LEGISLATIVE COUNCIL

Wednesday 26 May 2010

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.P. WORTLEY (14:19): I bring up the first report of the committee.

Report received.

The Hon. R.P. WORTLEY: I bring up the second report of the committee.

Report received and read.

PAPERS

The following papers were laid on the table:

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

State Coroner—Report, 2008-09
Advice received from the Premier's Climate Change Council pursuant to Section 11(3) of the Climate Change and Greenhouse Emissions Reduction Act 2007—
Government Response
Report of the Statutory Authorities Review Committee into the Inquiry into the Office of the Public Trustee—Response by the Attorney-General

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

Death of Joyce Millicent Wilman—Report prepared by SA Health on actions taken following the Coronial Inquiry—April 2010

MAKING CHANGES PRISONER REHABILITATION PROGRAM

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:22): I table a copy of a ministerial statement relating to the Making Changes rehabilitation program made earlier today in another place by my colleague the Minister for Correctional Services.

QUESTION TIME

INTEGRATED DESIGN STRATEGY

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 a question about integrated design strategy.

Leave granted.

The Hon. D.W. RIDGWAY: In 2003, when the Hon. Jay Weatherill was minister for planning he issued a press release entitled 'Success for South Australian National Planning Awards'. It stated:

In a triumph for planning in South Australia, one of the state's most innovative partnership projects took out the national award for planning research and teaching at the Planning Institute of Australia's 2003 national awards for planning excellence.

The Public Spaces and Public Life report by Danish architect Professor Jan Gehl—a joint initiative of Planning SA and the Adelaide City Council—was announced as the winner of the national award at a presentation dinner, held at the Adelaide Convention Centre tonight.

It continued:

The report makes recommendations on how Adelaide could be made better for the people visiting, living, working and shopping in the city centre and focuses on improving the vibrancy and character of the streets and squares within Adelaide. This would encourage the use of the more recreational, social and cultural activities to create a more vibrant 'public life' within the city—also improving conditions for business and commerce.

As the minister would be aware, I was with him at a lunch today that was sponsored by the Urban Development Institute. I made some inquiries at that lunch—and also previously—about what had happened to the report; most people believe that it is just collecting dust.

I was intrigued to read an article in *The Adelaide Review*, written by Amanda Ward, regarding Laura Lee's recommendation for a design commissioner and the integrated design strategy in particular. In one section she talks about the various phases of the integrated design strategy, particularly phase 1, called 'Analyse and Understand', which at the time of writing the article she said 'may already be underway'. She wrote:

> It involves the preparation of a report, Public Spaces and Public Life Adelaide 2010 by Gehl Architects, that will build on the 2002 study by the eminent Danish architect, collecting data on how people use this city now compared to eight years ago and using that data to make informed design decisions.

My questions to the minister are:

1. Can he confirm that Gehl Architects have now been commissioned to compile yet another report entitled 'Public Spaces and Public Life, Adelaide 2010'?

2. Can he also inform the chamber how many of the 16 recommendations of the previous report in 2002 the government has implemented?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:25): The information on the report of 2002 is not something I would have, but I indicated to the Leader of the Opposition, when he asked a question just a few weeks ago, how I had met with Jan Gehl and Laura Lee in regard to the general issues of urban design. I was aware that Jan Gehl had done some earlier work. I am not sure who had actually commissioned that work, whether or not the city council had been part of it, and I will have to go back and get that—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: That is right. As the honourable member says, it involved the city council. He would well know that there are issues in relation to getting things done in conjunction with the Adelaide City Council.

The Hon. D.W. Ridgway: So, it is the city council's fault?

The Hon. P. HOLLOWAY: No, I am not suggesting that but saying that, if you want to get done in this city, we work closely with the Adelaide City Council, but its priorities will often be different from those of the government. I will have to go back and get that information. What was the other part of the honourable member's question?

The Hon. D.W. Ridgway: Have they been engaged to compile another report 'Public Spaces and Public Life, Adelaide 2010', and how many of the recommendations have been implemented?

The Hon. P. HOLLOWAY: I had a meeting with Jan Gehl some time last year. He is a very eminent, world-renowned architect, an associate of Professor Laura Lee, who we have here for the Integrated Design Commission.

The Hon. D.W. Ridgway: Where in the world can we look at Professor Lee's work?

The Hon. P. HOLLOWAY: Let me tell you: I am quite happy to do so. Laura Lee has extensive experience in a number of cities—minor little towns like Pittsburgh, Washington DC, Antwerp, Barcelona, Copenhagen, Rome and Gdansk! She has worked on an urban design program for Doha in Qatar and has also been involved with the oldest urban design program in the United States for some 20 years, in addition to being involved, I am told, in 18 commercial-based programs of urban design in 18 cities and communities in the United States. So really, come on, let us stop this rubbish about trying to denigrate.

To come back to the question, Jan Gehl is an associate of Professor Laura Lee. I know that he did some of the work not only in Adelaide but also in Melbourne, including I believe some of the work around Federation Square. He is a person who regularly visits this country and with whom governments consult. As to the details of the arrangement, I will bring back an answer to the chamber.

The Hon. D.W. Ridgway: You're the minister responsible and you don't know?

The PRESIDENT: Order! The Hon. Mr Ridgway should not have raw meat for lunch.

TOXIC CHEMICALS, CHILDREN'S PRODUCTS

The Hon. J.M.A. LENSINK (14:30): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about diethylhexyl phthalate.

Leave granted.

The Hon. J.M.A. LENSINK: On 18 April, it was reported that Queensland was to be the first Australian jurisdiction to ban products containing more than 1 per cent of the toxic chemical diethylhexyl phthalate, commonly referred to hereafter as DEHP, at least by me. This toxic chemical can be found in some children's toys, dummies and babies bottles.

It is not the first time the issue of the use of chemicals in the manufacture of utensils and products for eating and drinking has come to our attention. As of 2 March this year, the federal government has placed an interim ban on the use DEHP, which is used to manufacture clear plastic products, such as babies bottles, food utensils, toys and childcare articles, mainly for younger children.

