The bill contains provisions aimed at making the administration of the scheme fairer and more efficient, and also contains relevant amendments to the City of Adelaide Act. These are commonsense reforms. The provisions are timely and promote transparency in local government and equity for its elected representatives. They enhance our democratic process at the level of government which has the capacity to touch people's lives perhaps more directly than the others. For these reasons, I support the bill and commend its terms to honourable members.

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) (11:18): I thank all those honourable members who have contributed to the second reading debate and who have indicated support generally for this bill. A number of amendments have been proposed, and I look forward to dealing with those during the committee stage.

The Hon. David Ridgway has put a number of questions on notice and I am happy to provide the answers to those where information is available. However, I ask that we do that as part of clause 1 of the committee stage because I have sought some clarification and have not been able to talk to advisers about that, but I will be able to do that during clause 1.

With those remarks, again I thank honourable members for their support and look forward to expediting the bill through the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: I will address some of the questions asked by the Hon. David Ridgway. In relation to the costs of the tribunal, we are not able to specify these costs as yet.

Although the tribunal hears similar sorts of cases, the particular matters, cases and research required around investigating local government issues would be quite unique and the tribunal will be exposed to that for the first time. We are not able to be specific about costs, but we know that it would involve things such as advertising; research relating to demographic, social and economic factors; calls for written submissions and inviting oral submissions; public hearings; time to consider submissions; and making multiple determinations. Those are some of the things we would expect to be part of the work the tribunal would need to conduct.

The Hon. David Ridgway asked whether it is envisaged that the councils will apply individually to the tribunal. I have been advised that councils will not apply at all. They will not need to do so; there will be an automatic trigger. The tribunal will make determinations, as required by this bill, every four years. I have been advised that those deliberations will be made at the same time across all councils. The Hon. David Ridgway was concerned that this would entrench classes of councillors. That currently already occurs. There are already a number of categories; for instance, the mayor, the deputy mayor, ordinary councillors, the chair and committee members.

So, there are already a number of categories of allowance payment considerations. I am advised that it is likely that these will also be able to be considered by the tribunal. So, they are not necessarily going to be removed. Just to clarify the point, I advise that the tribunal will be setting classes of allowances, not looking at individual councillor rates. One ordinary councillor would not be receiving a different allowance from another ordinary councillor. They might be receiving different allowances from the mayor or the deputy mayor but, within the classes, they would all be receiving similar payments.

So, if an ordinary councillor has to travel 10 kilometres and another ordinary councillor lives around the corner from the council chambers, the tribunal would not consider that one individual is required to travel 10 kilometres. However, what the tribunal would be able to consider is the general imposts on groups of councillors. Obviously, on average, the requirement on councillors who are members of a remote council area would be much greater than on, say, those councillors who are members of the Adelaide City Council. So, those matters of distance would be considered in that way.

The Hon. David Ridgway asked how the costs of the tribunal will be distributed between councils. Again, I have been advised that this has not been decided, but we anticipate that it will be a fairly simple matter, probably reflecting the relative population of the council areas. Obviously, I will be discussing that matter with members of the tribunal and also with the LGA closer to the time.

The Hon. D.W. RIDGWAY: I think the minister has sort of covered what I was asking about, but it appears that, under the provisions of the bill, the tribunal will be able to determine the level of allowance for a particular councillor, based on the capacity of that council to pay—the size of the council. What I was exploring is the fact that this bill potentially values to a greater level the community service and personal sacrifice made by someone in a council that can pay a higher allowance than someone who serves a community somewhere else in the state where the council does not have the same capacity to pay.

Some would argue that in the bigger councils they have more work to do and that it is a greater role. I would also argue that some of our great community leaders involved in the Local Government Association come from some of the far-flung parts of the state where rate revenue is not huge, which reflects on the council's capacity to pay. That was the issue I was exploring. I think this sets up a mechanism whereby the wealthy councils can pay quite generous allowances. So, in those councils the service of those councillors to their community is being valued at a far higher level than in the case of someone in a council which does not have as great a capacity to pay.

The Hon. G.E. GAGO: Indeed, they are vexed issues for councils, and they have been for a long time. As we know, council allowances are currently paid within a particular range. However, that range is broad and, under the current arrangements, those wealthier councils are obviously able to set their allowances at the upper end and those less wealthy councils tend to set their allowances at the lower end. That is indeed unfair because it does not reflect the level of commitment or the level of contribution or work done by particular individuals, and that has always been an inequity in that system. This particular system does not necessarily remove that inequity, but I think that overall it is a fairer system because the tribunal is required to consider a much broader scope of contribution. It relates to the role of members of council, the size, population, revenue and any other relevant economic factors, including that it should reflect the nature of the member's office and provide reimbursement for expenses. So the bill does outline a much broader scope.

Individual councils—and, for that matter, individual councillors—will be able to make submissions to the tribunal; there is nothing to stop even individuals putting a submission to the tribunal. So if a council, or a group in the council, or a particular individual in a council, believes that a particular aspect of the council needs to be highlighted, they will have the opportunity to do that, with the tribunal. Again, I think that adds strength to the fact that this provides much broader scope and allows greater input of a wider range of matters to be considered when weighing up where to set a particular allowance.

The Hon. D.W. RIDGWAY: This may be in the bill, but I could not see it. Once the Remuneration Tribunal has made a determination, is there capacity for that to be vetoed? I will give an example. We all know that our salaries are linked to the federal parliamentary Remuneration Tribunal deliberations, and I think last year Prime Minister Rudd intervened and said that there would not be any increase in salaries due to circumstances at the time (the global financial crisis).

Is this bill such that individual members can refuse to take an allowance but, overall, if the Remuneration Tribunal determines a 2 per cent (or whatever it happens to be) increase, everyone has to take it and there is no opt out mechanism? Alternatively, is there the capacity, for example (and I suppose the chairman of the LGA might like to be referred to as the prime minister), in these circumstances, which we experience from a parliamentary point of view, for someone else to veto it and everyone has to wear that decision? Is that a possibility under this piece of legislation?

The Hon. G.E. GAGO: I have been advised that there is no power of veto from any body or authority to overturn the decision of the tribunal. However, individual councillors will have the right to refuse an allowance—as is currently the case.

The Hon. DAVID WINDERLICH: On a point of clarification, I believe the minister said, in response to an earlier question, that this bill makes the setting of allowances fairer because of the range of criteria she outlined—in subclause (3)(b), essentially. My understanding is that those criteria are not new; they are already in the act to guide councils in setting their allowances. What is new in this bill is that the Remuneration Tribunal will do this rather than the council; so I do not believe that the criteria have changed. Could the minister clarify that?

The Hon. G.E. GAGO: Yes; that is quite right. However, I guess the point I was trying to make is that for the first time we have an independent body—at arm's length from local government and from state government—that is required to assess those criteria and apply a particular allowance. Previously, local councils were required to consider criteria but with an upper and lower limit. Local councils were also in the unenviable position of being under political attack each time they increased their allowances. There was a range of public perceptions regarding whether or not they were worthy of that; some members of the public felt it should be doubled whereas other ratepayers (and we have seen many of them in the paper) complained bitterly. I believe councils were under considerable pressure to keep undervaluing their allowance, and I think having an independent tribunal to do that is a much fairer, open and transparent system.

The Hon. DAVID WINDERLICH: I have a further question relating to the setting of allowances. Metropolitan councils often use a formula of, say, not more than 1 per cent of rate revenue (or a similar formula) to be allocated for the setting of councillor allowances; they can do that, and set the maximum allowance, because of their larger budgets. That would not apply with a smaller regional council with a smaller budget. What would prevent the Remuneration Tribunal from setting an allowance that, although it might be fair to the councillors, would be more than the council could afford?

The Hon. G.E. GAGO: The answer lies in subsection (3), which outlines the matters to which the tribunal has regard. That includes the economic factors of a council area: the size, population and also the revenue of the council. So, the tribunal is required to take those matters into consideration. As members would be aware, the bill also allows for those public submissions, so individual councillors are able to put forward submissions that outline a particular point of view in relation to that. We note that the tribunal will take into consideration those matters presented to it as well.

The Hon. D.W. RIDGWAY: A question of clarification: does the tribunal take into consideration any benefits that the councillors or mayors get as part of holding their office, which may be a car, mobile phone, expense accounts—a whole range of other benefits that may be available to mayors or councillors?

The Hon. G.E. GAGO: In relation to the question about what is included as an expense, under subsection (3), the tribunal must take into consideration paragraph (e), which provides for

the reimbursement of expenses of members. It is required to do that, and that includes things like travel and child care. However, I am advised that it does not include matters that relate to section 78 which are provisions of facilities and support which would cover things like phones, cars and suchlike.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. D.W. RIDGWAY: I move:

Page 2, line 15—Delete 'and indexed in accordance with this section'

I thank parliamentary counsel for picking up the fact that we need to move these amendments that are standing in my name in this way, and I guess this will be a test for the other main amendments. I will speak to this and, therefore, to the others all at once.

The opposition believes that—and I think we have seen some evidence this morning in the questioning during debate—rather than just having a CPI increase every year and then every four years, the tribunal could automatically review it. As the minister says, nobody has the power of veto over that and maybe they should not have the power of veto, but certainly it is an automatic process for CPI every year, and then the tribunal looks at it and may or may not increase.

A question the minister might like to answer is: in what the government is proposing, would it be possible that the CPI increase could happen each year and then the Remuneration Tribunal would determine that it should have a lesser amount after four years for whatever reason? I suspect that is unlikely but is it possible? Is the Remuneration Tribunal only to review and increase, not to review and to decrease?

However, in speaking to this amendment, the opposition supports council allowances for councillors and mayors, and any other allowances deemed fit under this legislation. We think it is an appropriate way to set the level where the Remuneration Tribunal will look at it, in the first instance, and then set that level. It appears that then councils themselves can apply subsequent years for a review.

Circumstances will change in councils. We think that provides a more transparent approach that councils can apply and then ask the tribunal to look at their particular set of circumstances. We think that the CPI increase is probably a mechanism that is not that prevalent in our communities—certainly, when you think about ratepayers. The ratepayers get annual rate increases that sometimes reflect CPI, sometimes a bit more; but most of them are not guaranteed of a business income increase to the CPI whether they are rural ratepayers, small business operators or even wage earners. Some of those do not receive CPI increases. Our view is that we think the tribunal should set the level at whatever it deems to be reasonable and then councils apply, as they see fit, to increase their allowances.

It is unusual to assume that every year you will receive an increase. The electorate allowances that members of the Legislative Council receive have not changed in the eight years that I have been a member of parliament. Possibly there have been some other factors, but the tribunal has determined that we can do our job as members of parliament and that allowance is at a satisfactory level.

I know there has always been a bit of debate as to whether the tribunal has got it right or wrong, but it has made the decision and that has not changed. I urge members to support the opposition's amendment. We think it provides a better mechanism, rather than just automatic increases, and lets councils determine for themselves when they think it is fit and proper for their community to pay their councillors a higher allowance.

The Hon. G.E. GAGO: I have a couple of questions, if I may. In terms of the costing impacts of your amendment, have you spoken with the president or anyone else in the Remuneration Tribunal to attempt to indicate what the effect of the cost of your amendment would be, and have you consulted with the LGA on this amendment and, if so, what is its view?

The Hon. D.W. RIDGWAY: First, in respect of the cost, I am intrigued that the minister has asked this question, because we have asked questions about the cost and she has been unable to give us a cost. So, no, I do not have a cost, but, clearly, you do not have a cost, either.

The Hon. G.E. Gago: At least I rang the tribunal. At least the tribunal was contacted and we got some indicative—

The Hon. D.W. RIDGWAY: Well, what is the indicative—

The Hon. G.E. Gago interjecting:

The Hon. D.W. RIDGWAY: Mr Chairman—

The Hon. G.E. Gago: You put forward an amendment and you don't even bother to try to cost it. You are lazy.

The CHAIRMAN: Order!

The Hon. D.W. RIDGWAY: Thank you, Mr Chairman.

The Hon. G.E. Gago: You are lazy.

The Hon. D.W. RIDGWAY: Talk about being lazy, you are the minister with a whole department and you cannot even tell us what it will cost. You said you have to work it out. You do not even know. I discussed it with some council members at the LGA's president's dinner last Thursday night. When you left early and went home, I stayed and spoke to some of them about it.

You call me lazy, minister. You are lazy because you are not prepared to give us the cost and you have a whole government department. We have not costed it. We think it is reasonable. Councils may apply only once every four years. The Remuneration Tribunal may not have to meet particularly often. We think it is a better, fairer and more transparent way. I have had discussions with members of the LGA. I have not sat down with Wendy Campana, personally, in her office.

The Hon. G.E. Gago: So, you have not discussed it, have you?

The Hon. D.W. RIDGWAY: I am not the shadow minister with carriage of—

The Hon. G.E. Gago: Lazy.

The Hon. D.W. RIDGWAY: The minister says we are lazy. I think—

The Hon. G.E. Gago interjecting:

The Hon. D.W. RIDGWAY: Mr Chairman, can you please keep her in order.

The CHAIRMAN: Order!

The Hon. G.E. GAGO: In relation to all four of the honourable member's amendments, they are directed to a single purpose. These amendments would delete the automatic CPI adjustment of councillors' allowances and replace it, instead, with a variable regime under which councils could apply to have their allowances reviewed by the Remuneration Tribunal at any time and as many times as they choose within a four year election cycle.

It is not clear from the honourable member's amendment whether an application to the tribunal from a single council would lead to a tribunal review of allowances paid only at that one council, or whether a single council application would have possible repercussions across a range of councils, because members of an entire category of councils might be paid at the same level of allowance. So, I would seek clarification of that from the Hon. David Ridgway.

I suspect, however, that the honourable member intended only the first interpretation but, as I point out, the wider interpretation is also possible. On that basis alone, the ambiguity of the words of this amendment should be rejected. However, even assuming, for the purposes of this debate, that the first interpretation is the only one possible, the government will not support the amendment.

The application by a single council for the tribunal to review its allowances would not be made for the purpose of reducing allowances. If any councillor thinks that he or she is paid too much then that councillor may decline to accept the allowance, or part of it, or donate a portion to charity. It is obvious, therefore, that an application by a single council for a tribunal to review its allowances would be made only for the purpose of seeking an increase.

In considering this proposal, the government has regard to proposed subsection (13), which provides:

Despite any other act or law, the reasonable costs of the remuneration tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the minister from time to time after consultation with the president of the LGA and the president of the Tribunal.

This means that the costs of the tribunal's deliberations will be recovered in due course from ratepayers. The cost has not been quantified, even though the government has, at least, contacted the tribunal and attempted to ascertain indicative cost pressures associated with that, which is more than the opposition has done.

Nevertheless, because the tribunal will not have its hands tied in this matter, it will be, as it should be, independent in making its inquiries and doing its research, and this research would, obviously, include reference to all of the matters listed in proposed subsection (3) and must include an opportunity for public submissions, both written and oral.

It is apparent, therefore, that the tribunal processes are not likely to be brief; nevertheless, it is obvious that the cost will be kept to a minimum if the task is done only once every four years, rather than whenever the applications are submitted.

However, there is real concern that, if this amendment were to pass, many councils could seize upon this opportunity to make regular applications once a year (or more often) to request re-examination of members' allowances. We know that councils often are very sensitive to the relativity of allowances paid to their council versus others, and we would not want leapfrogging to occur. One council puts in for and gets an increase and its neighbouring council thinks it should have that too, so it puts in another claim, and then the next one puts in another claim, and so it leapfrogs year after year.

I acknowledge that under these amendments the Remuneration Tribunal would have the discretion to refuse to consider such applications; however, it is also plainly foreseeable that, consistent with its expressed views, the tribunal would wish to undertake this additional role. I suggest that there is a real risk that this amendment would encourage many councils to seek regular reviews annually and that the councils that make such a suggestion might consider that they have nothing to lose by continually trying for more.

The tribunal itself is obviously willing to take on the extra work and to charge councils for doing it, so the tribunal does not mind, because it is passing on the cost impost to the LGA and, in turn, the LGA is passing on the cost impost to individual councils. This is something of which we need to be mindful.

Obviously, ratepayers might not agree with this system being put in place, and they are the ones who, in the end, will be out of pocket. The risk to ratepayers is not only the risk of having to pay increased allowances but also the cost of the tribunal's service in examining such council applications on a regular basis. I am advised that even refusing an application before the tribunal still requires some administrative work to be done to enable the tribunal to come to the position that it is not worthy of further consideration. So, they would all be cost imposts.

In short, the honourable member's amendments may be directed towards the perceived welfare of elected council members, but these amendments are not looking out for the interests of ratepayers. It is important that we balance both these interests. We know that it is tricky to get the balance right. It is not easy, there are complex issues, but we think that we have got the balance right in the particular model that is before us.

I am advised that the LGA does not support these amendments. The opposition did not even bother to check this out; I would have thought that at least a phone call to the peak body would have been a wise thing to do. However, the LGA does not support these amendments, because this legislation was structured to provide for an independent process using the tribunal four yearly. This efficiency would be lost by more frequent reviews, and the cost of those reviews would need to be recovered by the council applying for the review. The current CPI adjustments also recognise the fact that allowances are not remuneration.

The Hon. A. BRESSINGTON: I rise to indicate that I will not be supporting these amendments. I have indication from the LGA that it is also not supporting the amendments. Correct me if I am wrong, minister, but the point of this bill was to take out of the hands of councils their remuneration rates so that the process was completely independent. It was probably to save some councillors the embarrassment of having to hold out their hand and say, 'Please, sir, can I have more?' Now it is to be left up to the same mechanism as the Hon. Mr Ridgway said that sets our allowances and payments, and I think that was quite appealing to the LGA. So, for those reasons I will not be supporting the amendment.

The Hon. DAVID WINDERLICH: I will not be supporting the amendment, either. I think it makes the process of setting allowances more complicated and less consistent. That might be justified if there was a clear gain, but I do not think there is a clear gain in doing it this way.

The other problem is that the capacity to go more than once every four years to seek to adjust your allowance raises questions around the basis on which you might do that. Someone might argue, for example, that in their council there is a development boom, the developers are coming in, they are engaging in all sorts of high level negotiations, life has got much more complicated, and they need a higher allowance.

On the other hand, the global financial crisis hits, the developers all go away, and what do they do then? Go back and adjust the allowance downwards? It makes more sense to me to have an approach to setting allowances that involves everyone at the same time at regular intervals, rather than a less certain process which would give councils the opportunity and almost the incentive to go back at different points of time during the process.

The point made by the Hon. Ann Bressington is also sound in that, in a way, this kind of undermines the fundamental intent of the bill, which is to create a greater distance between individual councils and the setting of allowances. This, in a way, muddies that intent, so I will not be supporting it.

The Hon. R.L. BROKENSHIRE: Family First will not be supporting the Liberals' amendments, either. The process that the government has set up under the direct management of the tribunal is the best way to go.

I, personally, have family involved in a small rural council. They are already way under what their neighbouring councils are. There is the risk of intimidation when you have small tight knit communities expecting things to be done for virtually nothing; yet these councillors have proportionately just as much responsibility. I do not think one council should go in by itself, so we will not be supporting this amendment.

Amendment negatived.

The Hon. DAVID WINDERLICH: I move:

Page 3, line 6 [inserted section 76(3)(b)]—After 'relevant economic' insert:

, social, demographic and regional

The reason for this amendment is partly to address some of the matters referred to by the Hon. David Ridgway in his remarks earlier. There is a fundamental and inequitable bias towards larger, wealthier and usually metropolitan councils in the setting of allowances. This bias comes from two sources: first, that larger councils with greater revenues and greater populations can afford to pay more. That is an injustice and it occurs now. This bill will not change that and, in fact, my amendment will not change that.

The only way to solve that would be to cross-subsidise councils so that smaller councils with smaller revenue bases could afford to pay an allowance that recognises the amount of work and the complexity of the role of their councillors. For us to make any progress there we probably need the local government sector through the LGA to start to debate that and get a unified position. My amendment is directed at the second source of that inequity, that is, that the difference in allowances between generally metropolitan councils and smaller rural councils in particular is given respectability by the pretence that somehow the job of the larger metropolitan councils, the higher population metropolitan councils, is intrinsically more complex. I do not believe that is the case.

The complexity of a councillor's job depends on a range of factors, and you can have larger metropolitan councils that are easier to run than smaller rural councils. The range of factors that come into play include social factors (which is one of the terms I am proposing to add), demographic factors and regional factors; and 'regional factors' is a catchall for some of the different land form use. A council with a complexity of land forms which is regulating—say, urban, coastal, rural, or perhaps wilderness/national parks—and managing that variety of land forms is more complicated than, say, a larger metropolitan council without such a wide range of land forms to manage.

In terms of managing some of the politics and the social relationships within councils, it is not necessarily more difficult than in a larger council. In fact, in some ways there seems to be an inverse rule that the smaller the population the more complicated the political relationships between its members (and I see the Hon. Robert Brokenshire nodding); so, that is not straightforward either.

My amendment simply seeks to broaden the range of criteria which must be considered by the Remuneration Tribunal in recognition of the fact that complexity is not related to just population size and revenue alone.

As I said, it does not deal with the fundamental problem. The fundamental problem is that the wealthier councils can afford to pay their councillors more. They will pay near the maximum or at the maximum rate of the allowance. Many rural councils will pay right at the minimum. When I was a councillor on Norwood Payneham St Peters we were close to the maximum; I think it was about $8,000 then. I was talking to someone from, I think, the Coorong District Council and they were receiving, I think, $1,500. I do not know whether our council was any more complicated but I know that it was not four times more complicated than the Coorong District Council.

Those kinds of inequities are built in. I do think that we need to pay some attention to solving them because they are a fundamental inequity; and I think that that kind of disparity for the same work, or even under payment for work of greater complexity, works against good governance. What I am seeking to do here is to provide a broader range of criteria which at least means there is recognition of the role and the complexity of the smaller rural councils. I guess that all it does in a sense is at least remove the pretence that somehow the worth of councillors in larger metropolitan councils is greater than it is in smaller councils, generally rural councils.

