LEGISLATIVE COUNCIL

Wednesday 2 December 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 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) (11:04): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, and statements on matters of interest to be taken into consideration at 2.15pm, and orders of the day government business to be taken into consideration prior to notices of motion and orders of the day private members' business.

Motion carried.

CRIMINAL LAW (CLAMPING, IMPOUNDING AND FORFEITURE OF VEHICLES) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 October 2009. Page 3806.)

The Hon. S.G. WADE (11:05): I rise, on behalf of the opposition, to support this bill. Hoon driving is reckless and dangerous. Road use inherently involves risk. It is dangerous enough without drivers driving at excessive speed and engaging in risky manoeuvres. At the 2006 election, the Rann government promised that it would increase the provision for the impounding of vehicles from two days to seven days, and introduce a regime of wheel clamping and extend the use of that option to more offences beyond hoon driving.

In the closing days of the parliament we have this bill before us. The government has shown a distinct lack of urgency. The minister in the other place, at the second reading, made the following statement:

The measures in this bill represent an initial and immediate response by the government to the increasing prominence of hoon and dangerous driving by certain sections of the public. On 7 July 2009, the number of road fatalities since July 2008 was 124, 15 more than at the same time last year. South Australia Police, the government and the public of South Australia are worried and will not continue to tolerate this criminal conduct on South Australia's roads.

This statement of the minister is spin: 7½ years into the government, how can this be an 'initial and immediate response'? What a joke for this minister to say that South Australians will not continue to tolerate hoon driving. South Australians have never tolerated hoon driving. This government has failed to address the problems of hoon and dangerous driving.

The government's own figures show a dramatic escalation of clampings and impoundings. In 2005-06, there were 693; in 2006-07, there were 791; in 2007-08, there were 1,461; and in 2008-09, there were 3,156. The government might puff out its chest at how tough it has been in terms of imposing clamps and impounding vehicles, but I think that South Australians would rather see fewer hoons on the roads, rather than hoons being dealt with by these laws. Fewer hoons on the roads is actually what delivers safety for South Australians.

In the other place, the opposition moved an amendment with a view to proceeds of the bill being put into prescribed projects for the rehabilitation of young offenders. On 18 November 2009, the Attorney-General issued a press release which criticised this amendment. In part, he said:

The Liberal Party would rather take money from victims of crime who are the ones at the receiving end of violence and instead give it for the benefit of the criminals who commit these crimes.

This statement belies a strange view of rehabilitation. From the view of the state and this parliament rehabilitation is not for the benefit of criminals—it is for the benefit of victims. Every time a former offender reoffends a victim suffers. Effective rehabilitation is fundamentally about preventing future crime and sparing innocent South Australians from becoming victims of crime.

The Victims of Crime Act itself highlights that rehabilitation is in the interests of victims. Under section 31 of the Victims of Crime Act payments can be made from the fund to a government or non-government association or agency to assist in the prevention of crime. If the Attorney-General finds it offensive that Victims of Crime Fund resources should not go to prevent future victims through rehabilitation, he should not just issue a press release but move to delete

section 31 of the Victims of Crime Act. As usual, the Labor Party is two-faced and focussed on spin and not substance. The opposition supports the bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:09): As there are no other speakers I thank the honourable member for his indication of support for the bill. Given the honourable member's comments, I put on record that this government has done a number of things to deal with the problem of hoon driving. I well remember that when I was minister for police this issue came up regularly, and one of the measures we introduced was the first measure that related to impounding vehicles. We also introduced the locking of vehicles. Envisaged here is building on the foundations of those measures taken to address the problems of hoon driving and this further stage in respect of driving.

I am sure that, if there is any need to tighten legislation to go further in relation to dealing with the problem of hoon driving, this government will consider it. I do not accept that this government has been tardy in any way in dealing with the problems of hoon driving—far from it. The government has brought this issue to the attention of the public through the measures we have taken, and we will continue to do so. I thank members for their indication of support.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I ask members to note that on Wednesday 28 October 2009 an incomplete version of the report to the bill was inserted into *Hansard* that omitted references to the amendments filed by the Attorney-General to this bill as passed by the House of Assembly. The clause notes were up to date and correct at the time. On Friday 30 October 2009 *Hansard* for 28 October 2009 was corrected to include these amendments.

Clause passed.

Clauses 2 to 14 passed.

Clause 15.

The Hon. S.G. WADE: The opposition does not propose to move its amendment to this clause in light of the pressure of business on the council. We have made our position clear in both the house and the council in terms of the importance we place on the prevention of future victims, and we are happy to let those statements stand.

Clause passed.

Clause 16 passed.

Schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

MAGISTRATES COURT (SPECIAL JUSTICES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.D. LAWSON: Can it be indicated when this bill will come into operation if, in fact, it passes?

The Hon. P. HOLLOWAY: My advice is that regulations will be needed particularly to deal with the question of uncontested applications and, therefore, I think it is the government's expectation that the bill will come into operation early in the new year.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. M. PARNELL: I move:

Page 3, line 1 [clause 5, inserted section 9A(b)(i)]—Delete 'any offence' and substitute:

an offence (other than an offence in respect of which the maximum penalty includes imprisonment)

I regard this amendment as a test for the other two amendments. This amendment relates to the issue that I canvassed yesterday in my second reading speech. The Hon. Robert Lawson canvassed the issue as well, and the minister also responded yesterday also. I am not proposing to go into detail again, other than to remind members that this is the amendment that the Law Society sought to this legislation, and the purpose of the amendment is to ensure that special justices do not deal with criminal offences that are potentially subject to imprisonment, notwithstanding the fact that special justices themselves will not be allowed to impose a penalty of imprisonment. I do not want to re-agitate the whole debate from yesterday and I am comfortable that members are fully aware of the implications of this amendment.

The Hon. P. HOLLOWAY: As the Hon. Mark Parnell said, I did canvass this issue in the second reading response last evening. As indicated then, the government opposes this amendment. The Hon. Mr Parnell's first amendment is consequential upon amendment No. 2 so, as he suggests, this is an appropriate amendment to act as a test case for his series of amendments.

These amendments would have the effect of removing the provision that would allow special justices to deal with prescribed offences that attract imprisonment as a penalty even though special justices are not permitted to impose a sentence of imprisonment. Arguments against this provision have been extensively canvassed in the government's second reading reply. The government does not accept the arguments for this amendment.

As explained in my reply, the Criminal Law (Sentencing) Act already foreshadows the situation where the Magistrates Court, constituted of a special justice, is required to determine sentence on a matter that carries a maximum penalty beyond the sentencing power of the special justice, providing for the special justice to adjourn the matter and refer it to a magistrate for sentencing.

The Chief Magistrate has asked for this amendment. She is well placed to determine the needs and allocation of judicial resources in court. She calls certain offences that carry a penalty of imprisonment, although it is virtually never imposed, the behavioural equivalent of vehicle offences. The Chief Magistrate is confident that the matters are appropriate to be dealt with by special justices, and she has years of experience of special justices sitting in the Magistrates Court. This provision will assist the Magistrates Court to deal expeditiously with criminal matters that come before it, and that is surely of benefit to defendants as well as victims and others in the community.

It must also be remembered that parliament has already seen fit to give special justices jurisdiction over such offences and, indeed, any Magistrates Court matter where no magistrate is available.

The Hon. R.D. LAWSON: We, on the opposition side, have considerable sympathy for the points made by the Hon. Mark Parnell and by the Law Society. In my second reading contribution I read into the record the formal objections to the government's bill on this score. The minister's response a moment ago was that the Chief Magistrate is confident that the proposal contained in the bill will work based upon her long experience of the operations of special justices. Whilst we respect the views of the Chief Magistrate, we think it hardly appropriate that legislative policy be based upon one's confidence in the views of a particular judicial officer. Notwithstanding that, we believe that the proposal in the bill ought to be given an opportunity to operate. As I say, we have reservations about that, but those reservations are not so strong that we will be supporting the Hon. Mark Parnell's bill.

In his second reading response yesterday, I believe the minister drew an analogy between the situation we are now discussing and that which currently arises where magistrates are able to determine the appropriateness of whether or not they continue to hear a particular case, having regard to the punishment likely to be imposed. The fact that a trained special magistrate with extensive legal experience can make that judgment is really no argument in relation to special justices who do not necessarily have long experience—although some may well have long experience—and who do not have the sort of training and experience that is required for a special magistrate. There is quite a difference between the two, and we do not accept the distinction that the minister seeks to draw.

Notwithstanding those reservations and notwithstanding the sympathy we have with the Law Society's position, we will not be supporting the amendment. We believe that we should let the new scheme operate. If, in fact, it transpires that the fears expressed by the Law Society are realised, the matter will have to be revisited.

The Hon. D.G.E. HOOD: In my second reading speech, I said that Family First wholeheartedly endorsed this bill. There is some risk in this legislation, but I think that, given that the intention of the Hon. Mr Parnell's amendment is to somewhat limit the reach of this bill—I understand why he would move the amendment, by the way, because we certainly are venturing into new ground with this bill—we have sufficient confidence that it is worth pursuing as is. For that reason, we will not be supporting the amendment on this occasion.

The Hon. P. HOLLOWAY: I thank the Hon. Mr Hood for his support, and also the Hon. Mr Lawson. I think I need to point out that, during my second reading response, I gave an example of giving special justices power to determine liability on a matter that is too serious to sentence on, which is an anomaly. I was just trying to point out that the situation is not unique. I certainly did not mean to suggest that special justices are equivalent to magistrates in terms of experience; I was simply pointing out that it was not a unique situation.

Amendment negatived; clause passed.

Clause 6 passed.

Title passed.

Bill read a third time and passed.

DEVELOPMENT (CONTROL OF EXTERNAL PAINTING) AMENDMENT BILL

In committee.

The Hon. J.S.L. DAWKINS: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

The CHAIRMAN: I remind honourable members that we have a long day ahead of us. If you know you are speaking on something, try to be in the chamber when it is called on.

The Hon. D.W. Ridgway interjecting:

The CHAIRMAN: Order! Does the Hon. Mr Ridgway want to make a contribution to clause 1?

The Hon. D.W. RIDGWAY: I would just like to explain, Mr Chairman.

The CHAIRMAN: It was not a message just for the Hon. Mr Ridgway; it was meant for everyone.

Clause 1.

The Hon. D.W. RIDGWAY: The member for Light proposed this bill, which was a little strange at the time, because it is an amendment to the Development Act, and we have the minister in this chamber and I am the shadow minister, yet this was introduced in the House of Assembly. We were quite bemused that that was the case. I am a bit disappointed that we indicated that we would not support it, and the advice from the LGA was that it did not support the bill. Then the member for Light put out a press release in his electorate bagging the Liberal Party for opposing his bill.

The responsibility for the bill's carriage lay with the Hon. Ian Hunter who, only about two weeks ago, requested a vote. Clearly, the member for Light (Mr Piccolo) has no understanding of how this chamber works, and the responsibility is firmly at the feet of the Hon. Ian Hunter. He chose not to ask for a vote on this. Then Mr Piccolo put out a press release saying that we are opposed to it. That is because we tried to listen to the LGA and its concerns, and it said that it was not in favour of it. The LGA subsequently changed its view so, if the LGA is happy with it, likewise, we are happy with it.

I think it is a bit rich for the member for Light to criticise us for having a position and holding up the debate when, clearly, the responsibility lay at the feet of the Hon. Ian Hunter—he did not bring it on for a vote. So, the member for Light should be putting out a press release chastising his

parliamentary colleague the Hon. Ian Hunter rather than blaming the Liberal Party for holding up the legislation.

The CHAIRMAN: It is nice to know that we are all happy.

The Hon. I.K. HUNTER: I take this opportunity to refresh the memory of honourable members about the bill and its objects. The bill will remove an anomaly that currently exists in planning regulations; that is, currently development controls for the external appearance of a building come into play only when there is a change in land use. Accordingly, you can have identical businesses alongside each other within the same street subject to different development controls. This bill will amend that anomaly.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: No, it is not. The Hon. Mr Ridgway made some comments, which I will come to now. I am in no way unhappy with his support for this bill, even though he comes at it rather late in the stage. The reason we did not go to a vote earlier was that the Hon. Mr Ridgway and his comrades on that side of the chamber decided that they would not support the bill. They now know that the LGA is in favour of this bill and, accordingly, they have come on side. I welcome that. I am not going to play the man. I am happy to accept responsibility for all the accusations he makes about me, as long as he supports the bill.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

SPENT CONVICTIONS (NO. 2) BILL

Adjourned debate on second reading.

(Continued from 19 November 2009. Page 4095.)

The Hon. S.G. WADE (11:37): I rise to indicate that the opposition supports this bill. We commend the member for Fisher in another place and the Hon. John Darley for bringing this issue to the parliament. The bill provides for certain convictions for minor offences to be spent after a specified period of time has elapsed. Provided there are no further convictions, convictions relating to adults or children tried as adults that did not result in a gaol term of more than 12 months will be spent after a period of 10 years. For juvenile offenders, convictions that did not result in a gaol term of more than 24 months will be spent after a period of five years.

The bill will assist many people who have encountered difficulties in their life due to a conviction for a minor offence that may have occurred many years ago. Some people suffer bureaucratic delays when travelling; some are excluded from gaining employment or admittance to a particular profession or vocation; some are precluded from holding certain licences; some are unable to be appointed as a company director; some are unable to obtain credit or insurance; and some are unable to participate fully in public life. This bill will mean that these impediments will be eased for those whose conviction has been spent.

I find it noteworthy that we have had to rely on a private member's bill to effect this reform. Yet again, the government is dragging the chain on law reform. South Australia is one of only two jurisdictions in the whole of Australia without such legislation. Internationally, spent conviction regimes have been established in many Western countries, including most members of the European Union, the United States, Canada and Japan.

This bill is about society's interest in not branding offenders for life but encouraging them to deal with their offending behaviour and to reduce the risk of reoffending, primarily not for their sake but for the sake of potential future victims. This government is more interested in public relations than public safety, but we are glad that the member for Fisher and the Hon. John Darley have done what the government should have done. The opposition supports the bill.

The Hon. CARMEL ZOLLO (11:39): The government supports the bill, which was introduced by the member for Fisher in the other place, and notes that it is based on the model spent convictions bill prepared for the Standing Committee of Attorneys-General (SCAG).

Most jurisdictions in Australia have spent convictions legislation, with the exception of South Australia and Victoria. Internationally, spent convictions regimes have been established in

many Western countries, including most members of the European Union, the United States, Canada and Japan.

Spent convictions legislation has been the subject of debate for many years. In the 1970s, the Australian Law Reform Commission and other state law reform commissions, including the South Australian Law Reform Committee, examined and supported the desirability of spent convictions legislation. The Law Reform Committee supported the seminal UK Howard League for Penal Reform report (1972), which considered the issue, with some changes.

In 1984, the Attorney-General's Department prepared a discussion paper, 'Rehabilitation of Offenders: Old Criminal Convictions', which led to the Rehabilitation of Offenders Bill 1991, later renamed Spent Convictions Bill 1991. The bill was opposed and lapsed.

The Royal Commission into Aboriginal Deaths in Custody also raised the issue of expunging criminal convictions from the records of Aboriginal people. It recommended that criminal records of past convictions be expunged after a period of time.

The purpose of spent convictions legislation is to reduce the stigma of a criminal conviction. As members of parliament, I am sure that, from time to time, we have all received correspondence from constituents expressing concern that a minor conviction many years before still has to be declared on employment applications, or expressing similar complaints. The legislation will help a person with an old conviction from experiencing discrimination in obtaining lawful employment, acquiring some licences, appointment as a company director, obtaining credit or insurance, participating in public life, and admission to a profession.

The policy basis of a spent convictions scheme is one of rehabilitation. The legislation will assist this by providing an incentive for convicted offenders to rehabilitate themselves and rewarding offenders once that rehabilitation has been achieved.

The legislation will achieve those aims by allowing for non-disclosure of a spent conviction, limited access to spent conviction information to approved bodies where exemptions apply, limiting the use that can be made of spent conviction information, protecting against unauthorised access and use of a spent conviction, reducing the legal disabilities that flow from a conviction, and assisting in the preservation of a past offender's right to privacy.

For the purpose of the bill, a conviction includes a formal finding of guilt by a court, formal findings of guilt, findings where offences have been proved, as well as offences that have been taken into account. The bill provides that a conviction will become spent once a specified time has lapsed, during which the individual has not been convicted of any further criminal offences. The specified time is five years for juveniles and 10 years for adults.

Offences are eligible to become spent only where a sentence of imprisonment is not imposed or where, in the case of adults, a sentence of imprisonment of 12 months or less is imposed. For juveniles, the period of imprisonment or detention must be 24 months or less. The exceptions to this are convictions of body corporates or convictions of a prescribed class (that is, sex and other prescribed offences). Further offending within the prescribed period, excepting minor offences, would extend the qualifying period.

As stated, this bill does not allow convictions for sex offences to become spent. This is one area where consensus is difficult, as people come at it from differing points of view. Some argue that sex offences that meet the eligibility criteria should become spent in the normal way. It is argued that even the most serious offences would rarely be eligible to become spent because the sentence of imprisonment would be likely to exceed the limits proposed in the legislation. Others take the view that sex offences should become spent only by court order. This would allow the court to examine the nature of the offending and the rehabilitation of the offender.

A further view—and the one adopted in the bill—is that sex offences should not be eligible to be spent at all. These differing views are reflected in the positions adopted in the jurisdictions with spent conviction legislation. Currently the commonwealth and Queensland permit sex offences to become spent in the same way as other offences. Western Australia permits them to become spent on court order only. Other Australian jurisdictions that have these laws do not permit sex offences to become spent.

The government supports the approach adopted in the bill but, in doing so, recognises that this could still place stigma on people convicted of relatively minor sex offences many years ago. It will also affect those people who have been convicted for what are often called 'young love' offences. Although the government would not support the automatic spending of sex offences, it

will monitor the operation of the legislation to see whether there should be any court-based system for sex offences generally or for particular types of sex offences. Other features of the bill include:

- it does not affect legal processes that may arise from a spent conviction, including for example breaches of sentence conditions, disqualification, fine enforcement proceedings, demerit points schemes and the exercise of any enforcement powers or other processes by a justice agency;
- it proposes mutual recognition for jurisdictions that have corresponding laws; and
- it protects a person from having to disclose a spent conviction, including any legal process associated with the offence or conviction. It also protects a person's appointment to a position where there has been no disclosure.

Wrongful disclosure offences lie against persons who have access to records kept by, or on behalf of, public authorities or persons who engage in the business of providing information about convictions. The defences to unlawful disclosure offences include:

- where a person consents to the release of information about his or her spent conviction;
- good faith disclosures by persons provided that they have taken steps to avoid breaches of the legislation by implementing appropriate safeguards; and
- continuing disclosure of a spent conviction in published materials that cannot reasonably be altered, for example, online publications.

The bill recognises that, despite a spent conviction scheme, there will still be some situations in which disclosure of a conviction is relevant. To this extent, schedule 2 is an important part of the bill in that it sets out the exclusions to the scheme. These include disclosure for the purposes of:

- the investigation and prosecution of offences;
- national security;
- evidence before courts and tribunals, as well as proceedings for jury selection and service;
- parole decisions;
- occupations including judicial officers and associated officers, police, firefighters, special occupations such as working with children or vulnerable people, and occupations requiring licences for which there is a character test; and
- official records, archival and library information, authorised reports and publications, and non-identifying information.

In these cases the government accepts that an individual's interest in putting an offence behind him or her is outweighed by the public interest in public safety and protection.

As mentioned, the government supports the Spent Convictions (No. 2) Bill, and expects that the legislation will assist with the rehabilitation and reduction of recidivism in offenders by breaking down barriers to employment faced by many people who have a criminal conviction.

The Hon. R.D. LAWSON (11:49): I rise to briefly indicate my position on this bill. I have always supported spent convictions legislation and, as the Hon. Carmel Zollo indicated in the contribution she made a moment ago, legislation of this kind has existed in other jurisdictions for many years.

It is worth noting this government's appalling record in relation to spent convictions legislation. Late in the day, late in this term of parliament, the government has finally decided to support a private member's bill. Notwithstanding the fact that—

The Hon. P. Holloway: I thought you would be grateful that we do. We support more private members' bills than any other government in the history of this state.

The PRESIDENT: Order!

The Hon. R.D. LAWSON: This is a matter on which the government had issued discussion papers, had said it was interested in national legislation being developed by the Standing Committee of Attorneys-General, and the like; yet, hypocritically, the government decides that it will not actually introduce a bill itself. It will not allow itself to be accused of being soft on crime, so it will support a private member's bill through the back door.

I commend the Hon. Bob Such, because over the years he has introduced a number of bills for the introduction in our state of spent convictions legislation. He introduced a bill in 2003, and I remind the council that at that time, in May, the Attorney-General, in one of his then regular conversations with Bob Francis on radio 5AA, expressed the view that he was sympathetic to the position adopted by former attorney-general Trevor Griffin. He said:

> Trevor quite rightly said that if we introduce such a system it would be a system of organised lying…whereby the government would deny that people had convictions when they did…

So in May 2003 Attorney-General Michael Atkinson was expressing views that were somewhat antipathetic to spent convictions legislation. In the first half of the following year the Hon. Dr Such introduced another bill, and the Attorney-General responded (once again speaking on radio on Bob Francis's show) by expressing reservations. However, I must admit that he did express some sympathy for the proposition that such legislation should be introduced. On that occasion he said:

> …when I became Attorney-General—

that would have been in 2002—

> I found out that if you go to court and you are found guilty of a minor offence and then the magistrates says, 'You've been a good straight person all your life and this is comparatively trivial offending, what I will do is I will find you guilty, but no conviction recorded'…people leave the court and they think, 'Good, I'm over that,' but in fact it does go on your record.

The Attorney-General went on to say, 'That does not seem fair to me.' That was a position the Attorney-General was expressing in 2004.

In other statements he made at that time he said he was aware, as I think most members would be aware, of cases where people seek a licence or make an application for a job but, because at some time in the past, sometimes many years ago, they had been convicted of 'carnal knowledge', as it was then called, now unlawful sexual intercourse, a so-called 'young love' offence—the offender might have been 17 and the girl 15 and he was convicted of carnal knowledge—that remained on people's records. Those people find it difficult, especially in the current climate, to obtain employment in, for example, the aged care industry, where there are stringent commonwealth requirements that prohibit an aged care operator from employing people who have been found guilty in the past of sexual offences.

I think it is disappointing that the bill which is currently before us does not provide any relief for people caught in that situation. I think all members will have had stories brought to them of people who are in that situation, yet here we are, not addressing the situation at all and not even providing, as is provided in some other states, for the capacity for a person in that situation to obtain an order from the court, for example, expunging the record so that that offence becomes a spent conviction. I think that is an issue that the government, had it shown more spine in relation to this matter, could have pursued.

I mentioned the Attorney-General's admission that only when he became Attorney-General in 2002 did he learn that, when a magistrate says, 'No conviction recorded', that actually goes on police records and is treated by the police as a matter which should be disclosed if an inquiry is made about a person's record. You might think you have escaped with no criminal conviction, and you can truthfully answer the question, 'Have you ever been convicted of a criminal offence?' in the negative but, when your employer or prospective employer goes to get a police check, they find that something is recorded as 'No conviction recorded', but it is certainly not a clean record. I suppose I should ask the member who introduced the bill whether he has any views on resolving that issue.

So, whilst expressing support for this bill and commending the Hon. Bob Such for introducing it, I cannot let the occasion pass without placing on the record that this government, and particularly this Attorney's response, have been hypocritical. As I mentioned, an extensive discussion paper was issued in 2004. The government has known for years that there is widespread community support for spent convictions legislation and that it exists in every other jurisdiction yet, in order to maintain an entirely false tough on law stance, the government has not embraced what is a sensible solution and, even now, it seeks to embrace it only by supporting someone else's bill. Unfortunately, it is typical of this government, which, fortunately, the people of South Australia will throw out in March next year.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:58): I thank the Hon. Mr Lawson for his contribution, but I must at least put on record some defence of the

Attorney, in that I believe this government has supported more private members bills than has any other government in the history of this state. A number of them have gone through. There was Mr Darley's bill yesterday in relation to land valuation, and there was the regulated trees bill which Mr Hood had reintroduced, although it was a government bill. There have been a number of others, including at least four or five which the government will support today and which will come into legislation—more, I suggest, than has ever happened in the history of this state.

Does it matter who introduces the bill? One of the more significant bills was the one which the Hon. Andrew Evans introduced and which this government supported in relation to removing the statute of limitations on certain offences, and that led to a significant reform in that area. There have been a number of important bills, and I would suggest that this government has distinguished itself by supporting measures other members have introduced. There is a certain limit on time and a number of priorities that the government has but, where members have done the work and come up with—

The Hon. Carmel Zollo interjecting:

The Hon. P. HOLLOWAY: Yet another example is Mr Dawkins' bill on surrogacy. There have been a number of cases. If you went back through the history of this state—

The Hon. J.S.L. Dawkins: That was a conscience vote.

The Hon. P. HOLLOWAY: Yes, but I still think that, if you look at the number of private members bills, there would still be more than at any other period in this state's history. I think it is to the credit of the Attorney-General and this government that we have adopted that approach, rather than him being subject to a tax.

The Hon. J.A. DARLEY (12:00): In answer to the Hon. Robert Lawson's question, my understanding is that the bill does not address the issue of where a conviction is not recorded, and perhaps that should be looked at in the future. I thank honourable members for their contributions. This legislation is long overdue.

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

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT BILL

Adjourned debate on second reading.

(Continued from 19 November 2009. Page 4095.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (12:03): I rise, on behalf of the opposition, to indicate that we will be supporting the bill. I note that we have this bill, which has come from the House of Assembly, and one on the *Notice Paper* that the Hon. Mr Darley has introduced. My recollection is that the Hon. Nick Xenophon introduced it in this chamber and the Hon. Mr Darley is progressing it. Notwithstanding that, I think that this bill will ensure that the Hon. Mr Darley will not need to proceed with his bill later in the day.

The opposition has always supported security of payment legislation, a policy that we took to the last election, and we are very happy now that we have reached this point where we have a bill before us, although the one that has been proposed does require some amendment. It is interesting to note that the Hon. Mr Darley has an amendment to remove the banks and financial institutions from this legislation. That is something that I do not think occurs anywhere else in the nation; in any other state that has security of payments legislation the banks are included. So, I indicate that the opposition will certainly be supporting Mr Darley's amendment.

The shadow minister in the other place, Iain Evans, recently travelled to Queensland and met with Mr Michael Chesterman, who is the adjudication registrar in Queensland (he is like the compliance officer or the registrar of the scheme). This bill does not propose to have a registrar of adjudicators or some governance model from overseas, and, clearly, that is what is needed. You cannot have adjudicators out in the marketplace without somebody lining them up with responsibilities. For example, if you have a small issue of, say, a $10,000 claim on a residential property, if there is a dispute you need to have an adjudicator who has experience and is qualified to deal with those issues. Likewise, if you have a dispute over a multistorey, multimillion dollar issue, clearly, you would need an adjudicator who had the responsibility and also the expertise to understand those issues.

Of course, the role of the registrar in the Queensland model, and certainly in other states, is to actually collect the information from the aggrieved parties, make a judgment as to how difficult

and complex the issue may be, and then line up the adjudicators with the particular clients so that there is an outcome where you are matching up people with the same skills.

We understand that the HIA, the MBA and some of the other major stakeholders had a concern about not having a registrar involved to act in this way, because they saw an opportunity for fees to spiral out of control. It appears that has not been the case in Queensland, and to protect everybody in Queensland every decision of the adjudicator is published on a website, and I think there are currently some 2,000 decisions on that website.

As I said, the HIA, the MBA and other stakeholders were concerned that the market forces would not prevail in relation to price, although it seems that that is working in Queensland, where market forces are keeping the fees being charged reasonable, shall we say. So, we are proposing some amendments, and the first would be to make the Commissioner of Consumer Affairs the registrar for the adjudicators and the nominating authorities. Clearly you have somebody who is responsible and acts in that role. We also propose an amendment to allow for different classes of registration of adjudicators. Again, that is to give some clarity to the registrar as to who has suitable qualifications to deal with particular issues.

It seems to be working well in Queensland. There has been a significant amount of debate as to whether we have the Western Australian or eastern states model. I have also been advised that currently the Northern Territory model in some industry circles is seen as the best model, although I am not sure whether it is. I am sure there will be more tinkering with this legislation after the election, irrespective of the result of the election, but the opposition sees this measure as a step in the right direction to give some certainty to players in the industry, both tradespeople and clients of those people, whether small domestic homes or multi-million dollar projects are involved. It is a step in the right direction, and we will be moving the amendments that I have outlined. I also indicate that we will support Mr Darley's amendment to remove banks and financial institutions from the scheme. As we have a significant amount of business to deal with today, I will not prolong the debate any further. We support the bill.

The Hon. J.A. DARLEY (12:10): I rise to indicate that I will support the bill. Members will no doubt be aware that the bill is essentially the same as that introduced by me in September 2008. Members will also recall that the bill I introduced in 2008 was the same as that introduced by my predecessor Nick Xenophon in 2007, so it is an issue with which we would all by now be familiar.

The bill seeks to provide for progress payments for persons who carry out construction work or supply related goods and services under construction contracts. In short, it will ensure that contractors receive regular payment for work that has been completed, without which they simply cannot afford to carry on their businesses. As members would be aware, the bill is based on what is broadly referred to as the East Coast Model, as adopted by New South Wales, Victoria and Queensland. The alternative model is the West Coast Model, as adopted by Western Australia and the Northern Territory.

I will briefly discuss the different aspects of the legislation shortly, but before I do that I foreshadow that it is my intention to move a series of amendments to the bill. The first lot of amendments relate to recognised financial institutions, and the effect of them will be to ensure the act does not apply to construction contracts that form part of a loan agreement, a contract of guarantee or contract of insurance. Another amendment relates to adjudicators' fees. The amendment is intended to overcome any concerns regarding unreasonable adjudication fees by providing for the option of having those fees prescribed by regulation.

I will also move amendments that relate to the inclusion of owner builders in the scheme. Presently the only states considering including owner builders in their respective security of payment schemes are Queensland and Tasmania. In New South Wales they are specifically excluded from the legislation. At the outset I wish to make clear that I do not necessarily think that owner builders should be excluded from the ambit of the bill, but I believe that additional mechanisms are required to ensure a level playing field for owner builders, particularly home owners.

Whilst I agree in principle with the argument that all participants in the building and construction industry ought to be treated equally, I also acknowledge that owner builders and, more specifically, home owners may have little or no experience in the building and construction industry. As was proposed in Tasmania, there is merit in having additional mechanisms in place to ensure that those individuals are afforded special consideration as a result of their lack of experience

within the industry. On that basis I foreshadow that I intend to revisit this issue during the next session of parliament in order to give further consideration to the Tasmanian legislation. I might also add that stakeholder representatives with whom I have been meeting are in consensus with regard to all the proposed amendments. In relation to the last mentioned amendment, they also agree that owner builders should be included in the scheme but are sympathetic to the concerns I have raised with them.

Finally, I will also move a number of minor amendments that are simply intended to make the bill clear in terms of the relevant time frames applicable to the determination of an adjudication application and circumstances where either the claimant wishes to discontinue an adjudication application or an adjudicator chooses to withdraw from an adjudication application. I was recently invited to attend a professional development information night held by the South Australian Chapter of the Institute of Arbitrators and Mediators Australia. These amendments are the result of suggestions made by one of the speakers at that event—Mr David Campbell-Williams—as a means of improving the current bill.

As mentioned previously, there are, as we know, two different models of security of payment legislation. Members will have no doubt been contacted by industry representatives with differing opinions on which model is the preferred option for South Australia I think. It is fair to say that the Master Builders Association and the Housing Industry Association are in favour of the Western Australian model, if any. Stakeholders who represent electricians, communications contractors, air-conditioning installers, mechanical services, plumbers, ventilation installers, refrigeration and air-conditioning technicians, civil contractors, machine and plant operators, plumbers, tilers and plasterers, amongst others, on the other hand have been lobbying for security of payment legislation based on the New South Wales model, and they have been doing so for good reason.

As highlighted by Philip Davenport in a paper entitled 'A summary of adjudication acts in Australia' and at the risk of repeating what has been said in the past, the key difference between the two models is as follows: the New South Wales, Victorian and Queensland legislation all provide a similar statutory right to the party—namely, the claimant—who is contracted to provide construction work or related goods and services, to make progress payment claims against the other party to the contract, being the respondent.

The acts all provide for the claimant to have disputed progress payment claims adjudicated. Where the respondent fails to serve a payment schedule within a set time frame, they create a statutory debt and they also allow the claimant to suspend work if the statutory debt is not paid on time. The procedures for adjudication are very similar under each of the acts. The Victorian legislation differs in that after a determination the respondent has the option of providing security for the adjudicated amount as opposed to paying it. The Queensland legislation differs in that it creates an adjudication registrar and adjudicators, and authorised nominating authorities must be registered.

Under the Western Australian and Northern Territory legislation, there is no automatic statutory debt when a payment schedule is not issued in time. The contractor has a right to progress payment only if the construction contract provides for that right. The contract provides how the principal is to respond to a claim for payment. Where no response is provided or where a response is not provided within the prescribed time frame, the contractor is entitled to the claimed amount only if this is provided for in the contract.

The Western Australian and Northern Territory acts have no provisions similar to that in the other acts to the effect that the claimant can recover the amount as a statutory debt and, in proceedings, to recover the amount, the respondent cannot bring any cross-claim against the claimant or raise any defence in relation to matters arising under the construction contract. The legislation also differs in that it does not give the claimant a right to suspend work if there is no payment schedule and the claimed amount is not paid on time.

The right to suspend work arises only if the principal fails to pay the contractor in accordance with a determination by the adjudicator. The only similarity between the two models is that, like the Queensland legislation, the Western Australian and Northern Territory legislation provides for registration of adjudicators. The acts do provide for the adjudication of payment disputes and either party may initiate adjudication. This precis highlights the shortcomings of the Western Australian model, which is far too restrictive.

I am advised that on 19 November Tasmania also passed a bill dealing with the same issue. The bill is expected to receive royal assent on 17 December. For the most part, that legislation is also based on what has been referred to as the New South Wales or East Coast model. It departs from the New South Wales model only in the sense that, like the bill before us today, Tasmania has also opted to include some additional provisions not included in the New South Wales legislation.

I am further advised that on 19 November the Australian Capital Territory also passed a bill based on the New South Wales legislation. The New South Wales model has been referred to as a tried and tested legislative framework. It is considered a benchmark model for security of payment legislation. It provides much more protection for the person who undertakes to carry out construction work or to supply goods and services than the model available in Western Australia and the Northern Territory.

It is, in short, the preferred model, and I will go so far as to suggest that those who oppose this legislation on the basis that it is based on the New South Wales legislation do so out of self-interest. The mere fact that every other jurisdiction has chosen to follow the New South Wales legislation highlights that it provides the most ideal model.

In concluding, I would, once again, like to acknowledge the cooperation and the work that has been done by key stakeholder bodies who have been lobbying for this legislation for years—some for as many as 20 years. The include: the National Electrical and Communications Association, the Air-Conditioning and Mechanical Contractors Association, the Association of Wall and Ceiling Industries of South Australia, the Plumbing Industry Association of South Australia and the Civil Contractors Federation of South Australia. Their efforts follow on from recommendations made by the Cole royal commission into the building and construction industry in 2003. The fact that we are finally dealing with this bill is a tribute to years of hard work on their part, and they ought to be commended for their efforts.

As already mentioned, Tasmania and the ACTU have very recently implemented security of payment legislation, so South Australia is now the only state without legislation of this type. This legislation is long overdue in South Australia, and I am keen to see its expedient passage through the parliament.

I commend Mr Tom Kenyon MP (in another place) for progressing this matter and I, too, urge all honourable members to support the bill.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 4, lines 17 and 18 [clause 4, definition of adjudicator]—Delete the definition and substitute:

adjudicator means a person who is registered as an adjudicator under Part 3A;

As I indicated in my relatively brief second reading comments, we are moving a range of amendments to establish the Commissioner of Consumer Affairs as the registrar for adjudicators and nominating authorities. So, this first amendment deletes the definition and substitutes: 'a person who is registered as an adjudicator under Part 3A'. All the other amendments relating to this are somewhat consequential, so I will move this one to test the will of the chamber.

The Hon. R.P. WORTLEY: We reject this amendment, mainly because we will be opposing Part 3A of the bill. This bill is heavily based on the New South Wales model. There are about 5 million people in New South Wales. It has the largest contractor workforce, and it works quite well. So, we will oppose all the amendments put up by Mr Ridgway.

The Hon. D.G.E. HOOD: I think we will get to the substantive debate as the amendments are presented, but I indicate that we intend to support the amendments.

The Hon. A. BRESSINGTON: I indicate that I will not be supporting the amendments, the reason being probably poor lobbying on behalf of the Hon. David Ridgway. The only feedback that we have actually had is from industry, which has indicated that it does not support these amendments. In an ideal world, yes, it would be desirable, but the industry is quite happy with the

bill as it is, with the Hon. John Darley's amendments. That is essentially what I have based my decision on.

The Hon. J.A. DARLEY: While I appreciate what the honourable member and the opposition are trying to achieve by moving these amendments, I indicate that I will not be supporting them. These amendments will essentially result in a restructure of the way the scheme operates in South Australia and, at this late stage, I do not think we should be going down that path. I would like to see this bill pass in its current form, and perhaps we can address these concerns later down the track.

The committee divided on the amendment:

AYES (9)

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

NOES (10)

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

PAIRS (2)

Stephens, T.J.	Hunter, I.K.

Majority of 1 for the noes.

Amendment thus negatived.

The CHAIRMAN: Mr Ridgway, do you want to move all your amendments to clause 4?

The Hon. D.W. RIDGWAY: I indicated to the Hon. Mr Hood that I would pursue them but, clearly, I do not have the support, which is disappointing. I wonder whether Mr Hood wants to make some comments and whether he would like me to move another of these amendments. Certainly, I will be moving an amendment in relation to the different classes of registration of adjudicators, but this is a range of amendments to appoint the Commissioner for Consumer Affairs as a registrar and, clearly, that is not going to be accepted.

The Hon. D.G.E. Hood: I will speak to this one.

The Hon. D.W. RIDGWAY: I will move amendment No. 2 so that Mr Hood can make some comments. I move:

Page 4, lines 19 and 20 [clause 4, definition of *authorised nominating authority*]—Delete 'authorised by the Minister under section 28 to nominate persons to determine adjudication applications' and substitute:

who is registered as an authorised nominating authority under Part 3A

The Hon. D.G.E. HOOD: I thank the Hon. Mr Ridgway for that. Briefly, we intended to support these amendments, and I say that because we met with a number of industry groups and there seems to be a good deal of support amongst them for the amendments. There were some dissenting voices, and we would all acknowledge that. No doubt we have all been lobbied fairly extensively on this bill, but I think, on the whole, the amendments strike a particularly good balance. I agree with the Hon. Mr Ridgway that there is no point going through them if they are clearly going to lose, but I want to put on the record that we were sympathetic to them and intended to support them. Also, I think, by and large, it is the position of industry.

Amendment negatived.

The Hon. J.A. DARLEY: I move:

Page 5, after line 8—After the definition of *progress payment* insert:

> r*ecognised financial institution* means a bank or any other person or body prescribed by the regulations for the purposes of this definition;

This amendment relates to recognised financial institutions. For the sake of convenience, I will speak to amendments Nos 1 to 3 together in so far as they relate to recognised financial institutions. The effect of these amendments will be to ensure that the bill does not apply to construction contracts that form part of a loan agreement, a contract of guarantee or a contract of insurance. It effectively deletes the amendment passed in another place and reinstates the bill to its former position.

Financial institutions are specifically excluded from the New South Wales legislation. According to Mr Ian Gilbert, Director of Retail Regulatory Policy of the Australian Bankers Association, this is thought to have been a deliberate policy decision that enjoyed general bipartisan support in New South Wales, and this decision reflects the recognition and understanding of the risk to the construction industry in New South Wales if bank finance construction contracts were included. Mr Gilbert, on behalf of the Australian Bankers Association, has expressed concerns about the potential impact that the inclusion of financial institutions will have, both on the banking industry and the building industry. Mr Gilbert states:

> The meaning of 'construction contract' would include both the head contract with an owner and the subcontracts between the head contractor and the subcontractor. Despite the terms of the contract a party to a construction contract may claim progress payments according to the legislation which may have cash flow implications for head contractors and owners flowing through to financiers. A claim would be unpredictable and therefore a relevant event in a bank's assessment of its credit risk exposure.

Mr Gilbert goes on to say:

> Feedback from members of the ABA indicates that if bank financed construction contracts are to be covered in the South Australian bill, a bank would need to undertake additional due diligence to ensure that its developer/owner/customer would have the ability to meet the call of a subcontractor in the event that the bank determined not to make the progress payment because of, for example, a concern over the loan to value ratio if the payment were to be made at that stage of the construction.
>
> Further, a claim for progress payment outside the normal terms of the construction contract could place additional stress on the cash flow of the bank's developer/owner/customer, potentially increasing the risk to the bank. This may result in a broader approach by banks to credit risk in this industry in SA. How much this would impact is unclear but the effect would need to be taken into consideration deal by deal. A bank may have to review its standard form construction finance contracts and its credit risk assessment to account for untimed progress payment claims.
>
> Another implication with the Amendment is that it will, in effect, disturb the contractual relationship between a bank and its customer where an assessed and prudent provision of finance according to the terms of the associated construction contract is displaced by an unpredictable and untimed alternative obligation reached by an adjudicator that may have the effect of the order of the court.

Similar concerns have been raised by Mr Phillip Davenport, chief adjudicator and trainer from Adjudicate Today. By way of background, Mr Davenport has over 40 years' experience in construction law and has worked as an adjudicator in New South Wales, Queensland and Victoria. He is also the author and co-author of a number of books on construction law. He is regarded as an authority in this area. Mr Davenport highlights that banks would potentially incur two risks as a result of the inclusion of financial institutions: the first is being sued for progress payments by the borrower; and the second is being pursued by the borrower's contractor. As highlighted by Mr Davenport, under the legislation banks are not in a position to defend claims for progress payments from their customers, namely, the developers and owners or their customers' contractors.

Given that financial institutions will probably have to review their standard form contracts, the inclusion of financial institutions may also result in more red tape as a result of having to create new documentation applicable to contracts entered into in South Australia. It would probably be fair to assume that these costs will be passed on to the customers.