Food Standards Australia New Zealand (FSANZ) is aware of concerns relating to DEHP and BPA on another matter and is examining studies relevant to the chemical and its effects when used in food storage. My questions are:

1. What effect does the federal interim ban have on the sale of children's products in South Australia?

2. Does South Australia intend to follow in Queensland's footsteps and formally legislate a ban?

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 for the City of Adelaide) (14:31): I thank the honourable member for her most important questions. Indeed, South Australia is vigilant in ensuring that consumer products are safe for all consumers but particularly those involving young children and babies because the developmental effects on younger people tend to be far greater than on adults, depending on the substance, of course.

DEHP is a chemical identified by the unique Chemical Abstracts Service (CAS), and it is known by the name mentioned by the honourable member—

An honourable member interjecting:

The Hon. G.E. GAGO: No, I won't; I couldn't do her justice. DEHP is commonly used as a plasticiser that is used to make plastics such as PVC soft and flexible, and honourable members can imagine how common that could be in toys. Studies have shown that even low level exposure of DEHP can affect reproductive development, particularly in young boys, obviously putting children chewing or sucking the items containing the chemical at risk.

DEHP was declared a priority existing chemical for public health risk assessment by the Minister for Health and Ageing on 7 March 2006, and a draft assessment report was subsequently released by the National Industrial Chemical Notice and Assessment Scheme in January 2010. The report found that currently the use of DEHP in children's toys and childcare articles in Australia is limited, and we were very relieved to receive that report.

The report recommended that the Australian Competition and Consumer Commission consider appropriate regulatory measures to limit the exposure of DEHP resulting from the use of DEHP in toys and childcare articles where significant mouth contact might occur. In response to this recommendation, the Minister for Competition Policy and Consumer Affairs declared a ban on certain products containing more than 1 per cent in weight of DEHP. The interim ban took effect from 2 March 2010 and is in force for 18 months, unless revoked earlier. The commonwealth ban applies to those products here in South Australia.

The ban applies to toys, childcare articles, eating vessels that are used by children up to 36 months of age and includes dummies, bibs, feeding bottles and cups. The ban does not include clothing, footwear, sporting goods, swimming aids, toys and such like. DEHP is banned from toys and childcare products in the United States of America and the European Union. The ban does apply here in South Australia to those products that have been assessed as posing a risk to our young children.

SAFEWORK SA

The Hon. S.G. WADE (14:35): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question relating to SafeWork SA.

Leave granted.

The Hon. S.G. WADE: Today, *The Advertiser* reported that lifts linking the underground cells to the Supreme and District Courts are experiencing widespread repeated breakdowns, leaving staff trapped with uncuffed criminals for hours at a time. A SafeWork SA spokesman is reported as having indicated that the organisation is preparing a report. However, it is also reported that the Courts Administration Authority will not have the funds to replace the faulty lifts until 2012. Chief Justice Doyle has been reported as saying that the budget cuts to the agency, which last year totalled $208 million, have left no money to upgrade cramped and inadequate facilities.

The opposition understands that access to some courts and toilets is external only, that some rooms are small and overcrowded and that in the old Supreme Court building the same toilets are used by witnesses, victims and defendants. My questions are:

1. When was the matter of occupational health and safety issues resulting from problems with the Supreme Court lifts first raised with SafeWork SA?

2. When will the report of SafeWork SA be finalised and action taken?

3. Has SafeWork SA undertaken an assessment of the occupational health and safety environment of the courts precinct generally?

4. Can the minister assure the council that this government's failure to properly fund the Courts Administration Authority will not be used as an excuse to tolerate health and safety risks to members of the authority?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:36): The member asks when this matter was first raised. I do not know the answer to that, and I will obviously have to go back and look, given the relatively brief tenure in which I have been Minister for Industrial Relations. I will certainly go back and see what the record is in relation to this matter.

In regard to the other questions the honourable member asked, as he said, there is a press report today in relation to this issue that indicates that there had been some SafeWork SA involvement in that particular matter. I have asked for a report on that, but I have not received the details as yet because I have come straight back to the parliament from a luncheon. However, I expect to get a report from SafeWork SA in relation to this. Hopefully, it will provide some of the answers to the questions the member has asked, and I will provide those to him at the first opportunity.

In relation to the broad question of funding, I just make the comment that, like every other area of government, the government has to set priorities. Yes, there is a need in the courts for additional funding, but there are needs in a whole lot of other areas of government. At the same time, government also has an obligation to make sure that the finances of this state are sustainable in the longer term, and that is not necessarily an easy issue. It is all very well for members opposite to say that we need to spend more money on this and more money on that and that we need to cut taxes here and cut taxes there, as they do, but obviously the government has to order its priorities.

In relation to the latter part of the question, of course the occupational health, safety and welfare of our employees has the highest priority. I am not aware of any particular risk in relation to that matter. As I said, we are getting the information now from SafeWork SA. While that is a high priority, we also have a number of other priorities for government that we need to fund. The government is going through the exercise now, and the Sustainable Budget Commission is looking at the finances of the state to ensure that we provide the services we need but that we do so in a sustainable way.

SAFEWORK SA

The Hon. S.G. WADE (14:39): Can the minister clarify whether his answer suggests that the government regards the financial sustainability of government as an exemption from the occupational health and safety requirements and, if so, whether that is also available to businesses

if their financial sustainability were threatened by providing a safe work environment for their employees?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:40): Of course, it does not. What I have said in the press to date is that there were some allegations of a lift malfunctioning. I will wait until I get the report as to the cause of that. In his question the honourable member raised some general comments, and the press article this morning had some comments that were attributed to the Chief Justice in relation to the funding of the Courts Administration Authority, and the honourable member seemed to roll those in together.

All I am saying is that we do give occupational health and safety issues top priority. We will be looking to see if there is, in fact, any genuine risk. I do not know that that has necessarily been established at this stage. All of us work in buildings where, from time to time, lifts do not work. Whether there is anything further than that is obviously something for SafeWork SA to determine. I will wait until I get its report before I pass judgment on the risk. If there are any genuine safety concerns then, of course, government gives them top priority. However, in terms of upgrading buildings and facilities, they have to take their place in the queue with all the other demands on government.

CAPE BAUER ECOTOURISM RESORT

The Hon. J.M. GAZZOLA (14:41): My question is to the Minister for Urban Development and Planning: will he advise honourable members of the current status of the proposed Cape Bauer Ecotourism Resort near Streaky Bay?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:41): I thank the Hon. John Gazzola for his question. Members may recall that in September last year a proposal to build an ecotourism village near Cape Bauer on Eyre Peninsula was declared a major development, triggering the most stringent assessment process available under South Australia's Development Act.