In terms of this possibly leading to the Remuneration Tribunal awarding increases that are beyond the capacity of a council to pay, I directed a question to the minister earlier about that, and members would have heard her answer. It appears that the interpretation of 'economic' and 'revenue' means that the Remuneration Tribunal will also take into account the ability of councils to pay the determined allowances. That does not address the lack of fairness of the disparity between allowances but it does address the affordability.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be supporting the Hon. David Winderlich's amendment. In my second reading contribution and during committee, I tried to explore those inequities in terms of what is being proposed. I think that the example of the Coorong councillor and the honourable members' position on the Norwood Payneham St Peters council is exactly right. They might not have had the capacity to pay but the honourable member's job was not four times more difficult than the Coorong councillor's, or the councillor's job four times easier or the sacrifice they make to service their community four times less than the Hon. Mr Winderlich's would have been. For those reasons, we are happy to support the amendment.

The Hon. R.L. BROKENSHIRE: We will be supporting the Hon. David Winderlich's amendment. He has really summed it up. Again, the size of the council does not necessarily relate to the workload and the input of the councillor. My experience in my own home area is that you get a councillor in a smaller rural council on an absolute minimum amount of money and they are driving all over their ward—which can sometimes be 100 kilometres—to inspect roads and serve their ratepayers, yet you see someone from a smaller inner city council ward claiming money for everything—they go to conferences and everything else. Often councillors in the rural areas in the small councils do not claim at all. They receive just small amounts. The key point that I would like to put on the public record, because I am sure it will be reflected upon by the tribunal at some time when it tries to look at the thrust of this bill, is that we want to see fair and reasonable equity for councillors and mayors when it comes to receiving financial compensation for the efforts that they put into their community.

The Hon. G.E. GAGO: The government will be supporting the Hon. David Winderlich's amendment, which will increase the range of matters to which the tribunal must have regard in setting allowances by adding the words 'social, demographic and regional'.

The government does not wish to increase the burden of the task of the Remuneration Tribunal, and increasing the scope could increase the cost of the exercise on local government and its ratepayers. The government has sought the advice of the President of the Remuneration Tribunal to ascertain to what extent, if at all, the inclusion of these words might expand the scope of the tribunal's duty. The President has advised that he has no objection to the wording, and the view is that it is likely to have only a marginal type of impact. Obviously, that is sight unseen, so to speak. We recommend the amendment to the committee.

Amendment carried.

The Hon. DAVID WINDERLICH: I move:

Page 3, after line 10 [inserted section 76(3)]—After paragraph (d) insert:

(da) in the case of members of non-metropolitan councils—the travel and accommodation costs incurred by members in fulfilling their responsibilities as members of council;

This amendment simply relates to the setting of allowances for the City of Adelaide. It inserts one word under new section 24(3)(b). Where it currently reads 'the size, population and revenue of the council, and any relevant economic factors in the council area', it would simply insert 'social' after 'economic'. The reason why it is just one word rather than the broader range I outlined before is to do with the fairly compact and relatively uniform nature of the City of Adelaide. It does not span a vast range of land uses and so forth. Some of those other factors do not come into play, but it just broadens it beyond the simple 'economic', which I believe is inadequate.

The Hon. G.E. GAGO: This amendment is largely consequential.

The Hon. D.W. RIDGWAY: The opposition supports the amendment.

Amendment carried.

The CHAIRMAN: The next amendment to be moved is that of the Hon. Mr Winderlich, clause 4, page 4, after line 23.

The Hon. DAVID WINDERLICH: Is it consequential?

The CHAIRMAN: It is amendment No. 2.

The Hon. DAVID WINDERLICH: I have moved it.

The CHAIRMAN: No, you have not moved this. It is clause 4, page 4, after line 23.

The Hon. DAVID WINDERLICH: I think that one should have been withdrawn. I think that is the issue.

The CHAIRMAN: It refers to 'Non-metropolitan councils means a council', and so on.

The Hon. DAVID WINDERLICH: Yes; that is to be withdrawn. That is already covered under existing legislation. I apologise for that confusion.

Clause as amended passed.

The CHAIRMAN: I advise members that when they put in later amendments they should make sure that the table staff knows that other amendments are to be withdrawn. It certainly makes it easier. When those amendments are put, they must recognise that they are amendments that should be withdrawn, because now it will have to be recommitted.

Clause 5.

The Hon. DAVID WINDERLICH: I move:

Page 4, line 41 [inserted section 24(3)(b)]—After 'relevant economic' insert 'and social'

This is an amendment to section 24 of the act which relates to the City of Adelaide Act. It simply inserts the words 'and social' after 'economic' in section 24(3)(b), as I outlined in my earlier remarks but, obviously, in relation to the incorrect amendment. I urge support for it. As the minister said, it is probably not hugely consequential: it is simply to broaden it beyond economic considerations.

The Hon. D.W. RIDGWAY: The opposition supports it.

The Hon. G.E. GAGO: The government supports it.

Amendment carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 4.

The Hon. DAVID WINDERLICH: I withdraw my amendment No. 1 and ask that it be struck out.

Amendment withdrawn.

Bill reported with amendments.

Bill read a third time and passed.

FIRE AND EMERGENCY SERVICES (REVIEW) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: I was not in a position to say much the other day. The bill clearly follows a review by the government which, I am pleased to say from my contacts, involved a good level of consultation and cooperation with relevant stakeholder groups, and I commend the government for that. I have some amendments that I have put forward after discussion with certain sectors, including the LGA, and I will go into those in further clauses.

Bushfire prevention is clearly coming into focus for all legislators since not only the Victorian bushfire tragedies but also the Eyre Peninsula fires. We still have more to do following the Tulka fires, and others as well. I understand that a bill will come through later with changes based on recommendations put forward by the South Australian bushfire task force following the Victorian bushfires inquest. I was pleased to see in its response via a media release on Thursday 10 September that the government will, among other things, develop a household bushfire shelter guide, which is something constituents have approached me about and I have advocated publicly. We will not debate the rest of those recommendations until another day.

One thing I want to raise under clause 1 is that we need to have a focus on volunteers, in particular, and resourcing our fire and emergency services adequately. When I was minister I was criticised for some aspects of ESAU, but I am concerned that SAFECOM has probably become much more of a bureaucratic monster. I think we need to ensure autonomy for the CFS, the MFS and the SES operationally, because that is the best way to service our community.

Again, I say we should be looking at focusing on volunteer support. They have lost the CFS board and do not have the autonomy they had before. I think that is a pity, and I have said so previously in another place. Having said that, it is good that the government has reviewed the Fire and Emergency Services Act, and I hope it will provide better outcomes for the protection of life, property and support of our emergency services operators and, particularly, our volunteers.

The Hon. CARMEL ZOLLO: I thank the Hon. Paul Holloway for making it possible for me to make a short contribution. I was not available the other day when the bill was being debated. I congratulate the Minister for Emergency Services (Hon. Michael Wright) for his commitment and work in introducing this important piece of legislation. As a former minister for emergency services (indeed, there are now two in this chamber), I will take this opportunity to make a few brief comments in relation to the bill.

All three bodies of work—the recommendations from the ministerial review of bushfire management in South Australia, the Deputy Coroner's recommendations from the Wangary bushfire, and the recommendations from the review of the Fire and Emergency Services Act 2005—have led to this legislation, which occurred under my watch. It clearly makes sense to see any changes arising from that work included in this bill, as well as the continued consultation that has occurred during the past year.

By way of background, the ministerial review of bushfire management in South Australia was an initiative that arose, first, because it was timely to see such a review (there had not been substantive changes to the bushfire management structure at community level for 20 years or so); and, secondly, obviously because of the Wangary bushfire. I was pleased that Vince Monterola accepted the invitation to chair that review, and I acknowledge the commitment he demonstrated, as he has done on so many other occasions when his expertise and experience has been called upon. He consulted widely throughout the whole state to ensure that any recommendations had the support of as many people as possible.

I was very pleased to see Vince Monterola recognised in the Order of Australia awards this year. One of the most important recommendations to come out of the ministerial review of bushfire management was the restructure of the bushfire committees from the current three tier to a two tier structure. The system will be streamlined with a state bushfire coordination committee, with 16 bushfire management committees sitting underneath the state committee.

I also take the opportunity to welcome the designated urban bushfire risk areas. Certainly, community education and bushfire awareness is an area the government has been working very hard on, and the government has funded communication and education programs in not only rural areas but the urban interface as well, which can be just as vulnerable. Again, it makes perfect sense to also use this opportunity to include in this bill any recommendations from the Deputy

Coroner's Wangary bushfire inquiry. I remember at the time of handing down the Deputy Coroner's report that many of the recommendations had already been enacted or were in the process of being enacted.

The third body of work that has shaped this bill is the requirement that the Fire and Emergency Services Act be reviewed after two years of operation. The review was carried out by Mr John Murray, a former assistant police commissioner in South Australia and deputy commissioner of the Australian Federal Police. The Murray legislative review looked at an act that creates a sector that has focused on prevention, preparedness, protection and recovery, whilst seeking administrative efficiencies that could be directed into operational capabilities.

I remember saying at the time the act came into being that it was the government's long-term view for the SAFECOM Board to be one of governance, to set a strategy and to create a whole of sector decision-making group committed to making decisions in line with agreed government policies that would be in the best interests of the safety of South Australians. After two years of operation, it is appropriate to see some fine tuning to ensure that it can deliver even better outcomes for the community.

This bill sees the SAFECOM Board expanded, with an extra representative and with everyone having voting rights. The advisory board is to be disbanded and replaced with an advisory committee, as it is believed to be a more appropriate forum, instead of a board for volunteers to raise issues affecting their members without being essentially constrained by governance concerns.

For historical reasons, the MFS used the District Court for promotional appeal processes. Following a request from the Chief Justice to both myself as the then minister and the Attorney-General, from memory, that appeal mechanism was transferred to the Industrial Relations Commission, where it properly belongs. I am pleased to see that, similarly, disciplinary appeals will also go from the District Court to the Industrial Relations Commission. That amendment is certainly sensible.

All our reviews are aimed at the better provision of community safety. The emergency services community is also affected by what happens in other states. Honourable members would be aware that South Australia established a task force following the Victorian bushfires earlier this year. More recently, the Premier announced that the state government would implement immediately a number of recommendations made by the bushfire task force, in readiness for the coming bushfire season. I obviously welcome the investment over the next five years of $12.4 million to establish and roll out a telephone-based emergency warning system, in tandem with the federal government. The introduction of a new nationally agreed graduated warning system is also a very positive step.

Returning to the bill before us, it goes without saying that I, like everyone else in this chamber, place on record my thanks to our tremendous volunteers, be they CFS or SES. The South Australian community is, indeed, indebted and grateful for their service. I also acknowledge and thank MFS personnel for all their work and service to our community.

I have picked up only on a couple of the amendments to comment on because the minister covered all the information in his contribution. My main purpose for this short contribution is to congratulate the minister in the other place for bringing this bill to fruition.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. R.L. BROKENSHIRE: I move:

Page 5, line 17 [clause 6, inserted section 4A(3)(d)]—Delete paragraph (d) and substitute:

(d) any council whose area would be, or is, within the designated urban bushfire risk area.

The Hon. P. HOLLOWAY: This amendment changes the provision that negotiation in relation to a fire in the designated urban bushfire risk area, rather than being with the LGA, would be with the individual council concerned. I understand this was the position of the Local Government Association. Whereas normally the state government agencies deal with the LGA as the peak body, in this situation it would make more sense to deal with local council. So, given that we understand it is the view of the LGA, the government is prepared to accept the amendment.

The Hon. T.J. STEPHENS: The Liberal Party also supports the amendment. As I said in my second reading contribution, it is very grateful to the LGA for the amount of time it spent with the opposition putting its point. I believe this amendment is quite sensible, in that they do not want to be the people in the middle and would prefer, when there is some sense of urgency, that the council be dealt with directly.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 5, line 18 [clause 6, inserted section 4A(4)]—Delete 'the LGA' and substitute 'a council'

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 7 and 8 passed.

Clause 9.

The Hon. T.J. STEPHENS: I move;

Page 6, line 8 [clause 9(1)]—Delete '5' and substitute '6'

This amendment basically asks that someone from the farmers federation be included on the SAFECOM Board. Our rationale is that the rural community, owning probably the majority of the land, has incredible experience with fires, and we believe it is appropriate that someone from that community is represented at that level.

The Hon. P. HOLLOWAY: The amendments moved by the Hon. Terry Stephens are a suite of three related amendments. The key issue is that of adding an extra person, someone nominated by the South Australian Farmers Federation, so perhaps we could use this as the test clause for the three amendments.

The government opposes the amendments. The first point that needs to be made is that the farmers federation has not a sought a position on the SAFECOM Board. It is important to understand that the SAFECOM Board deals with governance issues for the sector—that is, finance, human resources, sector planning, risk management, occupational health, safety and welfare—and the proposed constitution of the SAFECOM Board reflects this in the bill. The SAFECOM Board is not a representative or a policy forum.

Appropriately, the farmers federation has membership on the State Bushfire Coordination Committee, which deals with operational and coalface matters. The farmers federation could experience frustration by the statutory nature of the board, similar to volunteer associations and the Firefighters Union with advisory boards. If this amendment were to be accepted, it would just raise the issue, and no doubt other interest groups would also seek a position on the SAFECOM Board—for example, the Local Government Association, or other peak bodies such as the Real Estate Institute or the Urban Development Institute. It could be argued that they have just as much at stake as the farmers federation, and as much right to be on the governance board for the emergency services sector. So, I would argue first of all that it is not really relevant nor would the presence of the farmers federation contribute to the issues that the board deals with—namely, governance issues. But also, it would set a precedent for other groups who might wish to claim, and they might have an equal right to be on the board. For that reason the government opposes the amendment.

The Hon. T.J. STEPHENS: Our amendment is not so much about the fact that SAFF wants to be represented on this organisation. We feel that the people who are so far to be nominated are appropriate, but we have a concern that perhaps the group will lack land owner/farmer representation. They would not necessarily be taking the interests of SAFF to that board, but they would generally have experience appropriate to landholders in regard to fire prevention, probably more so than most city people and most bureaucrats.

The Hon. R.L. BROKENSHIRE: We will be supporting the government, not the opposition, on this amendment. I do not see that SAFF has a role in the governance at all. If there is to be an additional position, I personally would like to see it as that of a Volunteer Fire Brigades Association representative because they lost so much autonomy that they should have kept when they lost the Country Fire Service Board.

When you look at governance, management, finances and equipment provision, etc. it is really about people with expertise. With the greatest respect to the farmers federation, I do not see that it fits in to this category when it comes to this board. I agree with the minister that, if you are going to put SAFF on here, you need to include the LGA, and then where does it stop? You will end up with an unworkable, cumbersome board, and that is not want we want. We want a board that hones in on the proper provision of emergency services, fire and protection for life and property in our environment and our state. We will support the government in opposing this amendment.

Amendment negatived; clause passed.

Clauses 10 to 22 passed.

Clause 23.

The Hon. R.L. BROKENSHIRE: I move:

Page 14, line 22 [clause 23, inserted section 72(2)(b)]—Delete 'take into account' and substitute:

undertake best endeavours to reflect

I believe that most members are aware that what I am proposing here is to delete 'take into account' and substitute 'undertake best endeavours to reflect'. It is wording to describe better the issues around the amendment.

The Hon. P. HOLLOWAY: The government opposes the amendment, which deletes the words 'take into account' and substitutes 'undertake best endeavours to reflect', so we are getting into semantics. So, it is really a matter of interpretation and how a court would interpret it because, ultimately, that is the relevance of legislation. If it is ever challenged, I think a reasonable person would say, 'Well, if you are taking something into account that is very similar to saying that you will undertake your best endeavours to reflect.' I think 'taking into account' means that you give it careful and proper consideration, which is probably just a little different to 'undertake best endeavours to reflect'. The government believes that 'taking into account' is the appropriate clause, if you like, to reflect what we require here.

The Hon. T.J. STEPHENS: The opposition will be supporting the government on this amendment. We believe that the words should be left as is. We believe it is more of a commitment.

Amendment negatived.

The Hon. R.L. BROKENSHIRE: I move:

Page 14, after line 35 [clause 23, inserted section 72A]—Insert:

(2a) However, the State Bushfire Coordination Committee must ensure that any council whose area is within a bushfire management area is given an opportunity to nominate a person for membership of the relevant bushfire management committee (and, if a council nominates a person, the membership of the relevant bushfire management committee must include that person).

I am moving this amendment because councils do have legal responsibilities in regard to bushfire management. When the act was changed early this century, it did not take away the responsibilities of local government to be heavily involved in bushfire management. I believe that a council that is within a bushfire management area where there is going to be a relevant plan should have the right to have a council officer involved, otherwise it is pretty difficult for you to get total inclusion in what we want to see as a holistic approach to bushfire management and bushfire prevention.

The Hon. P. HOLLOWAY: The government does not support the amendment, but I would like to put something on the record because, obviously, this has been the subject of some discussion with the LGA. The government will be opposing the amendment on councils being a mandated member of the proposed bushfire management area committee.

The bushfire management area committees—of which there are planned to be 16—do not have prescribed members or membership, unlike the proposed State Bushfire Coordination Committee, because if there is an interest by a body corporate or entity within a bushfire management area then they are quite within their rights to be a member of their local committee.

I acknowledge the work of the LGA on this aspect of the bill. The LGA concurs that there is more flexibility for involvement in bushfire management planning for all, rather than just councils. For example, the bushfire management area committee for the South-East of the state would have forestry input, but in the Far North of the state I suspect that this would not be the case. I am

positive that local councils will continue their involvement in the bushfire management planning framework for their area and, indeed, the state, as they have done previously.

The Hon. T.J. STEPHENS: I indicate the Liberal Party's support for the proposal. We think it is a sensible addition.

The Hon. R.L. BROKENSHIRE: I am not convinced that the minister, on behalf of his government, has actually given this committee a clear explanation on why you would exclude a council representative, given the responsibilities of councils.

The Hon. P. HOLLOWAY: 'If they are not excluded' is the point to be made. The State Bushfire Coordination Committee will determine the membership. I do not think that anyone would suggest otherwise, but councils are not a key part of any bushfire mitigation effort. However, as I just indicated in that statement, there is involvement for others not just councils; and I gave the example where there will be different bodies such as Forestry in the South-East. However, if there is no forest, obviously, that is not relevant.

The point we are making is that the State Bushfire Coordination Committee should be the body that determines this; but, of course, under that relevant councils will have an appropriate role.

The committee divided on the amendment:

AYES (9)

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

NOES (10)

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

PAIRS (2)

Lucas, R.I.	Hunter, I.K.

Majority of 1 for the noes.

Amendment thus negatived.

The Hon. R.L. BROKENSHIRE: I move:

Page 17, after line 6 [clause 23, inserted section 73]—Insert:

(2a) The primary purpose of the plan is to identify major bushfire risks in the state and recommend appropriate action that will provide protection to life, property and the environment from the effects of bushfires.

The Hon. P. HOLLOWAY: The government accepts this amendment.

The Hon. T.J. STEPHENS: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 24 to 34 passed.

Clause 35.

The Hon. R.L. BROKENSHIRE: I move:

Page 23, after line 26 [clause 35, inserted section 105B]—Insert:

(4) A chief officer may, on application by a council, exempt the council from the requirement to appoint a fire prevention officer under this section.

This amendment provides that a chief officer (namely, the CFS or the MFS) may, on application by a council, exempt the council from the requirement to appoint a fire prevention officer. The

amendment was moved by me after discussion with the LGA around the issues of council and consideration with respect to a fire prevention officer and the knowledge of the chief officers.

The Hon. P. HOLLOWAY: The government can support this amendment.

The Hon. T.J. STEPHENS: The opposition supports the amendment.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 24, after line 15 [clause 35, inserted section 105D]—Insert:

(4) If a fire prevention officer delegates a function or power under this section, he or she must report that fact to the council.

This is a simple amendment. It is really just to cover the councils that have a fire prevention officer who has certain delegations, functions or powers under the section. Councils want the situation where, at the relevant point after the decision is made, it is reported to the council so the council has protections through the chain of command to its chief executive officer, who is ultimately responsible for the running of the council.

The Hon. P. HOLLOWAY: The government does not oppose the amendment.

The Hon. T.J. STEPHENS: The opposition opposes the amendment. We feel that it is okay as it is so we do not think it is particularly necessary. However, I indicate that we will not divide on it.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 24, lines 20 to 25 [clause 35, inserted section 105E]—

Delete 'notice to a fire prevention officer, require the fire prevention officer to provide to the Commission, the State Bushfire Coordination Committee or the bushfire management committee within a period stated in the notice or at stated intervals, any report or reports relating to the performance, exercise or discharge of the fire prevention officer's functions, powers or responsibilities,' and substitute:

notice, require the council to provide to the Commission, the State Bushfire Coordination Committee or the bushfire management committee (within a period stated in the notice or at stated intervals) any report or reports relating to the performance, exercise or discharge of the functions, powers or responsibilities of the fire prevention officer or officers (if any) for the council's area,

This proposal was put by the LGA after consultation with its council members, and I am happy to move this amendment.

The Hon. P. HOLLOWAY: I think there was an original amendment moved in another place with which the government had some concerns. We do not have any problem in principle with the proposition: there were just some issues about wording. I understand this might be different from the amendment introduced in the House of Assembly so, on that basis, we do not oppose the amendment.

The Hon. T.J. STEPHENS: I indicate the opposition's support for the amendment.

Amendment carried.

The Hon. T.J. STEPHENS: I move:

Page 24, after line 33 [clause 35, inserted section 105F(1)]—After paragraph (c) insert:

and

(d) to minimise the threat to human life from a fire on the land.

The member for Waite in the other place talked about the emphasis in this bill on the protection of property. We feel this amendment makes it quite clear that the protection of human life is of paramount concern as well as property. So we think it is a sensible amendment.

The Hon. P. HOLLOWAY: The government does not have any particular issue with these amendments so we do not oppose them.

The Hon. R.L. BROKENSHIRE: We support it on the basis that we need, wherever possible, to emphasise the fact that the protection of human life is paramount in all issues

regarding fire. Obviously, property and the environment should be protected also, but we need to have all our focus on the protection of human life.

Amendment carried.

The Hon. T.J. STEPHENS: I move:

Page 26, after line 37 [clause 35, inserted section 105G(1)]—After paragraph (e) insert:

and

(f) to minimise the threat to human life from a fire on the land.

This is a consequential amendment.

Amendment carried.

The Hon. T.J. STEPHENS: I move:

Page 28, after line 2 [clause 35, inserted section 105H(1)]—After paragraph (e) insert:

and

(f) to minimise the threat to human life from a fire on the land.

Amendment carried.