There is a very real concern that, in addition to an increase in red tape and compliance costs, banks simply will not be willing to lend to the developer or owner if that involves the risk of their being sued for progress payments—and, according to Mr Davenport, this is the precise reason for their exclusion from the New South Wales legislation. This same reasoning also extends to insurers and other financial institutions being excluded from the legislation. I strongly urge all members to support these amendments.

The Hon. D.W. RIDGWAY: As I indicated in my second reading contribution, the opposition will be supporting the amendment. It is interesting to note that the sponsor of this bill in

the other chamber included the financial institutions (banks) by actually consulting with them. So, I am a little concerned that the member opposite, the Hon. Mr Wortley, talks about not supporting amendments and having a particular point of view. I just wonder how widely the government backbenchers have consulted on this bill. Notwithstanding that, we will be supporting this amendment.

The Hon. R.P. WORTLEY: We will be supporting this amendment. I think the sentiments expressed by the Hon. Mr Darley are quite appropriate. In regard to the comments made by the Hon. Mr Ridgway, there has been extensive consultation by the sponsor of this bill. I will read excerpts from a letter from Christopher Rankin of the Air Conditioning and Mechanical Contractors' Association. This is also signed by the organisations that support the bill: the Air Conditioning and Mechanical Contractors Association; the Australian Wall and Ceiling Association, Mr Bernie Biggs; the Civil Contractors Federation, Mr Peter Nolan; the National Electrical and Communications Association, Mr Larry Moore (an absolute legend in the industry, of course); the National Fire Industry Association South Australia, Christopher Rankin; the Plumbing Industry Association (South Australia), Andrew Clarke; the Refrigeration and Air Conditioning Contractors Association, Mr Larry Moore again; and the Master Painters Association (SA), which actually sent me a letter saying, basically, that it supports the bill introduced by Mr Tom Kenyon. Obviously, the opposition leader has it totally wrong. There has been wide consultation on this—

The Hon. D.W. Ridgway interjecting:

The CHAIRMAN: Order!

The Hon. R.P. WORTLEY: Our main concern was that the people who were actually building these in the construction industry, the many thousands of contractors, were treated fairly. That is what this bill is all about: protecting them and ensuring that they are paid for the work they do.

The CHAIRMAN: Order! We are not going to have the bill debated.

The Hon. R.P. WORTLEY: The government supports the amendment.

The Hon. D.G.E. HOOD: That was our primary concern in the bill, and I think this amendment largely addresses that concern. Members may have seen Family First make some comments about this issue on, I think, Channel 7 a couple of weeks ago. In my best estimation, this amendment remedies what we perceived to be an issue with the bill, so Family First is very happy to support the amendment.

Amendment carried; clause as amended passed.

Clauses 5 and 6 passed.

Clause 7.

The Hon. J.A. DARLEY: I move:

Page 7, lines 9 to 13 [clause 7(2)]—Delete subclause (2) and substitute:

(2) This act does not apply to—

(a) a construction contract that forms part of the loan agreement, a contract of guarantee or contract of insurance under which a recognised financial institution undertakes—

(i) to lend money or to repay money lent; or

(ii) to guarantee payment of money owing or repayment of money lent; or

(iii) to provide an indemnity with respect to construction work carried out, or related goods and services supplied, under the construction contract; or

(b) a construction contract for the carrying out of domestic building work (within the meaning of the Building Work Contracts Act 1995) on such part of the premises that the party for whom the work is carried out resides in or proposes to reside in; or

(c) a construction contract under which it is agreed that the consideration payable for construction work carried out under the contract, or for related goods and services supplied under the contract, is to be calculated otherwise than by

reference to the value of the work carried out or the value of the goods and services supplied.

There are two elements to this amendment. The first relates to the exclusion of financial institutions from the scope of the bill, and I refer honourable members to what I have said already on that. In this regard the amendment is consequential.

The second element seeks to exclude from the ambit of the bill a construction contract for the carrying out of domestic work where the party for whom the work is carried out resides or proposes to reside in. The meaning given to domestic building work is the same as that provided by the Building Work Contractors Act 1995, namely:

(a) the whole or part of the work of constructing, erecting, underpinning, altering, repairing, improving, adding to or demolishing a building; or

(b) the whole or part of the work of excavating or filling a site for work referred to in paragraph (a); or

(c) work of a class prescribed by regulation;

At present, the only states considering including owner-builders in their respective security of payment schemes are Queensland and Tasmania. In New South Wales, they are specifically excluded from the legislation.

As mentioned in my second reading contribution, I wish to make it clear that I do not necessarily think that owner-builders should be excluded from the ambit of the bill, but I do believe that additional mechanisms are required to ensure a level playing field for owner-builders, particularly homeowners. That being said, I also acknowledge that owner-builders—and, more specifically, homeowners—may have little or no experience in the building and construction industry. I think there is merit in having additional mechanisms in place to ensure that those individuals are afforded special consideration because of their lack of experience within the industry.

Members will recall that during my second reading contribution I mentioned that I was recently invited to an information night held by the South Australian chapter of the Institute of Arbitrators and Mediators Australia, as was Mr Tom Kenyon MP. A lot of support for the amendment was expressed on the night, particularly from the two speakers, who have extensive experience in construction law. Without additional safety mechanisms I do not think that the inclusion of owner-builders will be well received. On that basis I propose to exclude owner-builders from the scope of the legislation. I urge all honourable members to support the amendment.

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

The Hon. D.G.E. HOOD: Again, very briefly for the record, I think this amendment is related to the previous amendment, and for the same reasons we will be supporting it.

The Hon. R.P. WORTLEY: I indicate that we support the amendment.

Amendment carried.

The Hon. J.A. DARLEY: I move:

Page 7, after line 18 [clause 7(3)]—After paragraph (a) insert:

(ab) provisions under which a party undertakes to carry out construction work, or to supply related goods and services, as a condition of a loan agreement with a recognised financial institution; or

This amendment forms part of a series of amendments related to the exclusion of financial institutions from the scope of the bill and is consequential in nature. Based on the reasons already provided in that regard, I urge all honourable members to support this amendment.

Amendment carried; clause as amended passed.

Clauses 8 to 16 passed.

Clause 17.

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

Page 13, lines 36 and 37 [clause 17(6)]—Delete 'a person who is eligible to be an adjudicator as referred to in section 18' and substitute:

an adjudicator whose registration authorises him or her to be an adjudicator in relation to the dispute that is the subject of the application

I guess this will be a test clause in relation to the registration of different classes of adjudicators. We see it as important that we have that registration so that, when you are looking to appoint adjudicators and decide on who can adjudicate on what issues and the expertise of the adjudicators to be able to handle certain cases, especially if they are complex in nature or many hundreds of thousands or millions of dollars, it seems sensible to the opposition to have a grading system or classification of adjudicators so you are matching people with appropriate skills to handle the issues they are dealing with or the conflict or complaints they are trying to adjudicate on. I will not go on any longer. Members are well aware of the intention of our amendments, and we see this as a test clause for the following amendments.

The Hon. D.G.E. HOOD: This is another issue that Family First raised in the media, and this amendment really nails the situation by fixing what we saw as a potential issue in the bill—not necessarily a problem in all cases, but certainly the potential to create a problem. To our understanding, this will right that situation and therefore we support the amendment.

The Hon. R.P. WORTLEY: The government opposes this amendment. The reason is that this bill is based on the New South Wales legislation. It operates quite efficiently, and it is basically recognised as probably the best system of all, so we oppose the amendment.

The Hon. J.A. DARLEY: I will also not support this amendment.

The Hon. A. BRESSINGTON: I am not supporting the amendment, either.

The committee divided on the amendment:

AYES (9)

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

NOES (10)

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

PAIRS (2)

Stephens, T.J.	Hunter, I.K.

Majority of 1 for the noes.

Amendment thus negatived; clause passed.

Clauses 18 to 20 passed.

Clause 21.

The Hon. J.A. DARLEY: I move:

Page 15, lines 5 and 6 [clause 21(3)(a)]—Delete 'the date on which the adjudicator notified the claimant and the respondent as to his or her acceptance of the application' and substitute:

—

(i) the date on which an adjudication response is lodged with the adjudicator; or

(ii) if an adjudication response is not lodged with the adjudicator on or before the last date on which the response may be lodged with the adjudicator under section 20(1)—that date; or

(iii) if the respondent is not entitled under section 20 to lodge an adjudication response—the date on which the respondent receives a copy of the adjudication application; or

Members will recall that during my second reading contribution I mentioned that I recently attended a professional development information night in order to discuss the bill. At that event, one of the

key speakers suggested a number of minor amendments aimed at improving the current bill, and this is one of those amendments. Clause 21 of the bill deals with adjudication procedures. Currently, subclause (3) provides:

> (3) Subject to subsections (1) and (2), an adjudicator is to determine an adjudication application as expeditiously as possible and, in any case—
>
> (a) within 10 business days after the date on which the adjudicator notified the claimant and the respondent as to his or her acceptance of the application; or
>
> (b) within any further time that the claimant and the respondent may agree.

The amendment relates to circumstances where no agreement has been reached between the claimant and the respondent regarding an extended time frame. The reason for this amendment is to overcome the timing disconnect that sometimes can occur between the 10 day time frame within which the adjudicator is required to make a determination and the period within which a respondent becomes aware of the adjudication and may be entitled to lodge an adjudication response. I am advised that in some instances (and this may be where the claimant is a little careless in the service of documents) the adjudicator is actually required to make a determination in circumstances where the respondent has been served only one or two days prior to the expiration of the 10 days. Sometimes this timing disconnect can lead to situations where the adjudicator is making a determination without having a complete set of documents and therefore a complete picture before him or her.

The amendment effectively will ensure that the 10-day time frame for the determination applies after the date on which the respondent has either lodged an adjudication response or the date on which the respondent receives a copy of the adjudication application. It will ensure that the respondent receives the full benefit of process and that the adjudicator has 10 full business days within which to make a determination based on a complete set of documents relating to the application. This is a very sensible amendment and I urge all members to support it.

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

The Hon. R.P. WORTLEY: With regard to subclause (3), will the honourable member advise how the adjudicator will become aware of the date on which the respondent received a copy of the adjudication application?

The Hon. J.A. DARLEY: I am advised that in practice an adjudicator who accepts an adjudication application, or in some cases the nominating authority to whom the application has been referred, would ask the claimant, or both the claimant and the respondent, for details about when the respondent was served with the adjudication application, and that would be the date that applies to subclause (3).

In cases of a default adjudication, it would still be open to the respondent to argue that they did not know about the application. If the nature of the claim was outside the jurisdiction of the adjudicator, there would be nothing preventing the respondent from lodging an objection on jurisdictional grounds. I have spoken to adjudicators who work in this field in other states and they have advised me that there is a big emphasis on adjudicators being aware of the relevant dates for an adjudication application. These sorts of issues in particular all form an important part of the extensive training provided to adjudicators by nominating authorities.

The Hon. R.P. WORTLEY: I thank the honourable member for his answer and indicate that we support the amendment.

Amendment carried; clause as amended passed.

Clauses 22 to 25 passed.

Progress reported; committee to sit again.

STATUTES AMENDMENT (COUNCIL ALLOWANCES) BILL

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

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

The House of Assembly agreed to the time and place appointed by the Legislative Council for holding the conference.

[Sitting suspended from 13:00 to 14:18]

PAPERS

The following papers were laid on the table:

By the President—

Supplementary Report of the Auditor-General, 2008-09—Agency Audit Report and a Matter of Specific Audit Comment, December 2009

Reports, 2008-09—

Corporation—Walkerville
District Council—Port Pirie
Save the River Murray

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

Reports, 2008-09—

Art Gallery of South Australia
Commissioner for Victims' Rights
Disability Information and Resources Centre Inc.
South Australian Office of the Public Advocate
South Australia Police
The South Australian Fire and Emergency Services Commission

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

Reports, 2008-09—

Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Commission of Inquiry: A Report into Sexual Abuse
Community Benefit SA
Correctional Services Advisory Council
Dame Roma Mitchell Trust Fund for Children and Young People
Problem Gambling Family Protection Orders Act 2004

Death of Rowan Scott Wheaton—Report on actions taken by the Department for Families and Communities in Response to the Recommendations of the Coroner following the Inquest

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

Commissioner for Consumer Affairs—Report, 2008-09

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:19): I bring up the 32nd report of the committee.

Report received.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

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

Report received and ordered to be published.

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:20): I move:

That the sitting of the council be not suspended during the conference.

Motion carried.

ADELAIDE OVAL

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:20): I table a copy of a ministerial statement relating to Adelaide Oval made earlier today in another place by my colleague the Premier.

Members interjecting:

The PRESIDENT: Order!

QUESTION TIME

ADELAIDE OVAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning and Leader of the Government in this place a question about the government announcement in relation to the AFL.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. B.V. Finnigan interjecting:

The Hon. D.W. RIDGWAY: Mr President, can you ask him to shut up, please?

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: The Hon. Bernie Finnigan cannot control himself.

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Mr President—

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Last week, the Liberal Party launched a well researched, comprehensive plan for a redevelopment in the city, including a multipurpose stadium with a roof, with 5,000 car parks underneath the stadium—

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: No, listen. You should get the wax out of your ears and listen. The plan provides for 5,000 car parks under the stadium and another 7,500 throughout the rest of the development. Today, we heard the government make an announcement on the run. In fact, the opposition believes that this was to be announced last week, but issues that were prominent in the media overcame the government, so it decided to delay the announcement until this week.

It is interesting to note that this is a $350 million development that appears to have no roof, no direct public transport access and no car parking. My question to the minister is: when there is a Friday night football game, when the car parks in the city are full and it is raining and wet in the Parklands, where will patrons park their cars?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): I can well recall going to a finals match at Adelaide Oval one year (I think it was Glenelg and Sturt that were playing) at which 60,000 people attended, and those people managed. But, fancy members opposite talking about public transport when, of course, we know that their policy was to scrap public transport. They are still attacking the tram. If you lived in the electorate of the member for Morphett, for example, you would not have any chance of hopping on a tram to get down to Glenelg. You would not be able to do that if members opposite had had their way. In fact, the Glenelg tram line would have had to be closed down because they did not support any upgrading of the equipment.

Let us go through this question. First, they said that their proposal was 'well researched'. Those were the words they used. In fact, it was so well researched that they did not talk to the football or cricket bodies. Fancy coming out with a stadium when you have not spoken to the football league or the cricket association! What on earth is the purpose of coming up with a proposal for a new stadium if you have not even spoken to the people who might use it and make it viable?

In fact, as the statement released by the Premier today reveals, the Treasurer has been working on this matter for 18 months. He has been talking to the football league and SACA for 18 months, while members opposite have someone working in a back room with a computer doing

flyovers of big buildings scattered across the area. We have actually been talking to the cricket association and the football league (the AFL), because they are the people who actually matter. That is why today's announcement was so important—because it is finally an agreement between football and cricket to look at using Adelaide Oval. Finally, we have reached some agreement in relation to that. That is progress.

The opposition is suggesting that you can just wake up one morning and say, 'This is a good idea. *The Advertiser* has been calling for a stadium so, if we come out and offer it as well, it will give us lots of publicity'. That is essentially what has happened to members opposite. They will come up with a stadium and say, 'We won't bother about the details. We won't look at the details; we won't look at how we are going to pay for it; we won't look at who is going to play there; and we won't look at whether it is viable or not. But we will make up a flier and that will look good and people will think that we know what we are doing.' But, of course, they do not, and it never had any credibility.

Part of this proposal was to shift the terminal at Keswick. That has to be one of the greatest examples of squandering $200 million (I think that is the cost) that I have ever heard in my life! It is a completely absurd proposal. Do members opposite know who uses the long distance train line? Do they know who comes in on the train? Do they know who actually travels on it? Have they ever been on an interstate train? If you want to take the Ghan to Darwin, for example, and you have all of your luggage, what could be more convenient than being dropped at Keswick where you can actually get onto a carriage?

Those trains are about 800 metres long. You will not accommodate them. What is more, you would have to have shunting. Why do members opposite think the terminal was moved out there in the first place? It is because there is nothing that they proposed that would address it. It would make it far more difficult and would serve no-one. Also, why would you want to arrive next to an empty stadium? To make it even worse, if you want to go to a hotel, or something like that, you are actually no closer to where—

An honourable member: Build a hotel right there!

The Hon. P. HOLLOWAY: You are going to build a hotel on the parklands, are you? Anyway, we will get to that later. It has to be one of the dopiest proposals and one of the greatest squanderings of money I have ever heard. It is totally impractical and a complete waste of money. What is more, they were going to sell the land that they do not even own, but that is another story. They have not done their homework.

This lot opposite thinks you can get some graphic designer to pick any part of Adelaide and come up with lots of new buildings and something futuristic. But, do not talk about who might use it. Don't actually deal with any of the details, and don't worry how you might fund it—and they think that is a policy. Well, I have news for them.

In relation to car parks, as I have said, there have been much larger crowds at Adelaide Oval in the past. This government has upgraded public transport—and what this lot is going to do is cut back on public transport. With the new bridge that is to be constructed, it will be far more convenient—and closer—getting to Adelaide Oval from the railway station and from the tramline, which this government is extending. Members opposite want to do away with public transport. They have never believed in it.

We talk about the car parks. Mr Lucas was on radio yesterday totally embarrassing himself talking about 13,000 car parks, I believe it was. Of course, already we see that it has come back to 5,000 today.

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: The fact is that, in that particular area of the city, it would be much harder to get a car park than it will be around Adelaide Oval. Not only is the government offering a well thought out, sensible proposal that is practical and workable but the AFL and the cricket association actually agree with it. That is the big difference. The fact is that anyone—

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: Is it? Okay. So, you have agreement with your—

The Hon. T.J. Stephens: Pull me up?

The Hon. P. HOLLOWAY: I wouldn't bother pulling him up. Everyone knows that he is a joke. Why would I bother? Is the Hon. Mr Stephens saying that the AFL and the South Australian Cricket Association agree with your proposal?

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Are you saying they are going to play on your proposed oval? No, you can't.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens will retract that remark. It was very unparliamentary, and he knows it. I will not tolerate that behaviour. If the honourable member wants to behave like that, perhaps he ought to stand for the other place. I ask the Hon. Mr Stephens to withdraw that remark.

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

SECURITY AND INVESTIGATION AGENTS

The Hon. J.M.A. LENSINK (14:33): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about licensing of security and investigation agents.

Leave granted.

The Hon. J.M.A. LENSINK: The Australian Institute of Criminology recently called for greater scrutiny and better collection of data for the private security industry in Australia. I understand that OCBA is the licensor of security and investigation agents in South Australia. According to the most recently available annual report, OCBA issued 8,012 licences in 2007-08 compared with 7,295 in 2006-07. I note that the 2008-09 OCBA annual report is not available as yet to make a comparison.

This large increase in licences is consistent with Australian trends. In fact, the growth in the number of security and investigation agents has been very large over the past few years and has been faster than for both population growth and police intake growth. In fact, in 2009, security personnel outnumbered police by more than two to one. My questions are:

1. Is OCBA monitoring and collecting data from this industry?

2. Has OCBA been required to, or has it needed to, place additional resources into monitoring this industry?

3. What discussions has the minister had either with her colleague the Minister for Police or at a federal level to ensure this issue is being monitored effectively?

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) (14:35): I thank the honourable member for her important question. I understand that the Attorney-General is the minister responsible for matters relating to the private investigation sector. OCBA is involved in the licensing only, and I am advised that it does little else other than managing those administrative matters. However, I am happy to take the question on notice, refer the appropriate elements of it to another minister and bring back whatever answers I can determine.

ENERGY, STAR RATING

The Hon. S.G. WADE (14:35): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question relating to six-star energy ratings.

Leave granted.

The Hon. S.G. WADE: In July this year, the Council of Australian Governments released its national strategy on energy efficiency. The strategy is based on four key themes, including making buildings more energy efficient. In particular, the strategy sets out seven measures to increase energy efficiency in the residential building sector. The first measure commits Australian governments to increasing energy efficiency provisions in the Building Code of Australia for all new residential buildings by upgrading minimum energy efficiency standards to six stars in the 2010 update, with the Building Code of Australia to be implemented by May 2010.

The opposition has been informed that assessment by independent environmental consultants supports concerns in the transportable home industry that it is highly unlikely that transportable homes can be made six star compliant and, as a result, the sector may close down. Transportable homes are often a more affordable housing option, particularly for people living in residential parks. Also, at a time when regional areas are experiencing significant housing shortages, the loss of transportable housing would be a major issue for the mining industry. My questions are:

1. Will the minister grant an exemption from the six-star energy rating for transportable homes while the impact on the industry is assessed?

2. Has the minister considered the impact this might have, particularly for mining communities, in relation to the housing shortage already being experienced?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:37): I thank the honourable member for his question. This issue was discussed quite recently at the building ministers' forum in Melbourne. Whereas I think that most states are very keen that these six-star ratings should come into operation as soon as possible, there are some issues to be sorted out. Indeed ministers had, on the very day of the meeting, only just received a report in relation to some of the impacts of the ratings.

While I believe that most states are supportive of the target start-up date in principle, because of the issues in relation to the report being received at only the last minute the matter was to be determined out of session before Christmas. I expect that we will be in a position to finalise a decision in relation to six-star ratings fairly soon, but we are waiting to hear from federal minister Senator Carr in relation to that. So the honourable member is correct that some issues have been raised in relation to this matter, and we will be looking at those before a final decision is made.

SOUTH AUSTRALIAN ECONOMY

The Hon. R.P. WORTLEY (14:38): My question is to the Minister for Small Business. With so much focus on the global economic downturn and its consequences for the Australian economy, is the minister aware of any local success stories or local businesses that continue to grow and support the South Australian economy?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:38): I thank the honourable member for his question. The South Australian economy is so far bearing up well in the aftermath of the global financial crisis, and that is a testament to the state's strong financial position and the work undertaken by this government to realign our economy towards mineral resources development, defence and science industries, and education services. The confidence we are generating through our industry policies is allowing businesses to plan ahead, expand and invest for the future.

This was in evidence last month when I had the opportunity to take part in the opening of the new hot dip galvanising plant at Adelaide Galvanising in Cavan. The firm's new purpose-built premises house a new 9.5 metre galvanising kettle, which contains 360 tonnes of molten zinc. Adelaide Galvanising is a family affair launched by three brothers and their brother-in-law back in 1996. Two of the brothers departed to pursue other interests in the early years, but Tony Grantham and Stuart Nunn have persevered, building up the business from a single five metre galvanising kettle.

The business has grown from those simple beginnings, including expansion to include a larger, 7 metre kettle to handle much larger items. With the expansion of its capacity, the business has also been able to increase staff numbers and now employs 20 people in a new purpose built facility.

It is interesting to note and indeed a credit to both Tony Grantham and Stuart Nunn that, of the 20 employees, 10 have notched up more than 10 years service at the firm. The firm has also expanded its client base, originally specialising in coating gratings and roadside hardware. Adelaide Galvanising now handles products from a diverse range of clients and industries from agriculture in Mount Gambier to mining in Roxby Downs and fishing in Port Lincoln.

The larger kettle has greatly increased its capacity and ability to meet the needs of an ever expanding range of clientele. Working in partnership with the EPA, the Adelaide Galvanising plant is now at the leading edge of environmental and safety practices.

As the Minister for Small Business I am always pleased to acknowledge small business owners who have, through hard work and commitment, achieved a high level of success. Adelaide Galvanising is an excellent example of the sort of small business we wish to foster and encourage in this state. It is a business with a high regard for its staff and customers as well as for the environment. I am confident that Adelaide Galvanising will continue to serve industry in a way that benefits the local economy and provide jobs to South Australians.

That is just a snapshot of one family business that has taken a risk and invested in the future and is now reaping the benefits, and there are many more such success stories in South Australia. The government, through its commitment to small business and prudent management of its own finances, will continue to ensure that the fundamentals of this state provide them with confidence to plan for the future, invest and create jobs.

BURNSIDE CITY COUNCIL

The Hon. J.A. DARLEY (14:41): I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about the Burnside council.

Leave granted.

The Hon. J.A. DARLEY: On 13 October the minister announced that the investigation into Burnside council, conducted by Mr Ken MacPherson and due for completion on 31 October 2009, would be extended for four months to ensure that 'procedural fairness is afforded to those who may be named in his report'. I have been contacted by a prominent businessman who has had many dealings with the Burnside council and who has a plethora of pertinent information on matters relating to the investigation. He informs me that he has formally requested a face to face meeting with Mr MacPherson in order to personally convey the information he holds and that Mr MacPherson has refused this request, advising instead that he is able to arrange a meeting with a person assisting him with his investigation. Whilst I understand that Mr MacPherson is not able to attend all meetings personally, I would have thought that a request from a person with important information relating to the investigation would be met favourably by the investigator. My questions are:

1. How much of an active role is Mr MacPherson taking in this investigation?

2. Will extending the investigation give Mr MacPherson the opportunity to meet such requests, or is it the intention merely to allow him to examine the information already received?

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) (14:43): I thank the honourable member for his important question. Indeed, in response to issues of concern around the conduct of the Burnside council, in July this year I appointed Ken MacPherson to conduct an independent investigation and to report on whether that council had contravened or failed to comply with a provision of the Local Government Act or failed to discharge its responsibilities under that act.

The terms of reference have been outlined and are online if people want to see them, and I have provided them here before. I think it was part of my ministerial statement that the role of Mr Ken MacPherson is that he has responsibility for conducting and overseeing that investigation, as per the terms of reference I have outlined. He has a number of staff assisting him, including, I believe, other legal representatives, and the investigation is conducted independently of government. It is absolutely not appropriate that I interfere in that in any way, shape or form. It is a matter for the investigator, Mr Ken MacPherson, to determine how he proceeds through those administrative matters and who is the appropriate person to deal with that. Ultimately, the investigator, Mr Ken MacPherson, is responsible for that investigation. He is an incredibly competent man and well qualified to do this. He has a great deal of expertise and experience in this area and I am confident that he will do it with a great degree of diligence.

Some time ago Mr MacPherson requested that the amount of time he have for that investigation be extended, given that the investigation was opened up to public submissions, and I think that was an important part of this particular investigation given the sorts of complaints and concerns that have been expressed, so we opened it up.

Mr MacPherson made an estimate in terms of what time he thought he would need, but after he had opened the expressions of interest he then assessed the need for further time so that he could conduct the investigation fully, allowing adequate time for the hearing of submissions,

followed by a process of natural justice where he is then able to talk to those individuals who might have allegations made against them.

I think Mr MacPherson has allowed a period of time towards the end of the process for that, and then to make a report to me. As I said, it would be inappropriate for me to interfere in any way in terms of how he might collect that evidence. I am absolutely confident that he is well qualified to conduct this investigation in a proper and lawful way.

FLOOD MITIGATION

The Hon. R.D. LAWSON (14:47): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question on the subject of flood mitigation.

Leave granted.

The Hon. R.D. LAWSON: Last week, a public meeting was held in Mitcham to hear information about the proposed Brownhill and Keswick creeks flood mitigation plan. It was a very well attended meeting, at which many concerned citizens were present. The Hon. Mark Parnell was present, as were a number of members of the other place and myself.

The meeting heard ongoing concerns about the Brownhill and Keswick creeks flood mitigation plan, one element of which is a mammoth concrete flood control dam to catch a one in a hundred year flood. This dam was proposed by Hydro Tasmania. That organisation's CV includes such triumphs as the flooding of Lake Pedder, the proposed Gordon-below-Franklin dam and other celebrated forestry solutions.

In July this year, a cost benefit analysis of the Hydro Tasmania solution was published, showing that that solution is not a cost effective proposal, and it has been pointed out by others that the Hydro Tasmania proposal, whilst it might be effective in a one in a hundred year flood, offers no proposal to retain water in the other 99 years.

I have previously asked the minister about what the government is doing, and her responses indicated, at that stage, nothing. At the meeting to which I have referred, Mayor John Trainer of the City of West Torrens and other persons with downstream interests were calling for urgent solutions to the problem. The regional subsidiary, proposed between the five local government councils concerned, is currently the subject of mediation, which we were assured would be resolved.

My question is: what steps has the minister taken to use her officers to bring together the parties to bring about a rapid solution to this ongoing impasse, which might have catastrophic effects at any stage, bearing in mind that we saw in England only this week a one in 1,000 year flood which caused extensive damage and injury?

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): Unfortunately, this has been a vexed issue for some time, with five councils working for several years towards joint implementation of a stormwater management and flood mitigation plan for the Brownhill/Keswick Creek catchment and the proposed formation of a joint council authority to manage that project.

My understanding is that a memorandum of understanding was reached between the five councils back in 2007 to underpin the work that needed developing and to agree on that joint approach to the catchment. As we know, in July 2008 Mitcham council withdrew from that agreement. It cited a number of concerns, including aspects of the design costs and proposed work and environmental concerns.

I understand that a revised MOU was drafted for the five councils, and certainly at all stages we encouraged the councils to work in a cooperative way to resolve these issues. A number of agencies across government have been involved from time to time and have offered encouragement and urged these councils to reach agreement. That MOU was endorsed by four of the councils late last year but, as we know, Mitcham council was not prepared to sign it, and that then provided problems for the other four councils.

I understand that in January this year Mitcham council then resolved to withdraw from the Brownhill Creek project, including ceasing to provide any financial contribution to that particular project. In July 2007 the government established the Stormwater Management Authority—the first of its kind in the state—whereby state and local government sectors would work together in a

cooperative arrangement in order to maximise outcomes from funds invested in their stormwater management. So, the government was certainly responsible for assisting in the establishment of that task force.

The legislation promotes catchment-wide, multi-objective stormwater planning and management for the purposes of flood risk mitigation, environmental outcomes and use. The legislation also enables funds to be used to carry out works and prepare stormwater management plans, and a high priority will be given to the Brownhill Creek and Keswick Creek catchment project to optimise opportunities for stormwater catchment and reuse. The state government has provided funding to the Stormwater Management Authority of $4 million per year, indexed over 30 years.

Local government is a third level of government in its own right and has certain powers under a range of legislation.

This is a matter for local councils to resolve. It is something that clearly has significant interest for the public, and the state government has worked at a number of levels to assist and encourage these councils to resolve this issue. We are not able to impose these things on local government because it is a matter for them and they have authority under particular legislation. Nevertheless, it is important that this matter is resolved and that the councils concerned are able to move forward.

FLOOD MITIGATION

The Hon. R.D. LAWSON (14:55): I have a supplementary question: given that the minister says this is a matter for local government to resolve, will the minister assure the council that the state government does not intend to intervene and force any council to undertake any proposal that it does not wish to undertake?

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) (14:55): Clearly, it is important that councils resolve the matters that are within their purview. These are matters of great public interest, and the ultimate test is public safety. If that is jeopardised then the state government (or any responsible government) would have to look at it and make an assessment. I do not believe it has come to that at this point in time. I believe it is important that local councils are encouraged to work together and cooperate to resolve these issues. I think that is the way forward.

WHITE RIBBON DAY

The Hon. I.K. HUNTER (14:56): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the activities that took place during the recent White Ribbon Day.

Leave granted.

The Hon. I.K. HUNTER: This year, as part of White Ribbon Day events across the country, South Australia hosted a Men in the Mall event. As part of this event, the White Ribbon Foundation launched the My Oath campaign which asked all men to swear never to commit, excuse or stay silent about violence against women. Will the minister update the council about the White Ribbon Day event and the campaign?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:57): I thank the honourable member for his most important question. The White Ribbon Day campaign is about engaging men in positive ways to prevent men's violence against women and encouraging men to examine and change the current attitudes and behaviours that might excuse and sustain the acceptance of violence in our community.

Having men step up and take responsibility to ensure that they and their mates will never condone violence in any way is a big step towards making this change. I hope the Hon. Robert Lawson is not suggesting that he supports violence.

Members interjecting:

The Hon. G.E. GAGO: That is just disgraceful. If the honourable member is suggesting that there is any breach, he should be taking that matter to the appropriate authorities. That is why

it was so wonderful to see so many men participating in the White Ribbon Day campaign and stepping up to sign the oath and become White Ribbon Ambassadors.

I am advised that 559 South Australians signed the pledge on White Ribbon Day last Wednesday (25 November 2009), and that oath was never to commit, excuse or stay silent about violence against women. These pledges will be added to the My Oath website and will join the other 7,378 Australians who have already signed the oath.

I am pleased to say that many of those who swore an oath were young men, as there was an increasing focus on involving younger men this year. Current White Ribbon Ambassadors, Julian—or Jules—Schiller from Nova 91.9 (who emceed the Men in the Mall event), and Gavin Wanganeen (the Youth Ambassador) played a very key role in engaging young men to sign the pledge. I understand that currently South Australia has over 100 White Ribbon Ambassadors comprising many prominent community figures.

Our most recent ambassadors include the Hon. Patrick Conlon; the Most Reverend Philip Wilson; Monsignor David Cappo; the CFS Chief Officer, Euan Ferguson; and Mark Haysman, the Chief Executive Officer of Port Adelaide Football Club.

Many of the White Ribbon Ambassadors participated in and supported the event by speaking out about violence against women, and these included the Hon. Jay Weatherill, the Hon. Ian Hunter, the Hon. Mark Parnell and Dr Duncan McFetridge. As many of you in this chamber have become involved and signed up as ambassadors, I would like to thank you and acknowledge the cross party support, which is most important. The success of the annual event depends on that sort of support.

Violence in our community is obviously never okay, and we must continue to do all that we can to eradicate it. Changing community attitudes and behaviours, with a strong legislative framework, can help us address the issue of violence against women. I am delighted that, with the passing of the Intervention Orders (Prevention of Abuse) Bill 2009, we now have new laws to help reduce assaults and increase protection for victims.

The reform of sexual assault laws, which took effect earlier this year, and the new domestic violence legislation, will benefit everyone in South Australia by sending a strong message that our community will not tolerate such behaviour. White ribbon Day is an important example that shows us that, by working together, we can break the cycle of violence and abuse and, ultimately, reduce rape, sexual assault, domestic violence and family violence here in South Australia.

WHITE RIBBON DAY

The Hon. J.S.L. DAWKINS (15:02): As a supplementary question, what planning, if any, has there been by the minister's department to assist regional and suburban communities to conduct 'men in the mall' type functions in their own localities?

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) (15:02): I thank the honourable member for his most important question, and I believe that he himself is a White Ribbon Ambassador.

The Hon. I.K. Hunter: He was there in the mall.

The Hon. G.E. GAGO: Yes, of course he was. I am sorry that I did not acknowledge that. I thank the Hon. John Dawkins for his support and for taking up the responsibility of being a White Ribbon Ambassador. It is most important that this message goes out from men to other men. For it to be really successful, it is important that we set up a network of ambassadors who can speak out and speak up, and involve others and spread the message about the importance of stopping violence against women and how unacceptable it is.

One of the things that we are trying to do is coordinate. I think the agency has conducted a number of meetings encouraging ambassadors to come together and trying to get them to think about and initiate events at their workplace or in their regional location to spread the message. I certainly invite the Hon. John Dawkins to think about the sorts of things that he believes might be appropriate in his region. I am sure that he would have been invited to those meetings. The agency is very happy to assist ambassadors to conduct events to spread the message.

WHITE RIBBON DAY

The Hon. R.D. LAWSON (15:04): I have a further supplementary question. Minister, what possible justification do you have for alleging in your answer that I support violence against women, and will you forthwith withdraw this unjustified slur?

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) (15:04): I thought I heard an interjection from the Hon. Mr Lawson on violence occurring at the Colac. My comment was in relation to that. That is what I put on the record and, if the honourable member believed there was a breach and that assaults or some acts of violence were occurring there, or any other place, they should be reported.

POLITICAL DONATIONS

The Hon. M. PARNELL (15:05): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Premier, a question about developer donations.

Leave granted.

The Hon. M. PARNELL: Two weeks ago, the New South Wales Premier, Nathan Rees, announced an immediate ban on donations from property developers to the New South Wales Labor Party. He is quoted as saying:

> Not another cent. In fact, we will put the ban into law; it will cover all members of the NSW parliament. All local councillors. And all party units and organisations.

In responding to the move in an article on the ABC news website, the New South Wales *Stateline* presenter Quentin Dempster wrote that the New South Wales branch of the ALP had 'made an art form out of slush funding from property developers and vested interests industry lobbies'.

Similarly, in August this year, Queensland Premier Anna Bligh has been forced to start addressing similar concerns in her state by banning her ministers attending cosy ALP party fundraisers. Yet, despite the leadership shown by the parliamentary leaders of the ALP in New South Wales and Queensland, *The Advertiser* of 18 November reports that, when the Premier of our state was asked whether he would follow Nathan Rees' lead, he refused to comment. Members should also note that *The Australian* newspaper of 23 November reports that a major New South Wales lobbyist (former Clubs NSW chief executive, Mark Fitzgibbon) admitted that 'political donations bought the lobby group government access, which is used to influence policy'. He also said, 'I know it's a cliché, but there's no such thing as a free lunch.' My questions are:

1. Will the Premier match the leadership shown by his Labor colleagues in New South Wales and Queensland and immediately ban donations from developers to the ALP and the attendance by his ministers at intimate ALP fundraising events organised by SA Progressive Business? If not, why not?

2. Will the Premier commit to not using South Australia as a channel or conduit for New South Wales developers to continue donating to the New South Wales ALP by directing their donation through the South Australian branch of the ALP?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:07): The Premier has already made the position of the Labor Party here public.

INNOVATION DEVELOPMENT GRANTS

The Hon. C.V. SCHAEFER (15:07): I seek leave to make a brief explanation before asking the Minister for Small Business a question about innovation development grants.

Leave granted.

The Hon. C.V. SCHAEFER: This government purports to give innovation development grants via the Centre for Innovation, whose website reads as follows:

> Push the boundaries...with an innovation grant.
>
> Opportunities for growth and profit come from the commercialisation of new ideas. The process from idea to market is a journey of many steps: market identification, proof of concept, development of a business and marketing plan and securing financial resources.

Innovate SA is offering merit-based competitive grants to assist small to medium businesses with development costs and/or to position themselves to attract further investment (such as grants and equity) that will lead to commercialisation of innovative products and services.

Companies with an annual turnover between $250,000 and $5,000,000 and a trading history of at least two years should read the Guidelines and then contact Innovate SA to discuss their particular project.

I have been contacted by a constituent who has stated that the IDGs are not being made available to recent applicants because the money from the government has not been available to Innovate SA. Can the minister either confirm or deny the availability of IDG funding via these grants?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:09): The Centre for Innovation, of course, is the responsibility of my colleague the Minister for Industry and Trade in another place. Obviously, innovation grants are important and, as the honourable member suggested, small and medium businesses are recipients of those. But, as the actual responsibility for that particular program is with my colleague, I will get a response for the honourable member and bring back a reply.

PLACES FOR PEOPLE PROGRAM

The Hon. B.V. FINNIGAN (15:10): Will the Minister for Urban Development and Planning provide details of any recent projects that have been completed after receiving funding from the Places for People initiative?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:10): It was with great pleasure that I attended the official opening ceremony of the Mitcham Cultural Village last month. The $1.7 million project integrates several historic and well-loved buildings through clever architectural design. This enables the cultural hub to reflect the history of the precinct, which dates back to 1839, just three years after the founding of the South Australian colony, while creating a functional sense of space for the community to enjoy. It also provided the opportunity to upgrade a number of under-utilised or derelict historic council-owned buildings, in partnership with the Uniting Church, which owns the adjoining site.

The centre also contains a plaza area integrating connecting spaces to enable exhibitions, displays and art installations to take place. There are also outdoor leisure spaces for people to gather. The design of the cultural centre levelled out the site and allowed the removal of three high boundary fences that previously separated the various buildings in the precinct. The creation of an open plaza provides an area for markets to be held in a country village setting.

The redevelopment provides an opportunity to adopt water sensitive urban design concepts. At a time when Adelaide faces enhanced level 3 water restrictions, it is important that we take every opportunity to showcase environmentally sustainable solutions. Water sensitive urban design is just one way in which we can adapt to the challenge of climate change.

The Mitcham Cultural Village will be able to host activities both day and night, which will not only create a busy and lively hub for extended hours but also act to deter crime. This project is a great example of how local and state governments can collaborate to improve civic facilities. The state government was able to provide financial support for the Mitcham hub, through a $765,000 grant from the Places for People program, in early 2008. The federal government also came to the party with $226,000, while the City of Mitcham contributed $670,000.

Places for People is one of two grant programs associated with the Planning and Development Fund, which is administered by the Department of Planning and Local Government and assisted by the Public Place Advisory Committee. This government has now invested almost $60 million in the past 7½ years in grants that have beautified the state through the creation and improvement of public spaces.

Whether it is beautifying town centres, such as the Mitcham village, or helping to redevelop and upgrade local parks and recreational facilities, this government is supporting local government and local service groups and volunteers to invest in their communities.

Through the Planning and Development Fund, the government has distributed $44.4 million to local councils as Open Space grants since 2002 and a further $15.2 million through the Places for People program. The principal objective of the Places for People program is to revitalise or create public spaces that are important to the social, cultural and economic life of their communities. A second aim is to foster a culture of strategic urban designs in councils, establishing

practices that will benefit future public realm projects. I am delighted that the South Australian government was able to join with the City of Mitcham and the federal government to play its part in providing such wonderful facilities for the people of that area.

PORT LINCOLN IRON ORE EXPORT FACILITY

The Hon. R.L. BROKENSHIRE (15:14): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about minerals on Eyre Peninsula.

Leave granted.

The Hon. R.L. BROKENSHIRE: Further to my questions yesterday, my questions are:

1. Can the minister advise whether he would accept an option where further mining companies subcontract or joint venture with Centrex as a way of being able to utilise the Port Lincoln facility?

2. Can the minister advise whether there has been any consideration or discussion, given the opportunities for permanent substantial investment on Eyre Peninsula, in relation to joint partnerships between the state and federal governments, the mining companies and the grain enterprises on Eyre Peninsula with respect to joint construction of urgent port and wharf facilities at Sheep Hill or some other suitable place?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:15): To obtain further details I would really need to refer the question to my colleague the Minister for Infrastructure, who has the main responsibility in relation to the development of that infrastructure. Obviously, as Minister for Mineral Resources Development I am in fairly regular contact with mining companies and am aware of their needs and interests, but tying those infrastructure issues together is the core business of the Department for Transport, Energy and Infrastructure.