Cape Bauer (about 15 kilometres north-west of Streaky Bay on Eyre Peninsula) is recognised for its natural clifftop scenery. In fact, I think it is one of the most spectacular parts of the coastline in this country. The Eyre Peninsula Coastal Development Strategy, which covers the proposed development location, allows medium-scale tourism developments in coastal environments to be considered only after a thorough assessment of the landscape, cultural, social and economic impacts or benefits. It is only appropriate then that the major development provisions be used to assess this proposed $31 million ecotourism resort.

The proponent (Streaky Bay Joint Venture Group Pty Ltd) is proposing to build a resort comprising hotel/motel style accommodation, 22 self-contained serviced coastal villas, conference facilities, restaurant and commercial areas. The project also includes 30 individual dwellings on small allotments as owner-occupied holiday home accommodation, a rural residential land division of approximately 300 allotments and significant areas of habitat restoration and revegetation.

The declaration as a major development followed consideration of the views of the Streaky Bay council. The project was also referred to the commonwealth minister for environment (the Hon. Peter Garrett MP) under the provisions of the commonwealth Environment Protection and Biodiversity Conservation Act. The commonwealth advised the proponent last month that the project does not warrant formal assessment by the federal government.

This has allowed the independent Development Assessment Commission to take the lead role in determining the level of scrutiny required as a major development. After visiting the site and receiving advice from state government agencies including the Environment Protection Authority, and the Department for Environment and Heritage, the independent Development Assessment Commission determined that a public environmental report is required.

The public environmental report (also known as a targeted EIS) is required to respond to a detailed set of guidelines issued by the Development Assessment Commission, identifying 139 issues to be addressed. The land proposed for Cape Bauer tourist development is currently zoned primary production and coastal zone. The environmental report will determine the impacts of the proposal on this coastal environment and how these are to be addressed by the proponent in

the construction and management of the project. As part of this assessment the proponent has been asked to:

- Justify the rationale for the proposal from an environmental, economic, social and sustainability perspective, including the reasons for its proposed location, scale, staging and its definition as a form of ecotourism.
- Outline how visitors, residents and tourists will access the coast and the management measures proposed to prevent or limit soil erosion and damage to native vegetation around access points and to minimise impacts on sensitive coastal environments.
- Identify ways in which power use can be minimised or supplemented, particularly through the use of alternative energy sources, improved efficiency and conservation measures.
- Outline how the project will promote tourism and investment opportunities in the area.

After completion of the public environmental report, it will be released for a six-week consultation period, allowing for submissions from members of the public. A public meeting will be held at Streaky Bay and the views of the community conveyed to the proponent. After this time the proponent is required to respond to submissions received during the public consultation process. The final assessment is then to be completed by me as the minister and a decision by the Governor.

STRATHMONT CENTRE

The Hon. K.L. VINCENT (14:46): I seek leave to make a brief explanation before asking the minister representing the Minister for Disability a question about Strathmont Centre.

Leave granted.

The Hon. K.L. VINCENT: On a recent visit to Strathmont Centre, I was somewhat concerned when visiting one of the villas that, even to me as a visitor, it was uncomfortably cold in the villa. It occurred to me that it would be especially uncomfortable for residents of Strathmont, many of whom have limited mobility. I wonder whether the minister is aware of the issue and I ask what will be done to ensure that the residents of Strathmont are kept comfortable in the winter months especially?

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 for the City of Adelaide) (14:47): I thank the honourable member for her important questions about Strathmont Centre. I will refer those questions to the Minister for Disability in another place and bring back a response.

CONSUMER PROTECTION, REGIONAL MONITORING

The Hon. CARMEL ZOLLO (14:47): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about regional monitoring programs.

Leave granted.

The Hon. CARMEL ZOLLO: No matter where one lives in the state, a consumer deserves protection from shoddy work or deals. Will the minister advise what is being done to monitor traders who do the wrong thing in regional areas?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:48): I am pleased to advise that the compliance staff from the Office of Consumer and Business Affairs (OCBA) have commenced a blitz of traders on the West Coast to ensure that local consumers are getting a fair deal. OCBA officers from Port Augusta and Adelaide are joining forces to check retailers, car dealers, builders, service stations and pubs across the West Coast to ensure they comply with our fair trading laws. This week's checks are about making sure that traders are not compromising the rights of consumers.

While OCBA regularly conducts checks in the regions, this specific round of monitoring is the most extensive program carried out in the West Coast region for some time. It is often thought that due to the isolation of regional areas traders have the opportunity to skimp on their legal responsibilities. However, with monitoring programs such as this, obviously this is not the case and they are being put on notice.

OCBA officers will be making sure that store policies are correct, that products offered for sale are safe and that goods are sold by correct weight and measure. Customers have the right to receive the correct quantity when they are paying for it, whether it be for petrol, vegetables or a nip of spirits. Product safety officers are also visiting a range of stores to check that products for sale do not present any safety concerns. Products that are being scrutinised include toys and secondhand goods, as well as banned or regulated products such as corded curtain and blind products, prams, strollers and trolley jacks (which I spoke about yesterday).

Builders and second-hand vehicle dealers are also being checked for compliance with the specific laws that govern their respective trades, and retailers will be examined to make sure that their warranty and refund policies are not misleading. These checks should ensure that fair trading standards are being maintained in the region and, if they are not sure, I encourage consumers with any concerns about traders' conduct to contact the Office of Consumer and Business Affairs.

Traders caught breaching their legislative requirements will be issued with a warning notice and could face infringement notices for not complying with the law. OCBA will obviously monitor the future practices of those traders not complying and, if they are repeat offenders, they risk further action, such as prosecution or fines. For more information or advice, members of the public should feel free to contact the Office of Consumer and Business Affairs and also visit our online services.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (14:51): My questions are for the Minister for State/Local Government Relations in relation to the Burnside council investigation:

1. When we enter the period of natural justice, does it mean that individuals named in the report will be provided with a copy of the report for perusal, or will they be required to attend the investigator's office to peruse the report at those premises?

2. Will that decision be made by the minister or the investigator?

3. Will the minister now provide an up-to-date cost of the investigation so far and an estimate of the anticipated cost of completing the investigation?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:52): I thank the honourable member for his most important questions. The processes the investigator adopts are a matter for the investigator. He is the expert, and it is at his discretion and with his expertise that the processes he believes are the most appropriate will be adopted.