The Hon. J.S.L. DAWKINS: I move:

Page 28, after line 33—Insert:

105HA—Commonwealth land

(1) If in the opinion of the relevant Chief Officer conditions existing on Commonwealth land—

(a) in the country; or

(b) in a designated urban bushfire risk area,

present an undue risk to surrounding land (not being Commonwealth land) in the event of a bushfire on (or passing through) the Commonwealth land, the relevant Chief Officer must take reasonable steps to notify the person apparently in control of the Commonwealth land of the risk and the reasons for his or her opinion (and may provide advice as to the action that, in the opinion of the Chief Officer, should be taken in view of the risk).

(2) In this section—

Commonwealth land means land occupied by the Commonwealth (including the Crown in right of the Commonwealth or a Commonwealth Minister), or by an agency or instrumentality of the Crown;

relevant Chief Officer, in relation to particular land, means—

(a) if the land is within a fire district—the Chief Officer of SAMFS;

(b) if the land is outside a fire district—the Chief Officer of SACFS.

This amendment relates to the insertion of a new clause regarding commonwealth land. Basically, it ensures that the relevant chief officer must take reasonable steps to notify the person apparently in control of commonwealth land if that land is deemed by the chief officer to have an undue fire risk.

I appreciate the advice from the minister's officers and parliamentary counsel that we cannot make the commonwealth government do anything. However, I think we should take every step we can to reduce the fire risk in the significant amount of commonwealth land in this state. I mentioned some examples in my second reading speech but, since that time, after conversations with members of this chamber, one in particular noted as particularly sensitive is the Woodside army base. However, there are also other army facilities, such as El Alamein and Smithfield, and I think we could name many more not only in close proximity to Adelaide but also other parts of the state. I commend the amendment to the committee.

The Hon. P. HOLLOWAY: This amendment seeks to include the tenure of commonwealth land. The amendment can be read in two ways as it is currently drafted. It could be interpreted, first, in the sense of prevention and mitigation, which is what the Country Fire Service thinks is Mr Dawkins' intention. Secondly, it could also be interpreted in a response sense. This should not be the focus of the amendment, as the response provisions are outlined in an agreement I will

explain. Currently, there is an agreement between the Commonwealth of Australia and the South Australian Country Fire Service. The key aspects of the agreement include the recitals, which state:

> The commonwealth requires fire rescue and other emergency services for its property, facilities and personnel. The South Australian Metropolitan Fire Service and the South Australian Country Fire Service will provide the required services on the terms and conditions contained in this agreement. The services are described as those which the SAMFS and the SACFS are empowered to provide under the Fire and Emergency Services Act 2005, as amended from time to time. The services are not prescriptive, but emphasis is on the response aspects of service delivery.

So, while there is perhaps some ambiguity with the particular amendment, providing the interpretation is as we believe it should be—that is, that the emphasis the honourable member is trying to achieve is towards prevention and mitigation aspects of fire management—the government agrees with that. Of course, the fact that we have this MOU deals with the other aspect of it. With that sort of proviso we will not oppose the amendment.

The Hon. J.S.L. DAWKINS: I thank the minister for those comments. Certainly, I indicate that my focus is on prevention and mitigation. In the briefing we had, which was provided by the minister, I asked questions. I must say that is the first time I have heard that response about the relationship in relation to a response to a fire incident. It would have been appreciated if we had been informed of that earlier, because I did make that request in the briefing. However, I appreciate the fact that the minister has put it on the table in this chamber today. To avoid any ambiguity, I will make it clear that I am concerned about the ability of chief officers to alert the commonwealth to the need for fire prevention and mitigation.

The Hon. R.L. BROKENSHIRE: I rise to support the amendment and to congratulate the member on moving it. It is a real issue. I know the commonwealth has its own powers but, at the end of the day, commonwealth land can have a huge impact on life, property and the environment of our state as a whole. When you travel around, you think about the army bases and the large amount of commonwealth land not far from Murray Bridge and other places that may be leased out and not managed properly and only used from time to time.

In relation to all publicly owned land, it is really important that chief officers, or their delegates, have as much input as possible into fire prevention. If they can work with this sort of clause to put more pressure on and provide more advice to the commonwealth, I think it is a good thing. We need to see it with SA Water as well. When you look at the Tulka fires in Port Lincoln and those areas, hopefully we are moving in that direction with bipartisanship, and I am sure we are. I think this amendment will do nothing but good.

Amendment carried; clause as amended passed.

Clauses 36 and 37 passed.

Progress reported; committee to sit again.

[Sitting suspended from 13:06 to 14:17]

WILLUNGA BASIN

The Hon. R.L. BROKENSHIRE (14:18): Presented a petition signed by 507 residents of South Australia requesting the council to establish forthwith a statutory authority with powers to address major issues such as population growth and the adequate supply of public and private utility services to the said region, and further to address issues of water security, food security, biodiversity, conservation, landscape preservation, sustainable housing and the pursuit of sustainable employment opportunities through horticulture, agriculture, viticulture, tourism and any other enterprises compatible with the preservation and enhancement of the said region.

PAPERS

The following papers were laid on the table:

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

Death in Custody of Mr Daniel O'Keefe and Death of John Wanganeen—Response to the Coronial Report of actions taken following the Coronial Inquiry, August 2009

Social Development Committee Inquiry into Bogus, Unregistered and Deregistered Health Practitioners—Response by the Minister for Health

STORMWATER INITIATIVES

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:19): I table a copy of a ministerial statement relating to questions asked during question time on 23 September 2009 made earlier today in another place by my colleague the Minister for Water Security.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (14:20): I bring up the report of the committee on Kangaroo Island Natural Resources Management Board Levy Proposal 2009-10, subtitled 'Don't Mention the Koalas.'

Report received.

QUESTION TIME

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning yet another question about the 30-year plan.

Leave granted.

The Hon. D.W. RIDGWAY: The minister responded to a presentation that Professor Dick Blandy had made at a function in the northern suburbs. I am sure he is aware of it but on page 3 of Professor Blandy's presentation he indicated that there were some errors in the plan. It may seem to be somewhat trivial but the page numbers and appendices cease at page 20 (out of 93 pages). Figure 7, Appendix 8, describes gross state product, not employment; in table 10AA the employment numbers are actually the unemployment numbers; table 12AA describes total industry employment, not the net impact of the plan on employment; and in reference to page 45 of the IPCC's 2007 synthesis report, it cites the wrong page. He continues with a couple of other inaccuracies.

I contacted some academics at one of the South Australian universities, and they ran this document through their plagiarism scanner—a program called Turnitin. The advice they gave me is that the background technical document has been cut and pasted from various sources, mostly from other governments, documents and websites. Apart from containing dodgy data, it lacks an executive summary and is very poorly written. There are spelling errors that suggest that the authors did not even bother to spell check it before posting it on the Department of Planning and Local Government website.

The background technical document begins with a bizarre disclaimer on the first page after the title page. It lacks page numbers in places and it says that the document is the draft 30-Year Plan for Greater Adelaide released for public consultation. However, a statement on the DPLG website, where the background technical document is downloaded from, says specifically:

> The technical papers available for download are not intended as part of the Plan for Greater Adelaide.

The advice I have received then states:

> Nevertheless, the same data that appears in the background technical document appears in the Plan for Greater Adelaide.

Looking at the Turnitin report, it is a significantly large report of some 381 pages for the technical report and some 230 pages for the main plan itself. I think it is interesting to note that there are quite a large number of references to student papers. However, of particular note is that there are two references to material taken from Wikipedia and inserted into the plan.

The academics went on to say that, if this document was handed up to them as a paper from a student, they would fail the student. My question is: will the minister now admit that this plan has been rushed and is flawed, and will he now agree to extend the consultation period and undertake to rewrite the plan so that it is a document that the community of South Australia can have some faith in as being accurate?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:25): Let me say that I am absolutely delighted that the Liberal Party of Australia obviously agrees with the fundamental

objectives of the plan because they have not raised a single objection to those fundamental underlying objectives which are part of the plan: that we change the direction of Adelaide away from a dependency on motor vehicles, that we should look at the population data for 30 years ahead, that we should set targets for population, and that we should be recognised as being the first government to set out such a plan for the first time in many decades.

I am delighted that the opposition—through such great scrutiny as it has obviously shown—has not been able to find any fundamental flaws in the base data underlying what the plan for Adelaide should outline. If they have found any fundamental flaws then they have failed to identify them in terms of the underlying assumptions or the basic statistics. They have found no flaw, and I am delighted about that.

DOMESTIC VIOLENCE ALERT UNITS

The Hon. J.M.A. LENSINK (14:26): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question on Domestic Violence Alert Units.

Leave granted.

The Hon. J.M.A. LENSINK: I have asked questions relating to domestic violence units before, particularly on 17 July when I asked about units that can be activated for immediate police help if a domestic violence victim is under duress.

On 10 September, the Attorney-General and the minister announced draft legislation that will focus on domestic violence situations, by requiring the perpetrator—rather than the victim—to leave the family home.

In answer to the question I asked in July relating to removing a perpetrator from the home, the minister stated:

> We have also looked at a range of strategies around ensuring that when we do we make sure that the home is left safe. That might mean, for instance, putting new locks on the doors or putting outdoor sensor lighting in place.

The domestic violence units are neither inexpensive to purchase and hire nor to monitor. At this stage, apart from some philanthropic donations and the cost-effective operations by West Coast Security, it is being funded as a user pays system.

As a practical and efficient way of giving victims security and peace of mind, my questions for the minister are: in relation to funds that have been announced under that initiative on 10 September, are there any funds that may be available for such units to allow domestic violence victims access to them, and/or is the minister aware of whether, through the extension of the Family Safety Framework, there may be some capacity to provide them to domestic violence victims?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:28): I always welcome an opportunity to talk about the incredibly valuable work of this government to protect victims of domestic violence, particularly women and their children.

I have spoken on this issue of alert units before. It seems that we have the same old questions rolled out over and over again, but I will not complain about having to reply in a similar way because it gives me an opportunity to talk about the wonderful things that this government is doing to protect women and their children.

There has been significant legislative reform. Not very long ago we reformed the rape and sexual assault legislation. That legislation was critical in terms of ensuring that we made perpetrators more responsible for their actions and provided greater support for victims in the court system. The Attorney-General has recently tabled in parliament new domestic violence legislation, which is a major piece of reform. It is about ensuring a more timely response at people's homes when incidents occur.

It will give the police the power to put in place interim orders that will allow them on the spot to remove perpetrators from the family home. It will enable women to be secure in the family home rather than having to flee to a safe house. It will secure women in the family home with their children, and a number of means are available to them in relation to that, and I will come back to talk about those in just a minute. It also expands the definition of 'abuse'. No longer does it apply just to domestic partners: it can also include siblings—particularly older siblings, because 16 year

old sons have, unfortunately, been known to abuse their mothers—and also grandparents and other family members.

It is a major piece of legislative reform and it is one other plank that this government has put in place to help protect women from domestic violence in particular. We have recently rolled out our Family Safety Framework, and I have already spoken at length in this chamber about that. It is a very important system of case managing women who are assessed to be at high risk. We have rolled that out recently. Of course, we have recently launched our public awareness Don't Cross the Line campaign. That is part of the approximately $800,000 this government has committed to increasing public awareness around the new legislative changes, as well as trying to change people's attitude to accepting violence in relationships.

Its focus is on respectful relationships. It is targeted particularly at young men and women between the ages of 18 and 24. No doubt members have already started to view some of these TV advertisements, which are quite confronting. Of course, we do not apologise for that: that is what we intended them to be. As part of that, alerts in particular are only one element of a whole menu of available different security measures. My current understanding is that Families and Communities has funds that assist in the securing of households.

As I said, our new reforms will assist us to secure more people in the family home, and changing locks on doors and improving the lighting around the house, etc., are some of the means by which they can do that. Personal alerts are only one strategy, and I have been informed that some councils provide them. I do believe (though I will have to check) that, under certain circumstances, some of the money available from Families and Communities to secure women could be spent on those alerts.

However, it is most important that we do not just manage the perception of safety: it is important that we monitor whether or not these alerts are really effective. I know that those people who have them on their person tend to feel safer, but it does not necessarily mean they are. We rely particularly on the police and other domestic violence expertise to assist us in devising the best types of security measures on a case-by-case basis. They are available to some people, and so are a wide range of other security measures.

Of course, the federal government has set aside funding to assist in reducing domestic violence, and some of those funds will be able to be used to assist in securing women and children in the safety of their homes.

BURNSIDE CITY COUNCIL

The Hon. S.G. WADE (14:34): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Burnside council.

Leave granted.

The Hon. S.G. WADE: On 22 September, the Hon. David Winderlich asked a question of the minister about the resignation and reappointment of Mr Neil Jacobs, the chief executive of the City of Burnside. The Hon. Mr Winderlich indicated that he was aware of legal advice which in effect states that Mr Jacobs cannot withdraw his resignation and council has no choice under the act but to declare the position vacant and advertise for applicants.

The Hon. Mr Winderlich also noted that, according to section 97(2) of the Local Government Act, Mr Jacobs effectively gave notice of his resignation on 12 June and that his period as chief executive concluded on 12 September. As a result, the validity of any actions taken by Mr Jacobs since that time are open to challenge. In answering the questions from the Hon. Mr Winderlich, the minister indicated that 'approximately a week or so ago' the investigator provided information that he had concerns around the appointment of the CEO, Mr Jim Jacobs, which she later corrected to Mr Neil Jacobs. Later in her answer the minister said:

> The investigator had concerns about the process of resignation and reappointment. The agency then wrote to the mayor and outlined the concerns that had been raised by the investigator.

The minister later said, 'To the best of my knowledge at present it has not responded.' Under section 273 of the Local Government Act the minister, on the basis of a report of an investigator or investigators under this division, may make recommendations or give directions to a council to rectify a breach of the act or an irregularity. My questions to the minister are:

1. Since contacting the council has she received advice from the council as to what steps it has taken or proposes to take in relation to the issues raised by the investigator?

2. Given that the minister has received a report from an investigator on this issue, what steps has she taken to ensure that Burnside council is operating with a validly appointed CEO?

3. Given that the minister has already received a report from an investigator under section 272 of the Local Government Act, is she considering using her powers under section 273(2) of the act, if necessary, to appoint an acting CEO and commence the process of appointment of a new CEO?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:36): It is disappointing to see two questions in a row that are repeats of former questions. It is the same old stuff being rolled out time and again. It is a lazy opposition that cannot come to question time with fresh questions. Nevertheless, I will go over the response. I have already given an answer to this question and I have gone on the record—

The Hon. J.S.L. Dawkins: You go over and over and over and over!

The PRESIDENT: Order!

The Hon. G.E. GAGO: You keep asking the same old questions over and over. I have given an answer. I gave the details a number of days ago, and we have the same old question rolled out again. So, I will say it all over again.

The agency received some advice from the investigator, Ken MacPherson, that he was concerned about the process in relation to the appointment and resignation of the CEO, Mr Neil Jacobs. The agency passed on those concerns to the council, as requested by the investigator. The agency informed me that it had sent on those concerns, and there has been no response that I am aware of from the council.

There is an inquiry underway, and the issue with respect to the appointment of the CEO is part of the terms of reference of that investigation. That investigation is currently being undertaken, and it would be most improper to debate in this place any details around it. I am absolutely confident that if the investigator, Mr Ken MacPherson, believes there was any matter that he viewed that I should act on prior to his completing his investigation he would inform me. So far, I have received no such request to do so. I am absolutely confident that that is what he would do. The investigation rests in his hands. He is an extremely competent person. He is highly qualified to do the job that he has agreed to do. He is a former auditor-general and was previously the acting ombudsman—

The Hon. R.I. Lucas: Illegally.

The Hon. G.E. GAGO: It is outrageous that the opposition would so disgracefully demean Mr Ken MacPherson. It is disgraceful that they would demean a man whose reputation and integrity is of the highest in this state. It is an absolute disgrace that they would stoop so low.

BURNSIDE CITY COUNCIL

The Hon. DAVID WINDERLICH (14:40): Given that there is a possibility that the chief executive officer, Neil Jacobs, has his term as chief executive—

The PRESIDENT: Without an explanation.

The Hon. DAVID WINDERLICH: Has the minister sought Crown Law advice on whether the advice from the investigator, Ken MacPherson, constitutes a report under section 272 or 273 of the Local Government Act?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:40): I have already given information that answers this question; that is, the investigator raised some concerns with the agency that he requested to be passed on to the council. I have received no advice from the investigator to indicate that any action on my part needs to occur at this point in time. As far as I am aware, he simply wanted those concerns raised with the council so that it could consider them.

I am not aware that any particular response was requested or required by him, but he wanted that matter raised. The matter is now before a formal investigation, and it is being conducted in a proper and fitting way.

CROSBY, DR R.

The Hon. I.K. HUNTER (14:41): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about a champion of local government, Dr Raymond Crosby.

Leave granted.

The Hon. I.K. HUNTER: Local government has always had the core function of providing services to local communities and has long relied on citizens taking a leadership role in their local areas. There are many local champions who have made significant contributions to their communities over the years, and one such person is Dr Raymond Crosby, who I understand will reach a significant anniversary this coming Saturday. Will the minister advise the council of the outstanding contribution to public health that Dr Crosby has made in his community?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:41): I do not often refer to individuals in this chamber but today I make an exception. It is my great privilege today to acknowledge a gentleman who will be celebrating his 100th birthday on 26 September this year: Dr Raymond Crosby of Fullarton. Mr President, I ask members of this council to acknowledge the presence of Dr Raymond Crosby, who with his family has joined us in the chamber today.

Honourable members: Hear, hear!

The Hon. G.E. GAGO: Reaching the milestone of 100 years is, indeed, a remarkable achievement, and it provides an opportunity to celebrate the life that Dr Crosby has lived as an active member of the community and acknowledge his many years of service for the considerable benefit of South Australia. I would like to focus on Dr Crosby's outstanding contribution to the administration of vaccination programs that were conducted monthly at local government immunisation clinics. This practice was the forerunner to how councils administer immunisation programs today.

In 1953, Dr Crosby was appointed to the position of medical officer of health by the former Enfield council and remained in its service for 45 years prior to his retirement in 1990. During his time as council's medical officer, Dr Crosby performed over 250,000 immunisations in his municipality, and even as a former nurse. That is a lot of injections. Armed with a syringe and a few kindly words and, I understand, a few jelly beans as well (no black ones included), often in a caravan parked in the grounds of the council's chambers, Dr Crosby continued his work immunising the community against polio, diphtheria, whooping cough, flu and hepatitis B. In the 1970s, a subsequent onset of polio brought residents to line up before Dr Crosby's clinic at council's hall, with many spilling out onto Hampstead Road.

Dr Crosby's time at the council provided many memorable experiences, one of which involved a local factory that was ravaged by a mystery illness, where he discovered lead poisoning in the workers who were exposed to salvaged old batteries. Dr Crosby continued to work as a general practitioner until the age of 92—it is unbelievable that he worked until that age—demonstrating his tireless efforts to be of service to the community. His pride in serving the people of Enfield has been constant and should serve as an inspiration to members in this place.

Through diligent work and application to the task at hand he has made a significant difference to his community. Such dedication is rare these days and we should celebrate it whenever we encounter it. His comments on his decades of service are quoted in the Enfield council's newsletter *The Enfield*:

> My association with the City of Enfield has been a very happy one and I wish to place on record my appreciation of their valuable assistance to me over the years. I believe that our methods of operation at the monthly immunisation public clinic and at the yearly school clinics are models of efficiency, of which the City of Enfield should be proud.

The work of local government, as exemplified by Dr Crosby, is a proud achievement, and I congratulate him on developing and refining that system, a system which has meant countless cases of illness being prevented over many years and which no doubt still provides benefit to residents today.

Dr Crosby currently lives with his wife, Heather, at their home in Fullarton and is accompanied here today by his daughters, Elspeth and Joanna, and grandchildren, Amy and Sarah.

In my capacity as Minister for State/Local Government Relations I wish to acknowledge the achievement of Dr Crosby's 100th birthday on 26 September 2009. I—as, I am sure, do other members—wish to extend my congratulations and best wishes on his 100th birthday and acknowledge his outstanding contribution to local government.

CRIMINAL INTELLIGENCE

The Hon. DAVID WINDERLICH (14:47): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Attorney-General, a question about criminal intelligence.

Leave granted.

The Hon. DAVID WINDERLICH: At a recent briefing on the Second-hand Goods Bill, staff of the Attorney-General were asked about the criminal intelligence provisions contained in that bill. The Attorney-General's staff indicated that criminal intelligence was going to be a standard provision to be rolled out in all legislation relating to criminal matters.

As we have seen, this started with the Serious and Organised Crime (Control) Act and bikies. Criminal intelligence provisions are in the proposed hydroponics legislation and the unexplained wealth bill and now it seems necessary to include them in the Second-hand Goods Bill, relating to second-hand goods dealers. My question to the Attorney-General is: will he confirm whether criminal intelligence will be a standard provision in all government bills relating to criminal law?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): That is a strange question, but I will refer it to the Attorney-General.

WINE-GRAPE TRANSPORT

The Hon. J.S.L. DAWKINS (14:49): I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Transport a question about interstate wine grape transport movements.

Leave granted.

The Hon. J.S.L. DAWKINS: On 12 November 2008 I asked a question of the minister in relation to interstate wine grape transport movements between the Sunraysia region, which encompasses parts of both Victoria and New South Wales, and the Riverland. Members may recall that a road train route from Yelta to South Merbein and on to the South Australian border near Yamba along the Sturt Highway has been trialled by VicRoads during the past two vintage periods. This move followed the limitation of operations at Sunraysia wineries and the subsequent transfer of significant amounts of grapes to Riverland wineries.

I received a response from the minister on 18 June this year, some seven months after I asked the question. As part of that response, the minister indicated that a multi-state cross-border task force had been established to identify future issues and ensure full consultation with all stakeholders. My questions are:

1. What progress has been made regarding wine grape road train movements between the Sunraysia and Riverland regions since the establishment of the multi-state cross-border task force?

2. Will the minister ensure that decisions are made in the near future, given the proximity of the next vintage period?

3. Will the minister also advise on the progress relating to an application for a general freight road train route from the Victorian boarder to the outskirts of Paringa?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:51): I will refer the honourable member's questions to the Minister for Transport, Energy and Infrastructure in another place and bring back a response.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. B.V. FINNIGAN (14:51): My question is to the Leader of the Government, the Minister for Urban Development and Planning. What is the government doing to support public

space within the City of Adelaide, particularly as the 30-year plan seeks to attract more residents living in high and medium density housing?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:52): I thank the honourable member for his very important question. This government aims, through the 30-Year Plan for Greater Adelaide, to increase the amount of residential accommodation within the central business district, including more affordable housing and also specialist housing for students and professionals. The 30-year plan also explores new opportunities to improve key public spaces, such as the Torrens River bank, Victoria Square and North Terrace.