However, I believe the honourable member's first question related to partnering with Centrex. The approval given to export from Port Lincoln—and I assume it is that to which the honourable member is referring—was to apply only to ore sourced from the Wilgerup exploration lease. It was not to apply to any other. Part of the reason for that is that the EPA had overseen or was given the benefit of tests probably undertaken by others that demonstrated that that particular ore would not cause problems in terms of algal blooms. I understand that that was one of the conditions: that approval would be given only for ore from that source. There is also a limitation to the ore—I think it is 1.6 million tonnes—and there were time limits and a number of other conditions placed on the export.

So, I would not have thought that that particular approval would allow for any partnering, joint venturing or use by other operations, because it was a very specific proposal. As I indicated yesterday, should any other companies wish to export they would have to make their own applications in relation to export facilities, and I am not sure that the infrastructure and capacity of the rail system would be able to accommodate that. However, it is really a matter for them and for Flinders Ports. In any case, they would have to go through a completely separate and new environmental impact process if they were to propose that course of action.

I can only repeat what I said yesterday that, in the long-term interest, I am sure we all agree that we need a new port on Eyre Peninsula. As I said, Centrex has done some work and has acquired the site at Sheep Hill. If the demand is there, one would hope that, in the first instance, Centrex will be able to develop a viable iron ore export industry and, once that is established and up and running, one would hope that that would provide the basis on which the development of a permanent, more sustainable export port operation on Eyre Peninsula would take place.

I think the honourable member mentioned in his question the need for some involvement with the grains industry. I know that the local development board and others have made some noises about that, but I am not intimately involved with those negotiations. As I said, they are probably more in the province of my colleague the Minister for Infrastructure, and I will get that detail from him and bring back a report.

FOUR MILE MINE

The Hon. R.I. LUCAS (15:19): I seek leave to make a brief explanation before asking the Leader of the Government a question on the subject of the Four Mile Mine.

Leave granted.

The Hon. R.I. LUCAS: Two weeks ago I made some comments in this place about the very close association between the Rann government, the Premier and the Deputy Premier and a person who has been described in the national media as a 'colourful billionaire', Mr Neal Blue. I note, Mr President, that, contrary to the claims made two weeks ago by both yourself and the minister, the *Hansard* record shows that at no time during my comments did I use the term 'ministers' or refer to minister Holloway specifically.

However, having noted the sensitivity of the minister on this particular issue—and I thank him for that—I was delighted to receive some further information to put to him by way of a series of questions, as follows:

1. Is it correct that late in October this year the representatives of Alliance were summoned to an unsolicited meeting at the State Administration Centre with the Premier?

2. Is it correct that minister Holloway and Mr Kevin Gent also attended that meeting?

3. (a) Did any representative of Quasar Resources or any other companies associated with Mr Blue raise the dispute between Alliance and Quasar Resources, the Premier or his officers prior to that meeting?

   (b) If yes, was the Rann government asked for assistance in trying to settle the dispute?

4. At that meeting, did the Premier express concern to the representatives of Alliance about the dispute and other related matters?

5. Given the minister's sensitivity on this subject and his claim of the government's impartiality in relation to the dispute, did the Premier and the minister also seek a meeting and meet with the representatives of Quasar Resources in or around that time about the dispute and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:21): I have had a number of meetings both with Alliance Resources and also Quasar in relation to the matter of the Four Mile Mine. In relation to Alliance, yes; I was in a meeting; I have been at meetings. My understanding was that it was certainly not unsolicited, as the honourable member suggested, but, rather, that Alliance had sought the meeting, but I would have to check that. Certainly, there have been a number of meetings trying to resolve this issue, because it is in the state's interest that the Four Mile Mine proceeds as soon as possible.

However, there is a court case now under way between Quasar Resources and Alliance. The state government would clearly like that matter resolved quickly so that this mine can proceed. In relation to the details of it, obviously, because it is before the courts I am constrained in what I can say in relation to those matters. I will reaffirm that the state government has at all times acted and advised and spoken to parties in accordance with the advice we have received from Crown Law. It has been made clear to the parties what the position was in relation to the registration of native title claims that was required. We have made it clear to both parties, and we have stuck with that.

ANSWERS TO QUESTIONS

MANNUM FERRY

In reply to the **Hon. T.J. STEPHENS** (5 March 2008).

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 Transport is advised:

The Department for Transport, Energy and Infrastructure reinstated the Mannum upstream ferry service on 28 November 2008 under weight restriction and this service will continue while river levels permit.

WASTE WATER MANAGEMENT

In reply to the **Hon. DAVID WINDERLICH** (24 March 2009).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): I am advised:

1. There is currently no indication of the extent of deferment required for the scheme. Once the scheme has been fully designed and costed, the District Council of the Copper Coast (Council) will have an independent prudential report prepared under section 48 of the Local Government Act 1999. The report will include the financial aspects of the scheme, including the impact of any estimated deferred payments by residents.

2.&3. The condition of buildings and any potential risk to those buildings associated with any proposed works will be a consideration for both Council and any contractors engaged to undertake the necessary works and will be incorporated into site procedures, risk assessment and contract clauses.

4. The Office for State/Local Government Relations is continuing to monitor the actions of the District Council of the Copper Coast, including the proposed CWMS scheme, and will continue to advise me as appropriate.

5. Once the scheme has been fully designed and costed, Council will have an independent prudential report prepared on the scheme under section 48 of the Local Government Act.

Supplementary question:

It is the responsibility of the CWMS Management Committee to monitor these projects.

UNIVERSITY PROPERTIES

In reply to the **Hon. C.V. SCHAEFER** (13 October 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 Employment, Training and Further Education is advised:

1. The Government of South Australia was not consulted in the decision to sell the properties concerned.

2. The Government of South Australia is not of the belief that Adelaide University has breached the intent of the legacies. The University of Adelaide has advised there were two bequests:

- The Mortlock estate (in the mid 1980s) was bequeathed to the University and the State Library. The University elected to retain the Martindale farm and bought out the share of the property allocated to the library and therefore owns the property outright. The Mortlock estate directed the University to use proceeds from the estate in connection with the Waite Agricultural Research Institute of the University of Adelaide.
- In the late 1960s the J.S. Davies estate left the Munduney property at Spalding and the Moralana property at Hawker in a shared bequest of five-sixths to the University of Adelaide and the other sixth to Prince Alfred College.

In this bequest there is a wish expressed (with no legally binding requirements) that the University use its proceeds from the bequest to promote research relevant to cattle and especially to beef cattle.

3. The sale of all three properties will take place as soon as commercially possible.

4. It is intended that the sale of the Martindale, Munduney and Moralana properties will fund the development of agricultural programs and agricultural research infrastructure within the University of Adelaide.

5. The University of Adelaide has advised that it is hoped that the new owners of the Martindale, Munduney and Moralana properties will engage all existing employees in their current roles. All legal obligations to existing employees will be met.

6. Roseworthy farm will continue to be viable within the University of Adelaide stable of agricultural assets.

7. The University of Adelaide has advised it has made no request and has not entertained any request for the antivenene flock to be moved elsewhere. The University is confident that this function will remain at its existing location.

MATTERS OF INTEREST

DOWN SYNDROME SOCIETY OF SOUTH AUSTRALIA

The Hon. J.M. GAZZOLA (15:23): In a recent matter of interest I discussed the good work being done by the Down Syndrome Society of South Australia. I also pointed out that there was a fun side to the DSS in the role undertaken by Club Slick, where disabled people from South Australia promote learning and education through leisure activities. The 10th World Down Syndrome Conference held in Dublin this year gave Club Slick another opportunity to build on its reputation following on from its 2004 , 2006 and 2009 successes at various world conferences.

I received a letter from the President of the Down Syndrome Society of South Australia, Judy Opolski, telling me of the event this year and the success of Club Slick. That letter reads as follows:

In August 2009 13 very excited young adults with Down Syndrome, along with 3 staff from the Down Syndrome Society, 1 volunteer and 23 parents/carers travelled to Dublin to attend the 10th World Down Syndrome Congress. The young people all belong to a group of jive-dancers who attend the Society's 'Club Slick' rock'n'roll evenings at Burnside Ballroom each month and regularly perform in a Demonstration Team at events around Adelaide. The group performed at the Congress dinner and also conducted 2 dance workshops to teach approximately 70 other people with DS to jive and have a great time.

Members of the Society also presented 3 oral presentations and 1 poster presentation sharing information and programs developed by the Society in areas of maths and money skills, healthy living, language and social/dance skills.

The DSS South Australia has an international reputation for innovation in learning programs and exciting approaches to recreation, the arts and physical activities for children and adults with DSS, which all have solid educational bases. The society is particularly recognised for the quality resources developed by the society staff, which are sold Australia wide and internationally.

At the Congress Gala Dinner the young people with DS performed an original 15 minute rock'n'roll dance routine. Their performance was sensational—professional and exciting, and was received by the large audience with a standing ovation and cries of 'encore'. The grand finale saw the dancers circuit the dance floor, proudly displaying the South Aussie flag (kindly provided by Bob Sneath) to shouts of 'Aussie, Aussie, Aussie, oi, oi, oi.'

As with previous World Congresses, the South Australian contingent outnumbered the combined total of delegates from all other Australian states! Travel on this scale is extremely costly and a two year fundraising effort by the cast members and their families helped to subsidise the costs for cast members and support staff. The Minister for Disability, the Hon. Jennifer Rankine, generously donated $5,000, which was greatly appreciated—and John Gazzola and Bob Sneath (the society's newly appointed patron) held a fundraising barbecue at Parliament House. Many thanks.

It is vitally important that representatives of the society are able to attend premier events in the Down syndrome world. Staff and families have the opportunity to hear about new programs, research outcomes and directions, and best practice from around the world. The society is also a significant contributor to the international knowledge base and is recognised as such by the professionals from many countries. Professional and personal relationships, which can last for many years and form the basis for the ongoing exchange of information and new knowledge, are forged at these international gatherings.

In addition, the young people with Down syndrome meet other delegates from all over the world and many friendships are maintained by email and letters—opening up new opportunities and experiences. Simply travelling to new countries is a huge learning experience for these young people and their parents.

Attending the congress was a massive but very worthwhile undertaking, and South Australia can be proud of its young ambassadors, who conducted themselves with confidence, dignity and maturity at all times.

In closing, I again wish the Down Syndrome Society of South Australia all the best in its demanding work and offer my congratulations to you, Mr President, on your appointment as Patron to the Down Syndrome Society of South Australia.

CITY WEST PRECINCT

The Hon. T.J. STEPHENS (15:27): It is with pleasure that I rise today to further discuss the state Liberal Party's plans for City West. The plan to rejuvenate the precinct represents an

exciting vision for Adelaide's future. South Australians have become frustrated by eight years of inaction by a government that has not outlined a plan for Adelaide's future. It has been scaremongering at its very best from the Treasurer, who falsely alleges that our vision will bankrupt the state.

Is it not a marvellous coincidence that, hot on the trail of our announcement, the government has once again played follow the leader and suddenly found $450 million for an inner city stadium? After criticising the cost of the Liberal's plan for an inner city stadium, the Rann government has suddenly scrambled and managed to pull from nowhere $450 million.

The opposition is delighted that the Rann government has now recognised that an inner city stadium is the way to go for South Australian sports fans, but we are concerned that the Rann government's planned development will ruin the iconic status of Adelaide Oval.

When we released our vision for City West last week, which included a new inner city stadium, the Rann government derided the plan as pie in the sky stuff. What is pie in the sky stuff is the Rann government's announcement today. This is nothing but a memorandum of understanding between the parties involved, as a legally binding agreement will not be finalised until at least July next year.

With the state Liberal Party's plan for a new inner city stadium, South Australians can have a world class stadium whilst retaining the iconic status of Adelaide Oval. South Australians now have a clear choice between a state-of-the-art, fully covered multipurpose stadium, or a redeveloped Adelaide Oval which does not tick all the boxes. There are clearly questions for Premier Rann and Treasurer Foley to answer, including:

- What car parking will be provided for these 50,000 spectators, and what damage will the Parklands endure during the wet winter months?
- What has the Rann government promised the SANFL to make it move from AAMI stadium, and why should the SANFL trust the government to fulfil its word this time?
- Given that members of the SACA have commenced paying a building levy in their annual memberships, will the government now require this levy to be forwarded to its coffers?

That being said, we are pleased that we have helped the government understand the need for an inner city stadium. As the Liberal leader has indicated, our project will not happen straight away. It would come together in stages. The first stage of the Riverside project will cost $1 billion. Nearly $800 million will be set aside for a 50,000 seat, covered, multi-purpose sports stadium, and $200 million will be allocated to relocate the interstate train terminal from Keswick to the city.

Experts have described that as a generous amount, which goes against the Treasurer's continual claims that the state Liberals want to build a billion dollar stadium. The stadium would be built to FIFA's strict standards, which would allow FIFA World Cup fixtures to be staged in Adelaide should a 2018 or 2022 bid be successful. It would be a magnificent stadium for soccer, rugby, concerts and major events. It would be a magnificent stadium for AFL football—still very much the main game in this town.

The new stadium and parking areas will be offered to the SANFL to manage. The SANFL could then downsize AAMI Stadium, keeping the oval for training but removing the grandstands, etc. One possible option would be to replicate what has been done in Melbourne, when that city realised that Waverley Park was no longer the right place to play football. The facility is now home to the Hawthorn Football Club. Schools in the community also use the oval and facilities, and housing surrounds the oval and wider area. I visited the venue and it is extremely impressive, and I encourage members, if they are ever in that part of the country, to do the same.

There are certain aspects of our proposed development of the Riverside precinct upon which we are settled, namely: the need to have a multi-purpose roofed stadium in the city built to FIFA standards; the need to bring the Keswick rail terminal into the precinct so that the many interstate and overseas visitors arriving at our rail terminal are not left feeling they have arrived in the wilderness; the need to provide more state-of-the-art convention space; the need to improve the amenity along the stretch of the Torrens from Morphett Street to the weir; the need to breathe life into the area by providing the amenities people now expect—cafes, bars and areas to simply sit and enjoy themselves; and the need to ensure that any development is designed to world's best suitability practices. Those are the things that we say must be included.

There are many other things that could be included, namely, other sporting facilities such as a velodrome, soccer pitches and a hockey centre; arts spaces and venues; a science museum; a children's museum; new hotels; and what about a 12-court basketball stadium that would take us somewhere near what they have in suburban Victoria? The Rann Labor government is now in the business of telling South Australians why we cannot do things. Let us create a 'can do' state.

ST HILARION AGED CARE FACILITY

The Hon. CARMEL ZOLLO (15:33): It was my great pleasure last week to be invited to a very important and deeply significant community event, the Topping and Blessing of the Cross ceremony at St Hilarion Aged Care Facility. The ceremony was the precursor to the imminent expansion of the terrific range of aged care facilities operated by the Society of St Hilarion. For those not familiar with the work of the society, St Hilarion Aged Care is a not-for-profit organisation committed to providing professional quality care to ageing South Australians in a caring and family-oriented environment.

The ceremony was an opportunity to view first hand the major works the society is undertaking. At a cost of some $30 million, the facility will extend beyond traditional models of residential aged care and provide a taste for contemporary ambience that encourages independence, community interaction and outdoor activity. It was obvious by the building activity already present, and the proposed plans, that great care has been taken with the design to maximise the physical, social, mental and spiritual well-being of the residents.

I was pleased to join minister Paul Caica, in whose electorate St Hilarion is situated, together with other parliamentary colleagues Vini Ciccarello and Grace Portolesi, as well as Ivan Venning (representing the opposition) and the federal member for Hindmarsh (Steve Georganas). The City of Charles Sturt Mayor, Harold Anderson, was also present at the celebration.

The Chairman of the St Hilarion Aged Care Board, Joe Fanto, and his board members, the President of the Aged Care Building Appeal Committee, Mr Frank Agostino, and the chair, Cavaliere Don Totino, who will have the title of 'Commendatore' conferred on him this evening—congratulations to Don Totino—as well as the members and supporters of the Society of St Hilarion, deserve the community's thanks for their commitment and dedication to the aged in South Australia.

Without their time, talent and financial contributions, our society would be so much the poorer. Such people are dedicated to ensuring that old age is an increasingly meaningful and enjoyable part of life. Whilst St Hilarion Aged Care historically caters for residents of Italian origin, it now caters for a much wider cross-section of the Adelaide community.

With the first phase of this project costing $30 million, there is a need for minimum fundraising of $3 million. We were all impressed to hear that, through corporate support, individual donations and via the Aged Care Building Appeal fundraising activities, $1.6 million has already been raised.

Minister Caica pointed out that these achievements also continue the remarkable and enduring contribution to the wellbeing and prosperity of South Australians by our state's Italian community. In particular, when we talk about St Hilarion we celebrate the timeless work undertaken by Italian South Australians with links to the Calabria region, who make up about 25 per cent of Italian immigrants to South Australia. Incredibly, about 8,000 of those can trace their heritage back to the town of Caulonia where St Hilarion is the patron saint.

Four special families were acknowledged on the day for having the vision to commence the community celebration of the St Hilarion Feast Day first held in 1955 and held every year since. They were the Ciccarello, Costa and Fazzalari families and Illario Lamberto. They were represented on the day by Rosemary Velardo, Joyce Costa, Rhonda Baftiroski and Illario Nesci. There was also a moving tribute to the immense contribution made by the late Vic Zerella, who passed away recently.

There is no doubt that the impending growth in the number of our state's elderly citizens presents both challenges and opportunities for South Australia. Over the next 25 years, projections indicate that the number of South Australians aged 65 and above will almost double to 440,000 people. That is around 25 per cent of the state's population.

With statistics like these, the good works of the St Hilarion Aged Care Society become more significant and appreciated. In providing aged care services for our Italian and wider communities, it practices the values of diversity as well as inclusiveness. Again, I congratulate

everybody for their commitment and I urge everyone to contribute to the fundraising appeal, and I look forward to the completion and official opening of the facility early next year.

MURRAY-DARLING BASIN

The Hon. R.D. LAWSON (15:37): I would like to speak on the unsatisfactory response of the South Australian government to issues relating to the Murray-Darling Basin. In March this year the government announced that a High Court challenge would be launched to overturn the Victorian government's 4 per cent water trading cap. The following month, the government announced that the challenge would be extended to tackling another 10 per cent water trading cap which the Minister for Water Security, at that time, described as 'a little-known cap'.

I interpose that it is truly amazing that our Minister for Water Security was apparently not aware of a 10 per cent trading cap which adversely affected South Australian irrigators, especially in light of the fact that the minister played a part in the so-called historic commonwealth-state water agreement announced with great fanfare in 2008. Clearly, they were entering into historic agreements without really understanding the nature of the problem.

In all events, Victoria quickly abandoned its 10 per cent cap, and one suspects that it was always a deal that it would. However, the challenge for the 4 per cent cap continues. At the time of the announcement, the Premier laughingly announced that the government was prepared to go all the way to the High Court with the challenge. Actually, the case was not going 'all the way to the High Court'; it was starting in the High Court.

The fact is that the Hon. Mr Rann should not have agreed to the so-called historic agreement without first insisting that Victoria remove its water trading caps which so disadvantage our state. Yesterday, in a contrived media event, the Premier announced that proceedings in the High Court have been issued. He said, in the course of that:

> The only state that has an open free trade on water is South Australia. We want every state to follow our lead, even if we have to force it through court action. The High Court challenge is designed to keep the momentum of reforms going.

Later on he said:

> One part of the jigsaw is the artificial cap that limits any free trade in water imposed by Victoria. Now we are going after them to remove the 4 per cent cap.

This just demonstrates the ad hoc piecemeal approach of this government to these important issues. The solution is plain. The commonwealth should exercise its power under the Constitution, in particular the trade and commerce power, to pass legislation which overrides those recalcitrant states that have in their measures restrictions on trade that adversely affect South Australia. These issues are not new.

I see that, in this parliament in 1906, opinions were tabled from Sir Josiah Simon, a former South Australian and commonwealth Attorney-General, QC and Patrick McMahon Glynn, a South Australian founder of Federation of substantial opinion. The state also obtained an opinion from Isaac Isaacs KC, an eminent silk in Victoria, subsequently Chief Justice of the High Court and Governor General of the commonwealth, who said that at that time South Australia had no capacity to exercise the jurisdiction of the High Court to resolve these problems.

I see also that there is a group called Murray Valley United, and they are getting together a class action through the Federal Court to seek to establish their common law rights to water, as they see it. What is the point of these court actions to try to resolve water issues in a piecemeal and self-interested way? The solution is plain. The South Australian Liberal Party has been advocating for the commonwealth to exercise its overriding powers for us to have a unified, sensible and fair resolution to this issue of the sharing of water.

WILLUNGA HILLS FACE LANDCARE GROUP

The Hon. R.L. BROKENSHIRE (15:42): I rise to put on the public record my appreciation and that of many other members of the southern community when it comes to the great work that the Willunga Hills Face Landcare Group does. I regularly receive its updated newsletter. I have worked with and watched this group since it was formed many years ago. I want to commend who I believe was the primary initiator, Mr John Campbell, a gentleman I have known for a very long time, and also all of the other people who are, and have been, involved in committee work, particularly Brian Visser who does so much when it comes to producing the publications.

I want to commend them for the proactive and positive way in which they have worked with farmers and landholders and the community generally to set up what I think is an excellent model for the nation on re-greening a hills face zone. I encourage my colleagues when they are going up Willunga Hill, or heading towards Willunga, to look at the absolute transfer of landscape with respect to the hills face zone from Sellicks through and around to an area between McLaren Flat and Kangarilla.

When I was a young person, they always said that trees did not grow on the hills up there but, when I was exploring in the gullies, there was lots of remnant vegetation and it was clear that trees did grow up there and that we over-cleared. Together with good initiatives through successive commonwealth governments, in particular, they have had hundreds of thousands of dollars of direct money and also thousands of hours of volunteer time to set up this project, which is now actually doing a lot of great work for the environment in the Willunga hills face area.

The other important factor is that the Willunga Environment Centre—and I know that Shirley Worsfold, the centre manager, is very committed to the centre—actually assists, in particular, smaller farmers and people who live in rural environments with how to look after land in the southern region. That is moving further through the whole of the Fleurieu Peninsula, which is important, because it assists with training and development on weed problems, fencing, good husbandry management of the land, and so on.

I hope that there will be a day not too far distant for the Regreen the Range project. Also, I should put on the record that this year again they are planting another 50 hectares of hills face to trees and fencing two kilometres of creek lines to restrict stock so that the creeks can reinvigorate.

There is a missing link to this, in my opinion. The City of Onkaparinga is pretty proactive when it comes to waterproofing the south and environmental water management, but I would like to see it help facilitate, with the Willunga Hillsface Landcare Group, and other groups, development of the creeks and corridors between the Willunga hills face and the sea. That is the missing link at the moment. I saw in the Sonoma Valley many years ago how they were able to revegetate the creek lines, and it actually benefited the viticulture because they did less spraying as a result of the trees coming back and natural predators being reintroduced.

As part of the concept that Family First has of protection of the Willunga basin through the bill we had passed through the Legislative Council, there is a real opportunity to consolidate and strengthen the iconic environmental, economic and tourism opportunities that we have. However, we would also be able to set up serious wildlife corridors so that the native fauna can grow and develop in the reafforestation that the Willunga Landcare group has developed and also travel those natural corridors. A lot of it is publicly owned reserve land, and it would be of enormous benefit to all.

If it was not for some of these committed volunteers, nothing would have changed; and it shows that, when members of the community are passionate about improving the environment and the amenity in the general region, from small things big things can grow. Again, I encourage members to have a look as they head up Willunga Hill.

Time expired.

APY LANDS

The Hon. C.V. SCHAEFER (15:47): As most people know, I have for a long time taken an interest in Aboriginal affairs, and particularly the welfare of the people on the Pitjantjatjara lands. Many would know also that I have a habit of listening to regional radio. This morning, Mr Jonathan Nicholls, of UnitingCare Wesley, was interviewed by Kieran Weir on 639, beginning with an interview on the recalcitrance of various state governments in providing renal dialysis at a convenient location for Aborigines; and moving on to the shocking state of roads, which makes it more difficult still for these people to access medical care.

They covered a number of issues and, in particular, a newsletter called Paper Tracker, which is put out by UnitingCare Wesley, and I quote from some of the interview, as follows:

[Weir] Wesley UnitingCare also looks at other, a range of government promises where some of the statements don't match the reality, and you're highlighting that since 2004 the state government's repeatedly stated that SA Police regularly hold blue light discos in the majority of Anangu Pitjantjatjara Yankunytjatjara communities, but you say this simply doesn't match up with what's really happening on the ground.

[Nicholls] That's right. There certainly are some discos happening, but there have been long periods of time in the last couple of years when none were happening...what was our frustration was that during that period the

South Australian government is still making submissions to parliamentary inquiries saying we regularly hold discos in all of the main communities on the lands and that simply wasn't the case...of eight planned about one in three had been cancelled.

There is this further quote:

...the problem is governments do something once or twice and then keep telling the story as if it's happening again and again and they're maintaining this momentum, and our frustration is, or our concern is, that we need to put pressure on governments on all sorts of issues, not just Aboriginal issues, so that they keep doing the good things...again and again, rather than one off and they just tell the story as if things are ongoing when they're not.

So, I got the Paper Tracker, and I will outline some of the issues this government has spun and not performed on—and I will read as many as I can in the time I have available. The Paper Tracker states:

TKP [Tjungungku Kuranyukutu Palyantjaku] was established in 2005 and initially kept Anangu informed on its work through a well-planned communication strategy. For more than two years, however, no new information on its workings has been publicly released. In mid 2006, the TKP developed a draft 'Action Plan'. More than three years later, this document has still not been finalised or publicly released.

The Paper Tracker goes on to indicate that, of 14 Anangu students enrolled in year 12, four are expected to complete their SACE certificate. The Paper Tracker goes on to state:

The substance misuse facility in Amata has rarely been used for its intended purpose, with only seven residential clients accommodated at the facility since it opened for business over 16 months ago. The facility has, instead, been used to provide temporary accommodation to a large number of visitors to the area including building contractors, journalists, Centrelink staff and visitors from the Northern Territory...

The PY Ku Network was supposed to make it easier for Anangu to access [broadband]...Two months ago, the State Government reported that the Department for Transport, Energy and Infrastructure would spend $265,000...in 2009/10. Last week, however, this Department advised the Paper Tracker that it had not allocated any funding for this purpose in 2009/10 (nor had it spent any funding...in 2008/2009)...the State Minister for Mineral Resources Development...highlighted substantial growth in mining exploration...In contrast, the Minister's department recently advised...that funding 'to deliver ongoing training and development' to Anangu had 'decreased since 2007'. The Paper Tracker is concerned that the state government may not be matching its efforts to encourage mining exploration on the...land with a comparable push to make sure Anangu are 'job ready' if and when a major mining project is established.

There are a number of others, but my final statement is: spin, more spin and no action.

Time expired.

SOUTH AUSTRALIAN ECONOMY

The Hon. M. PARNELL (15:52): I want to talk today about the South Australian economy. Whether we like it or not, myths and misinformation dominate economic debate, and it is from history that many of these myths developed. The South Australian story started out with a big focus on mining. In the first 50 years of its life, the young colony was saved from bankruptcy more than once by a mining boom. So, it is no wonder that the state still eagerly embraces any promise of a mining boom today.

Then, in the middle of last century, premier Thomas Playford developed a new policy driven economic model that attracted manufacturing through cheap labour, housing and energy. As a result, factories sprang up and cars and whitegoods become the dominant symbols of our economy. This was such a successful model that 40 years ago one in three South Australians were employed in manufacturing. However, when tariff walls came down, so did the employment figures and today only one in eight has a job on the factory floor, with only one in 10 employed in traditional consumer durables. However, despite the writing on the wall for the automotive industry, the clarion call of the Commodore still commands attention.

Another powerful economic myth is the idea of 'punching above our weight', where a small sector or industry in which we are seen to be leading other states will attract more attention than a much larger one that is at or below average. Equally strong for myth making is the importance placed on export industries. Our analysis shows that South Australia's orthodox economic identity is closely aligned to export performance and not employment. This is critical to a debate over jobs, as job rich industries are not necessarily high export earners and vice versa. For example, anyone listening to the state government or the business lobby would swear our economic future rests on a big expansion in the mining and defence industries. Although mining-related commodities constitute about a quarter of all SA export dollars, the industry employs just 1.5 per cent of workers

and contributes only about 4 per cent of gross state product. For the defence industry, it is a similar story, with only about 1.3 per cent of state employment.

So, why do these two industries take up so much of the public economic debate in South Australia when they make up less than 3 per cent of our employment? This is especially curious when we consider that a whopping 73 per cent of the state's employment is in the amorphous 'services' sector, where small business is much more prominent.

Scratch the service, though, and there is a rich vein of alternative voices and perspectives. For example, Dr Barb Pocock from the UniSA Centre of Work and Life has been highlighting for many years the importance of work/life balance. There is also Dr Phil Lawn from Flinders University, who has developed a genuine progress indicator (GPI) for South Australia which shows that since 2000 GPI has not moved while gross state product has roared ahead.

Another academic worth listening to is Professor Dick Blandy. He says that we should focus on fixing up our problems and, once we have fixed them, export the solutions to the world as, chances are, if it is a problem here in South Australia it would also be a problem elsewhere. This makes a lot of sense. By using this approach not only do we aggressively tackle areas of real and immediate need but best of all our export products will help and not harm others.

South Australia has a rapidly ageing population. The number of people over the age of 85 in our state is set to double by 2030, and this means that without radical change government spending on health is projected to consume the whole state budget by 2032. To avoid going broke we need to quickly find innovative solutions to keep people active and healthy and in their own home for as long as possible.

Another challenge we face is water. The Salisbury experience of capturing and recycling stormwater should become the crucible of an exciting export industry. In terms of energy supply and demand, South Australia has one of the peakiest electricity grids in the world. This means that much of our electricity supply capacity is set up for the few days of the year in summer when air conditioner use soars. Solving that problem—especially by developing our natural advantage in wind, solar, geothermal and wave power—offers many exciting export possibilities.

There is much work to be done, and if we get it right we will be well placed to export the solutions. If we are not happy being the world's quarry, with a sideline in military equipment, we must be ready to talk about how we can use the economy to create a better future while being mindful of the myths that allow the industries of the past to dominate.

UNION HALL

The Hon. DAVID WINDERLICH (15:56): I move:

That this council—

1. Notes with concern the University of Adelaide's plans to destroy the historic Union Hall building on its North Terrace campus;

2. Acknowledges the significant community support behind the retention and utilisation of Union Hall for its artistic, cultural and historical value;

3. Acknowledges the importance of Union Hall as an historical demonstration of the architectural influence of prominent South Australian Louis Laybourne Smith; and

4. Recommends that the South Australian Heritage Council protect Union Hall by adding it to the Register of State Heritage Places.

Many honourable members will have heard the University of Adelaide's recent decision to demolish the historic Union Hall building adjacent to the university's Barr Smith lawns, the library and Union House. While simultaneously claiming that it does not have the money to maintain Union Hall, the university has released plans for a $77 million science precinct on the site. It markets the project as a redevelopment, despite the fact that the first phase consists of destroying Union Hall outright and building a new complex in its place. It also boasts that in its place will stand a new, bigger lecture theatre—with a measly five more seats than the Union Hall building that currently occupies the site.

Union Hall frames the cultural hub of the North Terrace campus, an area renowned for its vibrant O-Week events, graduation formalities, university and student-run festivities, and the occasional student demonstration. Union Hall itself has hosted dozens of cultural and educational events throughout its 51 year history. Originally funded by the university, government and further student contributions, it was designed by one of South Australia's most prominent architects, Louis Laybourne Smith.

Mr Laybourne Smith was a life fellow of the Royal Institute of British Architects and was also named a Companion of the Order of St Michael and St George. Interestingly, while the University of Adelaide seeks to demolish a key piece of Laybourne Smith's architectural contribution to the North Terrace campus, the neighbouring University of South Australia has honoured the late architect and engineer by naming its school of architecture after him. Alongside Union Hall, Smith's other notable designs across South Australia include the South Australian National War Memorial, the Australian Mutual Provident Building on King William Street, the former Balfours building facade on Rundle Mall, the Repatriation General Hospital in Daw Park and Union House at Adelaide University and its adjoining cloisters.

Already, the impact of the university's moves to destroy a part of the state's cultural heritage has been felt. Following the university's announcement, the Premier promptly commissioned an audit of the state's cultural spaces, fearing that this and other recent losses of theatre space could be plunging the state into a cultural crisis, especially during peak festival periods.

The South Australian arts community has also reacted strongly against the move. Thousands have joined online groups protesting the destruction of Union Hall. Around 100 people recently turned out at a demonstration in 39 degree heat to voice their disappointment about the university's decision. A number of applications to heritage list Union Hall have also been submitted, including by the National Trust.

Unfortunately, Union Hall is yet another building of significant cultural and historical value that is under threat. It is now commonplace to see attempts to destroy South Australia's heritage for the sake of tasteless and short-sighted development. As South Australia scrambles to be just like every other major city, it is quickly losing its character and unique appeal, becoming a second rate Sydney. Communities are thankfully becoming more vocal about their opposition to this kind of short-sighted development and are rallying to protect their local and international icons.

I am moving today to call on this council to take the community's lead and call on the South Australian Heritage Council to enter Union Hall on the register of State Heritage Places. The criteria for registration are as follows.

To be entered in the Register as a State Heritage Place, a place must satisfy one or more of the criteria in Section 16 of the Heritage Places Act 1993:

(a) It demonstrates important aspects of the evolution or pattern of the state's history;

(b) It has rare, uncommon or endangered qualities that are of cultural significance;

(c) It may yield information that will contribute to an understanding of the State's history, including its natural history;

(d) It is an outstanding representative of a particular class of places of cultural significance;

(e) It demonstrates a high degree of creative, aesthetic or technical accomplishment or is an outstanding representative of particular construction techniques or design characteristics;

(f) It has strong cultural or spiritual associations for the community or group within it;

(g) It has a special association with the life or work of a person or organisation or an event of historic importance. Section 14(2) provides that, in relation to a State Heritage Place, an object can be entered in the Register if it has 'heritage significance', which s16(2) defines as follows:

- it is an artefact (including an architectural artefact) that satisfies one or more of the above criteria; or
- it is a geological specimen, a fossil or part of a natural cave formation that satisfies one or more of the above criteria; or
- it is intrinsically related to the heritage significance of a State Heritage Place or Area.

As is immediately apparent, Union Hall meets criterion (a) as a key demonstration of the evolution of Laybourne Smith's works as one of South Australia's most prominent architects. It meets criterion (b) as one of the few theatres constructed at this time and as a key part of Smith's set of buildings on the campus, as noted earlier. Criterion (c) could be met if the university's own development over the past century and a half and its previous support of the arts are considered.

Other criteria are equally relevant to the preservation of Union Hall, in particular, the last two criteria: strong cultural associations and a special association with the life or work of an organisation or person. These are both clearly relevant. For a place to be heritage listed it need satisfy only one of the criteria. I believe I have adequately demonstrated why this council should

give a recommendation to the Heritage Council to add Union Hall to the state's heritage registration list and shown how it meets the Heritage Council's criteria.

Last month in his speech at the rally for Union Hall, Professor Brian Coghlan, an honorary life member of the Adelaide University Theatre Guild, said:

> Union Hall is essentially in good condition. Its primary advantageous, positive features do not age:
>
> - Width of auditorium relative to depth, together with seating rake. This guarantees virtually perfect acoustics, audibility and vision.
> - Concealed orchestra pit which runs back beneath the stage, guaranteeing very high quality acoustics, i.e. performers on stage can see the conductor, but are not 'drowned' by the orchestra, as in many older and not so old theatres. NB This was deliberate imitation of Wagner's Bayreuth Festival Theatre, completed in 1876, with its world famous, indeed unique, acoustic/sound quality.
> - Back, under, and side stage facilities are equally good; e.g. proscenium opening/width is 38 foot, wing space is 19 foot, on each side. There is/was a cyclorama at rear of usual performance space. This, in practice, was highly effective. NB Space behind cyclorama is even greater than the space in front of it. The sightlines are effective right to the back exit.

In other words, it is an ideal space for an art-oriented state.

Former University of Adelaide chancellor, Dr Harry Medlin, a well known academic, educator, community and cultural leader at the university, and who for a number of years following his chancellorship continued to be a member of the university's governing council, has condemned the university's decision as 'bureaucratic managerialism'. Dr Medlin has described Union Hall as 'one of the truly great little theatres of the world'. Dr Medlin says that the university should be ashamed at what it has done to Union Hall, and wholeheartedly supports moves to heritage list the building.

It is imperative that we protect our unique and valuable cultural heritage and character and, in this particular case, acknowledge the contribution that Union Hall has made and continues to make in our festival state.

The Hon. M. PARNELL (16:06): I rise on behalf of the Greens to support this motion. I, too, attended the rally outside Union Hall on a very hot day last month, and I was impressed by the degree of passion shown by those in attendance. These were people from the theatre, the arts world and the area of dance who, universally, had a great affection for and fond memories of performances and rehearsals and time spent in Union Hall.

What I think we need to recognise is that heritage values are not just about age. In fact, if we do not protect important 50 year old buildings then we will have no 100 year old buildings. The heritage debate also needs to have reference to function as well as form. This building has served the people of South Australia well and, as I said, a great many people have a real affection for it.

Something that I have learned over the years relating to architectural merit is that it does not always equate with beauty. This is probably not the most beautiful building in Adelaide. In some ways it is in the same category as the nurses' quarters at the Glenside Hospital, but both of these buildings, whilst not beautiful in any classical sense, are important representatives of a bygone age, and they are very much a result of the times, whether it is in relation to post-war austerity, a particular architectural movement, or something else.

So, we need to make sure that we are not prejudiced against buildings because they are not old enough or they do not look beautiful enough. There are many heritage experts who support the case for retention of Union Hall. This motion calls for heritage listing, and on behalf of the Greens I am happy to add my voice to that call.

The Hon. I.K. HUNTER (16:08): Government members note the honourable member's concern regarding the future of Adelaide University's Union Hall and, indeed, it is easy to have some sympathy with the sentiments expressed in his motion, but once again the Hon. David Winderlich seeks to pre-empt proper process, so let me put on the record the process to date.

Since the announcement in late September that the University of Adelaide intends building a new maths, science, teaching and research centre in place of Union Hall, the South Australian Heritage Council has received two nominations of the hall for entry on the South Australian Heritage Register as a state heritage place. The Heritage Council is required, under the Heritage Places Act 1993, to consider those nominations. I understand that it is currently assessing the heritage significance of Union Hall.

The Heritage Council will consider whether Union Hall meets the threshold of state significance. If the Heritage Council decides in favour of entering Union Hall on the South Australian Heritage Register, it will be given a provisional entry. There is then a three month period in which the owner, and members of the public, will be able to make submissions for or against confirmation of the listing. The council will then consider any submissions that may be received and a decision will be made either to confirm or remove the provisional entry.

Advice provided by the Heritage Council is based on the stringent application of heritage assessment criteria contained in the Heritage Places Act 1993. With regard to Union Hall, the question the Heritage Council is required to answer is not simply whether the building has architectural, aesthetic, cultural, historic or other value: its task is to determine whether the values of the Union Hall are sufficiently outstanding to be considered of state significance.

I set out these processes at length to demonstrate why the government will not support the motion. The stance has nothing to do with the merits or the nomination of Union Hall as a heritage site, but has everything to do with good decision making. An independent body is charged with the responsibility of determining whether the Union Hall should be listed in the State Heritage register. That independent body is required to make its decision by reference to clear criteria. It would be bad judgment, in my view, for the parliament to pre-empt or otherwise attempt to influence the independence of the Heritage Council's deliberations.

Taking the politics out of heritage decision making was no doubt one of the key rationales for the establishment of the Heritage Council and for giving it the role of determining heritage status. That ensures that decisions about heritage status will be based on merit by people with expertise in that area. It will be a significant backward step if this chamber decides to return to the days when the heritage status of a site could become a political football.

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

SELECT COMMITTEE ON COLLECTION OF PROPERTY TAXES BY STATE AND LOCAL GOVERNMENT, INCLUDING SEWERAGE CHARGES BY SA WATER

The Hon. I.K. HUNTER (16:12): I move:

That the interim report of the select committee be noted.

This committee was set up by the Legislative Council in July 2005 and was re-established by the council on 31 May 2006. The committee has met on 20 occasions in this parliament, received 59 submissions and heard evidence from 25 witnesses. The committee decided to table its evidence, which we did yesterday, and to produce an interim report for the council, given the volume of evidence we received. We have determined that, in the absence of a final report, we would bring up the interim report and it will then be up to the next parliament to determine whether the committee should be brought back and re-established to finalise a report.

Much evidence was led about property taxes, which is no surprise to any member. Some advocated their reduction or abolition; some argued that they be broadened to spread the burden all round. However, when I asked witnesses if that meant they supported extending land tax to the family home, which is the only avenue for spreading the burden, they quickly backed away—and well they should. It is all too easy to advocate a tax cut for oneself, as much of the evidence to this inquiry can be portrayed, but it is far harder then to propose a more equitable tax regime. We are yet to see whether that will be the outcome of our report.

The Hon. R.I. LUCAS (16:13): I rise to speak to this motion, and in so doing I thank all members who have served on the committee over the years—a number of different members and I will not list them all—and the staff who assisted the committee during that period. The evidence given to the select committee, certainly from the viewpoint of any member of parliament or political party that is prepared to have an open mind about how the system might be improved, was very useful and informative. We took evidence from a range of interest groups and individuals, as well as government bodies and agencies such as the state Taxation Commissioner and Valuer-General, who provided important information to the committee on how the current system operates. We also heard from a number of councils because it is not just the state government that is reliant on the valuation system for the imposition of property-based taxes and charges, but also local government.

Those of us who were not intimately aware (and I put myself in that category) of all the details of how the rating and concession system operated in councils in South Australia, were

informed, and the committee took evidence from a small number of councils and their experts in the area of rating and how the concession policy might be applied.

From the viewpoint of the Liberal Party, being in opposition, we would hope that government members listened intently to some of the concerns that were expressed but, clearly, the brief contribution from the Hon. Mr Hunter would indicate that, unless people were prepared to indicate how to fund any particular change, his ears and the ears of the government would appear to be closed on the importance of tax reform. We think that is unfortunate.

The information that our party has garnered through the operations of this committee have informed and will inform, in the future, our tax reform policy. We have already announced a significant first step in terms of land tax reform. The Liberal leader, Isobel Redmond, has not only committed to a significant first step but has also said, in terms of a goal for an alternative government, that we should be aiming for a target of being competitive with the other states and, in particular, our major competitors in the eastern states, and being competitive on a national basis in terms of the imposition of property based taxes such as land tax.