In terms of the Burnside investigation, whether that means that the natural justice phase will involve a copy of the report going out or the people named in the report being invited to some sort of meeting, I do not know. That is not a detail the investigator has discussed with me in any shape or form. It is a matter for the investigator to decide what process he believes will provide the greater amount of rigour and the greatest level of natural justice to those people named and afford them the opportunity to respond to any of the findings the investigator might have come to. In terms of the cost, I have asked for an update, and that update has not been finalised, but the—

The Hon. S.G. Wade interjecting:

The Hon. G.E. GAGO: I have already said. I am already on the public record as giving the rate that the investigator is being paid at. That is unchanged. We now just have to do a cumulative assessment. So, it is on public record, and the member opposite, the Hon. Mr Wade, is just lazy. He is just bone lazy. It is on the public record, but I have committed to—

The Hon. S.G. Wade: Two weeks ago.

The Hon. G.E. GAGO: Well, it's on the public record. As I said, the member opposite is just bone lazy. The figures are already out there. I have already made it really clear in terms of the rate the investigator is being paid at. I have said that I will come back and do a cumulative assessment for him. As I said, it is on the public record. He is just bone lazy.

The PRESIDENT: The Hon. Mr Wade has a supplementary deriving from the answer.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:55): In the minister's answer, she advised the council that she had not had discussions with the investigator as to the process in the natural justice period. Can

she advise whether any officers of her department have had discussions with the investigator about the natural justice process?

The PRESIDENT: That could have been quite easily asked without the explanation.

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 for the City of Adelaide) (14:55): Not that I am aware of. I have made it quite clear that the investigation is in the hands of Ken MacPherson, who is highly credentialled and has a great deal of experience. We know that the opposition are undertaking a witch-hunt in relation to him because of some of the adverse findings he has made against them. We know that they are on a witch-hunt after this gentleman who, as I said, is highly credentialled, has a great deal of expertise and is held in extremely high regard in the community—except, of course, by members opposite. They are the only ones who try to discredit the work and efforts of this quite extraordinary man.

As I have said, I do not receive reports. My ministerial staff do not receive reports, to the best of my knowledge. That is my answer. My ministerial office is at arm's length to the investigation. I receive progress reports from time to time in terms of where the thing is at. For instance, I was able to announce recently that the investigator was about to commence, or had commenced, preparations for the natural justice stage of the process. That came from the agency to my office, so clearly there is some exchange there at, I would imagine, a very basic level.

The investigator does not report to anybody else except me, the minister. Those general progress reports come through the agency to my ministerial office from time to time outlining, as I said, in the most general terms, the progress of the inquiry. The last progress report I received from the agency was that the investigator had commenced preparations for the natural justice part of the process.

Honourable members opposite just need to get over it. Mr Ken MacPherson is doing a tremendous job in relation to this investigation. He has worked hard and with commitment to unravel the complaints. The community response to this has been significant and far greater than we had originally anticipated, which is why the thing has been extended further. This man has put in the most incredible number of hours and dedication to ensure that South Australians can remain confident that our local government sector is of the highest integrity possible. That is what Mr Ken MacPherson is doing: he is making sure that those complaints are investigated thoroughly, with a high degree of rigour, to ensure that due justice is done for all parties involved.

He will provide me, and therefore South Australia, with a report containing information of the highest integrity that we can use in a way to ensure that our local government sector remains a sector of the highest integrity possible. Honourable members opposite should be expressing their gratitude, not undertaking this wild witch-hunt to bring this man down because of some old vendetta they have. They have been trying to get back at him for years and years. The opposition need to get over it and move on.

WEAPONS AMNESTY

The Hon. J.S.L. DAWKINS (15:00): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Police, a question in relation to a general weapons amnesty.

Leave granted.

The Hon. J.S.L. DAWKINS: On 1 April this year Victoria Police Deputy Commissioner Kieran Walshe announced a month-long weapons amnesty with a particular focus on knives. According to Victoria Police over 800 weapons were handed in, including machetes, swords, hunting knives, butcher's knives and flick knives.

According to the Australian Bureau of Statistics 2008 victims of crime report, knives were the most prevalent weapons used in the categories of murder, attempted murder, kidnapping, abduction and robbery. We are all aware that last weekend the city's West End was the scene of yet another violent and near fatal stabbing. With this in mind my question is: will the government follow the Victorian government's lead and announce a knife-specific amnesty or broaden the scope of future gun amnesties to include all weapons?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:01): I thank the honourable member for his question;

he raises a matter of legitimate public concern. I know from my experiences as minister for police that the amnesties that take place from time to time are generally made on the recommendation of the Commissioner for Police. However, I am sure that, if the honourable member's suggestion is put to the commissioner by the Minister for Police, it will be given careful consideration.

We have had a number of amnesties at various times, and obviously their timing depends on a number of factors. However, as I said I will make sure the suggestion is conveyed to the minister for his, or the commissioner's, consideration.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. R.P. WORTLEY (15:02): My question is to the Minister for Urban Development and Planning. Will the minister advise the chamber of any state government initiatives to ensure that the planned growth of the Greater Adelaide region deals with expected population increases?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:02): I thank the honourable member for his very important question. In recent months there has been much public debate about projected population figures for Australia as a whole, as well as for South Australia. Adelaide faces significant challenges in the near future, including population growth, demographic change, water supply issues, climate change and land use pressures. Recently released statistics advise that at June 2009 the state population was 1.62 million, a population that grew in the preceding 12 months by 19,600 people, or a growth rate of 1.2 per cent. This current growth is in line with the 30-year plan growth projections.

There are a number of challenges South Australia will need to address with the expected population growth of the state. The increased population will require appropriate housing across the Greater Adelaide region; however, the 30-Year Plan for Greater Adelaide recognises this issue and includes an overall suite of measures to maximise land supply and increase housing options for the additional future population expected.

The ageing of the South Australian population, which is ahead of the national average, is also a significant challenge to ensure continued economic prosperity. By 2036 the percentage of people older than 65 will increase from 18 per cent to 22 per cent. In addition, the number of South Australians aged 85 years or more is projected to increase by more than 200 per cent by 2036. South Australia's ageing population will impact significantly on the state's workforce of the future.