We want to re-energise the parklands to increase their appeal and safety, especially where they adjoin residential areas within the city and the inner suburban fringe. The acceptance of apartment living within the CBD, balanced with access to public spaces that create a genuine sense of neighbourhood, has long been an accepted tradition in major cities such as New York. Quality public spaces are the key to the reinvigoration of our public life, as we have seen with the recent upgrades to North Terrace and Pulteney Street.

One other area that has already attracted attention is Hindmarsh Square, with two major developments under construction there, with Crown Plaza replacing the old Academy Cinema site, and a residential building adjacent to that. Of course, that follows the recent completion of the Conservatory building on the corner of Grenfell Street, on the old RAA site.

These developments are attracting a large residential and business component to Hindmarsh Square. Improvements to the quality of public space in Hindmarsh Square is important to encourage more people to use the open areas adjacent to these developments. The development of the Crown Plaza complex is the ideal time to upgrade these well known public spaces. That is why I have just approved a grant to the Adelaide City Council of $800,000 to assist the redevelopment of the north-east corner of Hindmarsh Square.

The upgrading of the area adjacent to the new Crown Plaza Hotel and apartments includes a new promenade, seating, plantings and shared-use pavement areas off Grenfell Street. The new promenade will also be a great venue for outdoor dining and seating near to the lawn areas of the north-east corner of Hindmarsh Square. A new feature will be an interactive artwork water feature to introduce an element of play into the landscape.

Adelaide City Council's planned upgrade should deliver additional quality open space in this part of the city. I should add that the $800,000 in funding for the north-east corner builds on the $220,000 Places for People grant, provided by the government in 2007, to redevelop the north-west corner of Hindmarsh Square.

The grant programs, under the Planning and Development Fund and the Open Space and Places for People grant programs, are available to South Australian councils to strategically plan, design and develop public and open spaces of community significance. This government has now provided more than $5million in grants this year from the Planning and Development Fund to support Adelaide City Council projects that will beautify key public spaces in the state's capital. These grants highlight how this government and Adelaide City Council are working effectively together to add value to Adelaide's premium cultural, civic and educational precincts.

I hope that the state government and the council can continue to work collaboratively to achieve the goals set out in the 30-year plan by growing the residential population within the city and providing high-class public spaces for residents and visitors to enjoy.

PRISONER REHABILITATION

The Hon. D.G.E. HOOD (14:55): I seek leave to make a brief explanation before asking the minister representing the Minister for Correctional Services a question about rehabilitation services at the Yatala Labour Prison and other correctional facilities within the state.

Leave granted.

The Hon. D.G.E. HOOD: Over the past few years, since I have been elected to this place, I have heard regular complaints from constituents regarding rehabilitation services at Yatala—and, indeed, at other prisons throughout the state. According to the Australian Bureau of Statistics, as at 30 June last year there were some 1,942 prisoners in custody within South Australia, and on that date there were 269 prisoners at the Adelaide Remand Centre. According to a criminal lawyer to whom I have spoken, they are being looked after by just one social worker.

With respect to the Magill Training Centre, and with recognition of the improvements that were announced yesterday, I received a reply to a question on notice this month noting that there was, again, just one full-time worker—appointed in 2008—who had, as their primary role, the delivery of rehabilitation programs to youths at that centre. With respect to rehabilitation for sex offenders, Supreme Court Justice Margaret Nyland this week, in reference to the Trevor Marshall case, was highly critical of the fact that this offender was not provided with any rehabilitation treatment almost seven years after he pleaded guilty. Indeed, of 210 sex offenders in gaol at any one time there is apparently provision to treat only 44 each year.

Finally, with respect to Yatala Labour Prison, which had some 466 prisoners as at 30 June last year, I was astounded some weeks ago to receive a reply to a freedom of information request which read in part:

> The Department for Correctional Services holds no documents detailing the programs, number of staff and funding applied to deliver rehabilitation programs at Yatala Labour Prison.

My questions are:

1. Why is it that the department tasked with rehabilitating prisoners has no documents regarding rehabilitation of prisoners at Yatala?

2. Is not the failure to have any documents whatsoever regarding rehabilitation indicative of a department that is not providing rehabilitation services—or very few of them?

3. Is it true that the touted figure of 17 per cent of operating expenditure being devoted to rehabilitation services also includes expenditure on programs provided to non-prisoners, such as community service work programs and programs offered to offenders on supervised bail conditions?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:58): I thank the honourable member for his important questions. I will refer them to the appropriate minister in another place and bring back a response.

CORONIAL SYSTEM

The Hon. R.D. LAWSON (14:58): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question on the subject of the South Australian coronial system.

Leave granted.

The Hon. R.D. LAWSON: Listeners to ABC Radio 891 earlier this week would have heard the Reverend Andrew Dutney describe the dramatic effects of delays in the South Australian coronial system; in particular, delays in providing information to the relatives of deceased persons and the distress, inconvenience and hardship caused by the fact that in many cases autopsy results are not published until up to 12 months after death occurs. Information shows that in South Australia the backlog indicator is that some 25 per cent of cases are not finalised within nine months. In the past, the Attorney has claimed that the reason for the delay was the worldwide shortage of pathologists but has claimed that new appointments have been made, yet still the backlog is unacceptably high. My questions to the Attorney are:

1. Will the government appoint additional forensic pathologists to the staff of Forensic SA to ensure that South Australians do not have to wait for unacceptably long periods for the results of autopsies?

2. If the government will not appoint additional pathologists, will consideration be given to employing private pathologists to undertake autopsies on behalf of the state so as to reduce the backlog?

3. Does the Attorney-General agree that the current delays cause great hardship to the community and that action is warranted?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:01): I will refer that question to the Attorney-General and bring back a reply.

FAMILY SAFETY FRAMEWORK

Members interjecting:

The Hon. R.P. WORTLEY (15:01): Listen, mate, I'm busy. While you are sitting there sleeping, I am actually doing work.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for the Status of Women questions about the family safety framework.

Leave granted.

The Hon. R.P. WORTLEY: The Rann government is strongly committed to ensuring that all women, children and indeed—

Members interjecting:

The Hon. R.P. WORTLEY: The safety of women and children might not be of interest to you over there, but it is certainly of great interest to us. We are actually doing something about it, not just talking, so we will let you know what we are doing about it as soon as the minister can answer the question.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: The Rann government is strongly committed to ensuring that all women, children and indeed the whole community have the right to live safely—free from all forms of violence. Will the minister provide more information on the women's safety strategy? What is being done at the operational level to progress the family safety framework?

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) (15:03): I thank the honourable member for his most important question. The Rann government's law reform efforts in the area of women's safety are being further supported by a strategic and proactive way of addressing family violence in South Australia. The family safety framework seeks to ensure that these services to the families most at risk of violence are dealt with in a more structured and systematic way through agencies sharing information about high risk families and taking responsibility for supporting these families to navigate the services system.

The framework was first implemented in 2007 through family safety meetings at the Holden Hill, Noarlunga and Port Augusta policing boundaries. Evaluation of these sites, conducted by the Office of Crime Statistics and Research, found the majority of victims were assessed as safer as a result of the family safety meeting intervention. Specifically, 62 per cent of victims went from high risk to low risk and three-quarters of the referrals that remained in South Australia had no SAPOL record of revictimisation for at least three months after referral. Improved communication and information sharing about women's safety, enhanced knowledge of domestic violence, and improved response times are other outcomes of this response.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Following the successful implementation of the framework in these areas, I am very pleased that we have now implemented a rollout to Port Adelaide, Elizabeth and Port Pirie. These three regions are currently involved in high risk meetings around domestic violence, and the family safety framework will enhance their current response to high risk victims of violence. In addition, at the last women's safety strategy whole-of-government meeting, I announced that the three initial trial sites will now be ongoing. These meetings will go a long way towards ensuring that there are further reductions in the rate of domestic violence and family violence against women.

ADELAIDE SHIP CONSTRUCTION INTERNATIONAL

The Hon. J.A. DARLEY (15:05): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Agriculture, Food and Fisheries, a question concerning Adelaide Ship Construction International.

Leave granted.

The Hon. J.A. DARLEY: On 16 June this year, I asked a question about rent negotiations between Defence SA and Adelaide Ship Construction International, following the excessive rental increase from $55,000 per annum to $108,000 per annum. In the answer that was provided to me, I was told that the Minister for Agriculture, Food and Fisheries was negotiating with Adelaide Ship Construction International to come to a compromise position.

The impression given from this was that genuine negotiations were going to take place to achieve a reasonable outcome; however, I believe that this has not been the case. Adelaide Ship Construction International has informed me that it has not been in any negotiations with the minister or Defence SA and any attempts at communication have been referred to the Crown Solicitor's Office.

In fact, in a recent meeting I had with Defence SA's chief executive officer, contrary to the information provided by the minister, it was made quite clear that Defence SA had no intention of negotiating an outcome and that it believed that the only way the matter could be settled was in court.

ASCI's latest attempt at a compromise was about $77,000 per annum. I understand that Defence SA has not deviated from its original offer and is still insisting on pursuing $108,000 per annum, which indicates that very little or no negotiation has taken place. My questions are:

1. Has the minister, Defence SA or any other individual other than representatives from the Crown Solicitor's Office been directly involved in negotiations with ASCI in the form of personal meetings?

2. What is the estimated total cost of the legal proceedings to South Australian taxpayers, and does this amount outweigh the $31,000 difference between ASCI and Defence SA's respective proposed rents?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:07): At the time that question was originally asked by the Hon. Mr Darley, my understanding was that there were negotiations that took place. Obviously, a settlement was unable to be reached and the matter is now before the courts, and that is probably about as much as one can say.

It is interesting that members opposite have been telling us that we should have an ICAC in this state, yet what they are suggesting is that somehow this government should make arbitrary decisions. They are saying that we should come to some arrangement when, clearly, one has had an independent valuation that suggests that an asset of this state is worth a certain amount of money. They are suggesting that we should come to some negotiation with somebody because they are a mate, or whatever.

I think that underlines that if we do ever have a Liberal government we will need an ICAC, because of the sort of behaviour that they are suggesting. If a minister were to make a decision to act against the proper advice they had received then they would be held liable. Not only would the Auditor-General be criticising them but given that taxpayer money is at stake it is incumbent on any person in government to use the advice that is given to them—whether it is by Crown law, independent valuations, or whatever—to try to come to some solution. If it is not possible to do that then the only way that it can be resolved is through the courts.

It is unfortunate that this matter has gone through the courts. As I understand it, all sorts of variations were made and independent valuations sought. But ultimately, if this government is to behave ethically and properly, then it has to act on the advice it is given, or it is a matter that is settled through the courts, and that is what is happening now.

I find it extraordinary that these advocates of an ICAC are the ones who seem to be, effectively, advocating that a government should behave in that way. This is the sort of issue that would be put straight before an ICAC because a government would not be acting in accordance with proper and accepted practice.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes, I have.

HEMMERLING, DR M.

The Hon. R.I. LUCAS (15:10): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about Mal Hemmerling.

Leave granted.

The Hon. R.I. LUCAS: In a press release in October 2007, Dr Mal Hemmerling was announced as the commissioner for consumer affairs from the date of 8 October 2007 for what was said by the then minister to be a 'short term contract'. It is well known that Dr Hemmerling's contract expired only recently—almost two years after his original appointment. There has been recent controversy about the new payment arrangements for Dr Hemmerling in relation to removal from his position as commissioner and his installation as the Director of Northern Connections in the northern suburbs.

In fact, I was roundly criticised by a public servant for being inaccurate in my claim that he was being paid $1,000 a day. This public servant claimed, and I do not know whether it is accurate, that it was actually closer to $1,400 a day for that particular contract. Also, earlier this year in relation to Dr Hemmerling's position, members will be aware that he had other prominent positions, in particular in relation to the Adelaide 36ers basketball club. Various press reports in and around April and May indicated that Dr Hemmerling, at least during that period this year, was not working as commissioner but on leave, and *The Advertiser* found him holidaying in Broome at that time. My questions to the minister are:

1. What was the remuneration package paid by the government to Dr Hemmerling as commissioner for consumer affairs, and what were the annual leave entitlements provided to Dr Hemmerling as part of his contract; and, in particular, were they consistent with leave entitlements provided to other chief executives?

2. On what date did Dr Hemmerling last undertake work as commissioner, and on what date was Dr Hemmerling last paid for his job as commissioner for consumer affairs?

3. Why did the minister not offer Dr Hemmerling any contract extension as commissioner for consumer affairs; and has the minister received any complaints about Dr Hemmerling's performance as commissioner for consumer affairs whilst she has been minister?

4. Was the minister or her officers within her ministerial office involved in anyway in helping find the new job for Dr Hemmerling as the Director of Northern Connections?

5. What was the actual daily rate paid to Dr Hemmerling for the period 1 June to 25 August this year from both the Office of Business and Consumer Affairs and from the Northern Connections' office, as evidently both agencies were part paying Dr Hemmerling during that three month period?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:13): It is just a disgrace that the Hon. Rob Lucas is intent on trying to besmirch and denigrate people who have contributed years of service to this community—people of exceptional integrity. Week in and week out we come to this place to listen to his snide innuendos and unpleasant questioning. It is bitter and twisted.

It is barely worthy of an answer. However, to ensure that the record is set straight, in relation to the details of his remuneration package, I do not have that information with me. I am happy to find out that detail and bring back a response. That level of detail is on the record and I can—

The Hon. P. Holloway interjecting:

The Hon. G.E. GAGO: That is exactly right. Those details we do not carry around with us.

Members interjecting:

The PRESIDENT: All finished?

The Hon. G.E. GAGO: I am happy to bring back those details. I understand that it is a public sector appointment and it is done in accordance with those procedures, and the payment schedules are in line with positions that require that level of responsibility, skill and expertise. With respect to the dates of his commencement and resignation, I do not carry around those details. They are on the record, and I can quite easily bring them back to the chamber.

However, I certainly can assure members that once he had been appointed to his position in the north his employment status changed. He was no longer the commissioner for consumer and business affairs. He became a consultant and his hours were reduced. Again, I could not tell members the exact number of hours that he was working, but they are on the record and I will bring back those details. At that time he was working part-time in my office. We then installed an acting commissioner who was full-time for the duration, and the position has since been advertised, and so on. In terms of complaints, I am very pleased to say that, to the very best of my knowledge, I am not aware of any complaints that I received.

In terms of finding Dr Mal Hemmerling a new job, as I said, he is a man of the highest integrity. He has a breadth of skill and experience that this state should be pleased to have here, and he certainly does not need my help in finding him a new position.

HEMMERLING, DR M.

The Hon. R.I. LUCAS (15:17): Sir, I have a supplementary question arising out of the answer. Given the minister's claim that the usual processes for the appointment in the new position were followed, is it not correct that the Chief of Staff for minister Rankine's office, one Angela Duigan, approached Mr Ian Nightingale, CEO of Mr Holloway's department, and asked them to assist in finding a job for Dr Hemmerling in the Northern Connections office?

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) (15:17): She is not a member of my office—

The Hon. R.I. Lucas: That's the usual process, is it?

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The Hon. G.E. GAGO: I do not necessarily believe any—

The PRESIDENT: The Hon. Mr Dawkins has a supplementary question.

HEMMERLING, DR M.

The Hon. J.S.L. DAWKINS (15:17): Why was the position of Director of the Northern Connections office not submitted to an application process, as was the case with the position of Director of the Office for the Southern Suburbs?

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) (15:18): The member will have to refer that to the relevant minister.

ENERGY PIPELINES CRC

The Hon. CARMEL ZOLLO (15:18): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Energy Pipelines CRC.

Leave granted.

The Hon. CARMEL ZOLLO: The federal Minister for Innovation, Industry, Science and Research, Senator Kim Carr, recently announced funding of $243 million for world-class collaborative research and innovation under the Australian government's Cooperative Research Centres (CRC) program. Of this total, $17.5 million was provided to establish a CRC in energy pipelines that will enable Australia to meet the increased demand for gas transportation arising from the need to decrease greenhouse gas emissions. The research providers undertaking the work of Energy Pipelines CRC include the University of Adelaide. Will the minister please outline the role that the university will play in this important research work?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:19): First, I would like to acknowledge the support of the federal government in this important area of research. I think that needs to be acknowledged. Indeed, initiated by the Hawke Labor government in 1990, the CRC program is a frontrunner in establishing long-term collaborative research partnerships. Energy Pipelines CRC, to which the honourable member referred, was established in the latest round of funding. It will undertake research and provide education and training in four programs covering the technology required to:

- extend the safe operating life of Australia's ageing natural gas transmission network, avoiding the need for replacement;
- build the new pipeline networks needed to support increased demand for natural gas;
- build the new pipeline networks that will enable the transmission of new energy cycle fluids, such as hydrogen and carbon dioxide; and
- prevent pipeline failures that could lead to consequential costs and harm to public health and safety, and other infrastructure.

These activities will result in cheaper, safer and more efficient pipelines that will provide more competitive energy costs and security of supply of energy. Large cost savings will arise from limiting or deferring capital expenditure arising from the life extension program.

The University of Adelaide will take active part in all four of the research programs supported by the federal government funding announced by Senator Carr. The outcomes of Research Program 4 will include recommendations to the industry and to state technical regulators on measures for the prevention of pipeline failures. This will be of particular interest and benefit to PIRSA's Petroleum and Geothermal Group.

Australia has about 30,000 kilometres of high pressure natural gas transmission pipelines, with a replacement cost of about $40 billion. The energy supplied by these pipelines has a value of $12 billion, is about 22 per cent of Australia's energy needs and is more than the combined output of all electricity generators in Australia. The Australian energy pipeline industry is facing some fundamental challenges as Australia's energy pipeline network is ageing, with a majority of pipelines serving capital cities aged between 30 and 40 years old. These pipelines require refurbishment to avoid replacement at high cost.

The Australian pipeline environment is unique, so that pipeline technology cannot be easily imported from international sources. Australia's domestic economic performance and international competitiveness depends on continued efficient and safe operations of energy pipelines. Australian energy pipelines are being encroached upon by the growth of capital cities into corridors that were formerly rural. The industry is experiencing an engineering skill shortage, and new needs in energy pipelines are required in the transition to a cleaner, renewable future.

So, I am delighted that the University of Adelaide will have a leading role in pipeline infrastructure research that is crucial to the safe and efficient transport of both petroleum and greenhouse gases from source to storage sites in Australia and overseas. I am also delighted that PIRSA will provide in-kind support for this important research.

ANSWERS TO QUESTIONS

BIOCOMPOSTABLE CONTAINERS

In reply to the **Hon. D.G.E. HOOD** (4 February 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 Minister for Environment and Conservation has meet with representatives from Goody Environment and Billabong.

JULIA FARR SERVICES

In reply to the **Hon. S.G. WADE** (18 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): The Minister for Families and Communities has provided the following information:

1. The information required under Section 9 of the Julia Farr Services (Trusts) Act 2007 relating to the 2007-08 DFC Annual Report was omitted due to an administrative oversight by the Department.

2. The administrative oversight will be corrected in accordance with the Department of the Premier and Cabinet Circular PC013, Annual Reporting Requirements.

It should be noted that as at 30 March 2008, 128 people with disabilities were resident at Highgate Park. During the year, Disability SA, through its Community Transition Team, assisted residents who chose to return to their community through a 'person-centred planning process'.

The Community Transition Team accessed housing and worked with other stakeholders to establish supported community accommodation. They also relocated residents who chose to move. Interested members of the person's family were also involved in this planning.

All of the people who moved from Highgate Park are living successfully in supported community accommodation and no one has returned.

3. With regard to the government's guarantee to heritage clients of the former Julia Farr Services, this guarantee continues.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (15:23): I bring up the report of the committee entitled Water Resource Management in the Murray-Darling Basin Volume 2: The Two Rivers.

Report received.

FIRE AND EMERGENCY SERVICES (REVIEW) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 3379.)

Clause 38.

The Hon. R.L. BROKENSHIRE: I move:

Page 32, after line 7—Insert:

(7) A regulation may only be made under Part 4 Divisions 7 and 8, and Part 4A, on the recommendation of the Minister.

(8) Before making a recommendation under subsection (7), the Minister must—

(a) give written notice of the proposed regulations to the LGA; and

(b) give consideration to any submission made by the LGA in relation to proposed regulations within the period specified in the notice (being a period of not less than 6 weeks).

Proposed subsection (7) of my amendment is important so that the minister has an opportunity effectively to sign off on matters relevant to the regulations. Under subsection (8) the minister must give written notice of the proposed regulations to the LGA and then give consideration to any submission made by the LGA within a period specified in the notice (being a period of not less than 6 weeks).

The reasons for this amendment are fairly straightforward, but clearly a lot of these regulations affect councils with respect to fire and emergency services prevention and suppression, particularly prevention, and the management of bushfire protection. I believe that the LGA on behalf of a lot of council representatives requested that this be considered as an amendment so that appropriate consideration can be made by the LGA and a recommendation or submission made to the minister.

The final point I make is that, like most, if not all, of my colleagues in this chamber, we preciously reserve the right to disallow bad regulation for democratic purposes. I believe that a lot of the time that would not hold up the council if proper consultation occurred with the peak body on the day. In this case the peak body is the LGA. I commend the amendment to the committee.

The Hon. P. HOLLOWAY: The clause in this bill amends section 148 of the principal act by inserting a standard regulation-making power to adopt codes and standards, etc. by reference.

Regulations are acts of the Executive Council. This is not a provision that is afforded to the LGA in other regulation-making sections in principal acts. These are standard regulation-making powers that were not included in the original act. This is not a standard provision for regulation-making powers to have in binding consultation with the LGA. Such an unorthodox provision, an incursion into the powers of Executive Council, is not supported.

I should point out the history of this. When these general issues were raised, amendments were made in the House of Assembly which I think addressed the concerns. It is obviously the intention of the government to consult with the LGA in relation to matters that are put before us. However, if one looks at the Hon. Mr Brokenshire's amendment, new subsection (8)(b) provides:

> Give consideration to any submission made by the LGA in relation to proposed regulations within the period specified in the notice (being a period of not less than 6 weeks).