With the property boom it is easy to sit back and accept all of the largesse that that property boom will deliver into the state tax coffers. One can at least say that, with some local councils, they adjust the rate in the dollar of their rates back to try to pitch it at generating a publicly announced increase in the total revenue base for that particular council. That is, if they sat pat with their existing rate in the dollar, because of the property value increase, they may well see very significant increases in revenue of 20 per cent or 30 per cent in some years. However, they adjust back the rate in the dollar. Even though there still might be criticism because maybe they collect a five per cent or 10 per cent increase in revenue, nevertheless, they adjust it.

State governments of both persuasions in the past have not done that. That particular option has been raised with us. We have not done it in relation to land tax. I note that the former government with the establishment of the Emergency Services Levy did, in general terms, implement that particular principle. That is, that the rate in the dollar for the Emergency Services Levy is adjusted to try to achieve a particular income target. The state, in the past, has demonstrated with some state tax bases that it is possible to use that principle. Local government has certainly used that principle, but state governments of both persuasions, in the past, have not used that principle in relation to the land tax base.

I do not think there is any doubt, from the evidence we received, that whilst clearly there needs to be some adjustments in relation to land tax thresholds, again, the Liberal leader, Isobel Redmond, in her visionary policy (which was recently released) has announced that first step. In terms of being competitive, the evidence indicates that, at the rate of $1 million plus in South Australia, the land tax imposition is uncompetitive compared to most other states. That is, once a property or an aggregation of properties reaches that $1 million level or threshold, we are taxing at a significantly higher rate than virtually all other states and territories.

When that occurred however many years ago—20, 30 or 40 years ago; I do not know when that particular rate was first struck, but it has been there for a long time—$1 million of aggregation in property was obviously seen as a significant amount of property. If a particular property was worth $1 million, someone was seen to be extraordinarily wealthy.

Given the boom in property values in recent years, the median value of prices is now in excess of $350,000 for what in the past would have been seen as a modest property in the metropolitan area and on the seashore around the state. When we look at some shacks, they are extremely modest looking, but the value, because of the boom in recent times, has seen them shoot above $1 million. Of course, it is at that particular level that, as I said, our land tax base is so much more punitive than it is for other states.

The question is: so what; why bother? A range of reasons was given in evidence to the committee. There is evidence already that, in some cases, people with money to invest are choosing to invest in other states where there is a more competitive land tax base. People may then say, 'So what?' The answer is that unless we can attract businesses and investment then we will not be able to provide the sorts of jobs that we want to provide for young people in the population over the coming decades. If we want to do that, we have to be competitive. We do not have to be the lowest in the nation but at least we certainly have to be competitive when it comes to the imposition of property based taxes.

We also took evidence in relation to stamp duty. Again, concerns were expressed in relation to the uncompetitive nature of our stamp duty base compared to some other states—certainly not all other states but certainly compared to some other states. If we want to encourage people to purchase their own homes and if we want to encourage investment, again, our stamp duty regime needs to be competitive.

We also have the issue of the property base of the sewerage charge. I think it is a common error or misunderstanding for many in the community who believe that our whole water and sewerage rating system is based on property valuation. The water charging system is not, but the sewerage charging system is based on an element of property valuation.

The committee took some interesting evidence at the last meeting—which I think was probably the only meeting I was unable to attend—from Professor Mike Young, who gave his view (which is a view shared by others) as to how that system ought to be changed. I understand that he has also given similar evidence to the SA Water select committee and to my good friend the Hon. Mr Parnell from the Blue Green Alliance, which is an alliance that we have been steadfastly forging not only in South Australia but, as I understand it, at the national level in recent days—voting together. But I will not be diverted by discussions of a Blue Green Alliance at the national level, as represented in a significant vote in Canberra today. As I understand it, the Hon. Mr Parnell, as chair, will mention that in his report of the SA Water committee.

I have only read the evidence, and I have an open mind in relation to that. That is not currently our party's position. The one thing that I have learned from my period in government is that sometimes things look amazingly simple when first suggested but become extraordinarily complicated and difficult when one seeks to implement that change, with potentially unforeseen ramifications for some people in the community.

Certainly my party is prepared to have a serious look at something as significant as the change that Professor Young is suggesting. I am not sure that we will have concluded our views prior to March next year on that particular aspect but, nevertheless, it is food for thought. It is a further demonstration of the value of select committees, such as the SA Water one as well as the property tax one and challenging ideas for policy change, which certainly will not be accepted by this government and might not, in the end, be accepted by the alternative government. Nevertheless challenging ideas for policy change are raised, and I would hope that members—Labor, Liberal and crossbenchers—will have a look at that particular evidence from the committee and ponder whether or not we could apply them in the future.

A significant part of this committee's work was, of course, the foundation of all property based taxes, or most of them, involving the valuation system. We were indeed fortunate for a time to have a former valuer-general in our colleague the Hon. Mr Darley. It was a challenging task for the current Valuer-General to give evidence on an area which was perhaps technical and not well understood by most members of parliament and to actually find that there was someone sitting on the parliamentary committee who knew as much as—and probably more than—the current Valuer-General may know about the valuation system and the issues involved.

Certainly, from a committee member's viewpoint, we were informed by listening to the debate and the evidence, and we have seen some flow-on benefit from that already in terms of some of the legislation that the Hon. Mr Darley has introduced. These were issues that were questioned in the property tax committee. There was discussion about it and, certainly, I had discussions with the Hon. Mr Darley, and I indicated general sympathy and support. He has introduced that legislation in the parliament. Again, as I said, I think that is a further indication of the value of select committees. If you are prepared to go into them with an open mind, some good policy ideas and changes may well come from that.

The simple reality is that the property tax committee was never likely to get a unanimous report from committee members. The government of the day will obviously never admit that there is something wrong with the current tax system. The government of the day is never going to acknowledge that there needs to be reductions in taxation and, more often than not, an opposition will be more than prepared to try to highlight the fact that there are problems with the current tax system and that there ought to be changes and tax reform. That has certainly been the case over recent years with this particular committee.

I think the fact that it was never going to be possible to reach a united view on property taxes should not indicate that this committee, its work and its findings have had no value. That is far from being the case. As I have said, it has already informed some of the legislative changes that

the Hon. Mr Darley has moved in this parliament. It has certainly informed the current policy position proposals of the Liberal Party in terms of land tax reform, as well as potentially other elements of tax reform leading into the 2010 election. It has also raised, as I have said, some other worthy ideas for consideration in the valuation area and also in the area of charging for sewerage services through SA Water.

With that, I again thank the other members of the committee who have served over the years. I also thank a number of staff members who assisted the committee in its deliberations over the years. I hope that, while we have already seen some value from the report, over the coming years we will continue to see some value in the work and activity undertaken by this committee.

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

SELECT COMMITTEE ON SA WATER

The Hon. M. PARNELL (16:31): I move:

That the report of the committee be noted.

It is my pleasure to be finally reporting on this select committee, and I have some comments to make about the select committee report and also some comments to make about the minority report from government members. However, before I do that, I put on the record my acknowledgement and thanks to the members of the committee who served: the Hons Ann Bressington, Ian Hunter, Stephen Wade and Russell Wortley. We also had, for a time, the Hon. Caroline Schaefer, and her position was taken during the committee's life by the Hon. Robert Lawson. Also, the Hon. John Darley joined the committee earlier this year.

I also thank the secretary to the committee, Chris Neale, and a special thanks to the research officer who was brought in to assist the committee with its work, Dr John Cugley. I also thank the various organisations and individuals who made submissions, and also those who gave direct evidence to the committee.

The question of water and its management has dominated public debate over the past couple of years, and members might recall that it was the Hon. Nick Xenophon who moved for the creation of this committee to inquire into SA Water. Unfortunately, the Hon. Nick Xenophon moved on to greener pastures before the committee had the chance to—

The Hon. S.G. Wade: Another parliament.

The Hon. M. PARNELL: I am reminded that he moved to another parliament rather than to greener pastures, but the committee carried on without him. It has come up with 38 recommendations. It is not my intention to go through all of them, but I want to explore some of the themes that came out of the committee's work.

The first of those themes relates to the fragmentation of water management in South Australia and, in particular, the roles of various agencies. Whether it be SA Water itself (a statutory corporation), the Department of Water, Land and Biodiversity Conservation, the Commissioner for Water Security or the Minister for Water Security, the fragmentation was seen as both confusing and, more importantly, not conducive to a comprehensive approach to the management of water in all its forms. So, probably the most important recommendation of this committee is the creation of a new department for water and a minister for water, with primary responsibility for water policy development and implementation—and that would cover all aspects of water, from urban water supply right through to waste water and water for non-urban purposes as well.

The committee's primary focus was on the agency SA Water, and it has recommended that SA Water be retained as a single government enterprise, but the committee recognised that it will need to operate in a competitive water market. That is not to say that the committee was at all interested in selling off water assets to artificially create competition. In fact, the committee recommends that the existing publicly owned water distribution system (including the reservoirs, water treatment plants and water mains) should all remain under state government control. However, we did recognise that if, as a community, we are serious about capitalising on all opportunities for recovering water, in particular stormwater and waste water, there will be a role for the private sector.

One recommendation that I think illustrates that is recommendation No. 24, which is a call for legislation to be developed to clarify the rights and responsibilities in relation to water that is injected into aquifers through managed aquifer recharge schemes. The evidence presented to the committee made it very clear that organisations (including private companies and private

organisations) would be unwilling to invest in this important form of water storage unless they could be guaranteed that they would have some rights over that water once it had been injected into the aquifer. So, we found that we did need to clarify those rights and responsibilities if we are to put in place a climate that enables all of us in the community—whether it is the for-profit or the not-for-profit sector—to do as much as we can, especially in relation to our being more self-sufficient in the supply of water.

The recommendations, in many instances, parallel some of the recommendations in the Water for Good report. However, one theme that members will discover from our report is that we are more interested in legislating targets, criteria and rights and responsibilities, rather than leaving it all to the administrative level. One of the reasons for that—and this is not necessarily reflected in the words of any recommendations or in the report itself, but it is an observation that I make as the committee's chairperson—is that you cannot legislate for good government. However, what you can do through legislation is increase transparency and accountability and you can, in fact, make it harder for governments to make bad decisions.

We have, for example, recommended that we legislate for water recycling targets—that we put that in legislation—and that is very similar to the approach that we have taken in the energy sector in relation to renewable energy targets and greenhouse gas reduction targets as well. The value of increasing the significance of these targets by legislating for them and the advantage of increasing reporting requirements is that we reduce the ability of governments to get away with half-hearted efforts simply because all of the important targets are in administrative documents.

Some of the dissenting statements from the Labor members recognise that there is some duplication in our report and the Water for Good report. I do not think that is necessarily a criticism, given that we wanted to be as comprehensive as we could in our report. However, one comment that government members made cannot be let go without my responding to it, and that is their observation that they think some of the recommendations pursue an economic rationalist agenda, without enough weight given to how those recommendations might impact on lower socio-economic groups and their water bills, pensioners, the unemployed and low income families.

That is not an accusation that I accept for one minute. In fact, the majority of the committee went to some lengths to specify that we need to deal separately with community service obligations and rebates for low income people differently from resource allocation and pricing. In other words, we should take the approach with water that we take with any other form of rebate, that is, whether it is a pensioner getting rate relief or low income people getting rebates on their energy bills, your starting point is the price for the service, utility, product or whatever and then separately account for any rebate that you might give because that recognises that that is a social equity payment, rather than a reduction in the payment for the goods or service. I think we have covered that issue fairly well.

The other area that I think is important—and it goes back to the role of the private sector—is that, whilst the committee believes that all major water infrastructure should remain in public hands, we acknowledge that some of the opportunities for improving water recycling, water harvesting and water recovery rest with the private sector.

If we are going to have a situation where large industries (industrial factories, for example, with large roof areas) are going to capture their stormwater, there needs to be some incentive for them to do that. We either legislate to make everyone capture all stormwater that falls on their property or provide incentives. I think the committee has come up with a range of innovative solutions that not only fulfil the community's expectation that this essential human service be retained in public ownership and control but also recognise that the future may well involve more collaboration with sectors outside government as well. With those few words, I commend the report and the motion to the council.

The Hon. S.G. WADE (16:43): I intend to speak very briefly on this report because I think the chairman has addressed it well and also I will let the report speak for itself. However, I could not resist the opportunity to reflect on what the report and the dissenting report tells us about the Rann Labor government.

We all know that the Rann government has been slow to act on the water security challenges that South Australia has faced and that it has shown a pattern of being resistant to new ideas. Members will recall the government's addiction to old-fashioned punitive water restrictions and its opposition to desalination until the public support for it became overwhelming and they backflipped on that, and, thirdly, its ongoing scepticism about the relevance of stormwater.

The report of the Select Committee on SA Water reaffirms the fact that the committee is of the view that we are in a water crisis and that we need to think creatively and be proactive to address the water security challenges going forward. I think South Australians are becoming increasingly aware that, if this government had been more creative and more proactive in terms of addressing water security challenges, the impact of the drought may well have been significantly reduced. Also, South Australians need to appreciate that, with a government such as the Rann Labor government, which fails to be creative and proactive on water, the ongoing impact of water shortages is likely to be more severe.

In conclusion, I thank all members of the committee for their contribution, and I particularly thank the Hon. Mr Parnell for his chairmanship. I must admit that I was genuinely surprised at the high level of consensus that was possible in the committee. Admittedly, the Labor members tended to be slow learners, but even they could grasp some of the vision, even if only in glimpses. I would like to pay tribute to the work of the secretary, Chris Neale, and also the research officer, Dr Cugley.

A lot of the statements in the report are about a commitment to an ongoing conversation about some of these challenges, but I urge the council and the South Australian public to be open to creative and proactive ways of addressing our water security challenges. It is only in that way that we can have a healthy society, a healthy environment, and a prosperous economy.

The Hon. I.K. HUNTER (16:45): I was not going to speak but I cannot help myself; however I will be very brief. The Hon. Mr Wade reflected on our dissenting statement and said that we were 'slow learners'. Well, he may think that but, in effect, all that the new green/blue alliance that we saw in action in this committee—the Browns, if you like—has really done is pick up the recommendations that are in the government's own plans, in Water for Good, and elaborated on them somewhat, if that.

As we saw federally in Canberra with the ETS—with the Greens and their unpragmatic approach, and the Liberals, now new-found climate sceptics—all of them, bar two in the Senate at least, are uniting to bag the Rann government's proactive stance on planning for the future water security of this state. As I say, all they have done in this report is rehash what we have already just put in place or what is already in the government's documents in Water for Good. I commend them for picking up the government's recommendations, but we did not need to have a separate select committee to do that.

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

SELECT COMMITTEE ON ALLEGEDLY UNLAWFUL PRACTICES RAISED IN THE AUDITOR-GENERAL'S REPORT 2003-04

The Hon. B.V. FINNIGAN (16:47): I move:

That the report be noted.

I will be fairly brief, given the number of items we have to deal with today. This committee is like most of the select committees in this place: appointed to enable witness evidence to cause a media furore on two or three occasions and then forgotten about.

It was originally started on 10 November 2004, and then started again in this parliament. The first committee heard evidence from 15 witnesses, but since then has not received evidence from many witnesses. However, this is an opportunity to table the evidence and the interim report, which basically acknowledges that we have not finalised a report and notes that legal action is pending in relation to some of these matters. The committee came about as part of the Hon. Mr Lucas and the Hon. Mr Lawson having some sort of obsession with the Attorney-General—

The Hon. I.K. Hunter interjecting:

The Hon. B.V. FINNIGAN: An unhealthy obsession, the Hon. Mr Hunter interjects. For a long time they were constantly trying to bring down the Attorney—and they still are, I suppose. I am not sure why, particularly; perhaps it is because he reflects community attitudes on law and order and justice, and that upsets them. This committee came out of that.

Essentially, the committee heard a lot of witness evidence that presented different sides of the story. However, the overwhelming majority of the evidence came down to finding that Ms Kate Lennon, former chief executive of the department, and certain other officers engaged in a conspiracy to avoid Treasurer's Instructions and to squirrel away money in the Crown Solicitor's

Trust Account so that they did not have to give it back to Treasury but could use it for the purposes they desired. They got caught, and when they did they said, 'Well, the Attorney-General knew about it, the Crown Solicitor knew about it, everyone was in on it and it is their fault.' That is not borne out by the evidence.

I have no doubt that the Hon. Mr Lucas and others would claim that the Attorney knew all about it, that he is responsible and should resign, blah blah blah. Certainly, they continually say that the Attorney-General failed in his duty or that he knew all about it, or whatever. That is not borne out by the evidence. It is quite clear that certain officers in the Attorney-General's Department decided to engage in a conspiracy to conceal things from their superior officers and from Treasury and Finance because they wanted to put money into a little slush fund where Treasury would not be able to take it off them, so that they could use it later on for what they wanted. They were caught out and, in order to try to get out of it, they basically said, 'Oh well, the Attorney-General and the Crown Solicitor knew all about it.' As I said, that is not borne out by the evidence.

This is an interim report which simply acknowledges the evidence we have received and that legal action is pending in relation to Ms Kate Lennon, the former chief executive. I do not believe it is something on which the parliament needs to spend a lot of time or money, having already wasted five years on it.

The Hon. R.I. LUCAS (16:51): I have to say that that is probably the limpest and lamest defence of a minister of the Crown that I have ever heard, but I am not surprised, coming from the Hon. Mr Finnigan. He probably had a good hard look at the evidence, which was quite damning in relation to the Attorney-General, and decided that discretion was the better part of valour. Obviously, nothing else had been written for him. As I said, that was the limpest and lamest defence of a minister of the Crown's performance that I have ever had the misfortune to see in this chamber.

I actually want to refer to the evidence, not just make the sweeping and dismissive generalisations in which the Hon. Mr Finnigan indulges. I intend to look at the facts, at the evidence that was actually presented, in some detail. Obviously, time will not allow us to canvass all the issues on this occasion, but I do intend to canvass a significant number.

The first thing I would note—and I will return to this at the end of my contribution—is that, while this has been commonly referred to as the 'stashed cash' inquiry, it had the unfortunate title of 'Allegedly Unlawful Practices Raised in the Auditor-General's Report, 2003-2004.' I think we can thank the Clerk or Black Rod (I am not sure) for that phrase, but it was nevertheless technically accurate. It indicates that it was not just the stashed cash irregularity, albeit that that was the most controversial: there were other irregularities identified in that report.

The second most significant (and towards the end of my contribution I will return to a brief discussion of a couple of those issues) was an irregularity between the old DAIS department and the old department for water resources which involved an unlawful transaction of $5 million at the end of a financial year between those two departments. In essence, it was supposedly just a loan between friendly officers at a middle level of management within two departments, but it had nothing to do with stashed cash, and thankfully, from the Attorney-General viewpoint, it had nothing to do with the Attorney-General: it involved minister Hill and another minister.

As the Hon. Mr Finnigan indicated, the bulk of the evidence taken by this committee had been prior to the 2006 election. For those who remember, because of the government's passionate desire to close down that committee, it prorogued the parliament almost immediately upon parliament getting up prior to the 2006 election. The then auditor-general attended with the committee and said basically that he did not really feel as if he would be inclined to give evidence, and that was the end of it prior to the 2006 election.

Subsequent to the election, we took evidence again; we had taken some evidence from the auditor-general prior to 2006, but he subsequently came back and presented further evidence in 2007. We had been pursuing Mr Mark Johns who is now the State Coroner and who at that stage had the senior position within the justice department, and we had a long discussion via correspondence with Mr Johns as to whether it was appropriate, now that he was the Coroner, for him to have to attend before a parliamentary committee and answer questions. Mr President, you will be delighted to know that the parliament prevailed and Mr Johns eventually—I think it was towards the end of 2007—agreed to attend before the committee and respond to questions.

Then, there were some remaining witnesses who continued to indicate that they did not want to present evidence, and then in February 2008 we became aware that there had been a $1 million legal claim, although I see in recent media reports that it had somehow gone to $2 million; I am not sure how that occurred. In February 2008, almost two years ago now, the former chief executive, Kate Lennon, lodged a statement of claim in the Supreme Court against the Rann government.

I will not go through all the details of that statement of claim but, as the Hon. Mr Finnigan has indicated, that case is still before the courts. So, almost two years later we have not seen any progress, as we understand it, in relation to a resolution of that legal action against the Rann government. Ultimately, if and when there is some resolution of that issue, I guess we may well be better informed as to some further unanswered questions that obviously have arisen through the evidence given to this committee.

The first thing I want to address—and perhaps it will not surprise—is to look at what the Attorney's position was. I think that is best summarised that, on 17 September 2004, the former auditor-general, Mr MacPherson, interviewed or questioned the Attorney-General. He swore an oath that the evidence he was giving would be accurate, so it was sworn testimony before the auditor-general. I will read from page 3 onto the transcript, where, in very friendly terms between the former auditor-general and our Attorney-General, the auditor-general says:

> Now, Michael, are you aware that the Attorney-General's Department maintains an account called the Crown Solicitor's Trust Account?
>
> MR ATKINSON: Well, I only became aware of that after I recently returned to Australia and the Chief Executive, Mark Johns mentioned that Deb Contala had inquired into a matter.
>
> THE AUDITOR-GENERAL: So before that you weren't aware that such an account was in existence?
>
> MR ATKINSON: No.

Further on, on page 8 of the transcript of the evidence, the auditor-general again says:

> ...you weren't aware of the existence of the Crown Solicitor's Trust Account as an account within the Attorney-General's Department?

Mr Atkinson against says no. So, Mr Atkinson's position, which, as I will outline later, is a foolish one—Mr Atkinson's sworn evidence and sworn testimony before the auditor-general—is that until August of 2004 he did not even know, as the state's Attorney-General, that the Crown Solicitor's Trust existed. His evidence was not that he was aware of the account and had not been aware of the abuses of the account. That was not his position. His position in sworn testimony before the auditor-general was, 'I didn't even know that the Crown Solicitor's Trust Account even existed prior to August of 2004.' Let us turn to the significance of the sworn statement. On 26 October 2005, I put a question to the former auditor-general:

> In the first instance, do you accept that if someone swears a false oath to you that is a criminal offence?

Mr MacPherson replied:

> It is a criminal offence.

I asked a further question:

> And that offence would be what?

Mr MacPherson replied:

> Perjury.

So, Mr MacPherson makes it quite clear that if you swear a false oath to the Auditor-General you have committed a criminal offence and you have committed perjury. Members will recall that I recently cited evidence relating to the Atkinson/Ashbourne affair and the statement of the majority three members of that committee. I indicated that it was our view that our Attorney-General was guilty of perjury in relation to evidence that he had given about the Atkinson/Ashbourne affair. As I said, I referred to that statement of the three members in a recent contribution in this council.

The Auditor-General makes it quite clear that it is perjury if you swear a false oath. So, if the evidence can demonstrate that the state Attorney-General, Mr Atkinson, had not told the truth when he said that he did not know of the existence of the Crown Solicitor's Trust Account prior to August 2004, then it is clear that he has committed a criminal offence and, in the former Auditor-General's terms, is guilty of perjury.

In looking at the Crown Solicitor's Trust Account, there have been claims over the years that this was a relatively insignificant account within the minister's portfolio, one that a minister may or may not have taken the trouble of noticing. I point out that in 2003-04 $58 million was deposited, in different transactions, in the Crown Solicitor's Trust Account. In that same year, payments totalling $53 million were made in various transactions. So, in total, $111 million of transactions, both in deposits and in payments, went into and out of the Crown Solicitor's Trust Account.

This is the account, if you believe his sworn testimony, that the Attorney-General says he never even knew existed. He was made Attorney-General in 2002, so this was more than two years later, and his sworn testimony was, 'I didn't even know this thing existed,' yet transactions amounting to $111 million are going into and out of that particular account just in the one financial year 2003-04.

Let us look at the evidence that has been provided relating to the Crown Solicitor's Trust Account and the Attorney-General. When the Attorney-General was appointed in 2002, the justice department prepared a comprehensive briefing for him called, 'The briefing for incoming government folder', which is a transition to government folder, and that particular briefing for him, as the Attorney-General, made specific reference to the Crown Solicitor's Trust Account.

Mr Atkinson himself presented two separate annual reports of his own department to parliament which had a total of four separate references to the Crown Solicitor's Trust Account. So, these are his own annual reports that he presented to the parliament which he would have discussed with the chief executive of the department, in terms of approving, ultimately, the contents and layout of those particular annual reports.

Mr Atkinson had also received two separate Auditor-General's reports, which referred to his department and which had a total of eight separate references to the Crown Solicitor's Trust Account. So, let us be clear on that: two of his own annual reports and two Auditor-General's reports, with four and eight separate references to the Crown Solicitor's Trust Account.

The committee also took evidence from the former chief executive of the department, Kate Lennon. She indicated in her evidence that she had specifically referred to the Crown Solicitor's Trust Account on about six to eight separate occasions in meetings and briefings with Mr Atkinson, in particular, what she referred to as her exit meeting as she left being the chief executive of that department and was appointed chief executive of the Department for Families and Communities. (She was appointed late in 2003 and took up the appointment in early 2004.)

If one is to believe—and I have to say that based on his record, I do not—the state Attorney-General, he clearly did not read his incoming transition to government briefing. He clearly did not read his own two annual reports presented to parliament which had references to the Crown Solicitor's Trust Account. He clearly did not read the Auditor-General's Report on his own department. I interpose there, as a former minister, that the first thing you do when the Auditor-General's Report lands on the desk in parliament is dive for your particular department, or departments, and you look at what the Auditor-General has said about the performance of your department, or departments, in the area. One then has to believe either that the former chief executive was lying when she indicated that she had told him on six to eight separate occasions, or that she had told him but he had his ears closed, he did not hear or he did not comprehend what he was being told. The evidence is overwhelming that the state Attorney-General, Mr Atkinson, must have known of the existence of the Crown Solicitor's Trust Account. Let us bear in mind that he is saying that he was not aware of even the existence of the Crown Solicitor's Trust Account.

Very wise words were given to me by a former member of parliament, who will remain unnamed, that if you are going to tell lies you had better have a very good memory because you have to remember what you have said previously on all occasions. The Attorney-General's story unravels with the evidence that is there, but also in a number of other statements to which I will refer. On 2 December in *The Australian* Michelle V.C. Bochmann wrote an article and quoted the Attorney-General. She put a question to the Attorney as to when he was aware of the Crown Solicitor's Trust Account and what was his knowledge. The paragraph states:

> Amid Liberal opposition calls for him to stand aside, Mr Atkinson dismissed the conflicting evidence as a sideshow. Asked whether he knew about the use and operation of the account, Mr Atkinson replied, 'The general use and operation, not the misuse as revealed by the Auditor-General.'

So the Attorney-General is indicating publicly that he was aware of the general use and operation of the Crown Solicitor's Trust Account. Therefore, he was saying publicly that he was aware of the existence of the Crown Solicitor's Trust Account. He had changed his story from his sworn

testimony. He was now saying, which as I said from the outset may have been a more defensible position from the word go, that of course he was aware of the general use and operation of the Crown Solicitor's Trust Account but was not aware of the misuse, as had been revealed by the Auditor-General. So the Attorney-General damns himself and his sworn testimony by his own public response to questions.

I turn now to the evidence given by the former auditor-general, who gave evidence on a number of occasions to the select committee. This evidence was on 6 September 2006. The then auditor-general gave evidence with his senior audit officer, Mr Simon Marsh. I put a question to Mr Marsh, quoting his evidence to the Economic and Finance Committee. Members need to bear in mind that the Economic and Finance Committee of the House of Assembly was also inquiring into the stashed cash affair. There was concern from the government that considerable embarrassment and unfavourable publicly was being generated by the upper house committee and the government wanted a friendlier committee in the House of Assembly to take evidence on this issue.

Mr Marsh's evidence to the Economic and Finance Committee was in relation to the exit meeting, which was probably in early 2004 when Kate Lennon was moving from Justice to Families and Communities. She gave evidence that she met with Mr Atkinson and his former chief of staff, Mr Andrew Lamb, and, amongst other things in her evidence, she indicated further information about the Crown Solicitor's Trust Account. She had been quizzed or corresponded with the then auditor-general about that in the preparation of his report. This is Mr Marsh's evidence to the Economic and Finance Committee:

> It is my assessment the Attorney-General's evidence was absolutely consistent with and corroborated what Ms Lennon had said. That is, she has said that she had talked to him about the use of the Crown Solicitor's Trust Account at a meeting, but he had not understood what she had told him.

This is the senior audit officer saying that it was his assessment that the Attorney-General's evidence was consistent with and corroborated what Kate Lennon had said, namely, that she had talked to him about the use of the Crown Solicitor's Trust Account at this meeting, which would have been in or around March 2004—well before Mr Atkinson said that he first became aware of the existence of the Crown Solicitor's Trust Account, which was in August 2004. We are talking almost five or six months earlier than that. The senior audit officer said that in his view Mr Atkinson had corroborated what Kate Lennon had said. That is on the public record at page 594. On page 595 of the evidence, Mr MacPherson then came in and said:

> Mr Chairman, I would like to make an observation. I will read this in a moment. The evidence we have given is that the only occasion on which the Attorney-General was informed about the existence of the trust account was when Ms Lennon was exiting the department. She has given evidence to this committee that she communicated the existence of this trust account to the Attorney on up to eight occasions, I think was the evidence she gave.
>
> The point that I made and the point that Mr Marsh has been making is that there is no evidence to suggest that there was any communication to the Attorney-General about the existence of this trust account other than on the occasion that she was exiting the department.

So here is the auditor-general saying that he accepts that Ms Lennon has given the evidence that she told the Attorney-General in about March 2004 about the existence of the Crown Solicitor's Trust Account. Further on, at page 598, Mr MacPherson again confirms and says:

> She [Kate Lennon] stated quite unequivocally that she referred to the Crown Solicitor's Trust Account to him as she was exiting the department. No-one is backing away from that.

So, the former auditor-general, on a number of occasions in the evidence that I have referred to and elsewhere, says that they accept that Kate Lennon's evidence was that she had given this information, at the very least, at this exit meeting which was in March 2004. As I said, Mr Marsh, the audit officer who also attended that meeting, indicated that he believed that the Attorney-General's evidence supported and corroborated what Kate Lennon had said about that.

What we have there is absolutely damning evidence on the record from the auditor-general and his chief audit officer which indicates that Kate Lennon told the Attorney-General, at least in this meeting in about March 2004, about the Crown Solicitor's Trust Account. Yet the Attorney-General swears an oath, later in 2004, that the first time he was aware of the Crown Solicitor's Trust Account was in August 2004.

When one summarises it (and there are the references in the evidence), the evidence that is before this committee and before the parliament is that the Attorney-General was briefed about it in his transition to government folder; the Attorney-General had references to it in two annual reports he presented to parliament; two Auditor-General's reports that he received referred to the

Crown Solicitor's Trust Account; Kate Lennon's evidence was that she told him on six to eight occasions about the Crown Solicitor's Trust Account; her evidence also was that at the exit meeting she told him about the Crown Solicitor's Trust Account again; and the auditor-general and his senior audit officer's evidence to the parliamentary committee of inquiry indicated that they accepted that Kate Lennon had told the Attorney-General about the Crown Solicitor's Trust Account at the very least on that particular occasion of the exit meeting in about March 2004.

All of that is evidence that is contrary to the sworn oath that the Attorney-General gave to the auditor-general. In the words of the former auditor-general, Mr MacPherson, evidence that is contrary to a sworn oath is evidence of perjury being committed by the Attorney-General of this state. I think that is a sad and damning indictment on the state Attorney-General. It is our sad duty in this chamber to have to report the evidence that this committee has received over a period of time in relation to that issue.

As I said, it ought to be read because the Attorney-General indeed has form when it comes to this particular issue. I refer members to the previous evidence on the Atkinson/Ashbourne inquiry. I might say that I found the position of the former auditor-general quite extraordinary in relation to his position when these issues were put to him. I will refer to page 470 of the transcript of evidence when these issues were put to the auditor-general.

In essence, what we were saying to the auditor-general was, 'Look, this bloke swears evidence to you and says that he didn't know that this account existed and yet all of this information is available in documentation that was provided to him. Are you saying that it is entirely acceptable to you as an auditor-general that a minister, who has all this information before him, can just blithely say, "Well, I didn't read these particular documents. I didn't take the trouble to read my briefing folder, the annual report, the Auditor-General's Report, etc."'?

We put the question to the auditor-general and his senior audit officer whether, on a reasonable person test, one could say that that was reasonable in terms of the performance of a minister of the crown. That is, depending on what view you have, that either the attorney has not told the truth or he is just incompetent and negligent and he does not read anything that is presented to him. We put the questions to the auditor-general and his audit staff as to whether or not it was actually reasonable in relation to a minister of the crown that that might be his attempted defence in relation to these issues.

In the end, the auditor-general would not be drawn to criticise the Attorney-General at all. He steadfastly defended the Attorney-General. Even when all the overwhelming and damning evidence was presented to the auditor-general, he continued to hang onto and defend the Attorney-General. It got to the stage, at page 470 of the transcript, where we put the question to the auditor-general as follows:

> Okay, but I ask you now whether, on the basis of the evidence you have given us, in future audits if a minister of the crown such as the Attorney-General says, 'I had the briefing but I did not read it,' in essence you would accept that as reasonable? He's had the briefing but he's just not read it. So, if he says he did not read it, he did not read it—would you just accept it, as the auditor-general, as a reasonable person?
>
> In light of the responses to the questions you gave earlier, is that going to be your response in the future? Ministers are going to be able to say to you, 'I had a briefing on this issue; I just did not read it,' and that is going to be accepted.

Mr MacPherson then realised that he had backed himself into a bit of a corner having defended the Attorney-General, so he attempts to try to backslide. He said:

> Well, that is really a very difficult question to answer.

Of course it is. He then goes on:

> It depends on the context. If at the time something comes across a minister's desk and it is not a matter that has been highlighted as a matter of major political administrative moment, I can fully understand the minister not focusing on that and the matter just being allowed to slide through. There would be hundreds of those instances that would happen.

A question from me:

> But in your experience with politics, auditing and financial accounting, I am sure that you would be aware that some things that occur at one point in time have no immediate significance.

Mr. MacPherson said, 'That is right.' Then I said, 'Further down the track, for a variety of reasons, they take on enormous significance.' Mr MacPherson said, 'That is right; I agree.' Another question from me:

Is it acceptable in that context for the minister to say to you, 'Yes, I had a briefing and it was given to me, but I just did not read it,' and you as the Auditor-General say, 'Okay, that is acceptable. It was not on the horizon as a major political issue at the time.'

Then the chairman (a government member) could see the difficulty that the Auditor-General was in and he came in with a diversionary tactic to divert the auditor-general from further response to that question. Later, I said to the auditor-general again:

How much slack do you cut a minister? If someone is a serial offender who reads a form guide in a meeting with the Chief Justice, does not read his annual reports, does not read his audit reports, does not read his transition to government briefing folder—how much slack do you cut a minister?

I think those members who are interested might like to look at the cut and thrust with the former auditor-general in relation to these issues. I note that the former auditor-general has done extraordinarily well out of this government and the Attorney-General. The government tried to introduce legislation to extend his term of office beyond the compulsory retirement age, but that was thrown out comprehensively in this parliament as being an unreasonable endeavour by the government to extend Mr MacPherson's position.

He was then appointed—unlawfully in my view and in the views given to me—as the acting ombudsman for a period of time, because the Ombudsman's Act has the same provision which states that a person over the age of 65 should not be the Ombudsman. The government got some advice supposedly that that only applies to the Ombudsman and not the acting ombudsman. So, the Ombudsman is not allowed to be over 65, but the acting ombudsman can be over the age of 65.

Of course, more recently, the government appointed Mr MacPherson to conduct an investigation into the Burnside council. It certainly did not surprise me that the inquiry date of October, or whatever it was, has now been extended well beyond that. I know that there are other members in this chamber who have views on the number of staff that Mr MacPherson now has employed there and the amount of work that he and his staff are doing in relation to—

The Hon. CARMEL ZOLLO: On a point of order, Mr President, what is the relevance of this? I cannot remember. It was so long ago since the honourable member started talking to this motion, but I did not think it was to do with the Auditor-General.

The PRESIDENT: It is to do with the Auditor-General. It has probably all been repeated before but, unfortunately, in this chamber we have no time limit on speeches. It might be a good thing if we did introduce something.

The Hon. R.I. LUCAS: I might remind the Hon. Ms Zollo that the select committee was actually into allegedly unlawful practices raised in the Auditor-General's Report 2003-04. That was an extraordinarily helpful interjection from the Hon. Ms Zollo. It is actually in the title of the select committee.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I can only suggest that the whip might advise the Hon. Ms Zollo to retire to another room.

The PRESIDENT: Order! I suggest the honourable member get on with it.

The Hon. R.I. LUCAS: Her interventions are not of great assistance to me in concluding what needs to be said.

The Hon. Carmel Zollo: We're so bored by you, Rob. You're so boring.

The Hon. R.I. LUCAS: Thank you. At least that is something that we can argue about. In relation to what this has to do with the Auditor-General, I do not think that was a particularly useful point of order.

The Hon. Carmel Zollo: Well, it gave us a bit of entertainment for a while.

The Hon. R.I. LUCAS: Thank you, Hon. Mrs Zollo. The second broad issue that I wanted to raise was the claim that the Attorney-General and other government members who supported him made in the house. In the *Hansard* of 7 February 2005, the Attorney-General made an accusation that Kate Lennon and others had been involved in keeping a second set of books. The direct quote from the Attorney-General is as follows:

> ...Kate Lennon used one of the oldest accounting tricks known to man: she had two sets of books, one for the Treasurer, the Auditor-General, the parliament and the public and me, and a second set of books for a small circle who needed to know.

That is an extraordinarily damning allegation for the Attorney-General to make under parliamentary privilege against a former chief executive. That is the same sort of accusation—although one would say it was not an accusation, it was probably accurate—that was made against the mafia in relation to keeping a second set of books. That was clearly the inference or the impression that was meant to be conjured up by the Attorney-General's statement: that there was this secret second set of books.

What evidence did this committee take on that? We took considerable evidence. We put questions to Mr Ray Bown, the Principal Policy Officer in Treasury, and Mr Andrew Swanson, the then acting manager of the Business and Financial Services Division in the Attorney-General's Department. We asked them whether or not they had established that two sets of books, accounts, journals or ledgers were being kept.

Mr Bown, the senior officer from Treasury, and Mr Swanson both specifically denied in the evidence—and I will not read all of it—that two sets of books, accounts, journals or ledgers were kept by Kate Lennon or the Attorney-General's Department.

Then we took further evidence from Mr Kym Pennifold, a third witness. Again, the question was put to him as to whether or not two sets of books had been kept and, again, he gave evidence which was consistent with the Treasury officer, Mr Bown, and the Attorney-General's officer, Mr Swanson. In fact, Mr Pennifold said that it would have been impossible to do so, as it would have required separate bank accounts to be established. Even the auditor-general made no claim about secret bank accounts. So, a number of senior officers of Treasury and the Attorney-General's Department indicated that there was no evidence of this outrageous allegation that had been made by the Attorney-General, protected by parliamentary privilege, in the House of Assembly against Kate Lennon—that is, that there had been a second set of books being kept which were hidden.

In looking at this issue of the allegation of the second set of books, I want to raise some issues in relation to the performance of the former auditor-general and his staff in particular in relation to the audit of the Attorney-General's Department and the transactions that relate to this issue. I have spoken previously on the issue of some of the audit failures that I believe have occurred. Whether we are in government when, hopefully, we will be able to look at some policy changes to help correct the situation, or in opposition, we will continue to raise these issues and see what the Legislative Council might be able to do, and I intend to return to some of these issues after the election next year.

There are a number of issues that I think ought to be of concern to anyone interested in appropriate audit function and audit processes. One of the issues is that the former auditor-general took sworn testimony from the Attorney-General but, in doing so, did not put some of the specific accusations and evidence to the Attorney-General in relation to the Crown Solicitor's Trust Account. Let me summarise that: the former auditor-general knew that the former chief executive had indicated that she had advised the Attorney-General not only of the existence of the Crown Solicitor's Trust Account on a number of occasions but had also advised the Attorney-General of the use of the Crown Solicitor's Trust Account.

When one looks at the transcript of evidence that the auditor-general took from the Attorney-General, he at no stage put those accusations to the Attorney-General. When he was asked why he did not, he gave no satisfactory response. He made some general comments that they were comfortable with what they believed they knew and did not believe they needed to put those accusations. So here is an Attorney-General swearing testimony to the auditor-general saying, 'I do not know this exists and, therefore, obviously, I do not know about the use of the account.' The auditor-general has evidence from the chief executive to say, 'That is not right; I actually told him about it,' yet in sworn testimony the auditor-general does not put any question to the Attorney-General based on the claims being made by Kate Lennon. It just seems extraordinary to me that, if he is conducting a proper investigation and someone makes a serious claim against a minister of the Crown, the auditor-general, who is conducting the investigation, would not put those questions to the Attorney-General as part of the evidence taken.

The other extraordinary thing is that the auditor-general took sworn evidence from the Attorney-General but did not take sworn evidence from the former chief executive, Kate Lennon. We put the question to the former auditor-general, 'Why is that? You take sworn evidence from the

Attorney-General and you have two people with conflicting stories, so why would you not take sworn evidence from the chief executive?' Again, the former auditor-general has no convincing response as to why he did not do that. I refer to page 480 of the select committee transcript of evidence where I put this question to the former auditor-general:

> How is any witness's evidence, whether it be Ms Lennon, any more or less unsubstantiated than say the Attorney-General's recollection of the conversation?

The former auditor-general is saying Kate Lennon's evidence is unsubstantiated. This is a two person conversation in which one person says one thing and one says another. So I say to him, 'Well, how can her evidence be any more or less unsubstantiated than the Attorney-General's recollection?' I asked:

> If you have a conversation with two people and there are no other witnesses, and one person says, 'I told the Attorney this' and the Attorney says that it did not happen, you have two people.

Mr MacPherson said:

> That is correct.

I then asked:

> I presume if you are making a criticism about unsubstantiation in relation to Ms Lennon, you have to make the same criticism of the Attorney-General, that his recollections are unsubstantiated as well.

Mr MacPherson says—and listen to this:

> But his recollections are under oath, which gives them a little bit more weight than the recollections of another person.