On present trends it is estimated that 230,000 workers, or just under one-third of the current workforce, will approach retirement age in the next 10 years. I have been advised that nearly half of the public sector workforce will be considering retirement before 2030. That estimate comprises 46 per cent of male employees and 43 per cent of female employees who will be reaching retirement age between 2011 and 2026.

Immigration has long been an important element of population growth in South Australia. Migration accounts for about 60 per cent of South Australia's annual population growth, with the remainder attributable to natural increase. There is a risk of falling living standards or significant wage pressures from skills shortages if South Australia fails to attract and maintain a working age population.

It is estimated that population growth in the 30-year plan, taken as an average over the next 30 year period, equates to about 20 people a week more than Adelaide's current growth rate. In perspective, Adelaide's population growth in 2008-09 was 17,613. An increase in the population of Greater Adelaide of 560,000 by 2036 requires an average annual growth of 18,677 persons. The 30-Year Plan for Greater Adelaide provides the most comprehensive planning strategy ever adopted by the state government and maximises South Australia's capacity to benefit from the opportunities arising from the growth in population during the next three decades.

During the next 30 years, the plan provides for steady population growth of 560,000 people, the construction of 258,000 additional homes, economic growth of $127.7 billion and the creation of 282,000 additional jobs. The adoption of the 30-Year Plan for Greater Adelaide provides a responsible approach to sustainable population growth and the needs for housing, employment and the environment.

The plan presents the spatial and land use framework that facilitates locating the majority of new housing in current urban areas, particularly around transport corridors, creating mixed use precincts, bringing together housing, jobs, transport and services; 14,200 hectares for new growth

areas, based upon mixed use development, higher densities and a greater mix of housing linked to transport corridors over the next 30 years, protecting at least 115,000 hectares of environmentally significant lands and up to 375,000 hectares of primary production land; and 14 transit-oriented developments and more than 20 sites incorporating transit-oriented development principles. The plan contains 89 targets that will be monitored and evaluated.

There are two choices when it comes to responding to our population growth: either we recognise that the population of South Australia will grow during the next 30 years and plan responsibly and sustainably to renew our suburbs and encourage new suburbs, or we put our heads in the sand and allow unplanned and ad hoc developments.

That course would inevitably lead to a community that is not properly integrated with surrounding areas, that allows the inefficient and unsustainable use of land and, ultimately, will reduce the liveability of our great city. The challenge South Australia faces is for the planned growth of the Greater Adelaide region in a way that provides a responsible, sustainable and prosperous future.

KANGAROO ISLAND HELICOPTER FLIGHTS

The Hon. M. PARNELL (15:08): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about helicopter joy flights near the Southern Ocean Lodge on Kangaroo Island.

Leave granted.

The Hon. M. PARNELL: As all members would know, the south coast, in particular the south-west coast, of Kangaroo Island is a wild and remote place where wildlife can exist with relatively little harassment or interference from humans. It is particularly an important habitat for osprey and sea eagles, as well as the sea lions and New Zealand fur seals. Southern Ocean Lodge was granted development approval on 19 October 2006, after having been declared a major development. One of the conditions of approval was that a helipad, forming part of the development, only be used for emergencies and not joy flights.

This condition was changed on 15 October last year: helicopter flights were to be allowed, but they were to be used strictly for transporting guests to and from Kingscote Airport, were limited to 24 flight movements per year and were to be kept well away from the sensitive coastal environment, including the osprey and sea eagle habitat. Flights were to take off and land in a northerly direction only so as to avoid the sensitive coastal environment.

Recently, another person, operating from a nearby property under the name Heli Experiences, applied for and was granted development approval by Kangaroo Island Council that will result in joy flights over exactly the same area that was denied to Southern Ocean Lodge. Not surprisingly, Southern Ocean Lodge is supportive of the approval, as the helipad will be only three kilometres from their resort, and no doubt Southern Ocean Lodge guests will be a mainstay of the joy flight business. This approval has been appealed to the Environment, Resources and Development Court by, as I understand it, Kangaroo Island Eco Action, and a trial is expected next month. My questions are:

1. Does the minister agree that this development is seriously at odds with the position taken by the government when it approved Southern Ocean Lodge as a major development and banned joy flights only four years ago?

2. If, as local residents believe, this is simply a backdoor way of subverting the current restrictions, what action will the minister take to ensure that inappropriate and damaging helicopter joy flights will not be imposed on this sensitive wilderness environment?

3. Will the minister, under the Development Act, or the Attorney-General, under the Crown Proceedings Act, apply to join the appeal to ensure that the court is made aware of the government's opposition to these joy flights?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:11): I did receive some correspondence in relation to this matter recently, and I have asked my department to investigate it. As I understand it, the facts, certainly in relation to the conditions that apply to Southern Ocean Lodge, are correct as the honourable member has put them. There were conditions relating to the use of helicopter flights. In

relation to the development approval that was given, it would appear that the council has not really contravened that approval but let's just say that it is at variance with the spirit of the decision.

What capacity the government would have in dealing with this issue is something I am currently investigating. That is why I have asked the department to first of all ascertain the facts, which is always important, in relation to the development decision of the Kangaroo Island Council and what it means; and, secondly, to see what action, if any, it would be appropriate to take.

I have not considered the question of whether the government should join in any consideration before the ERD Court, but when I receive the report from the department that is a matter I will consider when I have the advice available to me.

FRANKLIN HARBOUR DISTRICT COUNCIL

The Hon. T.J. STEPHENS (15:12): I seek leave to make a brief explanation before asking the Leader of the Government questions about proposed changes from coastal zone to coastal conservation zone within the District Council of Franklin Harbour.

Leave granted.

The Hon. T.J. STEPHENS: The Minister for Urban Development and Planning would be aware of the proposed zoning changes that will affect landowners in Cowell and other areas on the Eyre Peninsula. The new member for Flinders, Mr Peter Treloar MP, is already working hard on behalf of his constituents on Eyre Peninsula. Together, we have discussed a number of questions that landowners want answered. My understanding is that information landholders have requested has been less than forthcoming to date. My questions are:

1. Is it correct that the proposal will not be proceeding and that the area in question will remain as coastal zone under the old conditions that applied?