As I said, that is an unorthodox provision. It is not included in other regulation-making clauses in principal acts, and that is why the government opposes it. I suggest that anyone who has any concerns talk to parliamentary counsel about such matters.

The Hon. T.J. STEPHENS: The Liberal Party's position is to support the amendment. We believe in the consultation process with the LGA; hence our support.

The Hon. P. HOLLOWAY: It is all very well to have consultation, and we will do that, but that does not mean that one should overturn good drafting practice by inserting sections in the act which I would argue are not necessary. As I said, the government is committed to consultation with the LGA, but to actually insert sections of this type is not good legislative practice.

In the other place, the opposition noted how diligent the consultation process had been in getting to this point—so that was recognised by the opposition in the other place. The history has been one of lengthy consultation. So, the government has delivered in relation to that. However, what we should not have are these regulating powers that are, to say the least, unorthodox.

The Hon. R.L. BROKENSHIRE: I appreciate the minister's comments, but I do not see them as being unorthodox. This amendment has been carefully drafted by the parliamentary counsel team, as has the whole bill. The point of the parliamentary process is for members to have the opportunity to move amendments they see either as improving a bill or as being a benefit to a sector that has democratically made representation to the MP or MPs.

My final comment is that, although I acknowledge the minister's point about the Liberal opposition saying that the process has been swift and efficient up to this point, it is not about 'this point': this is about the future and about consultation and integration. Initially, the emergency services levy and all the issues around improving bushfire protection, suppression and prevention management were to sort of segregate responsibilities; they were never fully segregated because it was not possible. Now we see more of a muddying of the waters when it comes to responsibilities, integration, needs and requirements, particularly between local government and state government which, frankly, are the two key areas when it comes to looking after life, property and the environment with respect to fire and emergency services.

I think that, if you were to get cooperation, collaboration and good integration into the future, it would be much more streamlined for the LGA to have an opportunity to comment on regulation amendments, etc. That is why I moved the amendment, and I still support it.

The Hon. P. HOLLOWAY: Parliament should be very wary about putting in any clauses that have profound effects. What they are effectively doing is taking away the power of government, through the Executive Council, in a way you do not see anywhere else. They are saying, basically, when drafting legislation, which is the prerogative of the Executive Council, the measures in question can be disallowed in this parliament. We are saying now that the LGA has to have written notice of proposed regulations and then the minister has to give considerations to submissions made by the LGA in relation to proposed regulations.

One of the problems with that which I can see straightaway is: what happens if you need regulations very quickly? What happens if some situation comes up where you have to do it quickly? Government is giving away its prerogative. We are diluting the powers of this parliament in doing so, and that is why I feel strongly that we should not be supporting it.

The committee divided on the amendment:

AYES (10)

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

NOES (9)

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

PAIRS (2)

Ridgway, D.W.	Gago, G.E.

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 39.

The Hon. T.J. STEPHENS: I move:

Page 32, lines 8 and 9—Leave out this clause and substitute:

39—Amendment of section 149—Review of Act

(1) Section 149(1)—delete subsection (1) and substitute:

(1) The minister must cause a review of the operation of this act to be conducted.

(1a) The review must relate to the period between the commencement of the Fire and Emergency Services (Review) Amendment Act 2009 and 30 March 2013.

(2) Section 149(3) and (4)—delete subsections (3) and (4) and substitute:

(3) The review must be commenced as soon as is reasonably practicable after 30 March 2013 and the report must be submitted to the minister by 30 September 2013.

This amendment calls for a review. For the benefit of my crossbench colleagues, we had an amendment filed calling for a review by March 2012; however, we have withdrawn that and, given that our shadow minister in the other place and the minister have got together and agreed that 2013 would be a reasonable time for a review to be commenced, I have now moved this amendment.

The Hon. P. HOLLOWAY: This amendment provides for a review in three years. Effectively, with the Greens-Liberal coalition in play again, this council has just effectively delayed the setting up of this because now with that amendment we have just carried we will have to wait another six weeks which will push this way beyond the bushfire season for the negotiations to establish some of the regulations to put all this in place. However, this amendment, in spite of the sector being subject to numerous reviews over the past—

Members interjecting:

The Hon. P. HOLLOWAY: I'm sorry. What's the problem? The fact is that the Greens-Liberal coalition has again damaged the operations of this state—

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is right. It is sabotage, and that is what they are on about. The Greens-Liberal coalition has done it federally with carbon trading and emissions trading schemes, and now here again. In relation to this amendment, the government is happy to accept the review. The honourable member's original time frame would have been much too short, particularly since he has now just added at least six weeks to every time you want to get a piece of regulation up which has fundamentally delayed this. In relation to this amendment the government is happy to accept it.

Amendment carried; clause as amended passed.

Remaining clauses (40 to 43), schedule and title passed.

Bill reported with amendments.

Bill read a third time and passed.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 22 September 2009. Page 3220.)

Clause 13.

The Hon. DAVID WINDERLICH: I move:

Page 11, line 16 [clause 13, inserted section 43A(2)]—After 'must' insert:

include a statement (verified by the registered officer by statutory declaration) of the total number of members of the party as at the date on which the return is prepared and

The amendment to clause 13 would change the current section 43A(2) to read:

A return under subsection (1) must include a statement (verified by the registered officer by statutory declaration) of the total number of members of the party as at the date on which the return is prepared and be accompanied by any documents required under the regulations.

I am moving this because the number of members in certain parties has been the subject of strong interest—certainly at the beginning of the year and certainly by the Attorney-General Michael Atkinson.

As I responded at the time, parties do not reveal their numbers because none of us have the numbers that would be as flattering as we would like, but given that the Attorney-General has this burning itch to know the numbers—at least of my party—I think it is only fair that we make available the numbers of all parties to all South Australians. In that way, in the interests of transparency, any South Australian would be able to find out the number of members of each party.

This would have several benefits, other than idle or strange curiosity. It would encourage healthy competition between parties. No party would like to appear too small, particularly not parties that are seen as rivals, such as Labor and Liberal, or, arguably, the Greens and the Democrats.

It would show members of the community that, in fact, most parties do not have very large memberships at all. On the one hand, that would put the influence of parties into proportion while, on the other hand, it might encourage people to join in and exercise their influence, given that they can see that, in some cases, they might be a significant addition. It comes back to the mantra often used by this government: nothing to fear, nothing to hide.

The Hon. B.V. Finnigan interjecting:

The Hon. DAVID WINDERLICH: That is right. It is a very good saying. I am very glad that it was introduced, probably by the Attorney-General. I intend to use it a lot: I do already, but I will use it more. In the interests of general transparency and in the interests of encouraging a healthy competition for memberships between parties—other elements of this bill have been about attempting to make parties more vibrant and a greater force in our political process—I urge all members to support this amendment.

The Hon. P. HOLLOWAY: Amendments Nos 7 and 8 are part of a series, so I suggest that amendment No. 7 should be treated as a test amendment. Amendment No. 7 in the name of the Hon. Mr Winderlich amends new section 43A to require the annual return of a registered political party filed under subsection (1) to include a statement, verified by affidavit of the registered party's registered officer, of the total number of members of the party as at the date on which the return is prepared.

The government opposes this amendment. We cannot see the point. Provided that the registered officer satisfies the commissioner that the party has the requisite 200 members, or a qualifying member of parliament, which the officer must do under section 43A(1), that should be the end of the matter. The commissioner has no need to know the total number of members. The public—and I note that amendment No. 8 requires the commissioner to publish this information on

a website—does not need to know, either. This will impose an unnecessary administrative burden on registered parties.

The Hon. M. PARNELL: I have a question for the minister on this clause. Proposed new section 43A(4) provides that the Electoral Commissioner may at any time, by notice in writing, require a registered officer of a registered political party to, in effect, prove that they are still eligible for registration.

What concerns me about that subsection is that if, for example, an attorney-general felt that a party was on the cusp of eligibility, there would be nothing to stop the attorney, on a weekly or monthly basis, contacting the Electoral Commissioner and urging him or her to give notices in writing to ensure that a political party has exactly the minimum number of members at any time. What assurance will the minister give that that type of conduct would not be allowed?

The Hon. P. HOLLOWAY: For a start, the discretion is the Electoral Commissioner's who, as we all know, is appointed by the statutory committee of this parliament. The Electoral Commissioner has a very important function that is independent of government. The concept that an electoral commissioner would effectively abuse the position, which I think is what the honourable member is suggesting, is not something that I believe is likely. Of course, if it was done and it was disclosed, I think that the political system, if you like, would take care of that. However, I do not think that is likely to happen at all.

The commissioner has a number of discretionary powers under the act, but the real answer to the honourable member's question is that history shows that we have been very well served by our electoral commissioners for over a century or more and they do not abuse their discretionary powers.

The Hon. M. PARNELL: I will ask the question in a different way because I am keen to ensure that abuse would not occur. I accept the minister's response in relation to the independence of the Electoral Commissioner, but I would have thought that, as a matter of natural justice, if you like, if a member of the public raised a concern with the Electoral Commissioner at any time—say, at least six months after a last return had been lodged—and said, 'I don't think the Liberal Party is eligible any more'—or the Labor Party, or whoever—would the Electoral Commissioner be obliged in any way to write to the party and make it prove that it has members?

To put it another way, would a person who approached the Electoral Commissioner with such a request have any redress if the Electoral Commissioner refused to give that notice in writing to the political party?

The Hon. P. HOLLOWAY: I believe it is a discretionary power on the Electoral Commissioner. One would assume that before taking action the Electoral Commissioner would want to satisfy herself that there were reasonable grounds. We all have powers as public officials. If people come to us with accusations, we should at least make some attempt to satisfy ourselves as to whether or not they have some validity before we take action.

All of us here as members of parliament can raise issues under parliamentary privilege in this parliament, and most members of parliament do so with some discretion in terms of trying to make some attempt to find out whether there is a prima facie case to pursue. One would assume that a public official, such as the Electoral Commissioner, would do likewise. Of course, these powers must be discretionary as they are indeed in relation to a number of powers of the commissioner under this act.

The Hon. DAVID WINDERLICH: Does the inclusion of new section 43A(4) in the amendment bill mean that, under the current Electoral Act, the Electoral Commissioner does not have the power to write to a political party and ask it to provide a statutory declaration of its membership numbers?

The Hon. P. HOLLOWAY: Section 45(1)(b) of the Electoral Act (which is the section on re-registration of a political party) provides:

> (1) If the Electoral Commissioner is satisfied on reasonable grounds that—
>
> (b) a political party so registered, not being a parliamentary party, has ceased to have at least 150 members; or...
>
> the Electoral Commissioner may deregister the party.

That is the current provision. In the context of exercising that power, the presumption is that the commissioner would then write to the party seeking some validation of her suspicions. However,

we must remember that the commissioner has to be satisfied on reasonable grounds that the party so registered has ceased to have effect. Clearly, that would suggest that the commissioner would write to satisfy herself that there were reasonable grounds for that belief. Section 45(2) provides:

> (2) A political party may not be deregistered under this section unless the Electoral Commissioner has, by notice in writing, addressed to the registered officer of the party—
>
> (a) informed the registered officer of his or her intention to deregister the party; and
>
> (b) allowed the registered officer a reasonable opportunity to show cause why the party should not be deregistered.

So, there is that safeguard in there. They are the current powers under the act, and we are amending section 45 under clause 14 of this bill. So, there is some change to section 45(1)(b). The new clause would read (and I guess we are getting ahead of ourselves a bit here):

> The Electoral Commissioner may deregister a party if—
>
> (b) a political party so registered has ceased to have the required number of members (or, in the case of a parliamentary party, an appropriate member) to enable the party to continue as an eligible political party; or

So, effectively, the change is removing the 150 number.

The Hon. R.D. LAWSON: I would have thought that, in addition to the comments made by the minister, new provision 43A(4), which provides, 'The Electoral Commissioner may at any time, by notice in writing, require a registered officer of a registered political party to provide such information as is specified in the notice for the purpose of determining whether the party is still eligible', is a satisfactory and reasonable mechanism, given the other requirement that the Electoral Commissioner must be satisfied on reasonable grounds that there is already in the legislation adequate protection for the matters that are being canvassed.

Whilst we quite understand and have sympathy for the Hon. Mr Winderlich in moving this amendment and we share his concerns about the unseemly interest of the Attorney-General earlier this year in the number of members of the Australian Democrats party, we do not believe that it is appropriate to require public disclosure of the number of members of a registered political party. That information has not had to be disclosed in the past, and we see no reason why this additional bureaucratic requirement should be imposed.

Amendment negatived; clause passed.

Clause 14.

The Hon. R.D. LAWSON: I have a question for the minister. I notice that the successive annual reports of the Electoral Commissioner seem to suggest that the number and identity of the register of political parties has been about the same over a number of years. I ask the minister to indicate to the committee whether or not there have been deregistrations undertaken by the commissioner rather than parties themselves seeking to be deregistered. If so, what has been the cause of deregistration at the initiation of the commissioner?

The Hon. P. HOLLOWAY: The deputy commissioner is here, and I will get that information. To the best of the deputy commissioner's knowledge, there has never been a deregistration under section 45 of the act, but under section 44, voluntary deregistration, I understand that Dignity for the Disabled may have sought voluntary deregistration.

Clause passed.

Clause 15.

The Hon. R.D. LAWSON: My question relates to proposed section 46B which requires, quite appropriately, in subsection (1) that the membership information—names and addresses of the electors who constitute the membership of a registered political party—is kept confidential. What steps is it proposed to take to ensure that that material is kept on a confidential basis?

The Hon. P. HOLLOWAY: My advice is that the Electoral Commission will just keep the information secure in the way that it does with the electoral roll itself. Of course, there are certain people who, for various security and other reasons, have their names suppressed on the roll. The Electoral Commission handles those, and the expectation is that, just as they are able to successfully keep that information secure, so they would in the same manner be able to keep secure the names and addresses of members who make up the requirements for registration of a political party.

The Hon. R.D. LAWSON: Proposed subsection (2) provides:

Subsection (1) does not prevent the Electoral Commissioner providing information to a prescribed person or body, or a person or body of a prescribed class...for purposes connected with the operation or administration of this act.

Can the minister indicate to whom it is envisaged the Electoral Commissioner might be able to pass on this information?

The Hon. P. HOLLOWAY: It is envisaged that the prescription would probably relate to the Crown Solicitor or SAPOL, perhaps, and that that would operate in relation to getting advice on any potentially false declaration and membership numbers and the like. Essentially, that part of the bill is envisaged to cover that sort of eventuality. So, if there is any query in relation to the bona fides of the information provided, it could be passed on to the appropriate authority, such as SAPOL and/or the Crown Solicitor.

Clause passed.

Clause 16.

The Hon. M. PARNELL: I move:

Page 12, lines 15 to 21 [clause 16, inserted subsection (3)]—Delete inserted subsection (3) and substitute:

(3) The date fixed for the close of the rolls must be not more than 5 days before the date for the polling.

This amendment goes to the critical question of when we close the roll of voters before each election. This is one of those situations where we need to balance the convenience of the Electoral Commissioner with democratic principles and, in particular, the principle that we should seek to enfranchise as many people as we can.

Members would recall that at the federal level we had the situation where once people became aware that the Prime Minister had gone to Government House it was too late for them to change their address, for example, or to remember to enrol for the first time.

The provision in the government's bill before us is that the close of the electoral roll will be 10 days after the issuing of the writs. So, it is not as bad as we had at the federal level where people were very much taken by surprise. However, I think we live in an age where technology does allow us to provide more latitude on the side of inclusion. So, my amendment proposes that the rolls be closed no more than five days before the date for polling.

The reason for that is that it still gives time for the Electoral Commissioner to finalise the rolls. We have to remember that gone are the days when these were paper rolls; they are now, primarily, an electronic document. I think five days should be enough time, particularly when we consider that, as technology advances, even at polling places the rolls will be provided in electronic form rather than on paper. That is an inevitability, I am sure. If that was the case, the shut off day for the rolls could be one or two days before the election and you could still have the integrity of the roll, if it was an electronic document.

The Hon. A. Bressington: Who does the data entry?

The Hon. M. PARNELL: The Hon. Ann Bressington asks, 'Who does the data entry?'. The point is that the data is coming in all the time. You would not have to rewrite the whole roll each time a person—

The Hon. A. Bressington interjecting:

The Hon. M. PARNELL: Yes, and, as people are added to it, they are added to the database.

The ACTING CHAIRMAN (Hon. R. P. Wortley): Please address the chair.

The Hon. M. PARNELL: Thank you, Mr Acting Chairman, I am sorry that I allowed myself to be distracted. We need to remember who is disenfranchised when we close the rolls relatively early. In particular, it is young people, and it is people who are in rented accommodation rather than owning their own home, because renters move around more often than home owners.

I think this is a sensible amendment that leaves it late, but not too late, for as many South Australians as possible to make sure that they are on the roll—and on the roll in the seat appropriate to where they live.

The Hon. P. HOLLOWAY: The bill amends section 48 so that the date for the close of rolls is fixed at 10 days after the issue of the writs. The Hon. Mr Parnell's amendment is to section 48 so that the close of rolls must not be more than five days before the polling day. The government opposes this amendment.

The government has consulted the Electoral Commissioner, and she advises that, under the current provision, the roll is closed around 17 days prior to polling day. After the close of rolls, it is necessary to provide at least one extra day for the Australian Electoral Commission to finalise the processing of late enrolment cards. Once completed, the processing of the rolls is undertaken in Canberra and the roll product files are produced and issued to the Electoral Commissioner's office the following day. One of the files is used by the printers to produce the scannable rolls, and they require approximately three to four days to load, format and produce. This process also entails manual human intervention in formatting and truncation of names and addresses to fit the narrow column format.

Once the district rolls are printed (around 1,800), they must be distributed to each of the 47 returning officers around the state for allocation to each of the polling booth managers. This process can take up to three days and possibly longer in remote areas. The Electoral Commissioner requires about eight to 10 days to finalise, print and distribute the rolls ready for polling day. Under the current arrangements, they are distributed approximately one week prior to polling day and are used in supporting early voting, particularly in remote polling operations.

An additional complication with the Hon. Mr Parnell's amendment would be the preparation and distribution of 1,900 or so iRolls, loaded with the entire state roll, to assist in the identification of each elector's voting entitlement, commencing from the issue of early voters some 12 days before polling day. Under the proposed amendment, the Electoral Commissioner will not be able to utilise these devices to assist in the allocation of the correct voting entitlement to electors voting that early. Likewise, the processing of postal votes—and there were over 65,000 of these in 2006—cannot be undertaken without the roll being finalised. Some believe already that the period for receiving applications and processing, issuing and receiving back the postal vote is too short. We can understand what the Hon. Mr Parnell is seeking to achieve, but our advice is that, unfortunately, it is just impractical.

The Hon. R.D. LAWSON: We on the Liberal side certainly agree with the government's position, based on the information provided by the Electoral Commissioner. It is interesting that the change made by this amendment is not great. Currently, the date fixed for closing the roll must be not less than seven nor more than 10, and now it is proposed in the government's amendment to specify an exact date of 10 days after the date of the issue of the writ. We believe that, for all the reasons given by the minister, that is an appropriate time.

The Hon. M. PARNELL: I advise the committee that I will not be dividing on this amendment, but I do have a question of the minister. Whilst the date for the close of the rolls is set at 10 days after the date of the issue of the writ, the date of the issue of the writ is still the unknown. With a fixed term parliament, where we know exactly what the polling date is every year, can the minister explain why on earth we keep open the date of the issue of the writ? Why cannot that also be set in legislation?

The Hon. P. HOLLOWAY: I guess just convention, history and the way it is in the act is essentially the answer.

The Hon. R.D. LAWSON: Although we do have fixed terms, there is the possibility of early elections, with notices of no confidence and the like. So, it is not possible to say in advance when every election will be held, and also given the fact that there is a capacity to delay an election beyond the four years for certain reasons.

Amendment negatived; clause passed.

Clause 17.

The Hon. R.D. LAWSON: I ask the minister to indicate whether there has been any incident or occasion which has necessitated this particular amendment: what is the reason for it?

The Hon. P. HOLLOWAY: I am advised that there has been a case where this particular clause was recommended by a previous electoral commissioner out of an abundance of caution. I guess it is a case that could arise; perhaps it is unlikely, but out of that abundance of caution we have put it in. It seems to me to be a sensible measure, even if it is rarely used.

Clause passed.

New clause 17A.

The Hon. M. PARNELL: I move;

New clause, page 12, after line 28—After clause 17 insert:

17A—Insertion of section 53B

After section 53A insert:

53B—Certain nominations must not be received

(1) This section applies if a by-election is to be held to fill a casual vacancy in the membership of the House of Assembly caused by the resignation of a member who was, immediately before resigning, a member of a registered political party.

Note—

This section will not apply to a by-election held to fill a casual vacancy caused by the death of a member or by vacation of a member's seat in accordance with section 31 of the *Constitution Act 1934*.

(2) The Electoral Commissioner must, as soon as practicable after the issue of the writ for the election, serve on the registered officer of the registered political party a written notice requiring the party to pay to the Electoral Commissioner an amount specified in the notice (being the Electoral Commissioner's estimate of the reasonable costs to the Crown of holding the by-election).

(3) The registered officer of the registered political party may not nominate a person as a candidate endorsed by the party for the election unless the party has paid the amount specified in the notice under subsection (2).

(4) If the amount specified in the notice is not paid on or before the date on which the by-election is held, the Electoral Commissioner may recover the amount from the registered political party as a debt.

(5) The Electoral Commissioner may determine that this section does not apply to the resignation of a member if the Electoral Commissioner is satisfied that the resignation was reasonably necessary due to circumstances beyond the member's control (and if the Electoral Commissioner makes such a determination after serving a notice under this section in relation to the resignation, the notice will be void and of no effect).

Example—

If the retirement was due to a medical condition of the member or of a person who relies on the member for care, the Electoral Commissioner may determine that this section does not apply.

This amendment relates to a matter to which I have referred before in this place: that is, the situation where political parties use by-elections as a (sometimes unsuccessful) method of succession planning. In other words, a member of the lower house of parliament is encouraged, pushed, or otherwise cajoled into retiring to make way for new blood. There is nothing inherently wrong with political parties doing that, if that is the way they want to operate. The problem I have is that the taxpayer then picks up the tab.