So the former auditor-general says, 'I am going to give Mr Atkinson's evidence more weight because he gave his evidence under oath and Kate Lennon did not give her evidence under oath.' And whose decision was that? It was the decision of the former auditor-general to take the evidence under oath from the Attorney-General, and then he says, 'I will give that more weight than the evidence of Kate Lennon because her evidence was not given under oath.'

Again, we put the questions to him, 'Why didn't you take evidence from Kate Lennon?' It was not as if they sought to take evidence on oath and she refused—you cannot refuse the auditor-general, anyway, because he has the powers of a royal commissioner, but I will put that to one side. It was not put to Kate Lennon, yet that distinction is then used by the former auditor-general to try to defend the Attorney-General and present a further damning picture of the former chief executive, Kate Lennon.

I refer to another matter relating to this audit. Mr Marsh refers to notes the Attorney-General had taken; that is, he said that the Attorney-General had referred to notes he had taken at the meeting with Kate Lennon. This was the exit meeting—the meeting, again, where Kate Lennon said, 'I told him about it.' The Attorney-General now says that he did not even know it existed; therefore, he said he did not know about it, although, as I said, in *The Australian* article he changes his story again. So, his story is all over the place.

We then asked the question of the Auditor-General, 'Did you ask the Attorney-General for a copy of the notes he made at the meeting?' and the Auditor-General said no. How extraordinary is that? You have a conflict that ends the public career of one particular senior officer. In the case of the Attorney-General, there is a difference of opinion. The audit officer, Mr Marsh, said that Mr Atkinson referred to the notes he had at a meeting, yet they did not ask the Attorney-General for a copy of the notes to which he had referred. How one can accept that as an appropriate audit practice for an investigation is beyond my comprehension.

But there is more. It is a bit like the Demtel advertisement, when one talks about what I believe to be audit failure in relation to some of the practices that were involved. The damning claims that have been made by the Attorney-General about a second set of books were arm in arm with the position that the Auditor-General and his staff had been presenting to the parliamentary inquiries. The same words were not used, but let me refer to the evidence and then make the point. The transcript of the Economic and Finance Committee states:

> Mr MARSH: The transactions into in the Crown Solicitor's Trust Account were processed as payments from the departmental operating account, and the vouchers which supported the payments reflected them as payments and expenses. They were not described in any of the documentation as transfers to the Crown Solicitor's Trust Account.
>
> Mr RAU: Those vouchers were inaccurate.

Mr MARSH: They were not explicit, and they certainly did not describe what happened.

That is the claim from the audit staff. These documents are called AR20s, and they are documents with which all audit and accounting staff within the public sector would be very familiar. If you are depositing something into an account such as the Crown Solicitor's Trust Account, you have to fill out an AR20. You list on it what the deposit is about and the amount of money and the fact that it is being debited to the Crown Solicitor's Trust Account. This is what Mr Marsh and Mr Rau were talking about at the Economic and Finance Committee. As I have said, Mr Marsh said that the documents were not explicit and they certainly did not describe what happened.

After many months of trawling through boxes and boxes of documents—all of these vouchers and dockets—received by the Legislative Council select committee, we then started putting some questions to the audit staff about these documents. I pulled out these AR20 documents, and I showed Mr Marsh and Mr MacPherson these AR20 documents—and this was at the committee hearing of 6 September 2006. I showed one particular document, which was for $350,000 and which indicated explicitly that it was money relating to the crime prevention program being deposited into the Crown Solicitor's Trust Account.

Mr Marsh and Mr MacPherson were shown this document at the select committee hearing, and they admitted that it explicitly did indicate the nature of the funds that were being deposited in the Crown Solicitor's Trust Account. From the auditor-general's viewpoint, because it explicitly referred to it, it would have made it clear to them that, in their view, it was not appropriately being deposited into the Crown Solicitor's Trust Account.

Mr Marsh agreed that it was absolutely clear that $350,000 was being deposited in the Crown Solicitor's Trust Account. So, I said to Mr Marsh:

Well, you now see this document. Your evidence to the Economic and Finance Committee was clearly wrong. In your evidence to the Economic and Finance Committee, you said that none of these documents were clear. They didn't indicate what was being deposited in the Crown Solicitor's Trust Account or that they were being deposited there as well.

When I put that to Mr Marsh, he said:

My evidence to the Economic and Finance Committee would have been given without seeing this document.

That is an extraordinary admission. He then goes on to further say:

The evidence I gave to the Economic and Finance Committee would not have been given if I had seen that document and had it in my mind at the time.

So, a member of the audit staff was saying—and this is before an upper house select committee—all of these documents were not hidden. They were all available, and he admitted that they were available to audit staff. He said:

If I had seen that document at the time, I would not have made that particular statement that I made to the Economic and Finance Committee.

That has been the basis of a series of allegations about unlawful transactions. They are not the sole basis—I readily concede that—but they are a significant part of the Attorney-General's case and the case of Mr O'Brien, Mr Rau and others who made accusations in the Economic and Finance Committee. They said that these vouchers did not describe in any way that they were transfers into the account—that they were unlawful—but it was clear that that was untrue: the evidence that had been given was untrue. Again, on page 619, Mr Marsh said:

I am telling you that, if I had seen this before, I would not have given that answer.

Then I put a series of questions to the former auditor-general, Mr MacPherson, who I think by then realised that their case was suffering some difficulty and some embarrassment. He sought to put some solidity and support behind Mr Marsh. However, I put the question to Mr MacPherson:

I can understand that. But the reason that we, or I, requested all of the invoices and vouchers was in order to investigate this. I think the proposition I put to you is that you might not have had them, but as audit staff you should have asked for them.

Mr MacPHERSON: I do not accept that.

He was saying that he did not think he should have asked for them. I then said:

Well, that is my contention. Before your senior auditor gave evidence to a parliamentary committee—which leads media, Labor members, government members and others, to the second set of books, concealment and things like that, by saying that the vouchers did not describe that they were transfers to the Crown Solicitor's Trust

Account—which he has now recanted, he should have investigated it. If we had not requested all of those invoices—and we have boxes and boxes of them which we have all been through—and audit staff clearly had not, in terms of the evidence, no-one ever would have looked at them.

As I said, in my view that is damning evidence of the failure of audit to conduct a proper and appropriate audit of this issue, and we saw the extraordinary, inaccurate, damaging and defamatory claims made by the Attorney-General in the House of Assembly about this second set of books. I have four or five other issues before concluding, hopefully before the dinner break.

Earlier I briefly referred to the fact that there was a wide variety of evidence taken about the performance of the Attorney-General in relation to a range of issues. I think evidence that you will remember, Mr President, is that of the Attorney-General attending a meeting with the Chief Justice of the state, asking for a copy of *The Advertiser* and having the Chief Justice get a copy of *The Advertiser*. The Attorney-General then pulled out the racing form guide section of the paper and sat down and read that form guide while his chief executive conducted the meeting with the Chief Justice. That is an extraordinary example of the arrogance of the state Attorney-General.

The PRESIDENT: It is so long ago that I do not remember it.

The Hon. R.I. LUCAS: Well, let me get you a copy; I am happy to provide a copy of that section of the transcript of evidence, Mr President. That is a damning indictment of the state Attorney-General. Whatever one thinks of the Chief Justice, most in the community would acknowledge that he is a good person and ought to be respected; his position ought to be respected. Having the state Attorney-General reading a racing form guide instead of engaging in a meeting is, frankly, beneath contempt.

There is one area that I am sure you will remember, Mr President, because you feature in this particular part of the evidence. On 3 December 2004, you put a question to Mr Mike Walter, the former crown solicitor. You will remember that the former crown solicitor had given evidence which was supportive of Kate Lennon, the former chief executive. I will not go into it, but in part Kate Lennon's defence had been that she took legal advice from the Crown Solicitor which indicated that what they were doing was okay. Mike Walter gave evidence to that committee, and this is the extraordinary question that the Hon. Mr Sneath put to him:

> I have a few questions. Do you have anything other than a professional relationship with Kate Lennon?

This is a senior member of the government party asking, 'Do you have anything other than a professional relationship with Kate Lennon?' I will refer to Kate Lennon's evidence later on, but Mr Walter replied:

> Yes; I think it is fair to say that we probably meet socially no more than half a dozen times a year. So I know her quite well. I have worked with her for a number of years, and I have mixed with her socially, say, half a dozen times a year.

There was a series of further questions from the Hon. Mr Sneath, such as, 'Have you had any contact with Kate Lennon since her resignation?', etc.

At about the same time the Rann government's dirty tricks unit—headed by Jill Bottrall and others—was, together with the Hon. Mr Sneath, who had obviously agreed to ask the question, busily stirring up the media and spreading stories about a relationship between Kate Lennon and Mike Walter, seeking to downplay the significance of the evidence Mike Walter had given that indicated support for Kate Lennon's position based on the legal advice that he had given. So, clearly it was important to the Rann government and the Attorney-General to in some way muddy the waters and besmirch the reputation of these people. The Hon. Mr Sneath was a willing participant in this exercise.

Soon after that, on 23 December (a hard-working committee this, because it was two days before Christmas in 2004), Kate Lennon attended the committee, and Mr Sneath was at it again—

The PRESIDENT: The Hon. Mr Sneath.

The Hon. R.I. LUCAS: Well, in some respects I would not put that title before you, Mr Sneath, in relation to this issue—

The PRESIDENT: Order! It is the Hon. Mr Sneath. I remind the honourable member that—

The Hon. I.K. HUNTER: I have a point of order. It is my understanding of standing orders that members, whilst on their feet, shall not reflect improperly on the chair or the President.

The PRESIDENT: It has not always worried the Hon. Mr Lucas.

The Hon. R.I. LUCAS: I am referring to the evidence given before a committee, Mr Hunter. The Hon. Mr Sneath asked:

At any time before giving evidence today have you discussed with any member of the opposition or non-government member of parliament the issues relating to the terms of reference of this select committee?

MS LENNON: No.

THE HON. R.K. SNEATH: Have you ever attended any meetings or had any discussions with Mr Lucas or his staff in the Parliament House building about any matters concerning the use of the Crown Solicitor's Trust Fund?

MS LENNON: I think you should answer that, Mr Lucas.

The HON. R.K. SNEATH: I did not ask Mr Lucas.

THE HON. R.I. LUCAS: You answer first.

MS LENNON: No, I got rung last night at quarter to 11 to be told two things; first, that I was seen sneaking out of your office late one night from parliament; and the other was that you and I have been dining out and around town. Given that I have already had put to me that I have been having an affair with Mike Walter, I had said to my husband this morning that clearly I am the Mrs Blunkett of the South Australian public sector. My husband is sitting here: we have been married for 32 years; I have not had an affair with anybody, and that is no offence to anyone sitting in this room.

The Hon. R.K. SNEATH: I don't think I asked you that question.

We all knew what the question was, the Hon. Mr Sneath.

Ms LENNON: No, but it was put. I want to address this issue.

The Hon. R.K. SNEATH: Where was that question put?

Ms LENNON: In one of the houses—upper or lower.

The CHAIRMAN: The question asked related to the nature of the relationship, in other words, whether you met socially.

Ms LENNON: It was seen by everyone that I was having an affair. I must have had at least 60 phone calls. It upset my family and the people at the church. His partner rang me in no uncertain words, and it was taken universally.

The Hon. R.K. SNEATH: I think the question relating to Mr Walters was whether there was any other relationship outside work, meaning, 'Do you have a friendship?' and Mr Walter answered the question and said, 'Yes, we are friends and often meet together.' Anybody who would think I was suggesting anything else has a funny sort of mind.

Ms LENNON: Everyone did, and I am sorry, but that was how it was translated. No offence to you.

The Hon. Mr LUCAS: I can support your claim that you were not sneaking out of my office late in the evening with lights on or off. However, I can also indicate that Jill Bottrall from the Premier's office has been spreading the story that you have been seen leaving my office at all sorts of hours. I can give you the source of the story in terms of the discussions.

Ms LENNON: For the record, the last time I formally saw Mr Lucas was at the bilaterals in 2001.

I think that is an extraordinarily sleazy attempt by you in your former position and the Rann government in the dirty tricks unit to besmirch the reputation of a former chief executive of a department and a former crown solicitor just because they were giving evidence that was deemed incompatible or embarrassing to the state Attorney-General and the Rann government.

Given recent accusations being made by the Premier about dirty tricks, I think that, when one starts talking about dirty tricks and these sorts of issues, the Rann government is a past master of the dirty tricks campaigns, and the questions asked by the Hon. Mr Sneath in this committee were beneath contempt and are a sad blot on the record of the Hon. Mr Sneath in this chamber.

It is disappointing that the Leader of the Government, the Hon. Mr Holloway, would defend such a demeaning, sleazy attempt by the Rann government on this issue, and it is frankly beneath contempt for the Leader of the Government, the Hon. Mr Holloway, to demean his office as Leader of the Government in this way by endorsing and supporting the approach of the Hon. Mr Sneath and the Rann government. It is a fair indication of the sensitivity of the Rann government on this issue, and it is a fair indication of how low the Hon. Mr Holloway and the Hon. Mr Sneath will go. They will go as low as they want to in relation to some of these sleazy accusations that you and your dirty tricks unit will make. You have been doing it for years, and you try to adopt—

The PRESIDENT: The Hon. Mr Lucas should get back on track; keep having a crack at the Hon. Mr Sneath would be a good idea.

The Hon. R.I. LUCAS: Thank you, Mr President; I cannot hear myself think over the squealing of the Leader of the Government on this issue. He does not have a very good track record, I might say, in relation to these issues.

The PRESIDENT: The Hon. Mr Holloway would not ring witnesses, I would have thought.

The Hon. R.I. LUCAS: The Hon. Mr Holloway has done a lot worse than that, let me assure you, Mr President, as indeed you did, in your performance on this committee, if I might speak frankly. I read onto the record the question that you raised and the disgraceful impact it had on a hard working former chief executive. Whatever you think about that chief executive's actions—and a court of law will determine that aspect ultimately one way or another, and I will not comment—and whatever you think of that chief executive, she was a loyal, hard working servant of the government of South Australia and did not deserve that sort of approach from you in your former position and obviously supported by the Hon. Mr Holloway and others as part of this strategy. I seek leave to conclude my remarks.

The Hon. P. HOLLOWAY: No; we are not putting up with this rubbish. Keep going.

The PRESIDENT: Leave is not granted.

The Hon. R.I. LUCAS: That was a dummy spit from the Leader of the Government.

The PRESIDENT: Order! The Hon. Mr Lucas will stick to the report.

The Hon. R.I. LUCAS: I am very happy to stick to the report, Mr President. Two other issues I want to place on the record; I was nearing the end of my contribution. One of the statements that was made by Kate Lennon to the committee on 23 December—it was a formal statement presented to the committee—I place on the record, because it is indicative of the government's approach on some of these issues. She stated:

> The Premier, Mike Rann, has frequently emphasised that public servants should be less risk averse and more 'can do', encouraging public servants to not have a 'silo mentality'. His expectations for quick results and risk taking was dramatically emphasised in March 2004 when I and two other chief executives, Jim Birch and Steve Marshall, were officially rebuked by the Premier. On that occasion Monsignor Cappo had complained to the Premier that the public service was falling behind in providing housing for the homeless. The Premier said we would be 'sacked by Christmas' if we did not reduce homelessness by half.

This was a meeting—

The Hon. P. HOLLOWAY: On a point of order, Mr President: this comment of Mr Lucas has no relevance whatsoever to the report, and I would ask that you bring him to order.

The PRESIDENT: The Hon. Mr Lucas will stick to the report.

The Hon. R.I. LUCAS: It is evidence from the report.

The PRESIDENT: No; I have the report here that has been tabled, and it has three pages to it.

The Hon. R.I. LUCAS: I am reading from it; I have just read it. That is the exact statement.

The PRESIDENT: It is not the report I have.

The Hon. R.I. LUCAS: 'We will be sacked by Christmas if we do not reduce homelessness by half.' I think that is a fair indication of the approach by this Premier and this government, supported by the Hon. Mr Holloway, relating to chief executives. That was a promise made by the Premier—

The Hon. P. Holloway: No, it wasn't.

The Hon. R.I. LUCAS: Yes, it was.

The Hon. P. Holloway: It is an unfounded allegation. That is what it is; it is an unfounded allegation, like everything else you say.

The Hon. R.I. LUCAS: No. It was a promise made by the Premier to reduce homelessness by half. The Hon. Mr Holloway says it was an unfounded allegation. That was actually an election commitment given by his own Premier that he would reduce homelessness by half—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —and now he says that it is an unfounded allegation.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: An unfounded allegation and a Rann election promise are probably the same thing. The final issue, as I said, was the $5 million loan that transpired between the Department of Water and the old DAIS department. Again, with due deference to my colleagues, I do not want to delay their dinner break any longer, the evidence on this—as I said, this does not relate to stashed cash, and it does not impact on the Attorney-General, but it is a subject of this particular inquiry—is that it was a $5 million 'friendly' loan between two departments. That is how it was portrayed.

One department said, 'Hey, we need an extra $5 million just at the end of the year to balance the books; do you have a spare $5 million?', and supposedly an officer in another department said, 'Yes, I've got a spare $5 million. I will zip it over to you,' and, hunky dory, this is the way this government conducts its business. This is one of the allegedly unlawful transactions. The extraordinary thing in this—I will contrast it quickly—is that, in the first instance, all of these things that went on with stashed cash were breaches of Treasurer's instructions, they had connotations of criminality, there were disciplinary inquiries and action was taken against officers.

This particular one was, again, found by the auditor-general to be an unlawful transaction, but the government did nothing in relation to the officers, with formal disciplinary inquiries or anything of the like. We did not have any of the public attacks that were being made on officers that were involved in these particular transactions, similar to the nature of the attacks on Kate Lennon and other officers within the Justice Department. The hypocrisy of this government, and ministers like the Hon. Mr Holloway, sadly—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The hypocrisy of the Rann government is evident in the contrasting ways that it treated these particular transactions. The auditor-general in this particular case—and because of the hour I will not go into the detail of the failure there—said that minister Hill and the others did not know about this until almost 12 months later when audit came in to identify the particular problem. Yet, in the end, minister Hill got up in parliament and said, 'That is not accurate. I was actually told about nine months ago by my chief executive officer, but I didn't tell the Premier, I didn't tell the Treasurer, I didn't tell Treasury and I didn't tell the auditor-general.

So, minister Hill, in about September/October 2003, knew of this unlawful transaction of $5 million and chose not to tell the Treasurer, Treasury, the then auditor-general or the Premier. He kept it to himself and hoped that it would go away. Whilst the Rann government pursues people like Kate Lennon, it conveniently says to people like minister Hill, 'Don't worry about that. You tried to keep it quiet, and you got caught out later on, but we won't say anything about it.' It continues to defend people like the Attorney-General, where all the evidence, as I said, is overwhelmingly damming in relation to his performance.

I conclude by saying that the evidence is overwhelming and it is damming of this government. The evidence indicates that the Attorney-General is, again, guilty of perjury in relation to swearing a false oath before the then auditor-general and—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: On a point of order, Mr Lucas is not entitled to make that accusation unless there is a specific motion to that effect. He cannot make that outrageous claim.

The PRESIDENT: The Hon. Mr Lucas should withdraw that remark. It is not part of the evidence given.

The Hon. R.I. LUCAS: I have made that comment about a dozen times already, so it is a bit late to withdraw it. It is on the record; it is there. It is quite clear from the evidence what this Attorney-General has done. It is quite clear from the evidence, and I challenge any member who is prepared to look at the evidence I have quoted today to come to any different conclusion than the one I have put on the record more than a dozen times today in my contribution. I stand by it and I

hope that you, Mr President, and others may at least have the integrity to look at the report and come to the same judgment as the one I have come to.

The PRESIDENT: Order! I challenge the Hon. Mr Lucas to go outside and repeat his remarks.

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

[Sitting suspended from 18:06 to 19:48]

SELECT COMMITTEE ON TAX-PAYER FUNDED GOVERNMENT ADVERTISING CAMPAIGNS

The Hon. M. PARNELL (19:48): I move:

That the report of the select committee be noted.

Before I move to comment briefly on the contents of this report, at the outset, I acknowledge my appreciation of the members of the Legislative Council who served on this committee: the Hons Ian Hunter, Michelle Lensink, Rob Lucas and Carmel Zollo. I also acknowledge the assistance that was given by the secretary of the committee, Mr Anthony Beasley. I note that this was the first report that Mr Beasley has seen through to completion, and I am very happy to report that every 't' was crossed and every 'i' was dotted and a very professional job done. So, thank you to Mr Beasley.

I also thank the research officer to the committee, Ms Anne Melrose, who did an incredibly thorough job in pulling together a great deal of material from South Australia, other states and even overseas. Her professional research skills have helped put together a comprehensive report, which I think will serve other jurisdictions well if they also look at this question of government advertising. I also thank the organisations and individuals who made submissions, as well as those who gave direct evidence to the committee.

When I moved for this committee to be established earlier this year, I declared that it was my intention that it would be a short, sharp and shiny committee, and that we would get down to business quickly and produce our report before the end of the year, and I am very pleased that the committee has done that.

The origin of this committee, as members would know, is the increasing concern in the community about the quantity and, I think, the quality of government advertising campaigns and, in particular, the increasing use of public funds to run advertising campaigns which have no or little community benefit and which are, in fact, designed to be purely partisan for the benefit of the party in office. The examples that led to this concern included things such as advertising for the state budget and also advertising around the proposed new Royal Adelaide Hospital.

What I think the committee did very well in its deliberation was to consider the question of the distinction between what were called 'campaign ads' and the more functional ads which are generally not exceptional and which rarely attract criticism. By 'functional ads' we are talking about advertisements for jobs, advertisements for tenders and statutory public notices, those sorts of things.

The main controversy and the main waste of taxpayers' money, as the majority of the committee saw it, were in the so-called campaign ads. It seems that traditionally access to a war chest of public funds for advertising has been regarded as one of the spoils or privileges of office. The committee, when considering this question of what checks and balances should exist on the government in the use of these funds, came down clearly on the side of more checks and balances being needed.

Aside from the government members, the committee's majority recommendations I supported fully. I did also add some additional recommendations of my own as the Chairperson, which basically revolve around some more detailed finetuning of the government advertising policy and guidelines.

In particular, I was keen to see some of the objectives that were most commonly abused removed from those guidelines, and they were objectives such as raising awareness of a planned or impending initiative and reporting on performance in relation to government undertakings. I believe that those objectives are far too broad and have led directly to many of the abuses the committee found.

I also believe that the guidelines need to be amended to make sure that, before taxpayers' funds are spent, the government fully explores opportunities for unpaid media attention; for example, that the merits of a state budget are well and truly covered by the general news and current affairs reporting around budget time.

We do not need to be spending millions of dollars of taxpayers' money promoting the benefits of a budget. That, of course, is to be distinguished from particular services that might come out of a budget where, of course, the public does need to know its rights, obligations or any new services that it might be able to access.

I will not got through all the majority recommendations of the committee. I guess there are probably two that I think are fundamentally important. The first one is that we have recommended that changes to the approval for government advertising campaigns should remain in the administrative realm rather than needing to be legislated.

We have suggested that we give the government (which ever party it is) another two years to see whether changes have been effective and, after that, we may or may not need to go down the legislative path. The advertising policies and guidelines turned out to be more difficult to access than they should have been. One of our recommendations is that they be freely available on request and published on the internet. It seems that, apart from some of the basic documents, much of the detail was contained in documents that required passwords and log-ons to be able to access them.

The second and probably the most important of our recommendations is that we believe that for public accountability to be improved we need a new review and approval procedure. That procedure should involve the Auditor-General and it should cover all government advertising campaigns with a total cost in excess of $50,000. We note in making that recommendation that it is similar to the new model that was adopted in 2008 at the commonwealth level.

It is worth making the point that the final decision on whether or not to proceed with an advertising campaign would still remain with the minister for the department or agency involved, but if the Auditor-General's assessment is that the advertising campaign is not compliant then that fact must be published so that all can see that the guidelines are not being complied with.

The committee took a great deal of evidence about the total cost of government advertising, and what we found was that the published costs were a gross underestimate of the amount spent. The main reason for that was that the disclosed cost was nearly always limited to the buy-in of advertising; in other words, the space on television, radio or in a newspaper. Clearly, the cost of government advertising is broader than that, and we have recommended that other identifiable expenses incurred in the production, development and evaluation of advertising should also be included.

We noted that, when one looks at all the costs of government advertising, it is likely in the current year (2009) to be as high as $60 million. That is an incredible amount of money to be spending on government advertising, particularly as much of that advertising, in the view of some members of the committee, was inappropriate. So, we have recommended that the total cost be reduced by $20 million per year.

Finally, one of our conclusions—and it is an important one and it arises solely because the committee was established and doing its work—was the discovery that 24 advertising campaigns in the past three years did not comply with the government's own guidelines. These breaches were identified only as a result of the committee's work; there was no other way that they would have seen light of day. We can only say thank goodness for the Legislative Council. If we had not set up this committee and if we had not investigated campaigns over the last few years we would not have uncovered this gross breach of the government's own standards.

I guess you could also say that, even before we had reported, the committee's work was bringing results. We note that the Premier moved to ban the faces and voices of his ministers on government advertising and, no doubt, that decision was made very much in the shadow of this committee.

I think the committee has done good work. We have brought things into the light that were previously in the dark and we have already achieved some small changes. With those brief words, I commend the committee's report to the council.

The Hon. R.I. LUCAS (19:59): I rise to support the remarks made by the Hon. Mr Parnell, who chaired the committee. I join with him in thanking other members who served on the committee and the staff members who worked hard to service the committee.

The Hon. Mr Parnell has summarised the major elements of the report, and I will make some brief comments. The model that has been recommended by the majority of members of the committee is essentially based on the model that the current federal Labor government has introduced. It is a model which involves the Auditor-General and the National Audit Office. Representatives from the National Audit Office provided evidence to the committee. Essentially, their evidence can be summarised as 'the scheme operates relatively well'. It is not an expensive scheme to conduct. The report includes their estimate—which escapes me at present—of what it costs at the federal level. It is not an extraordinarily expensive policy innovation at the national level, and it should not be any more than that particular cost at the state level.

There is an interesting question in relation to it, and in our recommendations it involves campaigns above $50,000. As the Hon. Mr Parnell indicated, ultimately the government and the minister will make a decision as to whether or not to go ahead, but I guess it would be an extraordinarily courageous decision for a government or minister to proceed with a campaign if the state's Auditor-General has reported on that proposed campaign and said that it does not comply with the advertising guidelines; and the minister or the government then proceeded to go ahead with that taxpayer-funded campaign, anyway.

At the federal level, as I understand the evidence, where the National Audit Office has raised concerns, either the campaign has been changed or it has not proceeded. It is a model which is in action in the Australian political circumstance. It has been introduced by a government of the same political flavour and persuasion as the current government in South Australia. The majority of the committee, albeit opposed by government members, believes that it merits not only consideration but also introduction into our circumstances here in South Australia.

The other aspect briefly referred to by the Hon. Mr Parnell was the total expenditure on government advertising. I am not sure whether he mentioned the figure, but a broad estimate is that potentially about $60 million a year is being spent on government advertising. The committee acknowledges that a reasonable percentage of that is entirely defensible. Spending on important programs is not in the contentious or controversial area at all, but the committee is recommending that a significant reduction could be achieved easily in terms of total spending—at least $20 million.

Certainly, I am delighted that the Liberal leader Isobel Redmond in the package of visionary policies she has announced already in the lead-up to the March 2010 election has already committed to slashing government advertising by at least $20 million—which, on the evidence provided to the committee, should be relatively easily and quickly achieved by any government prepared to take the hard decisions in relation to government advertising.

The only other point is that we are seeing, and we will continue to see over the coming months, a saturation of government-funded advertising campaigns. One of the documents that has been tabled with the select committee report is dated 14 October from Mr Mark Clemow to the committee secretary. The document outlines the current programs which have been approved and those which may be running over the period leading up to March next year.

The Water for Good campaign has a total budget of just over $2 million. We are being inundated already with television commercials for that campaign as we lead into the election. Some of those commercials are congratulating the government on the decision that it eventually took in relation to a desalination plant here in South Australia. There is the perfect example of the decision already having been taken. It certainly cannot be indicated that it is providing additional or important information to South Australians—unlike, for example, a campaign which may be advertising changed watering times and those sorts of things where there may well be some defence for providing that sort of information to the electorate. But, certainly, patting yourself on the back for having decided to spend $1 billion-plus on a desal plant is an entirely different form of government advertising.

So we see that is in the field already, but there are many other very significant campaigns. I think there is one from the motor sport board involving almost $2 million, most of which will be in this period leading up to the event in March of next year. I am sure there will be lots of feel-good television advertising, either directly or indirectly, patting the government on the back for the big car race in March of next year.

There is a very significant campaign from the South Australia Tourism Commission in relation to intrastate marketing. We have not seen that particular campaign yet to see whether or not it crosses the line in terms of genuinely providing information to the electorate or indirectly trying to pat the government on the back for its policies relating to the tourism area.

There are literally dozens and dozens of other campaigns. DTED has a careers promotion campaign running from early 2009 to late 2010 with a proposed budget of $2.5 million. How much of that is going to be expended in this period leading up to the state election in March next year one can only surmise. We know there is a continuation of a budget which relates to the new rail yards hospital and other health-related reforms: we know a good percentage of that budget is going to be expended between now and the next election.

I indicate to members that there are many campaigns outlined in that document, and I think there is another document of a similar nature that has been tabled also from the Department of the Premier and Cabinet that outlines, as I said, the significant number of campaigns either running or proposed to run in the period between now and the March election next year. Look out, people of South Australia, for the saturation television coverage from the government!

The point I make is that I think the Hon. Mr Parnell referred to the fact that, as a result of the committee, the government announced some changes to its policies, although I do not think they have yet translated into changes to guidelines. One of those was to take the face of the politician off the television commercial, the politician's voice out of the radio commercial, or the politician's photo out of the newspaper ad. That is certainly a change that the opposition supports and, I suspect, all members of the committee supported.

But I give a word of caution: that, and that alone, does not ensure that there is politically unbiased government advertising. I instance just two examples. The rail yards hospital television commercials did not involve the Premier but involved health professionals, specifically selected, who put the government's line in relation to that hospital. So there you have a clear choice for the people of South Australia at the March 2010 election and the government is using taxpayer-funded advertising to support its line. It does not include the Premier in those particular ads but, nevertheless, it has health professionals putting the government's line in relation to the rail yard hospital.

Similarly, for those who can remember, there have been commercials in relation to the defence area—the destroyer project for example—which congratulated South Australia on winning that particular project. Again, that was a needless waste of taxpayers' money because, in essence, the decision had been taken by the federal government and it was just South Australian taxpayers' money congratulating South Australia on having been given the decision by the federal government.

That is a perfect example of an ad which need not involve the Premier of the state but, nevertheless, is endorsing the political message that the incumbent government is trying to put in relation to a political issue. So, the mere fact of taking politicians out of government advertising does not, of itself, guarantee that there will be non-partisan government advertising.

The final point I make is that the committee had looked at another model—the Ontario model. I indicated to the council that, a number of years ago, I visited Ontario and one of the things that I did was to have discussions with their audit officers because they have the next step up from the federal government model. That is a model where the auditor-general actually makes the final decision, not as in the federal model and what is recommended here, where the auditor-general looks at it and gives advice as to whether it is consistent with guidelines. In Ontario the auditor-general's office looks at the campaign and it is the final decision-maker. It either says it can go ahead or it cannot. A minister is unable to proceed without the approval and authorisation of the auditor-general.

I guess that is the next step. It is not yet in any Australian jurisdiction. It is something which is, according to the Canadians, working well in Ontario but, at this stage, it is not a model that has been recommended by the majority of the report. With that, I recommend the report to members. I believe that if some of these initiatives are introduced we will certainly have a more defensible and transparent model for the oversight of government advertising in South Australia.

The Hon. CARMEL ZOLLO (20:12): Initially, I was not going to speak on this report but, given that we may well note it, I thought I had better place some comments on the record. I think the work of most select committees can best be summarised by the comments made by the

Hon. Bernie Finnigan earlier this afternoon when he said that they are, for the most part, the creation by Independents and the opposition for media opportunity. Some opposite—

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

The Hon. CARMEL ZOLLO: I said 'most'. You did not listen. I said 'most'. Whilst honourable members opposite might not like to hear that, I do believe that is the case. The Hon. Ian Hunter and I produced a dissenting statement which is attached to the report. However, as I said, it is appropriate to make a few comments. We commence the statement by saying that, whilst we are happy to associate ourselves with the parts of the report which relate to the evidence received by the select committee, we dissent from the recommendations made by the majority and make alternative recommendations—which I will speak to later.

The Hon. Ian Hunter and I then noted the recent changes to the guidelines announced by the Premier which will strengthen the approval process for government advertising. The government has already strengthened what was a very good process for the approval of advertising by government agencies to ensure that responsibilities are fulfilled in an appropriate manner.

Our guidelines are strong in this state and, if I may, I would like to go to the report and highlight some of the information that is contained in it. The current situation in South Australia is that the South Australian government proactively manages and provides oversight of all government advertising activity through a range of policies and guidelines. These formal guidelines on government advertising were initiated and implemented in 2005 under the first term of this government.

In August 2009, the Premier of South Australia, the Hon. Mike Rann, announced new rules banning politicians from appearing in state government television and radio advertising. The Premier also announced the strengthening of the Premier's Communications Advisory Group (PCAG) by having the group chaired by the Deputy Chief Executive of the Department of the Premier and Cabinet and having membership increased from six to eight, including an internal auditor and a peer expert. Reporting of all government funded advertising campaigns is to be placed in the DPC annual report, and the Auditor-General will be invited to conduct an annual review of all major campaign activity, with any report being tabled in parliament.

Under the underpinning principles, the South Australian government advertising guidelines provide that all members of the public have the right to equal access to information. Public funds may legitimately be used for information or education programs that explain the government's policies, programs or services or that inform members of the public of their obligations, rights and entitlements.

Under the use of public funds, I will just place on record a couple of appropriate guidelines. They are to maximise compliance with the law, to ensure public safety and personal security or encourage responsible behaviour. The strong role of the Premier's Communications Advisory Group is clearly outlined in this report as well. In relation to reporting compliance, there is a requirement under the current South Australian guidelines for information relating to government funded advertising campaigns to be included in the annual report of the Department of the Premier and Cabinet. Expenditure on advertising campaigns across government is also to be included in this report.

In relation to comparisons of South Australian arrangements with other jurisdictions, in no Australian jurisdiction are these guidelines legislated, despite various attempts in a number of jurisdictions to do so. The Hon. Mark Parnell has already mentioned that. In all instances, the guidelines are administrative ones. While the fundamental principles and underlying objectives of advertising in each jurisdiction are comparable, the approval process varies in the jurisdictions.

In relation to the approving body, the review or the evaluation, South Australia is the only state to have evaluation built into the approval process. That is, as part of the approval process, South Australian government agencies are required or mandated to identify prior to approval being given how the effectiveness of the campaign will be evaluated and to report how well it achieved the desired outcomes after the campaign has been run. The Auditor-General of South Australia has the power to review advertising campaigns approved under the PCAG approval process, and the South Australian Auditor-General reviewed five campaigns during 2009.

In relation to the scope of advertising, the South Australian guidelines outline what is appropriate and inappropriate use of public funds. In relation to the role of the Auditor-General, the

committee drew on a published article by Ms Young, from memory. I cannot see her given name. The article states:

> These are not matters that the Auditor-General has the mandate to resolve; rather, this is a matter for parliament. It is not the role of the Auditor-General to directly hold the government to account. This is the role of parliament and, ultimately, of the people.

An additional point made by Ms Young in her article relates to the perceived increasing politicisation of the Public Service. She notes:

> The position of the Auditor-General...needs to be considered in the context of the concerns not only about the politicisation of the debate...but also the politicisation of the Public Service.

In relation to the use of government members' faces and voices, we have heard already that the Premier made an announcement. In August 2009, the Premier of South Australia, the Hon. Mike Rann, banned the use of the face, image and voice of the Premier and his ministers in radio and television advertising.

That message was then further clarified that the Premier had expanded the ban on politicians appearing in radio and television advertising to all forms of advertising, including any functional or brand advertising in print. I have to say that I think that, if we left it up to the Hon. Mark Parnell, he would probably remove even the faces of the poor ministers on their websites.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, he's such a purist. I am really quite amazed at his passion to see the removal of any political face from any landscape. As I have just mentioned, I have already placed on the record the political comments made by Ms Young, and her comments are further strengthened by others. As we say in our dissenting statement, we do not support the need for recommendations for further defining the role of the Auditor-General. The Auditor-General already has the power to investigate these matters, and we would not want to restrict his broad current powers in any way.

Claims of abuse of the guidelines for political purposes are as predictable as they are unsubstantiated and generally arise some time prior to elections in pursuit of political gain—and, of course, we are at that time in our electoral cycle. Comments by the Victorian Auditor-General on this matter we have said should also be noted.

Making assessments of campaigns or campaign material, and whether or not they contain material that is party political, is a matter of judgment. The assessments need, as much as possible, to be objective and not swayed by the public debate. Judgments, by their nature, can be difficult and can at times be a matter of fine balance and open to interpretation.

The Hon. Ian Hunter and I go on to say that we do not support the recommendations mandating a reduction in advertising. We believe that it is a blatant political ploy just weeks out from an election, and we reject the attempt to turn this committee's report into electioneering propaganda, which is what has actually happened.

Since this committee was formed, comments have been made by members of parliament advocating or proposing the cessation of government advertising in order to fund other programs or projects—and, from memory, I think that occurred about a month ago. These comments demonstrate a lack of understanding of the role and importance of government advertising. The view that all government advertising can be abandoned or severely curtailed prioritises cost over the community value of campaigns and the importance of specific messages.

We go on to say that it is very easy to make these empty promises; it is much harder to do when faced with the reality of the need to advertise campaigns, such as road safety (something I well know as the former minister for road safety), occupational health and safety, bush safety and alcohol awareness. Where would we be without those public education campaigns?

It would also impact functional advertising for recruitment of doctors, nurses and police and in others areas, including promoting TAFE courses for trade training, and other important public information. Important industry and product promotion campaigns, such as tourism and lotteries, would also be adversely affected.

One might well ask: where has the $20 million reduction recommended in this report come from? I believe it may well have been the Hon. Rob Lucas who came up with the figure, but obviously they all signed their name to it; others say that it was plucked out of thin air. I think that it

was plucked out of thin air to help the Liberals balance their election promises and that it is nothing more than that.

I really need to place on the record the importance of functional advertising for the many departments. Indeed, I also make the comment that some newspapers in South Australia would perhaps be so much the poorer if we were to remove the very important functional advertising that is the business of government. Our recommendations are:

1. That an annual report be prepared by the Department of the Premier and Cabinet to report on South Australian government advertising activities;

2. That the report be tabled in parliament as part of the annual reporting process;

3. That the report includes a summary of details of overall expenditure, expenditure by agency, expenditure by type (both campaign and functional), expenditure by media, expenditure by ethnic and non-English speaking media, complaints and comments; and

4. That those agencies be required to report advertising activities in their annual reports, including details of production, media placement, and research and evaluation activities; and that those agencies be required to report these details to the Department of the Premier and Cabinet at six monthly intervals.

While we do not agree with the recommendations that the majority of the committee signed, nonetheless I recognise the important body of work that was undertaken by the staff. I take this opportunity to thank the secretary of the committee, Mr Anthony Beasley, and the research officer, Anne Melrose.

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

SELECT COMMITTEE ON STAFFING, RESOURCING AND EFFICIENCY OF SOUTH AUSTRALIA POLICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (20:27): I move:

That the report of the select committee be noted.

This select committee, as members would be aware, was reconstituted after the last parliament. This select committee did an extensive amount of work and took a tremendous amount of evidence. South Australia Police and the Police Association, on that select committee, made some significant submissions and the committee provided an interim report before the last election.

However, one or two witnesses who wanted to give evidence to the select committee were unable to do so because of the election and its timing in 2006, so we reconvened this select committee to allow a particular witness, Mr Kerry McCloud, who had some issues in relation to the handling of his particular circumstances within SAPOL, to come in and give us an account of how SAPOL had handled those issues. Then, of course, we were grateful to have the South Australia Police and the Police Association give evidence in response to the matters raised by Mr McCloud.

We also had another witness who did not wish to be identified and who had been working in the Paedophile Task Force. That witness also raised a number of issues consistent with Mr McCloud in relation to harassment, bullying and intimidation in their experience. We also sought evidence from the Police Association and South Australia Police on those issues. I do not wish to speak at length about the evidence given by either of the witnesses or, in particular, the evidence given by the Police Association or the police themselves. I think that members themselves are quite capable of reading the report.

I believe that the recommendations encapsulate the views of the committee. We believe that SAPOL does have an adequate mechanism and processes in place to handle issues of human resource management, although I suspect that committee members all agree that probably over the time of these cases they may not have adhered as diligently to their practices and procedures as they should have. Of course, once you end up with a bit of a 'he said/they said' set of circumstances, then it starts to become blurred and people feel as though they have not been treated fairly in any of these processes.

Our recommendation is that we request SAPOL to adhere more closely to its stated human resources management policy. Our view was that, if they adhered to that more closely and more strictly, there would be more clarity in relation to the people involved in these particular circumstances. Nonetheless, we do thank Kerry McCloud for coming forward and putting his set of circumstances on the record. I think we all saw that he had a significant number of issues that

should have been addressed properly and quickly in the initial stages. That did not happen, and the issue continued to be a problem for both Mr McCloud and, of course, SAPOL itself.

Members will recall that Mr McCloud was directed by a senior officer not to have any contact with the media or even with his local member of parliament, and I raised this by way of a question to the Hon. Paul Holloway when he was minister for police. During the evidence, SAPOL did say that it was not intended that he not have any contact with his member of parliament, but clearly that was another issue where Mr McCloud felt he was being intimidated and, if you like, silenced and gagged, and in no way able to tell his side of the story when he felt that his employers were not listening.

The other interesting fact was that the person from the paedophile task force who gave evidence to the committee certainly had some issues with human resource management, but also in relation to practices occurring within that task force, particularly with the fact that a large percentage of the cases were being shelved because they wanted to wind it up by 30 June 2010. I think that caused that person particular concern, given that there were a large number of cases and given the very difficult sets of circumstances with which they dealt. SA Police gave evidence suggesting that, while it had not shelved a third of the cases, with a number of the cases there simply was not sufficient evidence to investigate further.