2. If this is correct, can the minister advise how long this will remain in place?

3. If this is incorrect and the minister intends to continue consultation with local councils, when would he expect a new coastal conservation zone to be established?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:14): Some of the councils on Eyre Peninsula have been going through an exercise of looking at their coastal zoning, following the Eyre Peninsula Strategic Plan of several years ago now. Some of those councils had placed zones on an interim list so that they could be further considered. A number of issues have been raised by the local community.

The honourable member referred to the new member for Flinders, who has already spoken to me about those matters, and I indicated to him that I was well aware of some of the concerns. A number of councils must have been affected. Some of the issues that have been raised relate to the fact that some of the proposed zoning boundaries appear to be based on some aerial photography rather than particular ground truthing. In some cases, I am told, they have extended west of the main highway between Port Augusta and Port Lincoln.

So, because of some of these problems, I have asked the department to review some of that interim listing, given the issues that have been raised by constituents have lapsed, which means that they no longer have the effect. I think Franklin Harbor might well be one that has lapsed recently, so, that would mean that that development plan proposal would no longer have effect.

As I said, one would expect that it is really up to councils to continue looking at this issue. I would like to see some resolution in relation to zoning along that coast that gets the balance right between recognising existing landholders' rights and providing some protection against inappropriate development. That has particularly been an issue along some parts of the western coast of Eyre Peninsula.

I think the coastal zone exercise with out-of-council areas and also the one within Ceduna council are two that have been completed, I believe, following the successful resolution of some of the issues with landowners. In relation to most of these other council areas, as I said, several have lapsed, including the Franklin Harbor one, I believe. So, it will really then be up to the councils, if they wish, to re-initiate the process following further consultation, but that is a matter essentially for them.

ANTI-VIOLENCE COMMUNITY AWARENESS CAMPAIGNS

The Hon. I.K. HUNTER (15:16): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Anti-Violence Community Awareness Campaign grants.

Leave granted.

The Hon. I.K. HUNTER: In the 2008-09 state budget, the government committed $868,000 over four years to an anti-violence community awareness campaign. The campaign is aimed at informing and educating and, ultimately, we all hope, reducing incidents of rape, sexual assault, and domestic and family violence in South Australia.

As part of the campaign, a community education grant fund has been established. The grant fund is for informing and educating groups in the community who would not necessarily receive the messages of the mainstream campaign. Will the minister advise the chamber of the recipients of the first funding rounds and what those projects entail?

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 for the City of Adelaide) (15:17): As members may remember, the Anti-Violence Community Education Grant Fund, which forms part of the broader Anti-Violence Community Awareness Campaign, has been established and is aimed at informing and educating groups in the community who would not necessarily be targeted through the mainstream campaigns and general public information available.

Two funding rounds have been made available, and these gave organisations the opportunity to receive up to $10,000 towards an anti-violence education program. I had the great pleasure last week of launching a theatrical performance which discusses important issues, such as sexual assault, in a way that engages with young people. I was very pleased to see that the Hon. Stephen Wade was also in attendance at that launch. It was, indeed, quite a confronting performance, and very powerful. They are to be absolutely congratulated on their efforts.

Expect Respect was the name of the program presented by the Legal Services Commission in collaboration with the youth-led ActNow Theatre for Social Change. It is a legal education program featuring live performances of real-life scenarios, which is being offered to schools and youth agencies, targeting 15 to 18 year olds, over the next three months. It is funded by a government anti-violence community education grant through the Office for Women. Expect Respect was developed to help young people understand the new laws around sexual assault.

The launch of Expect Respect held at the offices of the Legal Services Commission last week included a shortened version of the performance, which consolidated the messages of the Don't Cross the Line anti-violence community education campaign. The project is an extremely innovative way to connect with young people about one of the most serious issues they face.

Of course, these issues involve a high degree of complexity and different layers, such as legal and other issues around values to do with young men and women. This is targeted by using a method and language that clearly resonate with young people. As I said, they were indeed very confronting messages. I was sitting in the front row, and it was an interactive experience, so I was feeling even more uncomfortable than most perhaps.

However, helping young people develop healthy and safe relationships is obviously key to reducing intimidation and violence in our community. The performance provided a clear and positive message to young people about the implications of sexual assault, including sexting, which is texting photographs and—

The Hon. D.W. Ridgway: Talk to Russell.

The Hon. G.E. GAGO: —things like date rape. That is outrageous. That is an outrageous thing to say in this place. I won't repeat it, but it is absolutely outrageous—absolutely outrageous.

I am advised that 18 Expect Respect workshops are planned. I understand that the performances have already been delivered to high school students at Seaview High School and Ocean View College. I am advised that positive feedback from teachers in these schools highlighted the potential of this drama-based education as a really effective way to engage young people in a realistic and positive manner about complex social and legal issues.

ANTI-VIOLENCE COMMUNITY AWARENESS CAMPAIGNS

The Hon. S.G. WADE (15:22): I have a supplementary question: will the minister advise what opportunities there might be beyond the 18 workshops that the Office for Women has funded for those programs to be made available? I agree with the minister that they would be extremely valuable.

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 for the City of Adelaide) (15:22): They have requested further funding so that they might roll out this same program to even more schools than already planned, and I have asked my agency to look at this. It has not got back to me to see whether any further funds are available, but I am looking at it.

I have spoken with the Legal Services Commission and informed them that the next round of community grants funds will be available shortly. I have invited them to put in a submission for that next round of funding to assist them to roll out this program even further. It is quite an astounding and most impressive program. The Legal Services Commission and the ActNow Theatre for Social Change actors are to be congratulated on their efforts.

MATTERS OF INTEREST

HOMOPHOBIA, AFRICA

The Hon. I.K. HUNTER (15:23): On Saturday 15 May, I joined hundreds of protestors on the steps of this building to observe IDAHO, the International Day Against Homophobia. While gay, lesbian, bisexual and transgender Australians continue to experience homophobia and discrimination, it is the horror currently faced by homosexuals in Africa that I wish to draw attention to today.

Out of the 58 countries in Africa, homosexuality is criminalised in 38. Homosexuals in Africa experience organised beatings, blackmail, death threats, harassment, public naming in newspapers, even so-called correctional rape and, of course, murder—and in many cases it is with the tacit approval and sometimes involvement of the authorities. We might think that this situation arises as a hangover from colonialism in Africa, but this is not always the case, for today we are seeing the deliberate encouragement of this homophobia by American evangelical Christians.