A report from the Electoral Commissioner in relation to the Frome by-election was tabled in this parliament not that long ago, in which we were told that the cost of that by-election was $220,000. In a nutshell, my proposed amendment provides that if an MP decides to retire early for no good reason, then taxpayers should not have to pick up the tab to find their replacement, because $220,000—nearly a quarter of a million dollars—is a huge expense for taxpayers, not to mention the major inconvenience to the local community of having to come out and vote in an unnecessary election.

My amendment proposes three main things. First, it requires a political party to pay the cost of a by-election if one of their sitting members retires before the end of his or her four-year term for reasons other than those beyond their control (and I will come back to that in a moment). Secondly, it allows for legitimate exceptions such as, obviously, the death of a member (that is certainly beyond their control), major illness, or even a member wanting to retire to fulfil caring responsibilities, for example, in relation to a member of their family.

I appreciate that a political party cannot be forced to pay such a large amount of money if it does not have it, so my amendment provides that if the party that has effectively caused the by-election does not have the means to pay or does not want to pay, then that party should not be able to contest that by-election. Members may think that this is draconian, but I think that taxpayers would appreciate the fact that we are trying to put a stop to political parties using expensive by-elections as a method of succession planning. In relation to the Frome by-election, it did not go according to plan for the Liberal Party; it resulted in the election of an Independent member of parliament.

I should also say that my amendment will not stop members of parliament retiring; that is always an option for members if, for whatever reason, they do not want to see out their term. However, what my amendment will do is stop political parties using by-elections to arrange their succession planning.

The Hon. P. HOLLOWAY: As a personal observation, why is succession planning such a bad thing?

The Hon. M. Parnell: We pay for it. Do it at election time.

The Hon. P. HOLLOWAY: One has to look at the overall good for the public, and I suggest that that probably is; however, that is just my personal view. This amendment inserts a new section 53B into the Electoral Act. Proposed section 53B is an attempt to force registered political parties to pay the costs of by-elections caused by the resignation of a party sitting MP.

Section 53B provides that as soon as possible after the issue of the writ the commissioner must send a party a notice specifying the cost of the by-election. If the party fails to pay the amount specified it cannot nominate a candidate, and the commissioner can then recover the cost of the by-election as a debt. The commissioner is given a discretion not to send the party a bill if satisfied that the circumstances leading to the resignation were beyond the member's control—for example, the illness of a dependant.

The government opposes this amendment. Proposed section 53B applies only where the member was a member of a party immediately before his or her resignation. It could be circumvented by the member resigning their party membership even just a short time before they resign their seat—and there would be nothing to stop the ex-member rejoining the party after a short spell. What I am saying is that there is a clear loophole in this.

Proposed section 53B punishes the party for what may well be the sins of the member. Why should a party be forced to pay the costs of a by-election caused by something that may be completely beyond its control? Proposed section 53B could financially cripple a smaller party—by-elections are not cheap to run—or force it not to contest an election. The government does not see how this could be good politics.

The Hon. R.D. LAWSON: I indicate that the Liberal Party does not support this amendment. It is an inevitable consequence of political life, especially after a government has been in power for a long time, that there will be members who will stand in the hope that they will be re-elected and again hold office, or be re-elected but do not hold office—and I am thinking of Alexander Downer and, more recently, Brendan Nelson. It is entirely appropriate that those people, having served as they have, should be able to resign and the electorate be able to select a member to replace them. As the minister has indicated, the loophole in the Hon. Mr Parnell's proposal is that a member could resign from the party, and thereby avoid the charge that the honourable member would like to impose upon us. I think it is also fair to say that the way our electoral system is structured at the moment, with proportional representation applying only in this council, this is an easy proposal for the Greens or any other minor party to put because they are unlikely ever to have to foot the bill under it.

The Hon. M. PARNELL: I advise the committee that, having heard both the government and the opposition, I will not be dividing on this amendment but I want to comment on the two points that were made. First, the so-called loophole does not escape in terms of the drafting of this clause but, when faced with the resignation of a member from a political party a couple of days before and then retiring from parliament, I would say that the public would send a very clear message to the electorate that this was in fact succession planning at taxpayers' expense and that the party was using that method to avoid the charge.

I accept the points that have been made, that they would be able to avoid the charge, but I do not think it would go down well in the community. In relation to the Hon. Robert Lawson's

comment about this not affecting the Greens, I hope very soon that it will be a provision that hangs over us as our many members of the lower house consider how committed they really are to their electorates and whether in putting themselves forward at election time they are in fact ready to run the full four-year term.

New clause negatived.

Clauses 18 to 22 passed.

Clause 23.

The Hon. M. PARNELL: I move:

Page 15, lines 10 to 14 [clause 23, inserted section 66(5)]—Delete subsection (5) and substitute:

(5) The presiding officer at each polling booth must—

(a) ensure that any posters prepared under subsection (1)(a) are displayed in a prominent position in the polling booth and in accordance with any direction issued by the Electoral Commissioner; and

(b) ensure that posters or booklets prepared under subsection (1)(b) are made available in each compartment in which a person may vote in the polling booth.

This is a fairly simple amendment relating to the display of the various political parties' and candidates' upper house voting tickets, so we are talking here about the allocation of preferences where people vote above the line. My amendment seeks to ensure that the information as to what an above the line vote means for electors is as widely available as possible. My amendment seeks to ensure that the poster or the booklet (or whatever method is used) is available in each voting compartment rather than just somewhere in the polling place.

I think that making the consequences of voting above the line clearer to all voters is a more democratic option. I think it is unfortunate when people get into a compartment with their ballot paper and pencil and they do not have easy access to what it means to vote in a certain way. If the polling booth is crowded, they are reluctant to go to the back of the queue while they seek a copy of the booklet or the poster that tells them the consequences of the vote they are about to cast. So, I want to make it as easy as possible for people to understand what their vote means, and that means that each compartment should contain that relevant information.

The Hon. P. HOLLOWAY: Section 66 currently provides that posters formed from the how-to-vote cards submitted by candidates must be displayed in each voting compartment and that posters containing the Legislative Council voting tickets must be displayed in a prominent position in the polling booth. Clause 22 of the bill amends section 66 so that the Legislative Council voting tickets can be displayed in booklet form. Both the how-to-vote card posters and ticket booklets may be displayed in a prominent place in a polling booth.

The Hon. Mr Parnell's amendment will require the voting ticket booklets or posters to be displayed in each voting compartment. The Electoral Commissioner has raised serious concerns about this amendment. Based on the nominations for the past two elections, the commissioner anticipates that about 50 candidates will nominate for the Legislative Council; each of these is entitled to lodge two voting tickets. This means that there could be about 100 tickets to be displayed. As honourable members would realise, posters displaying up to 100 voting tickets in legible form will not fit in a voting compartment. If they are to be displayed in booklet form in each voting compartment, the cost would be very high and the logistics difficult to manage.

The commissioner estimates that each booklet would cost about $10 to produce. In the vicinity of 8,000 to 10,000 voting compartments will be in use at the next election. The managers of the polling booths will have to monitor each compartment to ensure that a copy of the booklet is displayed in each. If one goes missing, it will have to be replaced. This will be a logistical nightmare. For these reasons the government opposes the amendment.

The Hon. R.L. BROKENSHIRE: We support the thrust of the Hon. Mr Parnell's argument with this. We have given notice to the government that we have concerns about subclause (5) which I think is the key for the Hon. Mark Parnell and which provides:

The presiding officer at each polling booth must cause posters and booklets prepared under subsection (1) to be displayed or made available (as the case may be) in a prominent position in the polling booth and in accordance with any direction issued by the Electoral Commissioner.

I want to highlight that in this state up until this change, if this change gets through, when you go into your individual polling compartment, the how to vote cards for all the people in that electorate

are stuck up there. I refer to the state elections, not commonwealth elections, and I think that is a negative with the federal elections.

When people walk past you when you are handing out how-to-vote cards—and there seems to be more a trend of that occurring—they know that they can go into that compartment. They have probably roughly worked out what their voting intention is, but they know that there is a check and balance there with them being stuck in. The effect of this clause 23 would, as I understand it, remove all of that out of the compartment.

When we checked with the government, it was intending to put something like a pedestal arrangement somewhere in the polling booth, expecting people to go there and work it out. People do not like to show their voting intentions. They are not going to go to the back corner of an area or into the middle and have people looking at them as they scribble down notes or anything like that. It has worked democratically and it has been very fair, particularly for the Independents and the minor parties because we do not always have the resources of the major parties, yet we are part of the democratic process.

If the intent of the Hon. Mark Parnell's amendment is to ensure that the status quo remains—if there is a booklet as well that goes in there allowing for the so-called 100 Legislative Council potential candidates—that is fine, but the how-to-vote cards should remain stuck in those booths. I would like to know the reason for removing this. I would hate to think that it was a devious political move to offset the opportunities for Independents and minors.

We have expressed our concerns on this particular clause to the government and we would be opposing this clause if, indeed, it removes what I have just highlighted, and we would be supporting the Hon. Mark Parnell's amendment.

The Hon. P. HOLLOWAY: I think everyone who voted at the last election would be well aware of how crowded it is getting inside the polling booths. I am not sure that anybody ever reads the sort of information that is in there. Obviously, there may be some people who do, and that is fine.

Essentially, what we are talking about here is the voting tickets. Under the current act the presiding officer at each polling booth must cause a poster prepared under subsection (1)(a) to be displayed in each voting compartment, and a poster prepared under subsection (1)(b) to be displayed in a prominent position in the polling booth.

The poster prepared under subsection (1)(a) is 'posters formed from the how-to-vote cards submitted by the candidates in the election', so they are displayed in each voting compartment, but the posters under (1)(b) are 'in relation to a Legislative Council election—posters containing the voting tickets registered for the purposes of the election', and they must be displayed in a prominent position at the polling booth. So, if someone wants to know how their vote is distributed if they vote above the line, and it is important that people should have access to that information if they wish, it is now required to be available in a prominent position in the polling booth.

What this amendment does is allow the Legislative Council voting tickets to be displayed in a booklet form, and both the how-to-vote card posters and the ticket booklets may be displayed in a prominent place in the polling booth. As I understand the Hon. Mr Parnell's amendment, if you are requiring the voting ticket booklets to be in each compartment, that is going beyond what is currently the case. They are already so congested that what we are arguing is that that would be impractical.

The concern of the Electoral Commissioner is that if you are required to put the voting ticket information in the polling booth it then creates those difficulties that I have mentioned, quite apart from an incredibly significant cost imposition to do that, when probably virtually no-one will avail themselves of it. Of course, if one of them goes missing then it could lead to all sorts of complications because results could be challenged, and all that sort of thing, if the act has not been complied with. As I said, that is going to be a logistical nightmare.

As I understand it, the Electoral Commissioner will continue to have the House of Assembly voting cards in the polling booth. In the Legislative Council, where most people are voting above the line, clearly, that is a much easier situation in relation to a valid vote: you simply put '1' by the party that you wish to vote for. So, for that reason the information booklets are available for those people who want them in the polling place itself.

The Hon. R.D. LAWSON: The government's proposal makes a serious change to the current practice. Although the minister just said that it would be the intention of the Electoral

Commissioner to ensure that a poster containing the how-to-vote cards is put into a compartment, that is actually not the effect of this bill. Indeed, section 66(6)(a) of the current law provides that the how-to-vote poster be displayed in each voting compartment. That has been repealed.

What it has been replaced with is that that material has to be in the polling booth: not the compartment, but somewhere in the booth. That is a serious and major change, and I do not doubt for a moment what might be the intention of the Electoral Commissioner, but the Electoral Commission operates according to the letter of the law, as indeed that officer should, and we do not believe that there should be any change to that practice.

Another change wrought by the government's amendment is that the how-to-vote tickets do not have to be put onto a poster; they can be put into a booklet and that booklet can be displayed at the polling booth but is not required to be in each compartment. We are less concerned about that because, in our experience, there are not many electors who are too concerned about voting tickets.

There are some, and those who are sophisticated enough to be interested in the contents of voting tickets will make it their business to ascertain the contents. However, we are concerned about taking the how-to-vote card poster out of the compartment. We are faced presently with three solutions. On the one hand, there is the current status quo, which is that the how-to-vote cards are in each compartment and the poster setting out the voting tickets is somewhere in a prominent position in the booth but not in the compartment. We are happy with that. We prefer to stay with that than move to the government's position.

I do not believe that the Hon. Mark Parnell's amendment is an improvement on the status quo, because his amendment requires both the poster and the booklet with the voting tickets to be in each compartment. We do accept—

The Hon. M. Parnell: It is not both; it is one or the other.

The Hon. R.D. LAWSON: The honourable member says that it is either the posters or the booklets, but there will be both. There will be posters with how-to-vote cards and booklets with voting tickets, as I understand it. In any event, we do not believe that the honourable member's amendment is an improvement on the status quo. We would prefer to vote down the government's clause and stay with the status quo, because we do accept that to have to put in every compartment the booklet containing the voting tickets will give rise to difficulties of the sort described by the minister, namely, that the books will go missing.

There is not really a great use for them, but if the book does go missing, even if you tie it on a string etc., it may give rise to questions about the electoral process. Whilst we do not disagree in principle with what the honourable member is seeking to do, we do not believe it is an improvement on the status quo. It might be an improvement on the government's bill, but it is not an improvement on the status quo.

The Hon. P. HOLLOWAY: The Hon. Mr Lawson is correct. In trying to get the voting tickets, the Hon. Mark Parnell is trying to reverse what is the case now, effectively, and essentially that will be virtually impossible. I suppose you can have these things in booklets, but that is really what I think we need to go away from. We accept that perhaps this clause of the bill could be amended to clarify the situation. The how-to-vote cards, particularly for the House of Assembly, could be required in the compartment.

We are already recommitting the bill in relation to clause 5. I suggest that we just go with the status quo now if this is defeated. We could perhaps revisit it and the government will look at an amendment to clarify it. I suggest that as a course of action so that we can move on.

The Hon. R.L. BROKENSHIRE: We would be happy to take the minister at his word on that and move on.

Amendment negatived; clause negatived.

Clauses 24 and 25 passed.

Clause 26.

The Hon. M. PARNELL: I move:

Page 16, after line 23 [clause 26(6)]—After inserted subsection (7) insert:

(8) A candidate in an election, or a person acting on behalf of or otherwise assisting a candidate in an election, must not offer or agree to transmit any application by an elector for the issue of declaration voting papers under this section.

Maximum penalty: $1,250

This amendment seeks to restrict the practice of sitting members of parliament playing a very interventionist role in the collecting of postal votes. My amendment proposes that it be unlawful to offer or agree to transmit any application by an elector for the issue of declaration voting papers. My amendment says that that is an improper practice and that we should ban it. I think that electoral roll registration should be a private matter between a citizen and the Electoral Commission.

At present, members of parliament are now using these applications for postal votes to create databases which are not available to anyone else. They are just one of those spoils of incumbency. I think that postal vote forms should be sent straight to the Electoral Commission and not through the offices of sitting members of parliament.

The Hon. P. HOLLOWAY: This amendment prevents a candidate or anyone acting for or assisting a candidate from transmitting or offering or agreeing to transmit applications for declaration voting papers. The government believes that candidates and their assistants, including party officials, perform a valuable service in helping people so entitled to apply for declaration voting papers.

The bill already amends the relevant section to require a person acting as an intermediary to transmit the application as soon as possible, and it will be an offence not to do so. The government believes this is sufficient. The amendment is opposed.

Amendment negatived; clause passed.

New clause 26A.

The Hon. DAVID WINDERLICH: I move:

Page 16, after line 23—

After clause 26 insert:

26A—Amendment of section 76—Method of voting at elections

Section 76(1)(a)—Delete 'all candidates' and substitute:

not less than 11 candidates

The effect of this new clause is to amend section 76(1)(a) of the existing act by deleting the words 'all candidates'. The purpose of that is to effectively introduce optional preferential voting, whereby voters only have to fill out the number of squares equivalent to the number of seats to be filled in an election rather than the number of candidates. In the Legislative Council, for example, it would mean filling out 1 to11 and then having the vote still continued as a formal vote; they would not have to go right through the whole list.

The rationale for this is that it makes it simpler for the voter; they do not have to go through the process of listing a whole lot of candidates about whom they have no idea. It is an amendment that was originally proposed by Kris Hanna in the lower house. There is a very small statistical chance that one could vote for 11 people who do not get elected, but apparently that chance is extremely small. So, it is a method of just simplifying elections and making it easier for voters, and I commend it to the committee. I should also point out that my next amendment, No. 21, is consequential on this one. So, if this amendment is lost it will not be necessary to put amendment No. 21.

The Hon. P. HOLLOWAY: This amendment will introduce optional preferential voting for Legislative Council elections—or, at least, I suppose one might describe it as partially optional. Amendment No. 20 amends section 76(1) so that an elector voting on a non-ticket basis need number only the boxes 1 to 11 on the ballot paper (which of course is the number of vacancies at each election) but will not have to number all the boxes, as is the case now.

The commissioner advises that this amendment will cause difficulties. Where ballot papers are not fully preferential in an election under proportional representation, those ballot papers that have no next preference on them when allocated after a candidate is elected or excluded will not be available for distribution to any other candidate. This is known as exhausting: the preferences have exhausted.

Under optional preferential voting, a number of the candidates elected late in the count will almost certainly be below the quota that was required for those elected early in the count—for example, an elector votes 1 to 11 for the least popular candidates or groups. As each candidate is excluded from the count, the ballot paper is then distributed to the next preference. This continues as each of the candidates is excluded and, when it gets to No. 12, where the numbers do not now continue, it exhausts. It goes to nobody and is no longer in the count.

The commissioner believes that this could happen with a significant number of ballot papers because, while only 5 per cent of people vote below the line now, this number may increase if electors need number only the first 11 boxes. If this was to occur, there would not be 900,000 ballot papers remaining in the count, as occurs now, to elect the candidates filling the last two or three vacancies. Rather, these could be elected with substantially fewer ballot papers. Given the impact the amendment will likely have on the quota system, the government opposes it.

New clause negatived.

Clause 27.

The Hon. R.D. LAWSON: This clause will prohibit a scrutineer acting as an assistant. Currently, section 80 provides that a voter may be accompanied by an assistant if the voter satisfies the presiding officer that he or she is unable to vote without assistance, and that is an important provision. The provision is being amended by the insertion of a new subsection, which provides:

> A candidate, or a scrutineer appointed by a candidate, must not act as an assistant under this section.

We quite accept that it would be inappropriate for a candidate to be going into a polling booth with an elector, but why exclude a scrutineer? In the ordinary course, most scrutineers at polling places are volunteers who attend during the scrutiny after the polls close. Many of them will be handing out how-to-vote cards and will be available to assist electors at polling stations. Why should such a person be excluded from assisting someone who wants their assistance?

I ask the minister to indicate whether there have been particular problems with this issue and to give examples of it—scrutineers misbehaving or not appropriately exercising their powers. I also ask the minister to comment on the fact that a lot of scrutineers do not register as such until the closing of the poll or near the closing of the poll, when they hand in their form and go in to view the count. So, whilst such a person might hold an appointment, he or she is technically not a scrutineer until the time when the registration form is handed in. Will not this measure only have the effect of ensuring that people do not register as a scrutineer until the very last moment so that they can, if required, assist an elector who requires assistance?

The Hon. P. HOLLOWAY: My understanding of the history of this is that it was one of the recommendations that came out of the 2002 election, and the logic is a simple one: if a candidate should not act to assist a voter, why should the scrutineer who is appointed by the candidate have that right?

Of course, some of us have scrutineered down the years, and the Hon. Robert Lawson raised the question about people who do not sign the scrutineer forms until afterwards. I suppose there are those scrutineers who perform a very important role at the opening of a count, when the ballot boxes are opened and set up; there are those people who scrutineer during the polling from 8am to 6pm; and, of course, often others will act as scrutineers during the count. I think the forms are the same and there is no distinction made.

I think in terms of the history of this measure it simply was a recommendation earlier by the commission on the basis that if you believe it is inappropriate—and I think most of us would think it would be inappropriate for a candidate to assist voters directly under this section—it ought to be any scrutineer appointed by the candidate.

The Hon. R.D. LAWSON: Is it not the case, even without this particular provision, that the candidate would, in any event, be barred by other provisions of the act from acting as an assistant? Candidates are not allowed to act as scrutineers and, by and large, have to stay away from the polling booth.

The Hon. P. HOLLOWAY: What was the specific question?

The Hon. R.D. LAWSON: A candidate would, in any event, be precluded from being an assistant because of the ban on candidates participating in the election other than for the purpose of casting their own vote.

The Hon. P. HOLLOWAY: Yes; if the member is making the point that there are probably other provisions that effectively preclude the candidate, section 117 of the act (candidates not to take part in elections) says: 'A person must not take part in the conduct of an election in which he or she is a candidate for election' and 'must not personally solicit the vote of any elector on polling day'. I guess this just makes it crystal clear in terms of acting as an assistant. Whereas it might well be covered as taking part in the conduct of an election, I guess this makes it crystal clear that it is not. It just covers any ambiguity in section 117.

The Hon. R.D. LAWSON: I indicate that, in the absence of the government's being able to demonstrate any particular difficulties about having scrutineers acting as assistants, we do not support this amendment. We are not satisfied that it is necessary.

I remind the minor parties that it is actually they who are probably most adversely affected by this prohibition of scrutineers acting as assistants. The major parties are usually well served by volunteers handing out how to vote cards who can act in this capacity, but my experience of the minor parties is that their volunteers spend the whole day, sometimes one to a polling booth, and they may well be called upon by a supporter who was unable to vote to act as an assistant. So I indicate that we do not support this provision.

The committee divided on the clause:

AYES (10)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Finnigan, B.V.	Gazzola, J.M.	Holloway, P. (teller)
Hood, D.G.E.	Hunter, I.K.	Wortley, R.P.
Zollo, C.		

NOES (9)

Dawkins, J.S.L.	Lawson, R.D. (teller)	Lensink, J.M.A.
Lucas, R.I.	Parnell, M.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	Winderlich, D.N.

PAIRS (2)

Gago, G.E.	Ridgway, D.W.

Majority of 1 for the ayes.

Clause thus passed.

Clauses 28 to 33 passed.

Clause 34.

The Hon. R.D. LAWSON: Can the minister explain the precise intended effect of this amendment, in particular, the insertion of subsection (4a)? In other words, what change is wrought by this provision?