As you can see, Mr Acting President, a number of issues were raised. The committee recommends that SAPOL adhere more closely to its policies. I think it is the same with any issue; right from day one, when the concerns were raised, if there were some clarity about the process and everyone knew where they stood then I am sure that the issues would have been resolved and we would not have had the angst and stress that has been caused to the two people who gave significant amounts of evidence.

I would like to thank the members of the committee: the Hon. Terry Stephens, the Hon. Russell Wortley, the Hon. John Darley, and the Hon. Ann Bressington. I would also like to thank Mr Chris Neale, the secretary of the committee. Again, it is quite a small report because it is just the add on from a significant select committee. I would also like to thank the witnesses for coming forward and giving their evidence in the frank and fearless way they did, as well as SAPOL and the Police Association for the way they were able to bring back responses and evidence in a timely manner. With those few words, I commend the report to the council.

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

SELECT COMMITTEE ON TAXI INDUSTRY IN SOUTH AUSTRALIA

The Hon. R.L. BROKENSHIRE (20:33): I move:

That the report of the select committee be noted.

First and foremost I would like to thank my colleagues, who put in quite an amount of time listening to and reading evidence, and working on the report of the committee. I would also like to place on the public record my appreciation to the Hon. John Darley, the Hon. John Dawkins, the Hon. Bernie Finnigan, the Hon. John Gazzola and the Hon. Rob Lawson. I would also like to place on the public record my appreciation of the secretary Mr Anthony Beasley and the research officer Ms Geraldine Sladden.

Given the time, and because we will be here dealing with a lot of business tonight, I will be brief, because other members want to speak. Frankly, it is all in the report. I just want to say a few things. First of all, I note the democratic right of some members to move their own notification with respect to how they see issues around the committee. I respect that, but I want to say that the goal of the committee was hopefully to come up with some recommendations to improve the taxi industry.

It is interesting that, even in the past few days, when talking to different constituents who asked what we are doing this week, I said that we would be bringing up a report on the taxi industry. They said that that was good, because they did not know of anybody who did not want to see some sort of improvement in the industry. So, it was not a vendetta against certain individuals or organisations. That was never the intent.

One of the things that did come before me personally, which I spoke about before, is that there were so-called allegations of inappropriate conduct with respect to some potential fraud issues, etc. None of that is in the report; in fact, it is fair to say that there was no absolute firm evidence recorded. There was evidence put before the committee which was not published. It is

not easy, frankly, to expect a committee to come up with anything in that regard, but there needs to be an opportunity for people who are concerned, if they are allegedly being charged a Heysen tunnel tax, an airport tax or a festivals tax, to go to someone who can sort out those issues.

Whilst I respect the fact that the Taxi Council of South Australia by and large, I believe, does a good job, I feel that often the Department of Transport seems to regard the taxi council as the be all and end all for issues dealing with the taxi industry but, really, it is the Department of Transport that has the regulatory and overarching responsibility. That is why one of the key recommendations in the report is to provide a dedicated unit without having to bring in additional resources; the simple restructuring of resources within the department will provide stronger oversight of and support for the taxi industry.

If people do have complaints at the moment, whether they are drivers or passengers—those two in particular I raise here because, frankly, it is pretty difficult for them to get any action—who is responsible for that? Where do those people go—unless, of course it is a very serious situation, like we have seen at times, unfortunately, when there is some sort of assault on either a driver or passenger.

With respect to the Premier's Taxi Council, the majority of the committee believed that it was best that it be renamed to reflect what we saw as its real composition and function, that is, of an advisory body. At the moment there are mixed messages out there when it comes to who is the council, who is the advisory body and who actually represents the association. Also, the report recommends that the Taxi Council of South Australia considers removing the word 'council' from its name to better reflect its role as an industry association.

One of the issues that came up in evidence was the fact that some of the drivers feel that they do not fit as appropriately as they should in either the advisory body within the Premier's Taxi Council or the Taxi Council of South Australia, which they feel has more of a key representative role when it comes to licensed owners and people leasing plates, and also when it comes to issues involving the central booking services.

That brings in the next point. The majority of the committee recommends in this report that, as a matter of urgency, the Minister for Transport introduce measures to improve transparency in trading taxi licence plates and incentives involving the transfer of taxi licences. I refer to the situation where someone has bought a taxi, they are doing the right thing, they are working hard for not a lot of money, and at the end of that 12-month period, as an example, they are hijacked by someone allegedly bringing cash forward to up the ante on the leasing of that particular licence and effectively putting the other bona fide hardworking driver out of business.

The majority believes that if there were some transparency, some form of registration structure, something like a Bendigo exchange, then it would put more clarity and transparency into that issue as a whole whereas at the moment it is very hard to identify who buys and owns what, what they really pay for them, etc.

With respect to the independent evaluation of driver training, we acknowledge that there have been a number of improvements to the industry during the short period of time that the select committee has been working, and we acknowledge that there have been improvements which are highlighted at the back of the report.

Notwithstanding that, the majority of the committee still felt that an independent evaluation of the driver training course should be undertaken to assess its effectiveness and propose any changes necessary because, whether it is the Transport Workers Union, the president of the Taxi Drivers Association or indeed—whilst they have actually worked hard to improve this and I acknowledge it—the Taxi Council of South Australia, many believe that there should still be more focus on driver training and ongoing support in those early weeks and months as a driver.

That brings me to another point. Whilst, during the period of this select committee, the state government here did move for people to have an Australian driving licence for six months before they can get a taxi licence (and I am happy about that personally), we are still concerned because some states already have 12 months in place and I understand that some are moving to 12 months. We request that the minister, at an appropriate time after the election, evaluate how the six months is going and whether that should be made 12.

Obviously there are issues: a well-known one is the safety of drivers and passengers. We did have some representation and submissions from people who indicated that there are new technological advances when it comes to improving passenger and driver safety. We are asking

the Minister for Transport to proactively promote and encourage the introduction of the latest technology.

Some of this technology actually tracks a taxi from the time that it picks up a passenger through every street right through to where it drops a passenger off so there is absolute opportunity to protect both the driver and the passenger. SAPOL requested that CCTV footage in taxis should be retained for a minimum of 60 hours. SAPOL had some concerns about the fact that it felt that this footage was being retained for too short a time if it needed it for any evidence or investigation, so the committee recommends that CCTV footage be retained for a minimum of 60 hours.

One of the other points that was of concern is not of the minister's doing. I understand that the department did this, and I believe this is almost like a form of blackmail on the part of the department. As members would know, there have been a lot of issues about country taxis and whether country taxis should be licensed. We had evidence given to us that, because some taxi companies and/or drivers had said no to certain issues regarding the regulations that the department was bringing forward, their South Australian transport subsidy scheme vouchers were withheld. I think from memory it was either $6,000 or $8,000 in one case that this company had not been paid.

That is not satisfactory. A department should not be holding anybody to that sort of ransom. It has a duty to pay within the prescribed time, so we are asking the minister to instruct DTEI to pay the South Australian transport subsidy scheme vouchers promptly in future.

With respect to country taxis, which was one of the more significant issues in the time that we had to take evidence, there clearly has been a real problem for some time. The only example where it appears to work reasonably well is down in Mount Gambier and, of course, the council still has a regulatory role down there. That one seemed to work well, but, apart from that, most of the evidence that we had from country taxi representation was that they wanted a licensing regime similar to the licensing regime for metropolitan taxis.

One of the other recommendations was that, rather than regulation, within a region country taxis are licensed. I will not spend much longer talking on this now; it is all written and documented here. I highlight the fact that it is hard enough as it is getting transport of any form in the country; in fact, a lot of country areas miss out on basic transport, and that puts other difficulties before people. For example, if you are in the country and you want to go to a function and have a few drinks, you have no choice but to make sure that someone is the captain to drive people home, because there is no taxi service.

If we had this structured and licensed properly within regions it would encourage those who already have taxis—a significant investment in infrastructure and vehicles—to have some guaranteed continuity of income. There would also be an opportunity at some point to build a bit of goodwill into that, which is not unreasonable in any business, but also, importantly, it would then give more assurance to those people in that region that they could access a taxi. We see that as another very important initiative, and we are calling on the minister to come up with a full taxi licensing regime within regions for country taxis throughout South Australia.

Obviously, we had to bring this report down now, because this is our last chance before the election. There were a number of other people who we would have liked to have interviewed. I put on the public record that some of us were particularly interested in getting input from people with disabilities with respect to how they are faring with taxi industry support, but time did not permit. Hopefully, in the new parliament, if there is to be a further consideration and development of improving our taxis, there will be an opportunity to broaden this inquiry.

I finish by saying that one thing that did concern many of us is that, whilst the capital increases, year in year out, have been magnificent for those people who have invested in taxi plates, in fact, even with the significant capital gain over the past 10 years in real estate in South Australia, the fact remains that you would have been better off to have bought taxi plates, because they have increased even more significantly than those huge increases that we have seen in real estate values. Unfortunately, at the other end of that, and partly as a result of that, drivers are working longer hours for less. In fact, we had, I believe, quite a lot of substantial evidence confirming that many drivers are working 60 hours a week for about $480 to $500 a week, which is not a very good pay structure at all.

It is something that, obviously, we do not expect the government or the parliament to address, but somewhere in the industry it has to be addressed. We have seen recently where taxi drivers, when they were working for either a person who had leased a plate or who was the owner

of a plate, were actually sharing the revenue from each fare 50-50. That has been reduced now, in a lot of cases, to where the owner or the lessee takes 60 per cent and the driver has been reduced to 40 per cent. You are not going to sustain an industry that way; you will get a lot of turnover and a lot of dissatisfaction and frustration from those drivers. There is, of course, the occupational, health and safety issues when you are driving for 60 hours a week for both the driver and, of course, the passengers.

With that, I know the government was not happy about this committee, but I believe that it was important to give the community an opportunity to have input. From what I can see in the report, I do not believe that there is anything that is having a whack at the government. I believe that there are some good and sound recommendations there, and I think we have to remember this: first and foremost, when we inject a lot of money in every way to enhance our tourism opportunities in this state, the first real feel of the state that people get is when they leave the airport and get in a taxi. If they have a bad experience with that then that can cause negative attitudes to a lot of other experiences within this state.

It is a very important industry, and it needs to be supported from the peak, which is the Department of Transport, and that is why, fundamentally, whilst I personally would have liked to have seen a commissioner for the taxi industry, the absolute majority of the committee did not think that we should go that far, but they did believe that we should have a dedicated unit. I hope to see further improvement with the industry, and I believe this effort by the committee has been of benefit to the industry, and I thank my colleagues for their contribution.

The Hon. J.S.L. DAWKINS (20:50): I rise to support the comments of the chair of the committee and commend the report and its recommendations to the council. I certainly will not go through all the recommendations in detail, but I wish to highlight about six of them briefly. I strongly support the recommendation that a separate dedicated unit be established in DTEI to provide stronger oversight of and support for the taxi industry. Certainly at the moment it comes under the safety and regulation division of DTEI, and most of us on the committee would recognise that the focus on the taxi industry could have been a lot stronger, which is why the majority of members of the committee have come down with that recommendation.

The Hon. Mr Brokenshire alluded to the next two recommendations, which try to fix up some of the confusion. If anybody does not have a lot to do with the taxi industry and gets involved in an inquiry into it, when you get the Premier's Taxi Council and the Taxi Council of South Australia, there is significant confusion. The Premier's Taxi Council no longer has the Premier as a member, and it certainly has not met a great deal in recent times. We moved that it be renamed to more truly reflect its composition and function as an advisory body. We also urge the Minister for Transport to encourage the Taxi Council of South Australia (TCSA) to replace the word 'council' and go back to something that better reflects its role as an industry association.

I refer particularly to the recommendation made by the majority of the committee in relation to country taxis, namely, that all country taxis be licensed for a specific region with appropriate transitional arrangements to be put in place to give due recognition to existing operators. This would reflect the situation in all other states of the commonwealth. Most members of this place would be aware that in the past taxis in country cities and larger centres have been regulated by council by-laws. In all bar one case, councils have decided that they do not want to be involved, and only the City of Mount Gambier currently has by-laws for taxis.

The Hon. R.I. Lucas interjecting:

The Hon. J.S.L. DAWKINS: I reiterate that only the City of Mount Gambier has by-laws for taxis, and the Hon. Mr Lucas should know that, coming from the Blue Lake city. We have recommended that all country taxis be licensed. The committee did not want to go quite this far but, as a personal recommendation, I believe that it would be appropriate to make use of the new common regional boundaries this government has brought in, as that would be sensible.

Recommendation No.12 is that an independent investigation into hire cars working as de facto taxis in peri-urban areas be undertaken in order to clarify their operating environment. I strongly believe in that recommendation, coming from the town of Gawler, which is bigger than some of the country cities in this state but which some people still like to call a town. It has what everybody calls taxis, but they are not taxis but hire cars. We have similar circumstances in the Adelaide Hills, and it is a strong recommendation that the government have an independent investigation into the operation of hire cars in those scenarios.

The other recommendation with which I have a particular affinity is that clear regulations for multi-seat fares be introduced as soon as possible. We had evidence from the department that, of course, if independent travellers all share a taxi, then the taxi driver can charge 75 per cent of the fare to each of those people, which is not a bad lurk if you are a taxi driver. I think we have all known that that has existed for some time. However, it has been my own experience that, on very busy occasions at the airport, when many different aeroplanes arrive at once and there is a big queue of people wanting to travel in taxis, the concierge will bring forward a minibus and say, 'Anyone wanting to go to the CBD, all pile into this bus and it will be $15 per head.' The department said that is not really legal. It makes sense if it can shift people more quickly out of a queue, if you are going into the city rather than disparate parts of the suburbs or elsewhere, but it really needs to be cleared up.

In conclusion, I note appendix 3 of the report which covers a number of recent developments in the industry that have taken place during the life of the committee, and while we would not claim to have an impact on all of them, the fact that a number of them have taken place during the life of the committee is no coincidence. I extend my thanks to the secretary of the committee, Mr Anthony Beasley, and our research officer, Geraldine Sladden, and I thank my colleagues the Hons Messrs Brokenshire, Darley, Finnigan, Gazzola and Lawson.

In my final comment in commending the report, I must say that I felt sorry for the staff of this committee having to deal with three Johns, two Roberts and a Bernie, who we suspected must have Robert or John as a second name!

The Hon. R.D. LAWSON (20:57): I rise briefly and will not repeat comments made by other members. However, I do deplore the statements made by Labor members, the Hons John Gazzola and Bernie Finnigan, in their dissenting statement. The dismissive and disrespectful language of that statement does no credit to those members. They say the committee was established for a political purpose. The purpose it was established for was to investigate and report upon improvements that should be made to the taxi industry. It is clear from the evidence received and also from the evidence members will be familiar with on a day-to-day basis that there is a need for improvement in the taxi industry in South Australia.

We have the situation that the cost of a taxi plate has now risen to some $320,000. People are paying excessive amounts to lease taxis. The income of taxi drivers is barely above the breadline, and those so-called friends of the workers opposite who say there is nothing wrong with the taxi industry have buried their head in the sand. The most deplorable example of government arrogance that was revealed in the evidence in this select committee concerned country taxis. For a long time, the government has been endeavouring to force the Country Taxi Association country operators to abandon their claim for taxi licences, that is, the sort of licence that is enjoyed by metropolitan operators.

The government has been seeking to force them to accept a form of authorisation—something less than a licence—and the country taxi operators were strongly resisting that. Taxi income, to quite some considerable extent, relies upon payments made by the government under the transport subsidy scheme.

What the government did to bring the country taxi operators to heel on this issue was deplorable. The department refused to pay those operators who were not agreeing to the government's proposal for their taxi vouchers. It withheld payment of hundreds of thousands of dollars, until, finally, the country taxi operators agreed to the government's demands and the payments were then made. That was a deplorable abuse of power by the government. Government members might not have liked to see that appear in the light of day; I am glad that the taxi select committee has revealed it.

I think that a great deal more evidence could have been collected by this committee had it had a longer time in which to collect it. However, the committee was anxious to ensure that a report was presented to the Legislative Council and that certain issues were aired, and they have been aired. Like other members, I commend those who assisted the committee in preparing and presenting the report.

The Hon. J.A. DARLEY (21:00): I rise to support the comments of my colleagues on this committee. The select committee was asked to inquire into and report upon practices and opportunities for reform in the taxi industry in South Australia. In particular, term of reference (a) called for the committee to investigate the commercial and advisory structure of the industry and potential for conflicts of interest thereto.

From the evidence provided, it became clear that two peak bodies, the Taxi Council of South Australia and the Premier's Taxi Council, did not reflect the functions and composition of each respective body. Furthermore, the similarity in the names of the two bodies caused confusion between the two and the role they play within the industry. The committee therefore recommends that the Premier's Taxi Council change its name to reflect better its function, and for the Taxi Council of South Australia to replace the word 'council' in its name to reflect better its role as an industry association.

Whilst not a formal recommendation from the committee, the committee saw merit in allowing nominated spokespersons of disability groups and pensioners to become members of the Premier's Taxi Council to gain better representation from a broad spectrum of taxi users. Term of reference (e) called for the investigation into causes and remedies for assaults upon drivers and assaults by drivers. The Taxi Council of South Australia, the Adelaide Cab Drivers Association, the Department for Transport, Energy and Infrastructure (DTEI), SAPOL and the Transport Workers Union made a number of suggestions to address the safety concerns for both customers and drivers.

However, the committee found that all parties had not been proactive in utilising technology to improve safety and efficiency. The committee therefore recommends that the Minister for Transport proactively promote and encourage new technology to improve safety and efficiency and enforce driver/passenger safety. Further to these two recommendations, the committee recommends that, given the important role in overseeing and regulating the industry, a dedicated unit of DTEI should be established to oversee the taxi industry.

This recommendation is due largely to evidence which indicated that complaints and issues—including recommendations to improve safety raised with the Department for Transport, Energy and Infrastructure—are not being adequately addressed. The committee believes that these issues would have received more attention had there been a dedicated unit for the taxi industry within DTEI. I thank my colleagues and also the research officer and the secretary for their dedicated work on this issue.

The Hon. B.V. FINNIGAN (21:03): I was not planning to contribute, but I feel obliged—

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

The Hon. B.V. FINNIGAN: This is my dissenting statement, which is part of the report, for the benefit of the Hon. Ms Lensink, which she would know if she had read the report. I feel obliged to respond to what the Hon. Mr Lawson in particular had to say. This select committee has been a huge flop in terms of what it was supposed to achieve and why it was set up. As I indicated earlier, these committees are set up to get a bit of a political run out of a few things, and this one failed spectacularly in that. Let us look at the top three recommendations.

The first is that there be a separate unit within DTEI. Well, that is pretty revolutionary! I mean, hold the presses: we are going to rearrange a government department, everybody. That is the number one recommendation. Number two is that we rename the Premier's Taxi Council, and number three is that we rename the Taxi Council of South Australia. So, the three biggest issues facing the taxi industry are the composition of the department that oversees it and the names of two of the bodies.

The committee's mover and chairman (Hon. Mr Brokenshire) issued a media statement headed, 'Corruption inquiry into the taxi industry formed in parliament'. A corruption inquiry, and yet the top three recommendations are about the arrangement of government departments and the naming of industry bodies. In fact, the majority members of the committee found that the committee heard a number of allegations but was not presented with any substantiated evidence of fraud and corruption in the taxi industry. As noted in the dissenting statement from the Hon. Mr Gazzola and me, the only credible witnesses we heard from were the departmental officers, the Taxi Council of South Australia, the Transport Workers Union and South Australia Police, which I think made only a written submission.

An honourable member interjecting:

The Hon. B.V. FINNIGAN: Sorry; I stand corrected. The recommendations—

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

The PRESIDENT: Order! The Hon. Mr Dawkins has had his go.

The Hon. B.V. FINNIGAN: —were almost comical, and came down to the suggesting of name changes. In relation to country taxis, the country taxi organisation and the various people who operate country taxis came to the committee. I am disappointed that they had been misled, I believe, into thinking that this committee would somehow address the concerns that they were raising. I acknowledge that the people in Mount Gambier—and, in particular, the two taxi operators there—do indeed operate a very fine service that is well regarded by the people in the city. However, what this committee has done is talk to a lot of the country taxi operators, many of whom say, 'We want a licensing system like the city.' Simultaneously, this committee is arguing that the licensing system in the city is riddled with problems: the plates are too expensive, there is trading, there are people giving licences to each other, and they are not getting paid enough. It is just riddled with all sorts of problems.

So, what should we do about country taxis that do not have this licensing system? We should introduce the same system that they have in the city. That is the simultaneous conclusion of this committee. It is just beyond absurdity.

When it comes to country taxis, this government has introduced state-wide country taxi accreditation for the first time. I understand and acknowledge that many of the country taxi operators want a licensing system. However, what this committee has recommended does not address that at all, because it is just saying, 'Well, let's set up the same system as in the city.' It has not tried to define what those boundaries ought to be.

The committee never addressed the serious issues related to moving to such a system. How do you overnight create something that has an economic value? What about the people who are already operating? Does that mean that they get some sort of first dibs on the system? Then do you end up with the problems that the majority members say exist in the city, where you have untrained drivers who are doing it only because they are being paid by interstate owners, and so on? There is that whole range of things that are simply not contemplated by the majority members of the committee. It is quite simplistic just to say, 'Let's have a country taxi licensing system' without addressing any of those major issues.

Indeed, as we acknowledge in our dissenting statement, there are important things that the taxi industry needs to do in relation to training with respect to new technology and security for both passengers and drivers. However, those things are being addressed through various mechanisms, whether it be the department, the Taxi Council of South Australia or, indeed, through national agreement. As we know, at the recent ministers of transport meeting there was discussion about setting up a framework for taxi training across the country.

It is important that the taxi industry provides a good and safe service for South Australians, but those things are being addressed. However, this committee, which supposedly was going to expose corruption and all sorts of problems, has not really come up with any substantive evidence.

The most clear example of that is in relation to corruption. We had some extraordinary evidence from one of the witnesses—who, it must be said, did not take a shine to me or the Hon. Mr Gazzola. In his statement, that witness talked about al-Qaeda—I think it was al-Qaeda; he certainly mentioned terrorist organisations being involved in putting together fake taxis in Sydney to operate for the purpose of terrorist attacks. I do not know much about terrorism, but I would think, if you were a vile enough person to commit terrorist acts, stealing a taxi would not be beyond you and that you would have to go to such trouble to create one in order to fool authorities.

This witness contended that was happening, and had happened in Sydney. He contended that the large number of Indian students involved in taxi driving in South Australia is evidence of some sort of potential terrorist link. It is an outrageous, deplorable and racist slur to suggest that because a large number of people from other countries are involved in driving taxis it is some sort of evidence of a terrorist connection.

That is the credibility and the standard of the evidence which the committee is putting before this parliament. The person who made those statements was given two hours, or at least an hour, of the committee's time. Further submissions from that person were accepted by the committee, when that is the standard to which this parliament is being held by the majority of members of this committee: someone believes there is active terrorism involvement in the taxi industry in South Australia because Indian students are driving them. That is what the majority of members of this committee are standing for with this report. It is a disgrace and it brings this parliament into disrepute. This committee has been an absolute embarrassment to this parliament.

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

SELECT COMMITTEE ON CERTAIN MATTERS RELATING TO HORSE RACING IN SOUTH AUSTRALIA

The PRESIDENT (21:11): I remind members speaking on this matter that a number of court cases are pending and a number of charges could be laid on individuals involved—

The Hon. T.J. STEPHENS: Mr President, are you saying 'could be laid'? Are you saying that I have to worry about charges that might be laid?

The PRESIDENT: Order! The President is talking. I remind members to be very careful.

The Hon. T.J. STEPHENS (21:11): Thanks for your guidance, Mr President; it is always very welcome. I move:

That the interim report of the select committee be noted.

I am pleased to speak on the progress our committee has made to date with its deliberations. The committee has resolved to present an interim report as we would be unable to finalise deliberations before the rising of parliament given the large volume and value of evidence presented thus far. We are still some way off from presenting any conclusions or recommendations. I offer this report as a valuable reference point and an account of the evidence to date.

I know that you, sir, and all committee members share my enthusiasm to report on the committee's progress to this point. This is an important select committee—a good select committee—and I know that those involved in the racing industry and the community in general appreciate the establishment of this committee.

The Hon. R.P. Wortley interjecting:

The Hon. T.J. STEPHENS: Was that an interjection, Mr President?

The PRESIDENT: Order, the Hon. Mr Wortley!

The Hon. T.J. STEPHENS: Thank you; I appreciate your protection, sir. This committee gives people the opportunity to raise their concerns about the racing industry in an open and transparent way. It is an industry—and let us not beat around the bush—which has been dogged by controversy in recent times. It is an industry which had lost the public's confidence to some extent.

The committee was established to inquire into and report upon the sale of Cheltenham Park Racecourse; rezoning of Cheltenham Park Racecourse; the relationship of decisions made in connection with the sale of Cheltenham Park Racecourse with proposals for the redevelopment of Victoria Park; matters of corporate governance within the South Australian Jockey Club up to and including March 2009; the role of Thoroughbred Racing SA in relation to the above matters; matters of corporate governance within Thoroughbred Racing SA up to and including March 2009; and other relevant matters.

In March when the Liberal opposition sought to establish this committee, I made the following comments:

Thoroughbred Racing SA Chair Mr Philip Bentley has confirmed that matters of concern prior to the November 2008 membership issue had been raised in a draft of the Lipman Karas review but had been omitted from the final report. He also confirmed that corporate governance concerns had been raised with him some two years ago. We need to know more about those concerns and Mr Bentley's response to them. In the period 2004 to 2008 key commercial decisions have been made that involve the South Australian Jockey Club, TRSA and the South Australian government. There was also a review of racing commissioned by the Rann government in 2006 and conducted by Mr Philip Bentley where concerns raised were not tested or verified by him.

Decisions made relating to the sale of Cheltenham, the restructure of racing's administration, the proposed and then cancelled development of Victoria Park and the payment of funds to develop Morphettville are all entwined.

I stated that the Lipman Karas review has merely 'opened the door' to the activities of the past five years and went on to say:

The last five years or so has seen racing go from a three-track business to a single track enterprise where major decisions have been driven by and influenced by a small group of people, including racing minister Michael Wright.

In attempting to establish this committee—a move strongly opposed by government members, I might add—I stated that there had been a rather large cloud hanging over racing in this state. The opposition's intention was to move for the establishment of a select committee to provide people

with the opportunity to come along and have their say with regard to racing in an open and transparent way. This has been occurring to date, and we have learned a number of things.

One of the most alarming statements made to the committee was that the racing minister was allegedly well aware of the controversial membership drive within the SAJC. Former jockey club chief executive, Mr Steve Ploubidis, appeared before the committee and advised us that he had spoken to the minister at a function three weeks before the election. Mr Ploubidis said:

> He asked me if the right people were going to be elected. I mentioned to him that there was a very strong membership drive of young members and that the sponsors were looking at sponsoring those young members. His comment was, 'well, that's what happens in the Labor Party all the time...just make sure they vote.'

The committee has given the opportunity to minister Wright to come along and give his own version of events and respond to these allegations, but he has refused to do so, to date. The minister was quick to publicly deny the allegation but has been unavailable for questioning. Unfortunately, the racing minister does not support our committee and the work we do.

We also learnt during the very same meeting when Mr Ploubidis appeared that, according to Mr Ploubidis, TRSA chair Philip Bentley knew about the membership drive. Mr Ploubidis informed the committee that Mr Bentley was aware of the 'strategy to increase membership' and gave his 'total support going forward. He took a keen interest in it,' he said.

At that point I would like to read a letter which was sent to the committee and which was received and published. It says:

> Dear Mr Stephens,
>
> I request that the following statement(s) is added to my evidence as given on 23rd October 2009.
>
> In relation to your question 'Was minister Wright aware of the membership drive that you people had embarked upon?' (Ref 654) I wish to add the following:
>
> > After advising the Minister of the membership drive on Melbourne Cup Day, I distinctly recall telling Bentley (on the same day) that I had a discussion with the Minister regarding the up and coming election, and that during this discussion I told the Minister about the young members drive and the fact that they were being paid for by sponsors.
> >
> > Bentley was surprised that I had told the Minister and I distinctly and precisely recall him (Bentley) saying, 'you didn't, did you?' I responded by stating that I did not think it was anything to hide and therefore nothing wrong with my comments.
> >
> > Upon reflection, it appears that Bentley was annoyed that I had this conversation with the Minister because it linked Bentley with what the SAJC was doing (membership drive). Now that the Minister knew it also exposed Bentley that he was party to the strategy, by simply being aware of it and condoning it by not taking any action!
> >
> > During the course of being interviewed by Lipman Karas, I recall making a statement that Philip Bentley and a high profile government member (Michael Wright) were aware of the strategy to increase membership, particularly young membership.
> >
> > However, given the focus on this strategy by Lipman Karas and their intensive investigation, the detail attributed in the Lipman Karas report pertaining to this matter (and the previous Supreme Court action instigated by Spear) I was most surprised that in the final Lipman Karas report, that there was no mention of this evidence forwarded by myself.
> >
> > In fact, I believe that it was also omitted from the transcript.
> >
> > Lipman focused on all parties involved in the membership drive, commented on their involvement, but failed to make mention of Bentley or the high profile government official.
> >
> > I was very annoyed and indeed suspicious when I read the report that this was not included.
> >
> > I was also surprised that the Independent Gambling Authority (Mr Chappell) came out strongly in the media defending Philip Bentley and accepting Bentley's rebuttal of my statement. Mr Chappell's stance clearly was based on the fact that Bentley had told him that he was not aware of the membership drive, and refuted the fact that I had discussions with him, both in Adelaide and Japan regarding the membership strategy.
> >
> > Again I found it unacceptable that just because Bentley had advised the IGA of my comments earlier, and proceeded to deny my claim, the IGA (Chappell), which its main focus is probity, simply accepted his rebuttal without questioning me on this issue at all.
> >
> > When I was summonsed to give evidence to the IGA (18 May 2009), I, under oath stated that Bentley was aware of the membership strategy. The IGA Board, immediately, without any discussion, dismissed my comments as a, and I quote 'a smoke screen.'

> Again I found this total disregard of my evidence to be rather odd and again led me to believe that the whole issue regarding the affairs of the SAJC, the investigation by Lipman Karas and the final outcome was indeed suspicious and this outcome in itself requires investigating.
>
> Yours sincerely, Steve Ploubidis.

What is just as disturbing as Mr Ploubidis' allegations about the racing minister and Mr Bentley is that Mr Ploubidis has alleged that Mr Bentley allowed Mr Ploubidis to work on the Bentley report into racing prior to its release. Mr Ploubidis revealed, 'There wouldn't be a day that went past without us strategising.' Mr Ploubidis went on to say that 'he emailed me a marked up version of his report before it was released and given to the minister'.

On 9 September this year, former TRSA chief financial officer, Mr Steven McGregor, also backed up this claim in his evidence to the committee. This is a report for which Mr Bentley was paid more than $100,000 and the same report which recommended a truly independent board, and yet Mr Bentley, a close friend of the Premier, ended up as chairman. Mr Steven McGregor also told the committee that he was also surprised by this move, just as many people in the industry were. Mr McGregor said:

> ...from a corporate governance perspective, it didn't read well to have an author of an independent report who recommended a change in board members would then get a job on the board—

and then be the chairman no less. Mr Ploubidis also detailed that Mr Bentley potentially discussed cabinet submissions with him. He said:

> What I did have was a document, a briefing paper that was prepared by Philip Bentley which I had a reasonable amount of input into. If it is a briefing paper I assume it goes to senior Government Ministers about where we go with the issue of Cheltenham, Victoria Park and the future of racing.

Mr Ploubidis also refers to sensitive emails which were confidential in nature and which Mr Bentley used to send to him. Certainly, what we have discovered from Mr Ploubidis's evidence is that he and Mr Bentley enjoyed an extremely close relationship until it all turned sour.

What this committee has discovered, through evidence presented to it, is that Mr Bentley's name has come up quite a lot, and one could say that his expertise within the racing industry has been questioned more than once. On 5 August, Mr John Glatz, Chair of the South Australian Racing Clubs Council, remarked, 'I had met Philip before and I had never had a problem with him but I did check up with lots of racing clubs in Victoria that he had had involvement with and I didn't get a very good report back.'

Mr Bentley's report has also been discussed in detail, and witnesses have expressed serious concerns about the report. Again, on 5 August, Mr Glatz stated that his organisation 'had grave concerns with some of the content of the Bentley report. We believe it was flawed'. Steven McGregor also advised the committee of his concerns with the report when he appeared.

Former prominent Labor MP, Mr Rod Sawford, stated on 4 August that the report was 'perfunctory and at best poorly received (and deservedly so) by the media. It was a disappointing document, it missed the point'. It must be noted that Mr Bentley had also been asked to attend the committee but, to this point, he has not made himself available.

Other evidence we heard as a committee revealed concerns about Mr Bolkus and his role as a lobbyist for the SAJC. Certain witnesses have raised concerns about conflicts of interest affecting Mr Bolkus in his role. Representatives from the Cheltenham Park Residents Association, Mr Rod Sawford, and SAJC Board member, Mr Bill Spear, all expressed their concerns in committee hearings about Mr Bolkus' work. They raised concerns about Mr Bolkus being involved as a lobbyist for the SAJC while he was also Chair of the Stormwater Management Committee.

I have to add that, as a committee member, I was surprised by comments that Mr Bolkus only ever provided verbal reports to the SAJC, even though he was being paid a significant amount of money by the organisation as a so-called success fee. In evidence presented by Mr Ploubidis on 23 October, he stated that Mr Bolkus received a $125,000 success fee. This payment related to Mr Bolkus successfully lobbying for the sale of the Cheltenham Park racecourse.

On 9 September this year, the former financial officer, Mr Steven McGregor, told the committee that he understood that Mr Bolkus gave verbal reports of progress instead of written reports. One would assume that, given the amount of money being paid to Mr Bolkus, it would be expected that detailed written reports would be provided, rather than verbal reports.

As our interim report states, the way the conflict of interest declarations were made by Mr Bolkus, the absence of written reports and the absence of a request for a written report are all matters of corporate governance which therefore relate to the committee's terms of reference. I certainly think that, to date, the establishment of this committee and the work it has undertaken has been more than justified.

I also indicate that Mr Bolkus has been invited to appear before the committee, yet he has not made himself available at this stage.

I would like to thank all the witnesses who freely gave up their time to appear before the committee and those who sent in evidence and submissions. This is a wide-ranging committee. We have heard many different points of view and, at my attendances at race meetings throughout South Australia, I have been thanked for making sure that we are helping to clear the air about racing. We actually have a new committee on board that seems to be working extremely well together, and the future of racing in this state looks very bright to me. This has been a dark period, and I am looking forward to the committee continuing its deliberations in the near future and to working with all members of the committee towards achieving a good goal, that is, for the prosperous future of racing.

The Hon. R.L. BROKENSHIRE (21:25): Mr President, I will be very careful with the few words that I have to say based on your wise counsel. Notwithstanding that, I do want to say a bit. I think it is unfortunate that this committee has had to bring down an interim report. Had we not been going to an election and we were able to get in all the witnesses that the committee believed should come before it, I believe there would have been a very interesting report, indeed.

While I know there will be debate on whether or not committees generally should be approved, after the election—and by then I would expect court cases and so on to be finished—this is one committee that should be reconvened for the best long-term interests of the racing industry. All the witnesses and evidence should be put in the public arena through the parliament. I personally admit that I am not into racing at all, but I do come from a background where my father and grandfather were involved in training racehorses, and I know that it makes a significant economic contribution to the state.

I know also that the racing industry has some problems at the moment, but I hope that the new board of the SAJC can improve the economic and growth opportunities for racing. It will have to do a lot of homework on even base management. Some people will not like me saying this with respect to the SAJC, but we have all been to kindergarten AGMs, school AGMs and Neighbourhood Watch AGMs, and their books are better kept and much more transparent than what I have seen in the history of the finances of the SAJC.

The racing industry is always coming to the government of the day wanting more—and I say that with respect not only to this government but also to previous governments. I sat around the cabinet table when it wanted more. This government has also given the industry more. The racing industry needs to clean up its act, and we must assist it in any way we can in the future interests of the industry.

I do not want to talk about individuals and I do not want to cause any concern whatsoever in relation to possible sub judice matters. However, with respect to the Cheltenham Park Residents Association—and this is one area that I can talk about that is not before the court, or pending—one thing that I have seen in the evidence so far that is absolutely clear to me is that the residents of Cheltenham and surrounding areas have been totally done over by the decision to rezone Cheltenham. They wanted that area kept as open space, incorporating a significant stormwater harvesting and recycling project. Clearly, that has not happened. They were let down, and they were misled. They were promised before elections that there was no way whatsoever that Cheltenham would ever be considered to be sold, but what did we see soon after the 2006 election? We saw a total backflip by the government, and we now have a situation where all those fine people, who are extremely limited as it is with respect to open space in the western suburbs, are seeing the Cheltenham Racecourse actually being cut up into housing blocks. Without pre-empting any of the other evidence that may come up in the future, that one group of people who have absolutely been misrepresented and should have been treated better are the residents in Cheltenham and surrounds, and all those people who made those commitments to them have a lot to answer for.

Having said that, this is an interim report, and I believe that this is an area where the parliament, and particularly the upper house, has a role in the future to ensure that we see a

sustainable racing industry—a racing industry that can stand on its own two feet—not a racing industry that has to come back to government every few years saying, 'Premier, minister, we need millions of dollars more.' They have to become sustainable. With that, I support the interim report and congratulate the members, particularly the chairman, because the facts of the matter are that it was probably the most difficult committee I have sat on for a chair to manage.

The Hon. R.P. WORTLEY (21:31): As you would realise, Mr President, we opposed the formation of this committee because we believed—and this is how it turned out—that this is just another political witch-hunt in search of sleaze and innuendo. As members would be aware, at no time did the chair have the confidence of the full committee. He had to come to the parliament and beg them to put him in there and pick him for the chair, so he is the only chair I know of in the history of this parliament who has been forced on a select committee as its chair.

I am amazed that he relied on the witness testimony of Mr Ploubidis and Mr Glatz. Both were on different sides of the warring factions in the racing industry and have been involved during one of the biggest declines in the racing industry in the history of this state. Both of those men have used this committee to slander people under parliamentary privilege. Mr Ploubidis had two hours when he slammed and poured mud over every single witness who had given evidence. Mr Ploubidis made those outrageous statements against the minister and Mr Bentley in regard to knowing about the membership. It was obvious that Mr Ploubidis had an axe to grind, and he used the committee to make allegations against a minister of the parliament and Mr Bentley.

At the end of the day, it will be Mr Ploubidis's testimony against that of Mr Bentley and the minister. Both of those people—Mr Bentley and, in particular, the minister—have not given evidence because they have to sit back and wait until all the evidence is given and then give their evidence. We knew that from the very beginning. It was one of the reasons that both the Labor members on the committee opposed the tabling of this summary of evidence and interim report. We knew, and so did the whole committee, that it put the minister, Mr Bentley and Mr Bolkus in a very unfortunate position of having been slandered under parliamentary privilege and not having an opportunity to refute the evidence.

The Hon. T.J. Stephens interjecting:

The Hon. R.P. WORTLEY: I have been asked by the honourable 'Mr Forced Upon Us' chairman of the committee, the Hon. Mr Stephens, whether they have been invited but, as I have stated, why would a minister give evidence rebutting information when there will probably be more evidence? Mr Ploubidis has always said that he wants to come out, and allegations like that from Mr Ploubidis will probably be given again. It is only logical that the minister would wait until the evidence and all the allegations are upfront, and then they will come along and give their rebuttal.

For you to come in here on the last private members' day before an election with all this quite slanderous evidence, evidence that was given under parliamentary privilege, and slander and defame a minister is absolutely disgraceful. It is an abuse of the parliamentary committee system. That is why there is so little respect for these committees, because you constantly abuse it.

Let us look at the history of this committee. First of all they were going to have five members on the committee, but then the Hon. Mr Darley decided he wanted to get on it, and he had the numbers. So what did you do? You decided that you had better increase it to six, but then you found out that you did not have the majority support of the committee to become chairman. So you then came into parliament—and I think this is a precedent—and said 'I don't have the majority support of this committee; I want you to impose me on the committee.'

This has been one of the worst run, most politically biased and partisan committees that this parliament has probably ever seen—or at least this century. It really is a shame that you will stoop to such a low depth, to come in here and malign a minister who has done nothing but help the racing industry and put him in a situation where he cannot defend himself at the time. You come along before an election and use what are probably two of the most unreliable witnesses we have heard up until now as evidence.

I notice that you did not mention Bill Spear. Bill Spear was probably one of the reasons we had this committee; it was he who led the revolt against the SAJC, and the court action, as well as the re-election of a whole new SAJC committee. Yet you mention him very little; you actually based most of your speech on two witnesses who were the most unreliable of the lot. You ought to be ashamed of yourself. I think you have done a shocking job as chairperson, and I think the public and the parliament should treat your evidence with the contempt it deserves.

The Hon. R.D. LAWSON (21:37): What a deplorable contribution we have just heard from the Hon. Russell Wortley. Perhaps he should have read it, as he usually reads his material—although apparently he could not get anyone else to write his speech this evening.

The PRESIDENT: Order! I remind the honourable member that he should stick to the report. Obviously the Hon. Mr. Wortley's speech had some effect on you.

The Hon. R.D. LAWSON: The manner in which he abused the defenceless but distinguished chairman of the committee, who did a sterling job in controlling—

Members interjecting:

The Hon. R.D. LAWSON: He controlled a disruptive minority who did—

The PRESIDENT: I remind the Hon. Mr Lawson that he should be careful, and not mislead the council.

The Hon. R.D. LAWSON: —everything it could to confuse the issues but who were an abject failure in that desire. The public of South Australia saw exactly what the testimony was, because the media were present during a number of the important hearings of this committee.

I am glad that the Hon. Russell Wortley mentioned Mr Bill Spear because it was Mr Spear who shone a spotlight on the way in which business is done in South Australia under the Rann Labor government. It was he who revealed that, unknown to the board of the South Australian Jockey Club, Nick Bolkus had been engaged to secure ministerial approval to a change in the status of the Cheltenham land to enable it to be sold. Mr Bolkus had a couple of meetings with ministers and, would you believe it, as a result of those meetings the necessary decision was made and Mr Bolkus was paid $150,000. What an absolute disgrace!

The Hon. R.P. Wortley: There was nothing but praise for him.