Uganda is an extreme example of the rising tide of homophobia in Africa. Recently, I wrote to Uganda's president, Yoweri Museveni, to express my strong objection to the anti-homosexuality bill currently before the Ugandan parliament. The bill proposes the death penalty for homosexuals and gaol for anyone who does not report suspected gay or lesbian activity within 24 hours. This includes family, friends and medical professionals.

This bill is of enormous concern. It is a direct violation of Uganda's own constitution and international human rights laws. If passed it will force doctors, counsellors and other service providers to abandon their professional ethics or face the consequences. If we dig deeper, the story behind this bill should cause greater alarm, for Uganda has become a recruiting ground for US conservative evangelical Christians. These US evangelical conservatives were once isolated from Africa for supporting pro-apartheid, white supremacist regimes, but in the past decade they have successfully reinvented themselves.

Although lacking enthusiasm to tackle entrenched poverty and disadvantage amongst African Americans in the United States, these white religious conservatives dominate social services in Uganda, running orphanages, schools, universities and health facilities. They bring with them a seemingly endless supply of finance, Christian television networks and a vicious anti-gay campaign.

In March 2009 three prominent American conservatives—Scott Lively, Don Schmierer and Caleb Lee Brundidge—visited Uganda to give a series of talks about the so-called gay agenda. Scott Lively is the author of *The Pink Swastika*—which blames the holocaust on gay people—and the author of *7 Steps to Recruit-proof Your Child*. Mr Lively believes that legalising homosexuality is on par with accepting the molestation of children or having sex with animals.

Some of the other US conservatives who have strong ties to Africa include Lou Engle, an American anti-gay extremist who, as recently as 2 May this year, spoke in Uganda of his support for the anti-homosexuality legislation. He claims that same sex marriage 'will release a spirit that is

more demonic than Islam, a spirit of lawlessness and anarchy, and a sexual insanity will be unleashed into the Earth'.

Reverend Rick Warren has compared homosexuality to paedophilia and claims that 'homosexuality is not a natural way of life and thus not a human right'. The Institute on Religion and Democracy is a neoconservative think tank that for decades has sought to undermine Protestant denominations' traditions of progressive social justice work.

These US right-wing evangelicals have imposed their own prejudices onto Africa and are spreading a gospel of hate. It is no coincidence that, one month after the March 2009 conference, a Ugandan politician who boasts of having evangelical friends in the American government, introduced the Anti-Homosexuality Bill of 2009. This bill has brought out into the open the sinister, anti-gay campaign led by US conservatives in Africa.

This religious terror campaign waged against an innocent minority is really a proxy for a bigger fight. Africa is collateral damage in America's domestic war between liberals and conservatives—a war between US evangelicals and mainstream Protestants. That is where the real heart of this issue lies.

While most conservative African religious and political leaders now view homosexuality as an immoral western import, the truth is that it is not homosexuality that has been imported from the west but, rather, homophobia. While the US fundamentalists watch with dismay the advance of human rights legislation in their own country, they are heavily investing in a new fundamentalist empire in Africa.

It is an insidious disease, exporting hatred and bigotry to a region still struggling with a history of racial intolerance and social instability, and it may have further disastrous ramifications. We do not have to look too far back to remember what happened in Rwanda when a majority in a country decided to target a minority group for political purposes.

I call on the federal government to condemn this Ugandan bill and to make sure that Australian aid organisations and money does not go to any organisation associated with these religious bigots.

Time expired.

MILITSIS, MR V.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:28): I raise a matter of interest in relation to a very important South Australian, Mr Vili Militsis. Vili's Cakes employs over 300 people across Australia. It has become one of South Australia's most known, trusted and enjoyed brands. Perhaps one of the reasons for this is that Vili's name represents what it represents; that is, the extraordinary success which can be achieved from humble beginnings with a great deal of hard work.

Vili Militsis is a dedicated person behind the success story. However, his status as a leading South Australian businessman was not easily achieved. In fact, Militsis entered South Australia as a refugee from communist Hungary in the 1950s. I imagine that during his journey getting here at the age of nine he probably endured more hardship than most self-made businessmen encounter throughout their professional careers. Upon his arrival his perseverance already differentiated him.

It is a quality which saw him through his first major challenge of mastering the English language. From word 'go' Vili Militsis grabbed every opportunity with both hands. He battled through language classes at school and, I expect, through all the social challenges that would accompany being a foreign student in the 1950s. From what I understand, Vili not only endured but also excelled in every challenge he came across. He was a top maths student and soccer player throughout his school years, and I expect that he still harbours those skills.

Right when Vili Militsis was beginning to relish the experience of being a student, he had to enter the workforce so that his family could survive. Whereas most would see this as insult added to injury, of course Vili exploited the chance. He dedicated himself to becoming a baker and, upon qualification, threw every cent he had into getting Vili's off the ground.

Vili did not get an easy ride in the early years of his business. His products struggled for a while and, true to his character, it was not because of bad business ethics or anything of the like: it was because he had the integrity to provide a quality product to South Australia, and the South

Australian people took to it, although it took him a while to convince people that he was offering something better.

However, he has now won over this state and customers from all over the world. His hard work has paid off. Unfortunately though, it seems that something will always present itself to make Vili Militsis's life difficult. As most members would have read over the weekend in the *Sunday Mail*, Vili's current challenge has arisen from wording in the South Australian Road Traffic Act which is trivial but causing him a major headache. This issue was brought to my attention by our hardworking candidate for Ashford, Ms Penny Pratt, in the last election.

The South Australian law states that, if a body corporate owns the vehicle, someone from the corporation can provide a statutory declaration stating that they were not driving the vehicle and that they do not know who the driver was at the time the evidence was taken. The process follows that a corporate fine is issued, which is often more than the regular expiation fee, but no demerit points accompany it.

The problem that Vili Militsis is facing is that he has structured his company as a partnership with his wife, Rosemary. Apparently, a partnership does not fit the definition of a body corporate under the Road Traffic Act. Subsequently, Vili has up to 50 vehicles operating in four states of Australia and in any case, where an offence is recorded, he has to take the demerit points personally if he is unable to prove exactly who the driver was at the time or if the driver is not prepared to take the blame.