The Hon. P. HOLLOWAY: I understand that this is consequential upon an earlier amendment. I recall discussing earlier this week what would happen if someone indicated a notice of intention to lodge a ticket and then failed to do so. This clause is about ensuring that, if a notice of intention to lodge a ticket for a Legislative Council election was given but the ticket then was not subsequently lodged in accordance with the requirements of the act and the ballot papers for the election contain a voting ticket square on the basis that the voting ticket was to be lodged and the voter then uses that voting ticket square, that ballot paper is informal unless section 92(4) applies. Section 92(4) provides:

Where a voter marks a ballot paper by placing the number 1 in a voting ticket square but also indicates preferences for individual candidates, the following provisions apply:

(a) if the indication of preferences for individual candidates would, if it stood alone, constitute a valid vote, that indication of preferences will be taken to be the vote of the voter and the mark in the voting ticket square will be disregarded;

(b) if the indication of preferences for individual candidates would not, if it stood alone, constitute a valid vote, it will be disregarded and the vote of the voter will be taken to have been expressed by the mark in the voting ticket square.

As I have said, it simply deals with that eventuality. Section 94(6)—Informal ballot papers—provides:

Where—

(a) a ballot paper has not been marked by a voter in the manner required by this act; but

(b) despite that fact, the voter's intention is clear,

the ballot paper is not informal and will be counted as if the voter's intention had been properly expressed in the manner required by this act.

In other words, the vote would be invalid unless the provisions in the current act to validate votes apply; that is, where the notice of intention to lodge was not subsequently lodged, the vote would be invalid.

Clause passed.

Clauses 35 to 39 passed.

Clause 40.

The Hon. R.L. BROKENSHIRE: I move:

Page 23, lines 16 to 38, page 24, lines 1 to 20—Delete inserted section 112C.

I am quite concerned about this clause. Members will recall that when you get close to an election you receive a lot of questionnaires from a huge variety of interest groups—people with social issues, SACOSS, environmental groups and pro life groups. Lots of groups write asking you, as a candidate, to advise their organisation of your voting intentions with respect to certain issues that are important and relevant to them.

From my own personal experience (having so far had to do it four times), I have always accepted that, as a candidate, once you tick a box or say which way you will go on an issue—for example, a questionnaire from the Conservation Foundation might ask whether you agree with the commonwealth having full hand-over of the Murray-Darling Basin system—once you say yes or no, those people or organisations have the right to print that in their newsletters for wider distribution to their members, and others who may be interested. If you do not accept that then you do not fill in their form. Some choose to do that, and those organisations then generally put in their newsletters or publications that that candidate for a seat in the House of Assembly or the Legislative Council did not comment or did not return their questionnaire.

I was very keen, with most of these publications, to get my point of view out, because it is hard for Independents or smaller parties to do that; it is nowhere near as easy as it is for the bigger parties. In a House of Assembly marginal seat, for example, this time we will probably see the major parties easily spend $100,000 in that one seat. So, they can get their messages out there, but it is not easy for the small parties and the Independents; it is hard yakka. You might be doing well to spend $5,000 in that seat. So, if you get the opportunity to put information into a questionnaire that is distributed to a sector of your electorate, that is of benefit to you. This bill effectively removes that. It provides that an organisation is guilty of an offence:

(1) If, in any matter announced or published, or caused to be announced or published, by a person on behalf of any association, league, organisation or other body, it is—

(a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organisation or body; or

(b) expressly or impliedly advocated or suggested—

(i) in the case of a Legislative Council election—that a voter should place in the square opposite the name of a candidate on a ballot-paper a number not greater than the number of members to be elected; or

(ii) in the case of a House of Assembly election—that that candidate is the candidate for whom the first preference vote should be given,

I do not know why the government would have dreamed up this clause; it puts an absolute impost on those organisations that simply want to have a democratic right to advise their members or readers about what particular candidates or parties do or do not support. It is a total disadvantage to them—in fact, the maximum penalty is $5,000, or $1,000 for an individual—and, as I said, it

limits the chances for those of us who are Independents or who are in small parties to get our message out there. For that reason, Family First is absolutely opposed to this clause.

The Hon. P. HOLLOWAY: This amendment seeks to delete new section 112C. New Section 112C prohibits a person, on behalf of any association, league, organisation or other body, from making an announcement or distributing material in which it is claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organisation or body; or expressly or impliedly advocated or suggested:

(i) in the case of a Legislative Council election—that a voter should place in the square opposite the name of a candidate on a ballot-paper a number not greater than the number of members to be elected; or

(ii) in the case of a House of Assembly election—that that candidate is the candidate for whom the first preference vote should be given,

without the consent of the candidate.

New section 112C in fact replicates section 351 of the Commonwealth Electoral Act. The government believes that these are sensible measures. Primarily, they will prevent an organisation from tainting a candidate by claiming or suggesting that the candidate is associated with it, or supports its policies or activities, including by recommending preferences that favour the candidate. Such an association could do great harm to a candidate, particularly if the organisation holds views or advocates policies that are contrary to those of the candidate. However, notwithstanding the merits of proposed section 112C, the government is aware of concerns held by some members and is prepared to compromise and agree to its deletion from the bill.

The Hon. R.D. LAWSON: I am glad to see that the government does not propose to insist on this clause. It is true that the clause is based on section 351 of the Commonwealth Electoral Act. According to a paper issued by the Australian Electoral Commission in a submission to the Queensland Legal, Constitutional and Administrative Review Committee, the history of this clause is that in the 1930s there was concern that the Communist Party was issuing material which suggested that electors should vote for a particular Labor candidate with their own candidate as number two. Of course, that action by the Communist Party was seized upon by opponents of the Labor Party to show that that party had links to the communists. Reference was made in the Senate to the fact that the Temperance Party and also the Protestant Labour Party were issuing tickets and Senator Collings said:

It tells the people to vote for certain candidates. Those candidates are immediately in trouble with electors who are not Protestants.

An example of that would be the non-temperance vote. However, while the section has had a long history in the commonwealth Electoral Act, there has been no successful prosecution under it in the 50 or 60 years that it has been in operation. I note that there has been pressure from certain organisations that the clause be excluded. I am delighted that the government has accepted that proposition.

However, I have other questions in relation to other aspects of clause 40. I want to ask the minister questions about proposed section 112A, which deals with how-to-vote cards. The clause provides that during the election period a person must not distribute how-to-vote cards unless they are appropriately authorised, etc. Also, it is necessary to bear in mind the provisions of sections 92, 93 and 63, all of which deal with registered voting tickets.

My question to the minister is this: is it permissible to register a voting ticket with a particular allocation of preferences (or perhaps even a split voting ticket with an allocation of preferences) and then to authorise on the day the distribution of how-to-vote cards which are inconsistent with the registered voting ticket? It is a practice which was apparently used in at least one electorate in the last election—namely, to register a particular voting ticket but then, on the day, you tell your supporters not to vote in accordance with your registered ticket but to alter the order of preferences.

The Hon. P. HOLLOWAY: The short answer is yes, they can differ. The explanation that the Hon. Mr Hunter has just advised me is that they are for different purposes. A voting ticket is to ensure that votes are formal but the how-to-vote cards are often designed from the point of view of simplicity. I think all of us who have been involved in elections understand that on a how-to-vote card for a major party the numbers will be preferences to be distributed. That can be done for convenience but, in terms of actual preferences, they may differ.

The Hon. R.D. LAWSON: Perhaps I did not express my concern appropriately. As we have heard in the earlier debate, candidates are entitled to put in a how-to-vote card which is displayed in the compartment. My question is: having inserted in the material which is displayed in the compartment a certain how-to-vote ticket, can a member hand out at the booths how-to-vote cards that are inconsistent with that which has been registered with the Electoral Commission and published in the booth? If so, is that not a practice which ought be stopped?

The Hon. P. HOLLOWAY: It is hard to understand why you would want to do that. But my advice is that there is nothing to stop people doing that.

Amendment carried; clause as amended passed.

Clauses 41 and 42 passed.

Clause 43.

The Hon. P. HOLLOWAY: I move:

Page 25, lines 12 to 36 [clause 43(2), (3), and (4)]—Delete subclauses (2), (3) and (4)

In moving this amendment, I propose to delete subclauses (2), (3) and (4) from clause 43. These are the clauses that impose the ban on corflutes. The government accepts that it does not have the numbers to get clause 43 passed by this place. Rather than prolonging debate, the government has decided to concede on this matter.

The Hon. R.L. BROKENSHIRE: We thank the government for seeing some wisdom on this, and we support what the government is now proposing.

The Hon. R.D. LAWSON: We also support this amendment, but we are not so inclined to congratulate the government for it. The government introduced this and, if you read the debate in another place, supported it, justified it, said it was warranted, said it was a great thing, not negotiable, and all the rest of it, and when it was debated in another place criticism of it was rejected out of hand as nonsense, but now the government has—for the basest political reasons—abandoned its amendment.

The CHAIRMAN: We will try to avoid second reading speeches, if we can.

The Hon. M. PARNELL: My feeling is, with this amendment getting up, that two subsequent amendments—one by the Hon. David Winderlich and the other by myself—will become redundant, because we were proposing a change to those clauses.

I put it to the committee that the alternative to the government's ban on public advertisements (the Stobie pole ads) would have been to impose a reasonable limit on the number of posters that could be put up in any one electorate for any one candidate. That amendment was put forward by the member for Mitchell in another place, and I think it had a great deal of merit because, if one of the government's original reasons for wanting to ban these Stobie pole corflutes was that they contributed to visual pollution, we could reduce the number of posters that are put up in the electorate but still enable a fairly level playing field, so that everyone had the right to put up 200 corflutes in each seat.

What I hear from other members is that, given that we are going to be removing the government's restrictions, we will effectively go back to an open slather situation. However, if this amendment of the government were to fail, I would persevere with the 200 limit, because I think that is very sensible.

The Hon. DAVID WINDERLICH: I indicate my support for the government's amendment but, as with the previous two speakers, I am less complimentary about it. I think it was an outrageous attempt to entrench incumbency. That is shown by the fact that there was a cut-out date of 2014, which allowed for the fact that the Labor Party may not have access to the resources of government at that time and may want a more level playing field. It was a rich party's policy, and if the government's amendment fails—and I do not think it will—I would attempt to amend it.

Amendment carried; clause as amended passed.

New clause 43A.

The Hon. M. PARNELL: I move:

Page 25, after line 36—After clause 43 insert:

43A—Insertion of section 115A

After section 115 insert:

115A—Restrictions on publicly funded advertising campaigns

(1) A person who, within the pre-election period, authorises, causes, or permits the publication by any means (including radio, television or the Internet) of a publicly funded advertisement is guilty of an offence if the advertisement contains—

(a) the name of, or an image of, any member of Parliament or person who proposes to be a candidate at the relevant election; or

(b) the name of, or any symbol or logo adopted by, any registered political party.

Maximum penalty:

(a) if the offender is a natural person—$750;

(b) If the offender is a body corporate—$2 500.

(2) In this section—

pre-election period means the period of 6 months immediately prior to the day on which a general election of members of the House of Assembly must be held under section 28(1) of the *Constitution Act 1934*.

This proposed new clause seeks to restrict the use of the names and images of members of parliament, or the images and names of ministers, or the name of the governing party or its logo, in any taxpayer-funded advertisements in the six months leading up to a state election. The purpose of this amendment is to stop the government of the day using taxpayer funds to promote its party, its members or its ministers, and also in relation to running a negative campaign against other parties.

Members would be aware that the Premier announced some time ago that he was going to bring an end to the use of his ministers' voices and images on TV and radio advertisements, but he did not go so far as to prohibit ministers' photos being in the print media, for example. The Premier also drew a distinction between what the government regards as routine advertising as compared to campaign advertising.

For example, when we look at the case of an ad in a newspaper featuring the smiling face of minister Koutsantonis, as the Minister for Volunteers, and the purpose of the ad is to thank all volunteers for their service to the state, that was regarded as a routine or functional ad and the Premier's announcement did not extend to preventing what many see as fairly blatant political advertising using taxpayer funds.

I challenge the government to provide me with the name of one volunteer in the entire state whose volunteering is due to the exhortations of minister Koutsantonis, rather than their belief in the cause, whatever it is, whether it is surf-lifesaving, Meals on Wheels or something else. I say that in case members think that this issue has been dealt with and no longer requires any legislative amendment.

I am not convinced that the government has seen the light on its misuse of taxpayers' money for advertising. I would like to see our electoral laws enshrine this ban in the six months leading up to a state election.

The Hon. P. HOLLOWAY: This amendment seeks to prohibit the appearance of a member of parliament or the display of a symbol, logo or name of a registered political party in a publicly funded advertisement broadcast on radio, TV or the internet during the six months before polling day. I assume that is aimed at governments spruiking their achievements in the lead-up to an election in publicly funded advertisements which purport to make public announcements but which feature government MPs.

The government opposes the amendment. The Premier has already announced that he has banned government members from appearing in advertisements on television and radio. He has also proposed strengthening the Independent Communications Advisory Group, which monitors and approves advertising expenditure. The government has concerns with the amendment as proposed. For a start, what does 'publicly funded' mean? I think that we all know what the Hon. Mr Parnell is getting at, but I am not sure whether leaving the term undefined is appropriate.

Secondly, who is liable if such an advertisement is broadcast? It is not the member, unless by appearing in the advertisement the MP is taken to have authorised its broadcast. It could be the public servant who authorises the advertisement being aired—the one who signs whatever needs to be signed to get the advertisement broadcast. However, assuming a 'person' includes a body corporate. It could also be the company that holds the TV licence, the manager of the TV station and even the technician who pushes the button that broadcasts the advertisement. The government's approach is the better one. The amendment raises too many questions.

The Hon. R.L. BROKENSHIRE: I have general sympathy with what the honourable member is doing, but I personally believe we need to go much broader. I also note what the minister said with respect to some aspects of the amendment. Given that the Hon. Mr Parnell has a select committee going at the moment, which we support and commend him for initiating, and the fact that legislation is still here which I have tabled and which could run parallel to it, broadly banning this ongoing, not just for six months, I would be looking to focus more on supporting those sorts of initiatives, because we must stop this blatant political advertising at taxpayers' expense.

I think that this amendment could have some consequences that we have not looked into. I would rather see what happens when the select committee reports and then also look at the bill I have tabled.

The Hon. R.D. LAWSON: I indicate that we also believe that the underlying sentiment behind the honourable member's amendment is sound. However, we will not be supporting the amendment on this occasion but will, in the fullness of time and after the select committee reports, be looking to an appropriate amendment to prevent the government abusing the privileged position it has in relation to government advertising.

We are by no means convinced that the voluntary code embraced by the Premier will provide the community the protection it needs. It is with some reluctance that, on this occasion, we will not be supporting this amendment.

The Hon. M. PARNELL: I will make just a brief response to comments that have been made—comments that I generally endorse in relation to this particular amendment not going far enough. Yes, we do need a broader restriction on the blatant misuse of taxpayers' funds for party political purposes, but I would remind Family First and the Liberal Party that I am constrained to a certain extent by the fact that this is an electoral bill and any restriction needs to relate to electoral purposes, which is why I have chosen the amendment I have.

I will not be dividing on it. I understand there is support for the intent. I, too, look forward to the final report of the select committee into taxpayer-funded ads, which may deal with campaigning in the election period particularly; I do not know, as we have not determined that yet. Certainly, the committee has not reported, so at this stage I would not want to comment on that. I wanted to make the point that the government's announcements to date do not go far enough. They are not in legislation and, as I have said, they have loopholes big enough to drive a truck through.

New clause negatived.

Clause 44.

The Hon. P. HOLLOWAY: I move:

Page 26, line `10 [clause 44(3)]—Delete ', or an electronic publication on the internet,' and substitute:

(including a journal published in electronic form on the internet)

Amendment No. 8 in my name amends clause 44 of the bill to refine the amendments to section 116. Amendment No. 8 should be treated as a test amendment for the series of amendments that follow. Section 116 Part 1 provides that a person must not, during an election period, publish material consisting of or containing a commentary on any candidate, party or issues being submitted to electors in written form or by radio or television unless the material or the program in which the material is presented contains a statement of the name and address (not being a post office box) of a person who takes responsibility for the publication of the material. Section 116 Part 2 provides exceptions to the disclosure requirements in subsection (1), and these are:

(a) the publication in a newspaper of a leading article;

(b) the publication of a report of certain meetings;

(c) the publication in a newspaper of an article, letter, report or other matter if the newspaper contains a statement to the effect that a person whose name and address appears in the

statement takes responsibility for the publication of all electoral matter published in the newspaper; and

(d) a news service or a current affairs program on radio or TV.

Clause 44 amends section 116 Part 1 so that the requirement to include a statement will also apply to material consisting of or containing commentary on any candidate, party or issues being submitted to voters, etc., that is published or broadcast on the internet. The third exception—the publication in a newspaper of an article, letter, report or other matter if the newspaper contains a statement to the effect that a person whose name and address appears in the statement takes responsibility for the publication of all electoral matter published in the newspaper—is repealed and the reference to 'newspaper' is replaced with that of 'journal'—'journal' being defined to mean a newspaper, magazine or other periodical. Amendment No. 8 amends clause 44, so that the amendments to section 116 Part 1 apply more narrowly to written material published on the internet. The intention is to limit the coverage of section 116 as it applies to the internet to electronic versions of a journal rather than any electronic publication on the internet.

The government's concern is that, as currently amended by clause 44, section 116 will be too broad. It will cover personal web pages and social networking sites and the internet publication of Twitter. It will also apply to websites hosted by MPs, parties and candidates. This was raised as a concern during briefings on the bill.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 26, line 4—Delete 'by publication or'

This amendment is consequential upon amendment No. 8. It deletes the words 'by publication or' from clause 44(1).

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 26, line 10 [Clause 44(3)]—Delete ', or an electronic publication on the internet,' and substitute:

(including a journal published in electronic form on the internet)

Again, this amendment is consequential. Amendment No. 10 amends clause 44(3) of the bill. The effect of this will be that section 116(1) will not apply to the publication in a journal, including a journal published electronically on the internet, of a leading article.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 26, line 11 [clause 44(4)]—Delete subclause (4) and substitute:

(4) Section 116(2)(c)—Delete paragraph (c) and substitute:

(c) the publication in a journal (including a journal published in electronic form on the internet) of an article, letter, report or other matter if—

(i) the name and address (not being a post office box) of a person who takes responsibility for the publication of the material is provided to the publisher of the journal and retained by the publisher for a period of six months after the end of the election period; and.

(ii) the journal contains a statement of the name and postcode of the person who takes responsibility for the publication of the material;

(ca) the publication of a letter (otherwise than as described in paragraph (c)) that contains the name and address (not being a post office box) of the author of the letter;

Currently, section 116(2)(c) provides that section 116(1) does not apply to the publication in a newspaper of an article, letter, report or other matter if the newspaper contains a statement to the effect that a person whose name and address appears in the statement takes responsibility for the publication of all electoral matter published in the newspaper. Clause 44 of the bill repeals this position. Amendment No. 11 inserts an amended version of section 116(2(c) into the act.

New paragraph (c) provides that section 116 does not apply to the publication in a journal, including a journal published in electronic form on the internet, of an article, letter, report or other matter if the name and address (not being a post office box) of a person who takes responsibility

for the publication of the material is provided to the publisher of the journal and is retained by the publisher for a period of six months after the election and the journal contains a statement of the name and postcode of the person who takes responsibility for the publication of the material.

This would still require the publisher to publish the name of the person who takes responsibility for the material rather than allowing the publisher to take responsibility for all such material published in the journal, but the publisher will not have to disclose the person's street address; his or her postcode will be sufficient. However, to take advantage of this amendment, the publisher will have to retain the person's name and address for a period of six months after the end of the election period.

Amendment No. 11 also inserts new subsection (ca) into section 116(2). This provision will exempt the publication of a letter, otherwise than as described in paragraph (c), that contains the name and address (not being a post office box) of the person who takes responsibility for the publication of the material. This is to address concerns that a letter that is clearly authorised by a person—for example, a member of parliament—should not also need to contain a statement that complies with section 116(1).

The Hon. R.D. LAWSON: The minister suggested that these amendments now being made by the government are as a result of concerns. By whom were those concerns expressed and what change is being wrought by reason of the minister's latest amendment?

The Hon. P. HOLLOWAY: I understand that the member for Bragg raised some issues in relation to the need to put the statement on a website, and so on. I have not expressed any concerns to the Attorney in relation to the issue of the internet. However, whilst I have not done so, that is not to say that I do not share the concerns. I think anyone who looks at what is increasingly happening on the internet, in terms of comment, could not help but be a little concerned. I think the Hon. Mr Brokenshire has also expressed—

The Hon. R.L. Brokenshire: I'm sorry; I missed that.

The Hon. P. HOLLOWAY: We are talking about those who have expressed concerns in relation to these issues of the internet and whether the statement of the name and address should be on it.

The Hon. R.L. Brokenshire: Yes.

The Hon. P. HOLLOWAY: So, I think it was the Hon. Mr Brokenshire as well as the member for Bragg.

Amendment carried; clause as amended passed.

Clause 45 passed.

Clause 46.

The Hon. P. HOLLOWAY: I move:

Page 26, lines 22 to 31—Delete clause 46

Clause 46 inserts new section 137 into the act. Section 137 provides immunity to the Electoral Commissioner and her staff. Section 137 is no longer needed because of section 74 of the Public Sector Act 2009.

Amendment carried; clause passed.

Schedule.

The Hon. R.D. LAWSON: Paragraph 2 of the schedule will amend section 82 of the Constitution Act, which deals with electoral redistributions and the requirement for an electoral redistribution to commence after each state election. Currently, the section requires the commission to embark upon that redistribution within three months of the election and continue it with all due expedition. This amendment will extend that period from three months by a very considerable margin to 24 months. The original proposal in the Constitution was to ensure that electoral redistributions were conducted quickly so that the community, candidates, etc., would be well aware in advance of the next election where the new boundaries lay.

I have played some role in relation to recent electoral redistributions, and I agree that the three month time limit was unnecessarily restrictive. For example, at the last election, the latest demographic and census material was not available, and it would have been advantageous not to

have been under the restraint of conducting the redistribution within three months of the election. However, I query how 24 months was selected. It will enable the procedure to be delayed; it will enable more recent demographic information to be used in the redistribution process; but it may not enable members, candidates, parties and communities to know well in advance of the forthcoming election what the boundaries will be. So my question is: how did the government hit upon 24 months as being the appropriate period?