The Hon. R.D. LAWSON: The Hon. Russel Wortley is right when he says that he was an impressive witness. If the chairman failed to mention that in his address this evening, I am very happy to correct the record. The fact is that the government overbore a community group in the form of the Cheltenham Residents Association, admirably supported, I have to say, by a former Labor member of parliament, Rod Sawford, who gave evidence to the committee, important and significant evidence showing that the interests of the community were completely trampled by a government determined to achieve a particular outcome irrespective of the wishes of the local community.

We are seeing it again in relation to the St Clair land. The Labor Party thinks it owns the western suburbs and can do whatever it likes irrespective of the wishes of the local residents. Well, I think it is in for a big surprise in the forthcoming state election.

Like the chairman, I too regret the fact that time did not permit the committee to hear evidence from all of those potential witnesses who might have completed the picture; but we certainly received enough evidence to warrant the findings of this committee that reveal the nasty underside of the Rann Labor government.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: OFFICE OF THE PUBLIC TRUSTEE

The Hon. CARMEL ZOLLO (21:41): I move:

That the final report of the committee, on an Inquiry into the Office of the Public Trustee, be noted.

Essentially, the Office of the Public Trustee provides the core services of estate administration and trusteeship in South Australia. The office was established in 1881, pursuant to the Public Trustee Act of the time. The Public Trustee himself, who is currently Mr Mark Bodycoat, is a statutory officer who is responsible for the strategic direction of the office and the management of service delivery.

Under the provisions of section 5(2) of the Public Trustee Act 1995, the Public Trustee may act as trustee, executor of a will, administrator of an estate (whether or not of a deceased person), manager, receiver, committee, curator, guardian, next friend, agent, attorney and stakeholder.

The Statutory Authorities Review Committee resolved on 31 March 2008 to inquire into and report on the operations of the Office of the Public Trustee. Mr Bodycoat has held the position of Public Trustee since September 2007 and therefore has been the Public Trustee throughout the entire period of this inquiry. The committee, however, did hear historical evidence on issues dating

back to 1998. The public trustees prior to Mark Bodycoat were Ms Catherine O'Loughlin from March 2002 to 2007 and Ms Judith Worrall from July 1991 to 2002.

It was clear from the outset that, upon commencing as Public Trustee, Mr Bodycoat implemented changes in order to improve staffing issues and customer service. However, the committee has a number of recommendations for consideration by the Attorney-General that it believes could further assist in improving the staff culture and service standards that are currently in place.

Before proceeding further, I would like to place on the record that I was appointed and elected as presiding member of this committee a year into the Office of the Public Trustee inquiry. I would therefore like to take this opportunity to thank the other members of the committee, including previous members, for their contribution and, in particular, the previous presiding member, the Hon. Bernard Finnigan. I would also like to thank all current members of the committee: the Hons Ian Hunter, Terry Stephens, Rob Lucas and Ann Bressington.

I also acknowledge and thank the staff of the Statutory Authorities Review Committee for their contribution and ongoing support. In relation to this report, I particularly thank our research officer, Ms Lisa Baxter. On behalf of the committee, I also take this opportunity to acknowledge and thank the organisations, agencies and individuals that submitted evidence to the committee during this inquiry.

The committee heard evidence from a variety of sources and received both written submissions and oral evidence. The committee also received a number of submissions from the Public Trustee in order to receive relevant and updated information. Through the information provided to it, and through its own research, the committee was able to gain a clear understanding of the key issues.

By way of background, the inquiry into the Office of the Public Trustee received written submissions from 29 interested stakeholders. These included clients, clients' family members, ex-employees, advocacy groups, the Government Investigations Unit, the Public Advocate and the Guardianship Board.

Importantly, the inquiry heard from parties who had experienced direct dealings with the Office of the Public Trustee. Many witnesses provided the committee with their own recommendations on improving the Office of the Public Trustee, whilst also noting the important role that the Public Trustee has in South Australian estate administration.

Whilst receiving evidence in this inquiry, four main themes emerged: Public Trustee customer service and client contact, financial administration, internal management practices at the Office of the Public Trustee, and the Public Trustee's relationships with other organisations. I will endeavour to outline the evidence received by the committee under each of these topics.

In relation to customer service and client contact, the committee heard from Public Trustee clients, ex-employees and advocacy agencies in relation to the administration and management of Public Trustee client files, customer service and work practices. A major part of this evidence revolved around clients' dissatisfaction with the Office of the Public Trustee's responses, or lack thereof, to both oral and written communication.

The committee was given examples where clients had waited weeks for responses to very simple questions or requests. The committee agreed that the examples provided raised legitimate concerns at the standard of customer service in place at the Office of the Public Trustee. Ex-employees also told the committee that, in their experience, it was well known that certain officers would leave some correspondence in the too-hard basket.

However, the committee also heard that the Office of the Public Trustee at times dealt with difficult or unwilling clients, and the Public Advocate commented that there were instances of extraordinary individuals working within the office.

The ACTING PRESIDENT (Hon. I.K. Hunter): Order! The level of conversation in the chamber is just a little bit too audible. If members wish to have conversations of a private nature, please leave the chamber and allow the speaker to be heard in silence.

The Hon. CARMEL ZOLLO: Thank you, Mr Acting President. I felt that I was having to raise my voice continuously. The current Public Trustee, Mr Mark Bodycoat, believed that some of the unsubstantiated allegations made about work practices within the Office of the Public Trustee appeared to be overstated. Mr Bodycoat explained that, whilst it was clear that there had been

instances of substandard file management and behaviour in the past, they were not widespread and related to a limited range of instances and individuals.

Service standards that have been put into place at the Office of the Public Trustee now require responses to telephone calls and emails to be made by staff within one working day. The committee also received evidence on the number of Public Trustee client files per staff member, with the Public Advocate explaining that it was well known that Public Trustee staff often had high case loads. The committee found that the Office of the Public Trustee would be better serviced if it had a higher number of case officers, particularly in the area of personal estates.

Another topic discussed before the committee was the computer system in place at the Office of the Public Trustee. Mr Bodycoat explained to the committee that the current system is inadequate and is now beyond further upgrading. The committee agreed that the office was in need of a completely new computer and database system, which would improve customer service in a number of different ways.

The other major aspect of evidence received in relation to the standard of the Office of the Public Trustee's customer service was the issue of direct client contact. Currently, in South Australia, Public Trustee clients rely on visits from outside agencies, family members or their liaison person. A liaison person is someone who is appointed by the Guardianship Board. This is done at the time the board prescribes an administration order, when the board appoints an administrator to take over the management of a person's affairs.

The committee heard evidence in relation to when the Public Trustee is appointed administrator by the Guardianship Board and when the board appoints a liaison person to act as the go-between from the client to the Public Trustee. The use of a liaison person is intended to assist the administrator and is a matter of practice, rather than a formal requirement in the legislation.

However, the committee heard evidence that the liaison person may hinder the process because it often created an extra layer between the client and the Public Trustee. The committee also heard that the practice can make it difficult for the client to have their voice directly passed on to the Public Trustee. For example, the liaison person may be a family member and there may actually be conflict within that family, or at least perceived.

Another problem with the current liaison person system on which the committee received evidence was the Public Trustee's increasing reliance on the liaison person for updated information on their client. The committee heard evidence that, in the absence of an effective liaison person, the responsiveness of the system appeared to rely on the diligence of the individual Public Trustee officer in making inquiries about the needs of their clients. It also depends on the ability of the Public Trustee's clients to negotiate on their own behalf.

The committee heard evidence from advocacy agencies, clients, clients' families and the Public Advocate, who all expressed the opinion that there was not sufficient face-to-face contact being made by Public Trustee officers with their clients. The committee heard that in some cases such meetings held in person, especially at the commencement of an administration order, were vital in providing an opportunity for mutual rights, responsibilities and forward planning to be discussed. The committee also heard evidence that such meetings may contribute in fostering a positive relationship between the client and the Office of the Public Trustee.

The Public Advocate provided evidence on the importance of managing the affairs of a person on an individual case-by-case basis. Examples were given of the approach in other jurisdictions, such as the activities carried out pursuant to the UK Mental Capacity Act 2005, which endorses a system of decision-making being proportioned and tailored to the person's circumstances.

The committee also researched client visitation programs that are used in other jurisdictions. In particular, the committee was advised of the existence of the Authorised Visitor Program in New South Wales. The committee obtained information that the office of the New South Wales Trustee and Guardian runs a program whereby authorised visitors may be called upon to physically visit clients in order to ensure that substitute decisions made by that office are consistent with a client's needs and lifestyle.

The New South Wales Trustee and Guardian maintains a panel of authorised visitors who are independent experts, such as social workers, psychologists, medical practitioners, occupational therapists or similar professionals. The visitor formally reports to the office and makes

recommendations for enhancing the client's quality of life and provides an opinion regarding the client's needs.

The committee felt that the government may want to consider introducing such a system to complement the services of the Office of the Public Trustee in South Australia. However, the committee noted the difference in structure between the South Australian Public Trustee and the office of the New South Wales Trustee and Guardian, with the latter now incorporating the merged offices of the New South Wales Protective Commissioner, the New South Wales Public Guardian and the New South Wales Public Trustee.

The committee also heard evidence relating to the financial administration of Public Trustee clients' affairs and the way that clients' funds are managed. In particular, the committee received evidence from clients' families who were dissatisfied with the way that the Office of the Public Trustee managed their family member's finances. Instances whereby the Office of the Public Trustee had mistakenly made overpayments on a client's behalf and then having to reimburse a client's account were also heard by the committee. In those cases, once the mistake had been realised, sometimes years later, the Public Trustee had to reimburse clients with thousands of dollars. The committee also heard that some clients were absolutely unaware of how much money they had in their account.

Mr Bodycoat explained to the committee that the Public Trustee was required to send out six-monthly financial statements to its clients. However, the committee thought it more prudent for the Public Trustee to send out three-monthly financial statements and has recommended such in order to keep clients in the loop and to ensure that any mistakes may be picked up earlier.

Evidence was also received by the committee on the ability of clients requesting extra funds for specific purposes. The committee heard from advocacy agencies that had seen cases where clients were denied funds from the Public Trustee, even when they were to be used for worthy causes and where the client had sufficient funds available. However, the Public Trustee maintained that reasonable requests for advances or special payments would normally be approved where the funds were available and all such requests were dealt with in accordance with the Public Trustee's general policies.

Advocacy agencies gave evidence to the committee in relation to the situation when Public Trustee clients have administration orders revoked by the Guardianship Board. This usually means that the client has proven to the board that he/she has the capacity to regain responsibility over their finances. However, the committee heard that in some cases the client may be left with no support or assistance in learning how to manage their finances again and may become overwhelmed. Therefore, the committee felt that the Guardianship Board is best placed to consider whether a client of the Public Trustee would benefit from having their Public Trustee officer explain the management of their finances before the administration order is officially revoked.

Former employees of the Public Trustee alleged financial mismanagement by the Office of the Public Trustee. After one former employee had made allegations of financial mismanagement in 1997, when he was still employed by the Office of the Public Trustee, the Public Trustee engaged Deloitte to conduct an audit. This audit revealed that the majority of issues raised by the former employee had been resolved by the Public Trustee before the audit commenced.

In relation to internal management practices, another prominent theme in this inquiry centred on the internal management practices of the Office of the Public Trustee. Historical evidence was received by the committee as to past allegations made of workplace bullying and a culture of an unhappy work environment. In particular, one former employee provided evidence of three separate actions he brought against the Public Trustee. I note that the specific workplace bullying claims made by former employees of the Public Trustee occurred well before this inquiry commenced and had subsequently been dealt with by the Commissioner for Equal Opportunity, the Equal Opportunity Tribunal, the Government Investigations Unit, an investigation pursuant to section 58 of the Public Service Management Act 1995, and the removal of one senior manager at the Office of the Public Trustee.

The committee received evidence of past workplace behaviour which, in the committee's view, constituted unacceptable behaviour in the workplace environment. Other matters raised during this inquiry included:

- the relationships between the Office of the Public Trustee with the Office of the Public Advocate, the Guardianship Board and the Disability Advocacy Complaints Service of South Australia, and the improvements in the liaison between those organisations;

- the fees and commissions charged by the Public Trustee and waivers given to clients suffering financial hardship;
- the number of complaints and commendations made in relation to the Office of the Public Trustee for the years ending 30 June 2006, 2007 and 2008; and
- the internal policies and standards in place at the Office of the Public Trustee, and the Attorney-General's Department policies to which the office is subjected. Having examined the evidence before it, the Statutory Authorities Review Committee has a number of recommendations to make in order to improve the current workings of the Office of the Public Trustee.

Arising out of the evidence received in relation to the lack of face-to-face client contact between Public Trustee officers and their clients, the committee recommends that the Public Trustee inquire into the most appropriate client visitation program to be implemented. The committee believes that the New South Wales authorised visitor program is a good example of independent health professionals assisting and ensuring the clients' needs and lifestyle requirements are known and kept up to date. It also finds that implementing an authorised visitor system would decrease the reliance on a liaison person to keep the Public Trustee informed of its clients' needs.

The committee also recommends that client satisfaction surveys, measuring both public awareness and client satisfaction, be conducted by the Public Trustee annually and reported publicly in the Public Trustee annual report and on the Public Trustee website. In order to improve the standard of customer service at the Office of the Public Trustee, the committee recommends an appropriate number of Public Trustee officers be maintained, especially in the Personal Estates Branch.

The committee also recommends the introduction of a new computer system enabling Public Trustee officers to work more efficiently and enabling easy access to a client database. The committee noted that this would also assist in providing the mechanism for instantaneous responses to client telephone inquiries. A new database would also allow for Public Trustee officers to record all telephone inquires made by clients and subsequent actions taken by officers. Once such a system has been introduced, the committee recommends that the use of voicemail be abandoned at the Office of the Public Trustee.

As mentioned earlier, the committee believes that Public Trustee clients did not have sufficient access to their account information. Therefore, the committee recommends that the Public Trustee send out quarterly financial statements to clients. As a result of receiving information on the fees charged by the Public Trustee to its clients, the committee notes the importance of high quality service delivery on behalf of the Office of the Public Trustee.

As such, the committee recommends the following: the standard practice for the reimbursement of late fees paid out to a client's account if a client's bill has not been paid on time by the Public Trustee be made into a formal policy; the Public Trustee draft and implement clear guidelines to allow its clients to use their savings in circumstances that are deemed appropriate; the Public Trustee consider an appropriate training program for staff in relation to financial management in order to increase the level of skill and efficiency of officers; and the Public Trustee Act 1995 and Public Trustee Regulations 1995 be amended in order to formally reflect the Public Trustee's internal policy of waiving fees to clients suffering from financial hardship.

The committee also recommends that the Guardianship Board's powers be reviewed when administration orders are revoked in relation to directing Public Trustee officers to assist their clients in stepping down from financial administration. Arising out of the evidence received on internal management practices, the committee recommends that the Public Trustee ensure that all internal standards on Public Trustee work practices and customer service accord with the policies enforced by the Attorney-General's Department.

In conclusion, the committee is thankful for the opportunity to have inquired into and reported on the operations of the Office of the Public Trustee. It was clear to the committee that changes have been implemented since the current Public Trustee commenced in that role. However, the committee is hopeful that the proposed recommendations, if implemented, will improve the level of Public Trustee client satisfaction even more and will assist in improving the overall competence of the Office of the Public Trustee. As such, the committee's final recommendation is for the Public Trustee to attend before the Statutory Authorities Review

Committee in two years' time in order to demonstrate the outcome of changes already implemented by the most recent Public Trustee and those for consideration arising out of this inquiry.

Just a quick recap. The Public Trustee is an important institution that is entrusted with looking after the financial affairs of some of the most vulnerable people in our society due to accident, illness, age or disability.

The committee in particular heard allegations (and I stress this) of a historical nature in relation to both inefficient client services and inappropriate staff management. However, the committee also heard evidence from the present Public Trustee that some were overstated, some had already been addressed and some are in the process of being addressed. It is for that reason, as I mentioned, that the committee has recommended that the Public Trustee attend before it in two years—we thought that prudent—to report on the changes already addressed, as well as any suggested recommendation or changes from this inquiry.

The Hon. R.I. LUCAS (22:05): I rise to support the remarks made by the Hon. Mrs Zollo as the Presiding Member of the Statutory Authorities Review Committee. The honourable member has given a comprehensive summary of the themes that arose during the committee's inquiries and most of the recommendations, and I do not intend to repeat those. However, I do want to come to the core of the agreed conclusion or summary made by all members of the committee. I believe that it is important to stress that, with two Labor members, two Liberal members and the Hon. Ann Bressington, the diversity of the Legislative Council is represented on the committee, and all members, including the two government members, agreed with the following statements:

> The Statutory Authorities Review Committee was appalled at some of the historical examples provided in evidence to the committee of unacceptable levels of performance and service provided to some clients, as well as unacceptable treatment of some staff of the OPT by other staff and managers of the OPT.
>
> The committee believes significant changes must be made to the operation of the OPT to ensure significant improvements are achieved in the quality of service provided to clients.
>
> The committee acknowledges evidence from the new Public Trustee, Mr Mark Bodycoat, that changes to the operation of the OPT are already being implemented, but the committee reserves its final judgment on the adequacy of those changes and proposes a series of further recommended changes and a further review by this committee in two years.

As I said, that is an agreed conclusion by all members, including two members of the government, and I pay credit to the courage of the Hon. Mr Hunter and the Hon. Mrs Zollo for being prepared to call a spade a spade. The evidence we received was, indeed, appalling in terms of the way in which staff had been treated in the Office of the Public Trustee and the quality of the service that was being provided to some clients and those family members who were trying to assist some clients.

I think that phrase in and of itself summarises starkly the hundreds of pages of evidence that this committee received on the term of reference we were given. The other aspect was that this inquiry, as the Hon. Mrs Zollo indicated, was based on evidence right across the board. We took evidence from individuals who gave us quite emotional and heart-rending testimony in relation to the problems they had confronted with a family member or friend who was a client of the Office of the Public Trustee.

We also heard heart-rending testimony from some individual staff members who had been treated appallingly by other staff members, and their needs were ignored by management of the Office of the Public Trustee. We also received well-considered and sensible submissions from a number of agencies and bodies to which the Hon. Mrs Zollo referred. A number of those came up with very sensible policy recommendations for changes, a number of which the committee has picked up and incorporated in its recommendations.

We do not claim a dazzling brilliance on our behalf with respect to some of these policy recommendations. Some of them were actually part of submissions by respected bodies and agencies involved and associated with the work of the Office of the Public Trustee. The committee considered and agreed with a number of them and incorporated them in its recommendations.

I want to talk briefly about that, because over a period of time a number of members of parliament had been receiving whistleblower allegations about the appalling nature of the Office of the Public Trustee. It was, in part, because of the driving influence of some of those people that this committee inquiry was originally established. Some of those people turned up and gave evidence to the committee inquiry and, as I said, it was evidence of appalling treatment. With respect to the examples of evidence that we received from Rob McKibbin and John Oliver, frankly, that sort of

behaviour in the workplace by staff members to other staff members should not be accepted anywhere, let alone in a government department or agency such as the Office of the Public Trustee.

When complaints were made to senior managers about that sort of behaviour, or complaints about the lack of productivity in other sections of the Office of the Public Trustee, rather than genuinely investigating, considering and then doing something about resolving the issues, sadly, management ignored many of the problems and issues that were being raised. They festered and they caused problems, and some people now are suffering significant health-related issues and problems as a result of the way in which the Office of the Public Trustee managed some of those issues.

I do not intend to repeat all of those tonight. Some of them attracted some publicity during the hearings of this inquiry. They are part of the evidence of the report and also part of the documentation and the transcripts which have been tabled and which can be made available to anyone who wants to see them. The fact that all members of this committee, having listened to the testimony, agreed that they were appalled at some of this treatment, as I said, is a very good summary of the impact of the evidence on all members of the committee.

I acknowledge, as has the Hon. Mrs Zollo, that there is a new Public Trustee who has been appointed in the past 18 months or so, and he is in the position of saying, 'Look, I wasn't there when many of these things happened.' However, I hasten to say the committee is aware that, even as we speak, there is still a small number of examples of bullying and harassment that are having to be considered by the Office of the Public Trustee at the moment, and we can only hope that they can be resolved satisfactorily and quickly. The new Public Trustee has indicated that he and they are adopting new policies. They are hoping to improve the culture of the workplace at the Office of the Public Trustee.

As I said, I am pleased that the committee has said, 'We will reserve our final judgment on the adequacy of those changes. We propose a series of further changes and a further review by the committee in two years.' That was the committee's judgment. Speaking personally, what has been suggested so far sounds fine but, in the end, it is not sufficient to talk the talk: we need to see someone walk the walk. We have heard what is being proposed, and we now need to see action. That is why members of the committee believe that there should be a further review by the committee.

I note that in the specific recommendations we talk about inviting the Public Trustee to come back to report to the committee in two years, but the conclusion on page 10 of the report is 'and a further review by this committee in two years'. It is my very strong view that the committee in two years should not just be listening to the Public Trustee and having him report on what has happened in the past two years but that it should be a further inquiry.

Those very sensible bodies and other agencies, including the Office of the Public Advocate, a number of advocacy agencies and the Guardianship Board that gave evidence this time, should be asked to give evidence to see whether or not in their judgment the changes have been achieved. The committee should hear from the Public Trustee, but that should not be sufficient.

There should be a further review in two years to listen not only to the Public Trustee but also to the other agencies that gave evidence on this occasion to say, 'Okay, you have had two years under the new arrangements (by that time it would be almost three years), do you genuinely believe that there have been measurable improvements and measurable changes in terms of the performance of the Public Trustee?' I think that is a critical aspect of this particular report.

I do not intend tonight to go into a lot of the detail of the cases that we heard about in evidence; they are available, and some of them attracted publicity at the time. I want to strongly urge the Legislative Council in two years to conduct a review or an inquiry, not just hearing from the Public Trustee as to how he thinks things have been going during that two year period.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: PUBLIC TRANSPORT

The Hon. R.P. WORTLEY (22:16): I move:

That the 65th report of the committee, entitled Public Transport, be noted.

In an ideal world, public transport would be available, affordable, safe and clean in the carbon neutral sense; somehow, the domination of the car would not have it placed in a catch-up mode and ill prepared to raise the challenges raised by climate change and peak oil. In a comparison with other states and similar cities worldwide, South Australia has some admirable aspects and some faults. A one sentence summary of where South Australia is at the moment is: South Australia was lagging, but the planned infrastructure spending will bring us in line with other states. But this will not be enough to carry the state into future scenarios influenced by peak oil and climate change.

The reality is that in Adelaide less than 10 per cent of people use public transport to journey to work. The private car dominates. Arguably, Adelaide is the most car dominated city in Australia, but statistics show that Perth and Canberra are about the same. This should not be surprising. The car has been an easy, relatively inexpensive, fast way to get to where you want to be, and an extensive road network is provided for car users.

Public transport is used by two groups: those going to the CBD (about 43 per cent of all public transport trips are CBD bound journeys) and the 50 per cent of the population who do not have access to a private vehicle. These people are old or young or cannot afford to run a car.

Public transport for many historic reasons has provided services that radiate out from Adelaide. This has not effectively served the traveller's needs and a chicken and egg situation has arisen. Suburban centres that are designed to accommodate cars arise, and these are difficult to serve by public transport.

It is recognised that there must be a shift to public transport, as the current use of private cars is unsustainable; the environmental and economic consequences are well known. Recent history shows that successive state and local governments are making considerable progress in improving Adelaide's public transport: integrating the fare and ticketing system, the O-Bahn to the north-eastern suburbs, extending rail to Noarlunga, providing an interchange, and creating community bus networks to name a few.

The integration of state and private services through the establishment of the State Transport Authority (now the Passenger Transport Board and Public Transport Divisions) has been very positive. Compared with other states, funding for capital works for public transport was low. The committee's visit to Perth—a city of comparable size to Adelaide—demonstrated the vast improvements that capital funding can provide.

This situation has now changed for the better: The current state government now has a program of works to improve major elements of Adelaide's public transport system, including the following rail infrastructure projects:

- resleepering the Noarlunga and Belair lines;
- constructing a tramline overpass at South Road;
- electrifying the Noarlunga and Outer Harbor lines;
- extending the tram line to the Entertainment Centre (and, hopefully, soon to the new cricket and football stadium at Adelaide Oval); and
- extending the Noarlunga line to Seaford.

For these and other projects, including replacement buses and improved access for O-Bahn buses into the city, the state government expects to invest $2 billion over the period 2008-18, with some financial assistance from federal government programs. The initial thrust is on rebuilding the rail and tram infrastructure, but improvements to other services are expected to take place concurrently.

A key recommendation of the committee is that the government produce a strategic transport plan. This would set the new program of public transport improvements, the costs involved and the budgets required into a strategic framework; provide a guideline for the medium-term future; and form a platform on which longer-term plans can be developed. It would demonstrate that South Australia was 'adopting an integrated, intermodal, best-practice approach to transport planning and management', and 'planning for long-term change'. These were the findings of a recently published report of the Senate Committee on Rural and Regional Affairs and Transport, and are echoed by many others.

A new draft plan could be prepared quickly and released for public consultation by updating the 2003 draft transport plan for South Australia. If existing resources cannot be spared to prepare

such a plan, consideration could be given to a future thinker in residence, who could be invited from interstate or overseas to complete the task.

Current plans have targets for increasing public transport patronage that are set far too low. The current South Australian Strategic Plan target to improve Adelaide's public transport patronage to 10 per cent of passenger kilometres by 2018 should be increased to a more aspirational 25 per cent. The targets for public transport travel into the Adelaide CBD should be raised to 50 per cent of trips by 2018.

The committee realises that improved public transport is only one element of reducing private car use and moving towards a sustainable future. Planning areas such as transport oriented developments (TODS, as they are known), taxes on car use, encouraging cycling and walking, and education campaigns should all be part of the approach. It is important to raise the general standard of services in the following areas if public transport is to be an attractive alternative to the private car:

- frequent services;
- reliable services;
- bus priority measures;
- realistic operating timetables;
- accurate and comprehensive public timetables;
- convenient and pleasant interchanges;
- convenient access to vehicles, stops, interchanges and platforms;
- maintaining low fare levels;
- smartcard integrated ticketing;
- overall comfort and security; and
- capacity for shopping, school bags and luggage.

The Smart Stop real time information system needs improvement and then should be rolled out to all major bus tram and rail stops. The Crouzet ticketing system should be replaced with a smartcard system with a high priority.

Other key recommendations centre on funding. The committee identified the greatest impediment to maintaining such a program of improvements to be the availability of finance. The capital budget has been increased greatly in recent years but there has not been a corresponding increase in the operating budget to cover the contracts between the state government, its rail and tram operating agency (TransAdelaide) and the private contractors providing bus services. To the contrary, the main effort in the last decade, or more, has been to maintain the current budget or make savings.

Given the expansion of the rail and tram systems, additional funds will be required to cover increased operating costs. If the overall budget for service contracts is limited to current levels, then savings will have to be made elsewhere in the present system, which will negate the effectiveness of the capital works program.

It would be folly to cut bus services to fund increased rail operating costs, as improvements to the total network are important actions on particular corridors. Such cross-subsidisation would also be economically inefficient as the cost recovery on rail services from fares is much lower than that of the bus network, and buses carry far more travellers than the rail system.

The terms of reference included the consideration of restoring certain rail passenger services. The committee is firmly of the view that the future, as impacted by peak oil and climate change (members will notice the influence of the Greens on this committee, with the mention of peak oil), will include public transport to the areas reviewed. The committee's research concludes that restoration of passenger train services to near metropolitan areas is unlikely to occur in the immediate future for a number of reasons.

The committee therefore recommends: continued reservation of rail rights of way that are currently unused by rail services; a short eastward extension of the Gawler line rail service to the planned Concordia/Buckland Park development and construction of a secure park and ride facility

at the new terminal; extensions of rail networks and stations to precede urban expansion/ development; review the potential for restoring passenger trains to Mount Barker if and when all or most freight trains are removed from the Adelaide Hills line to operate via a new freight bypass railway line; and a study to determine whether improvements to public transport services in the eastern suburbs of the City of Onkaparinga would benefit from the use of the Willunga rail right of way through the area.

Although restoring regional rail passenger services to Whyalla and Broken Hill is possible (both cities plus Port Augusta are on the ARTC standard gauge network), such services are unlikely to be needed or justified in the near future. Consideration of re-opening passenger train services to Mount Gambier must await any action to standardise and re-open the currently unused broad gauge freight branch line from Wolseley.

The state government and member companies of the Bus SA organisation should review the level of service to near metropolitan communities and the regional cities and develop measures to raise the quality and image of coach services to offset the view presented to the committee that improved public transport can be achieved only by re-introducing passenger train services.

Moving forward, there will need to be more consultation across the spectrum, producing a strategic plan for making changes to bus routes. The committee has made several recommendations regarding consultation, including a research partnership between DTEI, local government and local communities. This would be useful in identifying and addressing safety (from resultant traffic) and the amenity issues around stops and stations.

It is hoped that this report will be of use to the parliament and to the benefit of government in setting its policies for the future. The report contains research and analysis that will serve many of the stakeholders in public transport. I commend the report to the council.

The Hon. J.M.A. LENSINK (22:28): I will be brief, given the lateness of the hour. First and foremost, I want to make some acknowledgments in terms of the establishment of the committee, which was initially proposed by the member for Schubert, Mr Ivan Venning, who, it is fair to say, has a great interest in trains, planes and automobiles above many others.

I would like to also thank the research contractors on the project from the University of South Australia's Institute for Sustainable Systems and Technologies—Professor Derek Scrafton, Professor Michael Taylor and Dr Nicholas Holyoak—who did a great deal of work in putting together facts and figures, examining international systems and preparing an historical treatise on our metropolitan and country transport systems. I think it is fair to say that we were all very impressed with it and found it very useful.

The recommendations probably had much more direct ownership by members of the committee and, in particular, the Hon Mark Parnell and Ivan Venning had great input into finessing the recommendations to ensure that they had a fair amount of grunt to them. There are a number of recommendations which I think are quite aspirational and which urge the government to ensure that it does invest in our public transport system. The point was made quite clear to us that it is not just a matter of purchasing additional buses or trams, or whatever infrastructure it may be, but those operational costs are ongoing and those investments need to be made in a recurrent budget to ensure that the maintenance and ongoing needs are met in an expanded system.

I am pleased that the government has replicated the Liberal Party's announcement to electrify the rail as a key plank in expanding the capacity of our public transport system. I commend the report to the council. I think it is a very useful piece of work that people will find quite beneficial into the future in terms of having an audit, if you like, of our current situation, our potential in the future and also historically. I support the motion.

The Hon. M. PARNELL (22:31): I rise to support the noting of the Environment, Resources and Development Committee's report on public transport. Along with the other members who have spoken, I acknowledge the input of the Institute for Sustainable Systems and Technologies at the University of South Australia and, in particular, the help given by Professor Mike Taylor, Professor Derek Scrafton and Dr Nicholas Holyoak. I make the observation that I actually studied transport planning with Professor Taylor as part of my Master's Degree in Urban and Regional Planning.

The other thing that I note by way of preliminary matters is that there were four submissions that dealt with all or most of the terms of reference. Those submissions came from the government, from the Conservation Council of South Australia, People for Public Transport and

Dr Jennifer Bonham from the University of Adelaide. The vast bulk of the submissions received by the inquiry related to specific issues, in particular, the issue of extending public transport to the near country regions of South Australia, such as the Barossa.

If there was one statement in this entire report that sums up the committee's findings, it is this:

> It is recognised that there must be a shift to public transport as the current use of private cars is unsustainable. The environmental and economic consequences are well-known.

It does not get much simpler than that. I am not going to leave it just there, because I want to actually go through some of the recommendations and say why I believe they are important.

Our first recommendation basically identifies that we have to take public transport seriously if the transport sector is to play its role in the two looming environmental crises of climate change and peak oil. When it comes to climate change, we are all very familiar with the current debate at the national level, the discussion around emissions trading schemes and the discussion around targets. What we find is that the absolutely pathetic greenhouse targets put forward by the Rudd government lock us into climate change failure. The idea of reducing our emissions by 5 per cent is ridiculous when South Australia's own legislated target is for a 60 per cent reduction by the year 2050.

If we take that legislated South Australian target and apply it to each sector of the economy, and if we look at the transport sector and ask ourselves how on earth is the transport sector going to reduce its carbon emissions and its greenhouse gas pollution by 60 per cent by the year 2050 without a substantial shift to public transport?—the answer is that it cannot be done. It will not happen. Peak oil is the same. We are probably the most unprepared state in Australia for the looming increase in oil prices that inevitably results from the planet having peaked its oil production, with demand now vastly outstripping supply. So, that puts this inquiry into some sort of context.

Another recommendation of the committee is the simplest of recommendations: we need a plan. We do not have a transport plan. The government talks about its infrastructure plan. It had a draft transport plan from 2003, but there is no transport plan. That is why we find a range of projects, many of which are very good projects, but they come out of thin air; they do not come out of any overall plan, and the government wonders why people are critical and wonder how these transport projects fit into a grand scheme. Projects such as the extension of the O-Bahn, which I fully support, does not fit within any context because it does not form part of an overall transport plan. So, we have recommended bringing a plan back.

In terms of the South Australian Strategic Plan targets, they are quite pathetic. The target is to increase patronage by 10 per cent by 2018. So, again, if we are serious about reducing greenhouse gas emissions, that target must be much higher. The committee has recommended that it should be a 25 per cent increase, and even that is probably on the low side. When it comes to public transport trips to the city, those trips that are best served by public transport, our target should be 50 per cent of trips to the city by 2018.

When it comes to the linkages between public transport and urban sprawl, the committee noted that, in the northern regions, in particular, around Gawler, we need to commit to the public transport infrastructure before any urban expansion is allowed to occur. In particular, that means new railway lines and stations to the east of Gawler to cater for both new residents in that area and also to provide for park'n'ride for commuters from the Barossa.

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

The Hon. M. PARNELL: The Hon. John Dawkins referred to the single line. We can do better than that. We have to put in new lines and new stations. Again, we have to ask ourselves: why on earth would we be expanding the metropolitan area into places that either are not, or are not capable of being, served with public transport? Buckland Park is probably the classic example, where the environmental impact statement for that development says that only 5 per cent of trips will be by public transport into the 2020s and 2030s. What a pathetic target—and it just shows that we are not serious about meeting our greenhouse gas reduction responsibilities.

The committee had a look at a number of transport oriented developments, both on the ground and in the literature, and the committee is generally supportive of that concept, but we need to be more imaginative about where they could go. One recommendation of the committee looks at the area around Tonsley, the Flinders Medical Centre, Flinders University and Darlington. That

would be an excellent location for a high density mixed use development, especially when you consider the vibrancy that can and does surround universities in other parts of the world. So, that is a project that is well worth exploring.

One recommendation—and I will finish with this one—that has received a little bit of attention in the media is the idea of the levy on long-term car parking spaces. This is hardly a novel idea. In fact, it is featured in my book *Greening Adelaide with Public Transport*, which I think it is now 15 years out of print, it was so popular! I certainly recommended in that book a levy, with the funds being hypothecated back into more sustainable forms of transport. In other words, if it is more expensive to park in the city and the extra revenue has been diverted back into free buses, extra tram services and cycling and walking facilities, the need to bring a car into the city is alleviated.

I think there is a great deal here that the government should be taking particular notice of. The recommendations are one thing, but the balance of the report is a very comprehensive analysis of public transport, not just here but also in other Australian cities and around the world. With those words, I commend the report to the council.

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

STEEPLECHASE AND HURDLE RACING

The Hon. M. PARNELL (22:41): I seek leave to amend my proposed motion as follows:

In the first paragraph, replace the number 20 with the number 27.

Leave granted; proposed motion amended.

The Hon. M. PARNELL (22:40): I move:

That this council—

1. Notes with alarm the death of 13 horses in the 2009 jumps racing season in South Australia and Victoria and 27 deaths over the last two years;

2. Notes that in 2009, one in 20 jumps horses were killed and that jumps racing kills horses at 20 times the rate of flat racing;

3. Congratulates Racing Victoria for its decision to ban jumps racing from the end of 2010;

4. Notes that South Australia will soon be the only place in Australia where this cruel and inhumane sport is permitted;

5. Calls on Thoroughbred Racing SA to follow the lead of Racing Victoria and ban jumps racing; and

6. Calls on the state government to introduce legislation to ban jumps racing in the event that Thoroughbred Racing SA fails to act.

This motion basically calls on the state government and Thoroughbred Racing SA to make sure that the cruel practice of jumps racing is brought to an end in South Australia as quickly as possible. South Australia is the only place left in the country where this cruel sport is allowed to continue.

For members' benefit, jumps racing is the racing of horses over obstacles, hurdles and ditches. Jumps racing is typically run over longer distances than flat horse races and the jockeys are heavier. There are two types of jumps races conducted in South Australia and Victoria, for the time being at least, and they are hurdles and steeplechase events. The hurdle event is run over a distance between 3 and 3.5 kilometres, while the steeplechase is run over a slightly longer distance, usually between 3.5 and 5.5 kilometres.

Victoria and South Australia are the last two remaining states in Australia to continue with jumps racing, with all other states having abandoned the sport. After 2010, unless we do something about it, South Australia will be the only place where the sport is allowed. The RSPCA has been an avid campaigner against jumps racing for three decades. The reason is the horrific injury rate to horses and the unacceptably high number of deaths that result from jumps racing. These injuries and deaths occur each and every jumps season. The RSPCA has never wavered in its opposition to the sport.

The Victorian racing authorities made the decision in the past week or so to ban jumps racing in Victoria. They made that decision following a concerted community campaign which included the RSPCA but also a range of other community groups. The media release put out by the

RSPCA's national body said that it was 'elated' at the news that jumps racing would be banned in Victoria from 2011. Its press release states:

> The RSPCA has worked for 30 long years to have the cruel 'sport' of jumps racing banned and today's decision is a huge relief for all involved and most importantly, a tremendous win for horse welfare.

The RSPCA's Australian President, Lynne Bradshaw, said:

> It's simply unacceptable to put horses at this kind of risk in the name of sport and entertainment. While we would prefer that the 2010 season did not go ahead, we are pleased that the Board of Racing Victoria has recognised the overwhelming public disapproval of jumps racing.

The release concludes:

> The RSPCA urges the South Australian Government and Thoroughbred Racing South Australia to follow suit and ban jumps racing in that state too.

I mentioned that the RSPCA has been working on this for three decades, but even 18 years ago the Senate inquired into animal welfare and it expressed serious concerns about jumps racing way back in 1991. The committee's report stated:

> ...the Committee has serious concerns about the welfare of horses participating in jump races. These concerns are based on the significant probability of a horse suffering serious injury or even death as a result of participating in these events and, in particular, steeplechasing.

The committee concluded that there was an inherent conflict between animal welfare and jumps racing which could not be eliminated by improvement to jumps or racetracks. As a result, the committee concluded that state government should phase out jumps racing over a three year period—that is, three years from 1991. The New South Wales government banned jumps racing in 1997 and, as I said, racing authorities in Victoria have just announced that 2010 will be their last season.

Some more figures and information about jumps racing: in 2009, one in 20 jumps horses was killed and one in five jumps horses fell—the worst rate of fall and injury in 35 years—so the efforts of the industry to make the sport safer have failed. Jumps racing kills horses at 20 times the rate of flat racing. One of the arguments raised by people who seek to keep this activity going is the economic argument, and they talk about the trainers and the jockeys who will be put out of work or disadvantaged.

The truth is that, of the 120 jumps trainers in 2008, 108 were considered to be hobby trainers, who were not training enough horses to earn a living, and the remaining 12 had both flat and jumps horses. Of the 108 hobby trainers, 72 trained only one horse, so it is really nonsensical to claim that there will be massive job losses when the industry is finally and inevitably shut down.

In terms of the rates of injury and death, three in four jumps horses are not seen in the following year; those horses are presumed to have died, or been injured and no longer able to earn a living for their owners, and end up at the knackery. The argument is also often put that jumps racing prolongs the life of jumps horses and actually keeps them from being taken to the knackery, yet the evidence is that it may only delay that inevitability for a very short period of time.

At the end of the day, this is an industry, an economic activity, and the horses are not put out to pasture—whether it is at the end of their jumps racing or flat racing career. They end up being put to death anyway, so members should not be attracted to arguments by the industry that keeping jumps racing going is a career-extending move for these horses or somehow good for them. Clearly, it is not.

Even racing supporters do not support jumps racing, and that is clearly evident through both opinion polls and the wagers made with betting agencies. In terms of opinion polls, racing's own newspaper, *The Winning Post*, recorded an 84 per cent agreement for high-weight flat racing to replace jumps racing. In terms of punters, an average of $2.50 is wagered for every dollar of prize money put up in jumps races, in contrast to normal flat racing, where $10 is wagered for every dollar of prize money.

Quite rightly, I think, opponents of jumps racing describe the industry here as the laughing stock of the racing industry in Australia. With its economic viability, and the fact that Victoria has now closed its industry, I believe it is inevitable that South Australia will follow suit. Even if one does not accept the cruelty arguments, it is simply not viable. In fact, they were the very comments made by the Victorian racing authorities, who decided to close the industry, rather than have it wither on the vine. With those brief remarks, I urge all honourable members to support the motion.

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

FIREARMS REGULATIONS

The Hon. R.L. BROKENSHIRE (22:50): I move:

That regulations under the Firearms Act 1997 concerning prescribed firearms, made on 1 October 2009 and laid on the table of this council on 13 October 2009, be disallowed.

I have seen two of the imitation firearms that South Australia Police wanted to capture through these regulations: an imitation Alpha and an imitation Glock. South Australia Police showed me their real equivalent and, frankly, it is impossible to tell the difference. South Australia Police also say that gunsmiths have given them evidence that the imitations can be converted into working versions of what they imitate.

These are obviously imitations that all of us want to have off the streets, and I strongly support that. In fact, I asked SAPOL why the premiers and the Prime Minister had not moved to stop customs from bringing these particular replicas into Australia, because that would be the quickest way to knock these on the head. SAPOL indicated to me that it was still working through that, and that it had taken three years, with the SOG, to get to the point where they are now nationally.

Family First supports SA Police in getting these Alphas and Glocks out of circulation but, as I said, we would go even further: we want them banned from importation. Imitation firearms such as these have no place in Australia whether or not they work.

The Hon. Robert Lawson has a bill before this parliament, which I will address when we come to it and which demonstrates issues regarding disallowance motions. If the regulations we are discussing here were more specific about the imitation firearms that they want to get off the streets, and if they set up a scheme for compensation, as has been the case with other gun buybacks or seizures (for instance, when I was presiding over some of these buybacks when I had the police portfolio) then, frankly, we would have no problem with these regulations.