The Hon. P. HOLLOWAY: The short answer is: the advice of the Electoral Commissioner. I will refer to the second reading report, because I think it best deals with this issue. The Electoral Commissioner advises that, with the 2001 amendments to the Constitution Act introducing fixed four year terms, the current framework for conducting an electoral redistribution, which requires the Electoral Districts Boundaries Commission to commence its proceedings within three months of the election and complete those proceedings with all due diligence, has caused logistical and operational difficulties for the commission. The data necessary to perform the process so that the boundaries reflect the demographics of the state as accurately and as up-to-date as possible is not generally available until the second or third year after an election. For example, following the last state election the commission was required to commence its proceedings by June 2006 and complete them with all due diligence.

The last population census was conducted in August of 2006. The 2006 census data was not then available. This meant the commission had to rely upon census data from 2001 with annual updates to 2006, and then project possible population data out of the timing for the subsequent election in 2010. The demographers have raised their concern with using this method for determining population movements and trends so far into the future. A similar problem will arise with a redistribution required to be conducted after the 2010 state election. The commission would benefit greatly in both currency and accuracy of demographic projections if it were able to deliberate later in the parliamentary term.

The CHAIRMAN: There is an amendment to the schedule in the name of the minister.

The Hon. P. HOLLOWAY: I move:

Page 27, line 25 [Schedule 1, clause 4(2)]—Delete '2010' and substitute '2011'

This amendment removes the transitional provisions in clause 4(2) of the schedule to the bill. Clause 4(2) provides that a political party registered under part 6 of the act immediately before the relevant day, which is the day on which the amendments to the party registration provisions come into operation, is not required to furnish a return under section 43A of the act, as amended, until 30 September 2010. This is intended to protect parties from having to file returns about party membership in the year in which the new registration provisions commence, when the transitional provisions also give them six months to comply with the new requirements.

Given that the government has decided not to commence the new registration provisions until after next year's election, the date of 30 September 2010 needs to be pushed out to 30 September 2011: hence, the amendment. I think this gives effect to some indications I had given to the Hon. Robert Brokenshire in relation to the government's intention not to bring certain provisions into effect until after the next election.

The Hon. R.L. BROKENSHIRE: We support this amendment, because it puts absolute clarity into the points raised earlier in the debate regarding when a lot of these matters will be prescribed and implemented—clearly, after the next election—so we support the amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments.

HYDROPONICS INDUSTRY CONTROL 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) (17:52): 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.

In its election promises for the 2006 election, the Government dealt with hydroponics cannabis in its tough-on-drugs policy. In that policy it pledged to make it an offence to possess hydroponics equipment without lawful excuse and also to require hydroponics equipment retailers to maintain a record of sales of the equipment including promising legislation to require customers to provide identification when purchasing such equipment.

In November 2004, in the first instance the Ministerial Council on Drug Strategy agreed to develop a National Cannabis Strategy. The Strategy was endorsed by the Ministerial Council on Drug Strategy in May 2006. The strategy made it a priority action to assess the feasibility of the regulation of the sale of hydroponics equipment, similar to regulation of the liquor and second-hand dealer industries whereby businesses selling hydroponics equipment need to register on a police-controlled database, business owners must be judged to be of good character and the identification details of purchasers need to be recorded.

Cannabis is the most widely used illicit drug in Australia. In developing the National Cannabis Strategy 2006-09, the Ministerial Council on Drug Strategy identified that 5.5 million people over the age of 14 have tried cannabis at least once. It further recognised that personal use of cannabis is not quarantined from the larger criminal economy and through purchasing cannabis the user may, without knowing, be funding organised crime. The 2006-07 Australian Crime Commission Illicit Drug Data Report indicates that approximately 69 percent of all drug arrests in Australia relate to cannabis.

Cannabis plays a significant role in the financial base of organised crime in this State and intelligence indicates that South Australian has the largest rate of production nationally with a number of cannabis networks trafficking hydroponically grown cannabis to the eastern states of Australia.

Recent trends identified by SAPOL indicate an organised syndicate approach to the commercial production and trafficking of cannabis, with growers of a small number of plants being part of a larger network that cultivates and distributes cannabis.

Not limited to OMCG's, organised crime is believed to be highly involved in the hydroponic cannabis industry, particularly through hydroponic equipment supply and the organisation of syndicate growers.

SAPOL has identified that certain pieces of hydroponics equipment being sold by hydroponics dealers are being used for the cultivation of cannabis. Further to this SAPOL has found that some persons working within the hydroponics industry are associated with organised criminal networks formed to produce and distribute cannabis. Legislative reform is required to regulate the hydroponics industry including the sale of prescribed equipment listed in the *Controlled Substances (General) Regulations 2000*.

The purpose of the *Hydroponics Industry Control Bill 2009* is to prevent criminal infiltration of the hydroponics industry and the misapplication of certain types of hydroponics equipment by monitoring its sale and supply. The Bill is part of a series of measures implemented by the Government designed to reduce the impact of drugs on the South Australian community.

The aim of the proposal is the regulation of certain aspects of the hydroponics industry and the disruption of the hydroponics cultivation of cannabis. This is consistent with Objective 2 of the State's Strategic Plan—Objective 2, Improving Wellbeing and the aim of the South Australian Drug Strategy 2005-2010, which is to 'improve the health and well being of all South Australians by preventing the use of illicit drugs and the misuse of licit drugs'. A key area of the Strategy is to reduce the supply of drugs through strategies that will reduce the availability and supply of illegal drugs.

The Bill, an Australian first, will support Police to combat drug-related crime. The Bill consists of two components, the first being the requirement to have a licence to operate certain hydroponics businesses and the second component relates to the sale of the prescribed equipment.

Licensing

The Bill provides for the introduction of two levels of regulation of people working in the industry.

There will be a requirement for a person to be licensed to carry on the business of a hydroponics equipment dealer as a retailer. A hydroponics equipment dealer will relate to the sale of prescribed equipment. While the prescribed equipment will be declared in regulations it is expected to include the following:

- metal halide lights, high pressure sodium lights and mercury vapour lights of 400 watts or greater;
- ballast boxes;
- devices (including control gear, lamp mounts and reflectors) designed to amplify light or heat;
- carbon filters designed to filter air within a room, or from 1 area of a building to another or to outside;
- cannabis bud or head strippers;
- units designed to contain plants and rotate around a light source so that the plants grow hydroponically while being exposed to a consistent degree of light or heat or both.

In December 2007, a Bill was passed in Parliament to amend the Controlled Substances Act to include the offence of possessing prescribed equipment without reasonable excuse. These new laws commenced in October 2008 in regard to the possession of items closely linked with illegal drug making and cultivation. A person, an organisation or business needs to provide a legitimate reason for having the prescribed items of equipment. The prescribed items of equipment are the same items of prescribed equipment in the *Hydroponics Industry Control Bill 2009*.

The Minister has the ability to grant exemptions to the Act. This is particularly pertinent as some prescribed equipment have legitimate uses not related to the hydroponics industry, such as in the lighting industry. It will be in these cases that the Minister may consider granting exemptions.

The second level of regulation applies to the employees. In this regard, an employee will be required to obtain an approval to work as a hydroponics industry employee. An employee may receive a temporary approval to work in the industry while waiting for his or her application to be processed.

The Bill requires, before a licence or approval can be issued or renewed, both dealers and employees to undergo a fit and proper person test, similar to that used in other licensed industries. Furthermore the Bill requires that the Commissioner of Police must not issue or renew a licence or approval to an applicant that has been found guilty of a prescribed offence within the 5 years immediately preceding the application or who is a subject to a control order. Applicants will have to submit photographs and be subject to fingerprinting as part of the fit and proper person test. The fit and proper person test will have further regard to the reputation, honesty and integrity of the person and that of any associates.

When working within the industry, licence holders, directors of licence holders that are bodies corporate and employees will be required to carry identification. This is designed to ensure that licensed or approved personnel can readily be identified.

The Bill provides for the right of appeal by any applicant. If the applicant is dissatisfied with the decision of the Commissioner he/she may appeal to the Administrative and Disciplinary Division of the District Court within one month of the decision being made.

Sale of prescribed equipment

The Bill requires that a person must not sell prescribed equipment to another person unless the purchaser first produces identification that complies with the regulations. A significant part of the legislation is to obtain accurate records of persons in the community purchasing the prescribed equipment. This can only be achieved by ensuring that the purchasers provide identification at the time of sale.

The licence holder will be required to maintain records for every transaction involving prescribed equipment, with the information being transferred to the Commissioner of Police by way of an online transaction monitoring system. The information will include, but is not limited to, the time, date and location of sale, details of the equipment, details of the person who facilitated the sale, and details of the purchaser including details of the identification produced.

The Commissioner will require transaction information to be transferred within a time frame yet to be determined. The timeframe will ensure SAPOL receives the information in a timely manner to investigate any irregularities or associate the information with other SAPOL lines of enquiry.

The Bill gives authorised officers authority to enter any premises, place or vehicle that they reasonably suspect is used for carrying on a business of selling prescribed equipment by retail and use such force as is reasonably necessary. Authorised officers may inspect records and may also be accompanied by such assistants as reasonably required. The police previously have had no authority to enter a hydroponics business and do such things.

Conclusion

The *Hydroponics Industry Control Bill 2009* provides for the regulation of specialised hydroponics stores as opposed to businesses that either provide the equipment for other purposes or primarily for other functions. The licensing component will impact mainly on businesses where there are persons with certain criminal records or associate with certain types of persons. In these cases, persons will be unlikely to obtain a hydroponics dealers licence or receive an approval to work in the industry. The licensing component will have little impact on business owners with no criminal record or criminal associations.

The requirement to keep and transfer to police records of all transactions of prescribed equipment will assist the police to investigate the mass manufacture and distribution of hydroponically cultivated cannabis in South Australia.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure. In particular it defines what prescribed equipment is, and provides that the 'Commissioner' referred to in the measure is the Commissioner of Police.

4—Carrying on business of selling prescribed equipment by retail

This clause provides that a person will be taken to be carrying on the business of selling prescribed equipment by retail if the person—

(a) sells prescribed equipment by retail on not less than 6 days in any calendar year; or

(b) sells prescribed equipment by retail with a total wholesale value exceeding an amount prescribed by the regulations for the purposes of this paragraph; or

(c) sells prescribed equipment in the circumstances prescribed by the regulations for the purposes of this paragraph.

By carrying on the business of selling prescribed equipment by retail, the person's activities are brought under the operation of the measure.

Similarly, proposed subsection (2) provides that, if a defendant in proceedings was a licence holder and had possession of prescribed equipment, then he or she will (unless he or she proves otherwise) be taken to have the prescribed equipment for the purposes of sale in the course of his or her business of selling prescribed equipment by retail, and thus any transactions involving the equipment become subject to the measure.

5—Commissioner subject to control and direction of Minister

This clause provides that the Commissioner is, for the purposes of this Act, subject to the control and direction of the Minister (however a direction under the measure is not a direction for the purposes of section 8 of the *Police Act 1998*, which requires directions to be published in the Gazette and reported to Parliament).

6—Delegation

This clause provides that the Commissioner may delegate a power or function under the measure to a police officer of the rank of inspector or higher, other than the power to classify information as criminal intelligence, which may only be delegated to a Deputy or Assistant Commissioner. This provision is a restriction on the general power of delegation found under section 19 of the *Police Act 1998*.

7—Criminal intelligence

This clause provides for how information that has been classified as criminal intelligence by the Commissioner of Police may be used or disclosed etc in respect of the measure.

8—Non-derogation

This clause provides that the provisions of this measure are in addition to, and do not derogate from, the provisions of any other Act.

9—Exemptions

This clause provides that the Minister may exempt a specified person or class of persons, or specified prescribed equipment, from the operation of the measure, or specified provisions of it. However, the Minister must consult with the Commissioner before doing so.

Part 2—Licences and approvals

Division 1—Hydroponic equipment dealer's licence

10—Requirement for licence

This clause makes it an offence for a person to carry on the business of selling prescribed equipment by retail (or hold themself out as doing so) without a hydroponic dealer's licence. The maximum penalty for a contravention of the proposed section is a fine of $20,000.

11—Hydroponic equipment dealer's licence

This clause sets out how a person can obtain a hydroponic dealer's licence. The clause requires the Commissioner to be satisfied that the applicant, or each director of the applicant, is a fit and proper person to hold such a licence. The clause also sets out circumstances in which the Commissioner must refuse a license application. A licence may be conditional: a licence holder who contravenes or fails to comply with a condition of his or her licence is guilty of an offence, the maximum penalty for which is a fine of $20,000.

The clause also makes procedural provisions related to a licence and any application.

12—Commissioner may require fingerprints

This clause permits the Commissioner to require an applicant, and each director of an applicant in the case of a body corporate, to have his or her fingerprints taken to aid the Commissioner in determining the licence application. The clause provides that the Commissioner need not consider an application until the applicant has met the requirement and the results of checking the fingerprints against the relevant databases have been provided.

13—Suspension or revocation of licence

This clause provides that the Commissioner may, by notice in writing given to a licence holder, suspend or revoke the person's licence on the grounds set out in the clause. They include a contravention of the Act by the person, that he or she is not a fit and proper person to hold a licence or that the suspension or revocation is in the public interest.

14—Change of information relating to licence

This clause requires a licence holder to notify the Commissioner, in writing, of any change in the information supplied to the Commissioner in the person's licence application. The maximum penalty for a contravention of the proposed section is a fine of $2,500.

Division 2—Approval of hydroponics industry employees

15—Requirement for approval

This clause makes it an offence for a person to carry out certain duties (to be prescribed by the regulations) in relation to the sale of prescribed equipment by retail unless he or she is approved as a hydroponics industry employee. The maximum penalty for a contravention of the proposed section is a fine of $20,000.

However, this prohibition does not apply to a licence holder, or a director of a licence holder who is a body corporate that was identified in the application for the licence.

Subclause (3) further provides that, if a person does contravene proposed subsection (1), then any employer of the person in respect of the sale of prescribed equipment, and the relevant licence holder, are each guilty of an offence carrying the same maximum penalty of $20,000. However, it is a defence to a charge if the employer or licence holder proves that he or she believed on reasonable grounds that the person was in fact approved as a hydroponics industry employee at the relevant time.

16—Temporary approval on application

This clause enables a person who has lodged an application for approval as a hydroponics industry employee to carry out prescribed duties without it being a contravention of proposed section 17. However, this temporary approval does not apply in the case of a person previously refused approval, or has had his or her approval revoked, nor to a person who must be refused approval under section 17(4) (other than a refusal on public interest grounds).

17—Commissioner may approve hydroponics industry employees

This clause sets out how a person can obtain approval as a hydroponics industry employee. The clause requires the Commissioner to be satisfied that the applicant is a fit and proper person to be approved. The clause also sets out circumstances in which the Commissioner must refuse a license application, essentially the same grounds as for refusal of a licence. Approval may be conditional, and a person who contravenes or fails to comply with a condition of his or her approval is guilty of an offence, the maximum penalty for which is a fine of $20,000.

The clause also makes procedural provisions related to an approval and any application.

18—Commissioner may require fingerprints

This clause permits the Commissioner to require an applicant to have his or her fingerprints taken to aid the Commissioner in determining an application for approval. The clause provides that the Commissioner need not consider an application until the applicant has met the requirement and the results of checking the fingerprints against the relevant databases have been provided.

19—Revocation of approval

This clause provides that the Commissioner may, by notice in writing given to an approved person, revoke the person's approval on the grounds set out in the clause. They include a contravention of the Act by the person, that he or she is not a fit and proper person to be approved or that the revocation is in the public interest.

Division 3—Appeal

20—Appeal

This clause provides that a person may appeal to the District Court if he or she is dissatisfied with a decision of the Commissioner, and sets out related procedural matters.

Part 3—Sales of prescribed equipment

Division 1—Identification

21—Purchaser must produce identification

This clause requires a purchaser to produce identification that complies with any requirements set out in the regulations before he or she can be sold prescribed equipment. A person who sells prescribed equipment to a purchaser who has not produced identification is guilty of an offence, the maximum penalty for which is a fine of $20,000.

22—Identification cards

This clause requires the Commissioner to provide identification cards to licence holders, directors of licence holders and approved persons.

These cards must be carried by the person to whom it was issued in the circumstances set out in the proposed section, and the person must produce the card forthwith if requested to do so by an authorised officer. Contravention of either of these requirements is an offence, carrying a maximum fine of $2,500.

Division 2—Record keeping

23—Records of prescribed transactions

This clause requires a licence holder to keep certain information in relation to certain defined transactions involving prescribed equipment. The regulations will set out what the information is, and how it must be kept. Failure to keep the required information is an offence, carrying a maximum fine of $20,000.

The information must also be transferred to the Commissioner; proposed subsection (4) provides that the regulations may require that such transfer be effected electronically.

24—Staffing records

This clause requires a licence holder to keep certain information (to be set out in the regulations) in relation to the licence holder's staff. The maximum penalty for a contravention of the proposed section is a fine of $2,500.

Part 4—Enforcement

25—Authorised officers

This clause enables the Minister to authorise a person to be an authorised officer for the purposes of the measure.

26—Powers of entry and inspection

This clause sets out the powers of authorised officers in respect of entering premises, places or vehicles and sets out the powers that may be exercised in relation to the premises etc.

The clause makes procedural provisions in relation to obtaining a warrant (required when exercising the power of entry conferred by the proposed section in relation to residential premises), and establishes an offence of hindering an authorised officer or refusing or failing to comply with a requirement under the proposed section.

27—Commissioner may require information from wholesalers

This clause enables the Commissioner to require a wholesaler of prescribed equipment to provide the Commissioner with specified information regarding the wholesale of the equipment to a retailer. The maximum penalty for a contravention of the proposed section without reasonable excuse is a fine of $5,000.

Part 5—Miscellaneous

28—False or misleading information

This clause provides that it is an offence for a person to make a statement that is false or misleading in a material particular in information provided, or records kept, under this measure. The maximum penalty for a contravention of the proposed section is a fine of $20,000.

29—Statutory declaration

This clause enables the Commissioner to require that information required to be provided to him or her be verified by statutory declaration.

30—Liability for act or default of officer, employee or agent

This clause provides a standard provision imposing vicarious liability for the acts of officers, employees or agents on a person carrying on a business.

31—Offences by bodies corporate

This clause provides that, if a body corporate is guilty of an offence against this measure, each director of the body corporate is, subject to the general defence under this Part, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

32—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment. However, the information, document, record or equipment so provided or produced is not admissible in evidence against the person in proceedings for an offence, other than an offence against proposed Part 3 of this measure, or an offence against this measure or any other Act relating to the provision of false or misleading information.

33—General defence

This clause provides that it is a defence to a charge of an offence against this measure if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

34—Annual report

This clause requires the Commissioner to submit an annual report to the Minister, and a copy of the report to be laid before Parliament.

35—Service of documents

This clause sets out how documents under the measure may be served on a person.

36—Evidentiary provision

This clause provides that certain allegations in the complaint for an offence against this measure will be taken to be proved, in the absence of proof to the contrary.

37—Review of operation of Act

This clause requires the Minister to conduct a review of the measure, as soon as practicable after the third anniversary of the measure commencing. The Minister must prepare a report on the review, and cause a copy of the report of the review to be laid before Parliament.

38—Regulations

This clause allows regulations to be made under the measure.

Schedule 1—Transitional provisions

1—Existing hydroponics businesses

This Schedule makes transitional provisions, enabling a person who was carrying on the business of selling hydroponic equipment by retail before the measure commenced to—

(a) carry on the business of selling prescribed equipment by retail; and

(b) hold himself or herself out as carrying on such a business; and

(c) carry out prescribed duties (within the meaning of proposed section 15),

in relation to the sale of prescribed equipment by retail, provided that they are not a person who must be refused a licence under proposed section 14(4)(a), (b) or (d).

The effect of this provision is to enable them to continue to run their business until they are able to make the relevant applications under the measure, and have them determined.

However, the person may only operate under this clause until their application for a licence is determined, or for 3 months, whichever occurs first.

Debate adjourned on motion of Hon. J.M.A. Lensink.

REPRODUCTIVE TECHNOLOGY (CLINICAL PRACTICES) (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL

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

FIRE AND EMERGENCY SERVICES (REVIEW) AMENDMENT BILL

The House of Assembly agreed to amendments Nos 1 to 10 and 12 without any amendment and disagreed to amendment No. 11.

Consideration in committee.

The Hon. P. HOLLOWAY: I move:

That the council do not insist on its amendment No. 11.

This is an amendment we discussed earlier today. The effect of the amendment is to impose a six-week delay period in consideration of any regulations under part 4, divisions 7 and 8 and part 4A of the Fire and Emergency Services (Review) Amendment Bill and refer them to the Local Government Association. I understand that there have been some discussions in relation to that matter.

As I indicated when we debated this measure, it is the government's intention to consult closely with the Local Government Association in relation to the development of this bill, and we have done so, and I think that has been acknowledged by the opposition. It is just that to put that in statute does, unfortunately, add an additional delay, which could delay the process. However, I assure the committee that it is the government's intention to continue to work closely with the Local Government Association in relation to the operation of this bill and, indeed, in relation to any regulations.

The Hon. R.L. BROKENSHIRE: Given what the minister has just said, I thank those colleagues who supported the amendment, which amendment is now being requested to be disagreed to. I understand the importance of fire safety, and I foreshadow that it would be good to revisit this particular clause at a later date.

In conclusion, I would like to say that there is another very important piece of legislation that the government said it wanted through in time for the bushfire season. Some good amendments have been put forward—including provision for the Chief Officer of the CFS to go on the Native Vegetation Council—but suddenly that seems to be delayed and not so important for the bushfire season. So, whilst I support what the minister has just said, when will we see the other important legislation to protect us in the bushfire season?

The Hon. T.J. STEPHENS: The opposition will not insist on the amendment. We are prepared to work cooperatively with the government, and we understand the importance of this legislation. Given that it was worked through in a reasonably tripartisan, quadruple partisan, type of way—

Members interjecting:

The CHAIRMAN: Order!

The Hon. T.J. STEPHENS: —I would like to again highlight the importance of the Legislative Council. We believe that, with constructive debate, we have actually improved the legislation. A number of amendments were accepted—

Members interjecting:

The CHAIRMAN: Order!

The Hon. T.J. STEPHENS: —by the government in good grace, and I appreciate that. It cannot live with this one, and the opposition is prepared to accept that. I would like to thank the Legislative Council for the way its members have worked on this measure, and I commend the bill to the council.

Motion carried.

At 18:03 the council adjourned until Tuesday 13 October 2009 at 14:15.