I need to point out that, to my knowledge, it is unprecedented that any buyback has ever occurred without compensation, and that is incredible. Consider, as an example, if people have a legal collecting hobby such as stamps and for some reason the government decides to put a ban on their collection, how would stamp collectors feel if they had to hand in the stamps and there was no compensation for them?

That is a real problem in this case I raised my concerns about it with the minister nearly six weeks ago, from memory. In fairness to the minister, he did ask for the middle ground to be found, because there is a lot of middle ground in this respect. After the minister met with the delegation, my understanding is that he instructed the department to look at finding that middle ground. That was four to six weeks ago. A lot of effort was put in by the sporting shooters council to show the department where that middle ground is. In fact, I am advised that, from the meeting they had with the department, a lot of the officers agreed that there is plenty of scope for the middle ground.

However, despite my best endeavours in liaising with the combined sporting shooters association and many other constituents who have contacted me, at this stage it appears that a compromise has not been reached. Given that this is the last private members' day before the next election, I have no choice but to now move this disallowance motion.

I do not want to spend any more time on this than I have to, because members have other work, but this is an important disallowance motion so I trust that my colleagues will appreciate me spending a few minutes on it. I also just want to say that I have had several other MPs talk to me about their concerns about this. I put that on the public record without naming them, because I would not do that, but even a couple of Labor backbenchers are pretty concerned about the way these regulations have been drafted.

Sporting clubs have been told to forfeit or get a licence for starting pistols. The licence holder for the starting pistol had to be present at all times or the starting pistol was illegally used. Similar starting pistols have been issued in the southern suburbs after consultation between the council down there and another government department where they issue them to residents to scare away corellas that are actually causing enormous damage to the environment around the Old Noarlunga area.

Whilst that was a positive agreement between, I believe, the environment department and the city council, they will not now be able to use these starting pistols because they would have to

be registered firearm owners, and they would have to have safeguards and safes etc. for starting pistols.

Wooden firearms arguably are captured by this, even though they have no realistic prospect of being capable of firing live ammunition. I let my colleagues know that I have actually seen some of these wooden pistols and just one set alone, I am advised, was worth several thousand dollars. There is no compensation. If the person is not aware during the amnesty that these regulations are in place, after the end of December, that person could, I am advised, be charged with a criminal offence for owning wooden replica firearms that are actually just a simple collectors' item.

The process is so similar to registering to get a firearm that the sporting shooters tell me that people might as well register and get a real firearm which would have the reverse effect of the intention of the regulations. The language of the regulations is confusing to replica cum imitation firearm owners. I am only using the regulation phrase 'imitation firearm' for what many people would consider to be their replicas, but the regulation describes replicas as having the working movements of firearms when, clearly, replicas do not.

Importantly, the regulations do not specify the capability of the converted imitation firearm to fire live ammunition. I understand that sporting shooters have tried to take this point as a potential amendment. They have demonstrated to the government and MPs, including me, an expensive wooden replica firearm that has all the moving parts to imitate a firearm but is not capable of firing live ammunition, and nor is it capable of being converted to do so.

There are question marks hanging over museums and collectors right across the state as well as RSL clubs that have replica firearms on display. The owners of imitations, some of which were legally purchased from camping stores at Tea Tree Plaza and Marion in recent weeks, are now not being offered any compensation.

We have seen radio ads with Assistant Commissioner Killmier telling people that there is an amnesty and to hand in the replica firearms. I am advised that some imitation firearm owners, many of whom do not own any live firearms, have been forced to hand over these imitation firearms even though this has not been through the standing committee of the parliament and it is in an amnesty period. Surely, if the government had concerns about particular imitations or classes of imitation firearms, it could prescribe them specifically by regulation or by gazettal.

It was my hope, rather than having to move a disallowance motion, that that middle ground that can clearly and easily be found would be found. I am not sure whether or not I am able to table a draft, but I have a draft in my hand which has been shown to me and colleagues and which has been put to the department. It clearly shows where simple amendments to the regulations would absolutely address the concerns that the department has with respect to these firearms without all the unintended consequences.

These unintended consequences, I understand, now affect thousands of citizens who have done nothing wrong legally whatsoever and who have spent thousands of dollars purchasing and collecting them over a great period of time. I seek leave to have this draft tabled.

Leave granted.

The Hon. R.L. BROKENSHIRE: I will work through the regulations briefly and highlight the points that were made to the government in the spirit of compromise to reach a resolution of this issue. At clause 5, where the draft regulation includes imitation firearms in the Firearms Regulations 2008 definition of 'firearm', one problem is that an imitation firearm automatically became a firearm, even though it had not been inspected or deemed to be a firearm. The Sporting Shooters Council sought to add a requirement of inspection.

Further on clause 5, the draft regulation stated at subclause (2)(b) that the imitation firearm needed to be capable of 'chambering, firing, extracting and ejecting a blank cartridge in the same manner as a class of firearms it imitates'. The council sought to add, 'and is not capable of being readily altered to fire live ammunition' since, after all, that was the stated concern of the department in the regulation, namely, that the firearms could be converted to live fire of ammunition.

Also in clause 5, in the subsection (3) exclusions, here an inspection of the firearm was required to determine whether an imitation firearm was not a firearm, but did not include what SA Police allegedly said at times were 'curios', such as the wooden firearm I mentioned. Accordingly, the Sporting Shooters Council sought to include in paragraph (iii), Exclusion of toys

and novelty items, the words 'or items such as curios, ornaments, display-only replicas or works of art' to that definition.

Clause 6 of the draft regulations states that a firearms licence could authorise the possession of an imitation firearm for a specific purpose. One would think, for instance, that this was designed, albeit in a cumbersome way, to allow the use of a starter pistol to start a running race. The Sporting Shooters Council sought to add that they wanted a person to be simply permitted to have any prescribed imitation firearm for the purpose of collection and display.

The Sporting Shooters Council sought to add a schedule to the draft regulations which, importantly, one, clarified that a person has legislated protection during the amnesty period; two, would clarify that imitation firearm owners would not be required to pay a registration fee for a relevant firearms licence for holding the imitation firearm; and, three, significantly, required the Registrar of Firearms to pay compensation for firearms surrendered, the value of which was to be the greater of the purchase price paid by the person or the valuation based on the most recent advertised selling price for that imitation.

These amendments, I believe, picked up a number of the problems that I have described already with the unintended consequences of the draft regulations. However, sadly, no proposal has been approved to change the regulations, and people are still being told to hand in the replica firearms, or in some cases, as I have said, we have been advised that they have been seized, without any suggestion of compensation.

I respect the intent of SA Police and cannot blame them for a moment for trying to cast the net widely. I strongly support the police pretty well in everything they do and, as a former minister, that is exactly what I would expect from SA Police, that it would try to cast the net widely. However, the bottom line here is that this net has been cast too wide and actually impacts so much on a lot of people who have spent, in some cases, a lifetime collecting replicas, who are now having an enormous impost put on them when everything they have done has been legal.

I wrote to the minister, diplomatically, and have continued to liaise with the department to try to get a resolution. This was never a threat, but I simply asked the minister for an urgent delegation, and I indicated to the minister that, if there could not be an urgent delegation, I may have to consider moving a disallowance motion, and I think that was five or six weeks ago.

Obviously, if I did not want to make it fair and reasonable for the minister and the government I could have just come in here yesterday and given notice and moved this today, but I did not want to do that, because these are difficult issues for a minister and I wanted to give him time to work through it. I say again, as it is important to reinforce it, that I understand the minister instructed the department to find the middle ground. For two weeks after the first meeting with the Sporting Shooters Council nothing was received and no further meetings were set up, so it has put us in a position where disallowance is now the only course.

I asked South Australia Police what it had done with the replica firearms it had seized or received in the amnesty, and I was advised that they were all receipted and tagged. From the viewpoint of disallowance, these firearms can be passed back in. To raise a couple of other points, I am advised that, in an interim period, if the department did not want to go through all the recommendations for finding that middle ground that the minister, myself and I am sure others would have desired, it could have at least rolled imitation firearms into the class A firearms category. I am advised that that would have achieved a lot of what was required. Unfortunately, only yesterday, through the minister's office the department (I assume) finally got back to the minister with a letter, which the minister then sent off yesterday to the Sporting Shooters Council.

In conclusion, this is not about making it difficult or working against the two key replica firearms that SAPOL showed me and some other members. We all want them off the streets so there is no risk. It has to be addressed nationally as well because, even with those that we want to see removed, I am advised by the department that not all states have the agreement or have addressed the issue. The problem we have is that in at least one other state they can still be purchased anyway, which is why it is important that the police ministers council, the commissioners or at least COAG, through premiers and the Prime Minister, address that issue at a national level.

When I met with the police I asked why the regulations were so wide. The response was, 'How do we describe the ones that should be in and should be out?' They said that the deputy registrar had discretion. I was involved in two buybacks—and these were national buybacks, so it involved much harder and more sophisticated legislation, and was done fairly urgently. The first one I was involved in, not directly as a minister but rather as a member, was after Port Arthur, and

that was very complicated. Even in that set of circumstances they were able to find a description specific to every type and category of firearm that was to be confiscated. Further, they also identified the value of each of those firearms, depending on whether they were new, old or damaged. Nationally that was able to happen. In this case there are just a few replica firearms, and the net is incredibly wide.

Through my contacts with police I have had phone calls and discussions with a number of police officers, and I will not name them as I would not want any retribution for them. Some of these officers are very experienced, and have told me that they are having trouble getting clarity out of that section of the department on what they should be advising people with respect to the amnesty and what has to be handed in and what can be kept. If they get a licence, do the training for that licence and register them, there are costs involved. Some people who own replicas are not sure whether or not they may have to attend clubs as you do if you have real firearms.

I advise the council that police have spoken to me about their concerns with these regulations. This is an important matter, but the crux of the thing is that it could be fixed. It is also about compensation. The most important thing that really concerned me and the reason why I am moving this disallowance motion tonight is that, if you are a citizen who has done nothing wrong and you have been able to collect firearms legally, suddenly you can be told that you have to comply with all these conditions or you cannot keep them and you will have to hand them in, with no compensation. In one case, I believe that a person had over $10,000 worth of these collectable replica firearms.

I will raise two other points before I sit down. First, I spoke to one collector recently who has on the wall above the mantlepiece an original antique musket, which is very old. That is a real musket that can be kept on the wall, so that person has been told. However, if they buy a replica musket, then they have to have a special licence and they have to put it in a safe. Again that shows the anomalies and the unintended consequences with these regulations.

The final point is that, whilst I know that no-one wants to see any situation where shopkeepers, customers of those shops and police are put in a dangerous situation, if you look at the situations that we have seen several times in recent months where there have been shootings in nightclubs and, indeed, at the Netley police station, I would suggest to you that those shootings did not occur with legally registered and owned firearms. They were not done with replicas. They were done with firearms, which I understand are readily available on the black market in this state. We need to make a concerted effort to get out of the black market the real firearms which are being used in the hold-ups and all the shocking incidents which threaten the community and police.

I reiterate that I believe I have made every effort possible with the department to see the middle ground, but here it is four to six weeks after the issues were raised with them and no middle ground has been found. For that reason, given no compensation, fairness or equity for law-abiding citizens, I have moved this disallowance motion.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (23:13): I rise on behalf of the opposition to indicate that we will be supporting the disallowance motion. I think that the former minister for police, now a member of Family First (Hon. Robert Brokenshire), has outlined the reasons very adequately and, given the lateness of the hour, I will not go over the same ground that he has covered. I think it gives me and the opposition some comfort that we have a former police minister who has dealt with these issues highlighting the—

The Hon. I.K. Hunter: You're easily comforted, David.

The Hon. D.W. RIDGWAY: The Hon. Ian Hunter interjects that I am easily comforted. It is interesting to note that he is yet to be a minister, and I suspect he never will be the way that the Labor Party is travelling.

The PRESIDENT: The honourable member might want to stick with the script.

The Hon. D.W. RIDGWAY: You might want to stop them interjecting, Mr President. I know they are out of order.

The PRESIDENT: You might want to stop responding to them, Hon. Mr Ridgway.

The Hon. D.W. RIDGWAY: I indicate that I and a number of members of the opposition had been contacted by the Combined Shooters and Firearms Council. I made it very clear to the police minister that we expected some resolution. Like the Hon. Robert Brokenshire, we do not

want to see the imitation firearms, in particular the two types that have been mentioned, on the streets.

At a meeting with the police I made it very clear. In fact, the Hon. John Darley was at that meeting. We made it very clear that we understood exactly what the police were trying to do with those two particular types of firearms. However, this has been cast way too wide. The Hon. Mr Brokenshire says, 'Well, the minister has done the right thing. He has asked for the middle ground to be found.' I am not sure that he is right in saying that the minister has done the right thing, because this is all about leadership and it is all about the minister taking responsibility for these decisions.

Clearly, the minister has not driven it hard enough. I rang the commissioner's office last week to advise that, unless there was some resolution about this and some sensible middle ground was found, we would be left with no choice but to support a disallowance motion if it was moved by the Hon. Robert Brokenshire. I had a request to call the minister's adviser to which I tried to respond on Friday. I do work all weekend, and my phone is on 24/7, but, sadly, I did not get another response from the minister's adviser until the Monday—two days ago.

This sort of 'one size fits all' approach to capture all these firearms has left a number of people in a difficult situation with firearms for which they will no receive compensation. I have seen the wooden firearm, and it is a joke to think that something that is made of wood is captured by these regulations. A starting pistol is an issue. The police suggested to me in one briefing that, of course, you can have these starting pistols provided that someone is the licensed owner and, of course, that someone is responsible for securing it and locking it in a cabinet.

Would not the easiest thing be for the minister (who is also the minister for sport, I might add) to provide all the junior athletics clubs and all the other clubs with an appropriate starting pistol and just swap it over? We have the Active Sports grants. A whole heap of finance or grants are available to rectify that.

The Hon. B.V. Finnigan: There might be some in your car park in the sky. We'll just hand it out. Where do you get this from?

The Hon. D.W. RIDGWAY: If you want to talk about car parks, you haven't got a car park. You have not even got an agreement—

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: All you have got is an agreement to try to get two groups to work together for something that will never happen because you cannot trust your government. It is like Mount Bold, it is like Magill and a whole range of things.

The PRESIDENT: Order! The Hon. Mr Ridgway will stick to the motion and the Hon. Mr Finnigan will cease interjecting.

The Hon. D.W. RIDGWAY: We know this is just a smoke screen, particularly with the stadiums. We understand that the combined shooters have made every attempt to sit down and negotiate to find some middle ground. There was no consultation initially. I sort of understand because the police made the comment to me that we need to have this wide net because people were not aware of what was going on. I think that was probably a reasonable proposition initially, but you must be prepared to negotiate back. Clearly, they have not been prepared to do that. They have not wanted to find any middle ground. We have the unintended consequences of some RSLs and other collectors captured by these regulations.

Clearly, the minister has not been serious about driving this agenda to find some middle ground. We have made it very clear to all stakeholders that we want the imitation firearms off the streets, that is, the two particular firearms that are of major concern to SAPOL. However, it is a little like we are with the Hon. Mr Brokenshire: we feel now that this is the eleventh hour. It is interesting because this issue has been raised over six or seven weeks. A number of us have been in the media talking about it.

We have had formal and informal discussions and correspondence with the minister, the minister's office and police officers, yet we have not been able to find any middle ground. It is unfortunate that a middle ground has not been found. With those few words, I indicate that the opposition will be supporting the disallowance.

The Hon. B.V. FINNIGAN (23:19): Thank you, Mr President. Well—

The Hon. D.W. Ridgway interjecting:

The Hon. B.V. FINNIGAN: I did indicate to the President that I wished to speak. How extraordinary that the Liberal opposition and Family First should join together here to try to put at risk not only the lives of police officers but also members of the public and consumers. It is yet again an example where the Liberals think they know better than the Commissioner of Police. When it came to semi-automatic weapons they knew better than the Commissioner of Police; when it came to Tasers they knew better than the Commissioner of Police. Here we have an example where they are putting at risk the lives of police officers, consumers and members of the public who may be caught up in the use of these imitation firearms. It is absolutely extraordinary.

Let us be clear on what we are talking about. We are not talking about the RSLs and museums and collectors and wooden guns: they are encompassed by the regulation. What we are combating here is people being able to buy replica firearms which look like the real thing and which people can use in armed robberies and violent crimes. The Liberal opposition and the Family First party want to stop those imitation firearms being the subject of these regulations.

They should talk to the families of shop assistants who might be subject to violent crimes and the families of police officers who might be caught up in violent crimes as a result of people using imitation firearms. That is what this regulation is designed to address; we all know that.

Instead, the Liberal opposition and Family First are coming in here, I assume, trying to gain brownie points with sporting shooters and others in the lead-up to an election so they can say, 'Yes, we are right behind you.' They are out there scrambling for votes. It is an absolute disgrace.

On 1 October, the government amended the firearms regulations on the advice of the Commissioner of Police because, unlike the opposition, the government does not assume that it knows better than the commissioner how to run the police force in this state. The changes make imitation firearms subject to the same licensing and registration conditions as the firearms they imitate. That is because imitation firearms pose a significant threat to the community. Their role in violent crimes can have an impact that is equally as serious and terrifying as being confronted with a real firearm. It is no less terrifying for a victim to be staring down the barrel of an imitation firearm. It is the harm and heartache it causes that we want removed from our community. It is almost impossible to distinguish these imitation firearms from the real thing.

In moving this disallowance motion, the mover (Hon. Mr Brokenshire) acknowledged that it is very difficult or even impossible to distinguish some of these imitation firearms from the real thing. That is why police and members of the public, when faced with something so distressing, can only assume that they are being threatened with a deadly weapon.

The regulations require persons who possess imitation firearms to register them and for the person to be appropriately licensed. We are not proposing that these things be banned. We are saying that they have to be appropriately licensed and registered.

Some have said that the government should have consulted widely before making these changes. Advice from the Commissioner of Police was that doing so would have given criminals ample warning to hide their weapons. South Australia Police had a good understanding of where a number of these imitation firearms were and did not want them to get away. Criminals using these imitations should not kid themselves that they are doing anyone a favour by using imitations. It is vital that the use of imitation weapons is not seen as a lesser crime. Whenever there is the threat of a weapon the fear is the same, and the people carrying those weapons must be caught and punished.

Under the changes, any person claiming a legitimate use for possession of an imitation firearm must hold an appropriate licence, register the firearm and store it in the manner prescribed for real firearms. Members of South Australia Police have told the government they have seized from known criminals a number of imitation firearms that have been converted to live fire ammunition. It is simply not acceptable that imitation firearms can be bought with absolute ease and easily transformed into a deadly weapon.

I understand that the Combined Shooters and Firearms Council has lobbied many members of parliament in relation to this matter. The Minister for Police, members of the firearms branch and the Firearms Legislative Reform Project have met with representatives of the Combined Shooters and Firearms Council on a number of occasions in relation to their concerns surrounding the introduction of these regulations. I understand that they sought government support to amend the regulations. Advice from parliamentary counsel on the amendments put

forward by the Combined Shooters and Firearms Council was that its proposal would not achieve the objective sought. South Australia Police believe that, if accepted, the regulations would be unworkable and would be at odds with the firearms regulatory scheme as developed under the Firearms Act 1977.

Nevertheless, I have been advised that the Minister for Police will be seeking Crown Law advice on the Combined Shooters proposal. While the government understands the position of the Combined Shooters, it considers that a number of the concerns raised by that body are unfounded and based on a misunderstanding of the wording of the amendments. Some people have suggested that the regulations were hastily drafted. This is incorrect. This proposal was under general consideration for approximately 18 months, with a specific four month period dedicated to their development.

International and interstate solutions have been examined, and a range of issues and alternatives were analysed before this solution was settled on. Paramount in these considerations were the overlying factors of the rising social and crime issues related to imitation firearms and the ongoing national discussions by police ministers.

The overall intentions of the variation regulations are to allow controlled importation, sale and possession by those persons who have a legitimate need for imitation firearms and to impose a level of accountability on those owners. This will reduce the risk to the public by restricting ownership to persons who can show they are fit and proper to possess items which could potentially become firearms and to require those persons to provide an appropriate level of security.

Further, the regulations close a loophole that has seen imitation firearms being converted to live fire as an alternative source of weaponry for criminals as real firearms become harder to obtain. Possible consequences of withdrawal of the variation regulations are a failure of South Australia to meet national obligations on firearms regulatory matters and increased access by criminals to firearms.

Since 1 October, I am advised that SAPOL has seized 144 imitation firearms and had 354 surrendered. That means there are 498 fewer imitation firearms that cannot fall into the hands of criminals, while only 21 applications to license these imitations have been received.

The government remains committed to working with the Combined Shooters and other stakeholders to achieve a mutually acceptable resolution in relation to this matter. Furthermore, SAPOL will continue to work with the firearms community on a case-by-case basis to ensure an understanding and accurate interpretation of these regulations, to minimise angst and to assist with compliance in relation to imitation firearms.

The government has taken a thoughtful and considered approach to this matter. Where people are collectors of historical firearms and people have a legitimate need to have an imitation firearm, we are putting forward a framework to allow those to be regulated and licensed. We are not saying that they have to be banned, but we do want to ensure that imitation firearms that can be used in the commission of violent crimes are not out there.

Since 1 October, almost 500 imitation firearms are no longer out there. I would like Family First and the Liberal opposition to talk to all those who will be put at risk by this disallowance motion and tell them why it is that they are trying to do this. Tell them why they want 500, perhaps thousands, more of these imitation firearms out there as a result of this disallowance motion.

I commend those who represent the people at risk, such as the SDA. My union, of which I am a proud member, has supported this regulation for the benefit of shop assistants. Why don't the Hons Mr Ridgway and Mr Brokenshire and their colleagues talk to shop assistants and people in service stations and liquor shops and explain to them why they want imitation firearms on the street; explain to them why they want the lives of police officers, shop assistants and vulnerable people in our community put at risk by having these imitation firearms easily available, unregulated and unlicensed.

This disallowance motion is a disgrace. It is yet again the Liberal Party and other members telling the Commissioner of Police that they know better than he does; they know how to run the police force. They want imitation firearms in the community, putting lives at risk. They ought to be ashamed of themselves. I urge members to oppose this disallowance motion.

The Hon. D.G.E. HOOD (23:29): I will be very brief, but I think a point needs to be made. Unfortunately for the Hon. Mr Finnigan, his argument is self defeating. He made the statement

during his argument—and I paraphrase because I do not have the exact wording in front of me—something to the effect that the regulations are not designed to encompass collectors and people who are interested in firearms, and the like, or museums and collectors who have firearms.

The Hon. B.V. Finnigan interjecting:

The Hon. D.G.E. HOOD: That is right. It was not designed to do that, but it does encompass those people. That is exactly the problem. The problem is the regulations do encapsulate those people. If it did not, there would not be a disallowance motion. It is as simple as that. That is the whole purpose of this motion: let us be clear about that.

If the regulations were drafted appropriately and did not encapsulate those people, who are just law-abiding citizens who have an interest in these matters and collect these things as museum pieces or just to have a personal collection, or whatever it may be, there would not be a disallowance motion. What is wrong with that? These people are law-abiding citizens and, if they choose to collect these things, they are entitled to do so.

The problem is that the Hon. Mr Finnigan's argument is self-defeating because he says, by his own admission, that the regulations encapsulate those people. That is the whole point of the motion before the parliament tonight.

The Hon. M. PARNELL (23:30): To assist the council, the Greens do not support this disallowance motion.

The Hon. J.A. DARLEY (23:30): I indicate that I support this motion to disallow the regulations, for the reasons more than adequately outlined by the Hon. Robert Brokenshire.

The council divided on the motion:

AYES (11)

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

NOES (9)

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

Majority of 2 for the ayes.

Motion thus carried.

CONTROLLED SUBSTANCES (SIMPLE POSSESSION OFFENCES) AMENDMENT BILL

The Hon. D.G.E. HOOD (23:36): Obtained leave and introduced a bill for an act to amend the Controlled Substances Act 1984. Read a first time.

The Hon. D.G.E. HOOD (23:36): I move:

That this bill be now read a second time.

I assure members that I will be brief, given the lateness of the hour. Obviously, this bill will not pass this place. People have asked why I am introducing a bill at this late stage, so let me just very quickly explain: I made a commitment to some people that I would introduce this bill before the end of the session and I have only just had it returned from parliamentary counsel in recent days, so I was unable to introduce it until now.

However, let me assure members that I will introduce an identical bill early in the next parliament. The purpose of introducing it now was really to allow the second reading speech to appear in *Hansard* and also for a copy of the bill to be circulated to members so that they can consider it in the lead-up to the election and the immediate period afterwards.

The purpose of this bill is very simple. We have a strange anomaly in law in South Australia whereby if somebody is apprehended with what is deemed a non-trafficable quantity of cannabis in

their possession, then they are issued with a fine. I believe that is appropriate and I have no problem with it. However, if someone is caught with a non-trafficable quantity (that is, less than a trafficable quantity) of heroin on their person, in South Australia they receive no penalty whatsoever.

The penalty (if you can call it a penalty) is that they simply have to undergo a counselling session—and that is it. So, we have a ludicrous situation in our law where, if somebody is caught with cannabis, a drug which most would deem nowhere near as potentially harmful as heroin, the penalty is that they receive an expiation notice of approximately $300—a fine if you like—whereas if that same person is caught with a non-trafficable (sometimes deemed personal use) quantity of heroin, then they receive no penalty whatsoever other than the need to turn up to a counselling session. I am advised that, if they do not turn up, they are often not pursued any further and that is the end of the matter.

My intention is to gauge members' attitudes to this proposal, which is somewhat similar to the one introduced by the Hon. Ann Bressington in the recent past. I will re-introduce the bill in the new session, as I said, if members show interest in it over the summer period. Perhaps some members are not aware of this, but some years ago the possession of small quantities of illicit drugs was effectively decriminalised in South Australia. Family First and I find that unacceptable.

This bill ensures that illicit drug possession, even if only in small quantities, remains a punishable offence. The police Drug Diversion initiative provides that when an offender is found in possession of less than a trafficable quantity of hard drugs (such as amphetamines, heroin, LSD, ecstasy or cocaine) then the regimen found in section 40(1) of the Controlled Substances Act provides that no prosecution can proceed against them provided that the offender attend a meeting at a DASSA counselling session and is not terminated from the program. So, it is specifically in the act that no prosecution can proceed against people caught with any of those very serious drugs on their person—amphetamines, heroin, LSD, ecstasy, cocaine, and the like—no penalty whatsoever. That is in the act. In other words, if an offender promises to attend a counselling session, then there is absolutely no penalty. Anecdotally, I have been told that, when offenders do not attend a counselling session, they are rarely, if ever, followed up. To be blunt, this regime sends the message that there is nothing wrong with the possession of personal use quantities of very serious drugs.

I think if you asked any South Australian on the street what the penalty was for being found by police with amphetamine tablets or heroin in their possession, they would say that there must at least be some sort of fine of a few hundred dollars at the very least. Most people are appalled when I tell them that there actually is no penalty, other than the counselling session itself.

While I believe the Police Drug Diversion initiative was and is a good initiative and will remain for offenders found in possession of illicit drugs, this bill adds to it a financial penalty by way of an on-the-spot fine, similar to what applies to those found with personal quantities of cannabis in their possession. This bill provides that offenders found in possession of so-called harder drugs for personal use should at least be given an on-the-spot fine, as is already the case for possession of cannabis for personal use, which receives an on-the-spot fine of between $150 and $300. By doing so, we send the very clear message to our community that drug possession is, indeed, illegal and is not condoned—a message that the current section 40(1) is obscuring and, indeed, I believe, undermining.

The current provisions also requiring such an offender to attend counselling would remain: that would be unchanged by this bill. In fact, the additional revenue stream from the fines could likely be used to improve the rehabilitation services themselves which, as I said, is a good initiative but I believe that it could be improved.

A month or so ago, I was privileged to visit the Elura Drug and Alcohol Rehabilitation Clinic in North Adelaide, which is a rehabilitation service administered by the Drug and Alcohol Services of South Australia. I want to put on record my appreciation for the quite lengthy discussion I had with Dr. Keith Evans—I certainly appreciate his time—and one of the senior counsellors at the service, regarding drug and alcohol rehabilitation services generally in the state and the insights that I was given into the Police Drug Diversion initiative. Throughout the discussion, the program was described as primarily a health intervention rather than any form of penalty or punishment or even legal remedy for the offence.

Elura is a facility where drink drivers are obliged to attend the so-called section 47J assessments if they are caught with a prescribed concentration of alcohol on more than one

occasion within a three year period. The Elura DASSA office is also one of many that administer the Police Drug Diversion initiative. Upon being apprehended by police, for an offender found in possession of small quantities of drugs (apart from cannabis), the regime found in Division 6 of the Control Substances Act operates to provide that, should the offender attend a meeting at the DASSA counselling office, such as Elura, and not be terminated from the program, no prosecution can proceed against them. This means that there is clearly an inconsistency, as I have already said.

It is important that this matter is resolved, and I am disappointed to see that this is the law as it currently stands. Many people with whom I have discussed this are not aware of it. Indeed, I have spoken about this with some members of parliament who were not aware of it either. You could argue clearly that there is, in fact, no real penalty for being found in the possession of smaller quantities of very serious drugs, such as heroin, LSD, ecstasy and the like.

This bill also provides that a person found in possession of these drugs must also attend a drug counselling session or face a fine of up to $2,000 should they not attend. As I said, under the current law, there is no penalty for failing to attend the counselling session and the original drug offence is simply prosecuted. To some degree, this makes drug counselling mandatory, as the Hon. Ann Bressington has propagated in this place.

The counselling sessions described in Division 6 of the Control Substances Act are the first port of call for most people who have started experimenting with drugs and are the first time that many of these people have contact with what is referred to as 'the system'. It is important that we catch early offenders and give them all possible assistance before their drug or alcohol abuse becomes much worse.

It is also important, as this bill proposes, that we send a message to illicit drug users that their behaviour is not legal, nor is it condoned by the community. By imposing an on-the-spot fine for such illicit drug possession, this bill sends that message. To be clear, if you are caught with personal use quantities of cannabis in South Australia, you receive an on-the-spot fine of between $150 and $300. If you are caught with so-called personal use quantities of heroin or similar drugs in South Australia, your penalty is nothing other than attending a counselling session. It just does not make sense. It should change, and that is what this bill will do.

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

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT BILL

In committee (resumed on motion).

(Continued from page 4196.)

Clause 26.

The Hon. J.A. DARLEY: I move:

Page 18, after line 7 [clause 26(1)]—After paragraph (b) insert:

or

(c) an adjudicator who accepts an adjudication application notifies the claimant and the respondent that he or she has withdrawn from the adjudication.

The amendment is intended to ensure that an adjudicator can withdraw from an adjudication. This situation would probably be likely to arise only where the adjudicator has accepted an adjudication application but on further consideration has become aware of a possible conflict of interest.

I have been advised by one adjudicator that, on the surface, it may not be apparent to an adjudicator that a conflict exists and that, when it does arise, the only mechanism available to overcome it is to call the parties in, explain the situation and allow them to decide how to progress with the matter.

In some cases, the parties may not have an objection to the adjudicated proceeding to determine the application. However, the amendment would provide the adjudicator with that ability if, in the circumstances, they considered it appropriate to withdraw. I am sure that there are other situations, such as illness, that could also lead to an adjudicator wishing to withdraw, and this amendment would facilitate that process.

This amendment, together with the next three amendments, which are all consequential in nature, are all minor amendments aimed at improving the bill and making it that little bit better. The

amendments do not change the operation of the bill in any significant way, but they do provide clarity for the parties involved. I urge all honourable members to support the amendments.

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

The Hon. D.G.E. HOOD: Family First also supports the amendment.

The Hon. R.P. WORTLEY: Having talked to the Hon. Mr Darley, he has provided a little more clarity, and we support the amendment.

Amendment carried.

The Hon. J.A. DARLEY: I move:

Page 18, line 8 [clause 26(2)]—Delete 'those circumstances' and substitute:

the circumstances specified in subsection (1)(a) or (b)

This amendment is a consequential amendment relating to the previous amendment.

Amendment carried.

The Hon. J.A. DARLEY: I move:

Page 18, after line 12—After subclause (2) insert:

(2a) In the circumstances specified in subsection (1)(c), the application is discontinued and the claimant may make a new adjudication application under section 17.

This amendment is also a consequential amendment. It provides that, where an adjudicator withdraws from an adjudication application pursuant to subsection (1)(c) as inserted, the application is discontinued and the claimant may make a new adjudication application under section 17. The amendment essentially makes it clear that the claimant is still entitled to pursue adjudication in relation to the dispute.

Amendment carried.

The Hon. J.A. DARLEY: I move:

Page 18, lines 14 and 15 [clause 26(3)]—Delete 'becomes entitled to withdraw the previous adjudication application under subsection (2).' and substitute:

(a) becomes entitled to withdraw the previous adjudication application under subsection (2); or

(b) is notified by the adjudicator that he or she has withdrawn from the adjudication.

Again, this is a consequential amendment relating to the previous amendments.

Amendment carried; clause as amended passed.

New clause 26A.

The Hon. J.A. DARLEY: I move:

Page 18, after line 17—After clause 26 insert:

26A—Claimant may discontinue adjudication

A claimant may withdraw an adjudication application at any time before the application is determined by notice in writing served on the respondent, the adjudicator and the authorised nominating authority to whom the application was made.

Again, like the previous set of amendments relating to the withdrawal of an adjudicator, this amendment is intended to make it clear that a claimant may also withdraw an adjudication application at any time prior to a determination by an adjudicator. This is to be done by serving the respondent, the adjudicator and the nominating authority to whom the application was made with written notification of that intention. Like the previous amendments relating to the withdrawal of an adjudicator, this amendment is simply aimed at providing clarity for the parties.

The Hon. D.W. RIDGWAY: I indicate that the opposition supports the amendment.

New clause inserted.

Clauses 27 and 28 passed.

Clause 29.

The Hon. J.A. DARLEY: I move:

Page 19, lines 30 to 32 [clause 29(1)(b)]—Delete paragraph (b) and substitute:

(b) if no such amount is agreed—the hourly rate (if any) prescribed by regulation adjudicator in addition to reasonable expenses; or

(c) if no such amount is agreed and no hourly rate has been prescribed—such amount, by way of fees and expenses, as is reasonable having regard to the work done and expenses incurred by the adjudicator.

This amendment relates to an adjudicator's fees. The amendment is intended to overcome any concerns regarding unreasonable adjudication fees by providing for the option of having those fees prescribed by regulation. Clause 29 of the bill provides that an adjudicator is entitled to be paid for adjudicating the adjudication application such amount by way of fees and expenses as agreed between the adjudicator and the parties to the adjudication or, if no such amount is agreed, such amount by way of fees and expenses as is reasonable having regard to the work done and expenses incurred by the adjudicator.

The amendment seeks to broaden clause 29 by also providing the further option of having an hourly rate prescribed by regulation which would be payable where there is no agreement between the adjudicator and the parties to the adjudication. Where there are no fees prescribed by regulation, the effect of the amendment is to revert back to the current position in the bill.

I have had several discussions with key stakeholders and other industry experts regarding the issue of an adjudicator's fees. Certainly, from the stakeholder's point of view, they would like a system that is affordable and, therefore, accessible. Industry experts have indicated that the fees payable should vary depending on the complexity of the adjudication application and the experience of the adjudicator. For instance, an adjudication application worth $50,000 will not cost as much and may not necessarily require an adjudicator with as much experience as an adjudication worth $1 million.

The fees should be flexible enough to provide for this situation and, certainly, if there is to be an hourly rate prescribed by regulation, those rates should take into account the degree of complexity or the level of experience required. I am advised that in New South Wales complaints in relation to an adjudicator's fees are virtually negligible. In the one instance that was highlighted to me where the adjudicator was overcharging, the adjudicator was dropped by the nominating authority. I am extremely mindful of the issues raised with me by stakeholders in relation to the affordability of this process. This legislation will represent a first for those stakeholders so it is, in some ways, difficult to predict whether the issue of adjudicator fees will result in any of the concerns raised by those who oppose the current fee structure.

With that in mind I move this amendment to allow these concerns to be addressed either now or in the future. I am certain that stakeholder groups and industry representatives alike would be keen to be involved in any consultation regarding the regulations. If there are concerns raised by stakeholders regarding adjudicator fees later down the track, we could revisit the issue. I urge all honourable members to support this amendment.

Amendment carried; clause as amended passed.

Remaining clauses (30 to 35) passed.

Schedule 1.

The Hon. J.A. DARLEY: I move:

Clause 2, page 22, line 33 [Schedule 1, clause 2(6)]—Delete subclause (6) and substitute:

(6) Section 30(3)—delete 'unless the building work contractor has requested the payment by notice in writing given to building owner or an agent authorised to act on behalf of the building owner.' and substitute:

unless—

(a) the building work contractor has requested the payment by notice in writing to the building owner or an agent authorised to act on behalf the building owner; or

(b) the domestic building work contract is a contract to which the Building and Construction Industry Security of Payment Act 2009 applies (in which case the provisions of that act relating to progress payments apply).

This is a consequential amendment relating to the exclusion of owner-builders, as already outlined. There are a small number of contracts which may fall within the ambit of the bill, and it would be only because they do not relate to premises that the party for whom the work is carried out resides in or proposes to reside in. I urge all honourable members to support the amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

BAIL (ARSON) AMENDMENT BILL

Second reading.

The Hon. S.G. WADE (23:58): I move:

That this bill be now read a second time.

This bill was moved by the member for Davenport in the other place. The electorate of Davenport includes Mitcham Hills, one of the most fire prone areas in the world. The member for Davenport is proactive in promoting initiatives to reduce the risk of bushfire for both his electorate and the state as a whole.

Section 10 of the Bail Act 1985 provides a statutory presumption in favour of bail deriving from the common law principle that a person is innocent until proven guilty. In ordinary language the presumption means that bail should be granted unless there are good reasons for it being refused. This bill reverses the presumption of bail for people charged with causing a bushfire against bail for the offence of intentionally or recklessly causing a bushfire under section 85B of the Criminal Law Consolidation Act 1935. Already under the act there is the ability for certain offences for the presumption of bail to be reversed. This bill brings bushfire offences into that class of offences.

The opposition takes the view that lighting bushfires is such a serious offence with such a potentially devastating impact on lives, property and the environment, that the presumption of bail should be reversed. The practical effect of the bill is that, if a person is charged with arson rather than the prosecution having to argue why bail should not be allowed, the accused, through their lawyers, would have to argue why bail should be allowed.

I thank the government for its support of this bill in the other place, and look forward to its continued support and the support of other members in this place.

The Hon. B.V. FINNIGAN (00:01): The bushfire disaster in Victoria in February this year was a timely reminder of the devastation caused by fires and the ongoing need to combat the small minority of individuals who deliberately set these fires. The government is heavily focused on preventing such bushfire devastation in South Australia this season, particularly in light of the CFS having predicted that a busy fire season is ahead, owing to dry conditions and long periods of hot weather expected.

Aside from investing an extra $5.2 million on community awareness education, the state government has announced that police will be targeting more than 100 known arsonists during the bushfire season, with the help of a new mobile number plate recognition system. This system allows mobile surveillance cameras mounted on police control cars to identify the number plates of vehicles of interest in the daytime or at night and in all weather conditions.

In launching the official statewide fire danger season at Belair National Park, Assistant Commissioner Brian Fahey said that the number of people monitored by the Anti-Arson Police Task Force Operation Nomad had more than doubled from about 50 in the past year. Already this fire season 11 arsonists have been caught lighting fires. Last year 179 people were apprehended for lighting fires during the fire danger season, and 92 expiation notices relating to fires were issued. This demonstrates that the police are committed to achieving the government's tough stance on fire lighting.

Operation Nomad was launched this week to promote a zero tolerance attitude towards arson offences in South Australia. South Australia also has some of the toughest penalties for bushfire arson, with up to 20 years' imprisonment for anyone convicted of this crime. The government intends to further crack down on bushfire lighters through this bill.

The government is pleased to support this bill as a result of the other place passing a government amendment that limits the reversal of the presumption in favour of bail to the offence of intentionally or recklessly causing a bushfire under section 85B of the Criminal Law Consolidation Act 1935.

Section 10 of the Bail Act 1985 creates a statutory presumption in favour of bail where a person is charged with but not convicted of an offence. This means that a person is presumed to be granted bail unless, having regard to the matters in subsection (10)(1), the bail authority believes it should be refused. Some of the factors in section 10(1) of the Bail Act 1985 that could cause the bail authority not to release the applicant on bail include the likelihood of reoffending or absconding, the need for physical protection of the victim, or the gravity of the offence in respect of which the applicant has been taken into custody.

By contrast, section 10A of the Bail Act 1985 provides that bail is not to be granted unless the applicant establishes the existence of special circumstances justifying the applicant's release on bail. This bill seeks to expand the current definition of a prescribed applicant to include a person who has been taken into custody for an offence committed against section 85B of the Criminal Law Consolidation Act 1935, intending to cause or recklessly causing a bushfire.

Section 10A of the Bail Act 1985 commenced on 30 July 2006 and was originally introduced to deal with drivers who commit serious driving offences in the course of attempting to escape police. The relevant offences were limited to manslaughter where the victim's death was caused by the applicant's use of a motor vehicle, an offence against section 19A and reckless endangerment where the act or omission constituting the offence was done or made by the applicant in the course of the applicant's use of a motor vehicle.

Section 10A of the Bail Act 1985 was amended on a further two occasions by the Statutes Amendment (Victims of Crime) Act 2007 and the Serious and Organised Crime (Control) Act 2008 respectively. Therefore, the legislative history of section 10A of the Bail Act 1985 indicates that it is subject to amendment, or indeed expansion, where there is a public policy reason or necessity to do so. Given recent bushfire tragedies, there are indeed good public policy reasons to include the offence of intentionally or recklessly causing a bushfire under section 85B of the Criminal Law Consolidation Act 1935.

Deliberately or recklessly causing a bushfire creates a very real and serious risk to the public of injury or death and can damage or destroy property. The Bail (Arson) Amendment Bill should be confined to target the main offenders who do pose a risk to the public, namely, those who light bushfires, and this bill now achieves that. The government supports the bill.

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

STATUTES AMENDMENT AND REPEAL (TRADE MEASUREMENT) BILL

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

At 00:12 the council adjourned until Thursday 3 December 2009 at 11:00.