There are a couple of pertinent issues. First and foremost, I am sure that many other South Australians are under the impression that in this state we are given a fair degree of choice when it comes to founding and operating a business. This is one of the appealing things of doing business in this state: one can find a way to be professionally successful despite their situation because our state has the flexibility to accommodate a wide range of circumstances.

Vili and Rosemary have chosen to run Vili's as a partnership and it has been a huge success. They have more employees than many companies organised under a corporate structure, so we can certainly refute any argument that they should find it easier to track employees' vehicle usage within the business. Businesses always attempt to account for the activities and whereabouts of their staff and resources for a wide range of reasons. However, no system is perfect.

The other issue here is that the definition of 'body corporate' within the act provides that it 'includes the Crown in any capacity and any body or entity that is not a natural person'. I am not completely across the legal status of a partnership but I would expect that it could be classified as a body or entity that is not a natural person. So I think the legislation is a little unclear and obviously causing some problems.

Whether or not it is a matter of interpretation or need for change, this problem needs to be cleared up. This is a trivial issue that is threatening the ability of one of South Australia's leading businessmen to do his job. I attest that Vili Militsis has overcome enough challenges in achieving business success and I think we owe to him and every other business owner in a partnership to clear up this matter. I have spoken to parliamentary counsel and I expect to get support from this chamber when we attempt to change the Road Traffic Act to allow Mr Militsis (and others like him) not to be subject to losing his licence through no fault of his own when one of his employees incurs a speeding or traffic offence in another state.

WORLD NO TOBACCO DAY

The Hon. R.P. WORTLEY (15:34): I rise today to draw the attention of those present to World No Tobacco Day. It was in 1988 that the World Health Assembly passed a resolution which resulted in the observance of World No Tobacco Day annually on 31 May. Since then, this initiative has been marked right around the world.

Smoking is extremely distasteful to me. It is especially saddening to see so many young people smoking. Research now indicates that the adolescent brain is so malleable that just one packet of cigarettes is sufficient to cause addiction, and we are all too well aware that it is an enormously difficult addiction to break. Tobacco is the second major cause of death in the world. I do not need to spell out the number and range of conditions that have been linked conclusively to tobacco smoking. Excellent public health campaigns over the years have made that very clear.

This year's theme for World No Tobacco Day, 'Gender and Tobacco with an Emphasis on Marketing to Women' (and, by extension, girls) has caught my attention, and I think it is well worth

talking about in this place. Like men and boys, women and girls run a number of risks when they smoke. Some of these are gender specific. In some cases the risks of smoking are higher for women than they are for men. For example, women smokers have an increased risk of cervical cancer and it is well documented that women smokers have an increased level of pregnancy complications including lower birth weights. Women who smoke and take oral contraceptives have an increased risk of heart attack, thrombosis and stroke. Research suggests that women smokers experience a considerably lower age for first heart attacks than those who do not smoke. This differential is considerably more significant than that for male smokers and non-smokers.

There are many theories about what causes people to smoke. Among these are stress. Men and women are stressed in today's 21st century arguably in ways that their forebears were not. It is well accepted now that teenage girls, who are particularly subjected to images of impossibly thin mannequins, actors and other apparent role models, may be persuaded to smoke as a mechanism to lose weight or remain slim. Academic pressure can also cause anxiety and school-age girls can see smoking as a way to relieve that pressure. Social and peer pressure are all factors in this dangerous equation.

Launching the report Women and Health: Today's Evidence, Tomorrow's Agenda, the Director-General of the World Health Organisation, Dr Margaret Chan, said on 9 November last year that the globalisation of unhealthy lifestyles was having an increasing impact on women and girls. WHO statistics indicate that there are more than one billion smokers in the world today and about one-fifth of these are women and girls.

Statistical material from 151 countries demonstrates that some 7 per cent of adolescent girls smoke, as do 12 per cent of adolescent boys. However, while male smoking figures have stabilised, the number of female smokers is increasing. In some countries, the rates have almost reached parity.

Cynically, the tobacco industry is looking towards developing countries, and is particularly targeting young Asian women with messages linking tobacco use with emancipation, power and equality. Of course, tobacco companies see women and girls as an ideal target for smoking promotion. They can step in and fill the market gaps when current smokers die prematurely.

Although World No Tobacco Day 2010 will focus on the detrimental effects of the marketing of smoking on women and girls, it will not forget the need to shield boys and men from the marketing strategies of the tobacco companies. As the WHO's 2007 document, Gender and Tobacco Control: a Policy Brief, pointed out:

> Generic tobacco control measures may not be equally or similarly effective in respect of the two sexes...(A) gendered perspective must be included...It is therefore important that tobacco control policies recognise and take into account gender norms, differences and responses to tobacco in order to...reduce tobacco use and improve the health of men and women worldwide.

In an earlier 2007 report, Sifting the Evidence: Gender and Tobacco Control, the WHO stated perhaps even more strongly:

> Both men and women need full information about the sex-specific effects of tobacco use...equal protection from gendered advertising and marketing and the development of sex-specific tobacco products by transnational tobacco companies...(and) gender-sensitive information about, and protection from, second-hand smoke and occupational exposure to tobacco or nicotine.

This year, the WHO through World No Tobacco Day will encourage and support government scrutiny of the targeting of women and girls by tobacco multinationals.

RECONCILIATION WEEK

The Hon. T.J. STEPHENS (15:38): National Reconciliation Week celebrations will occur across the country from this Thursday, 27 May, until Thursday 3 June. These two dates hold particular significance for Indigenous Australians. On 27 May 1967, the referendum was held in which over 90 per cent of Australians voted to remove sections of our constitution which discriminated against Aboriginal people. Further, 3 June marks the anniversary of the 1992 judgment in the Mabo case.

Last weekend also marked the AFL Indigenous round. In 2010 Indigenous players make up over 10 per cent of all players in the AFL. The AFL should be commended for its planned Indigenous employment strategy which looks to work in partnership with the Indigenous community to improve the quality of life in Indigenous communities around Australia.

The AFL Indigenous round celebrates the achievements and contributions of Indigenous people to the AFL and the community in general. The main event of this round was 'Dreamtime at the G' on Saturday night in front of 60,000 people. One of our staff members went across to the game and said it was a fantastic cultural experience. This game has certainly now become important in the AFL calendar. Port Adelaide and Melbourne also played out a magnificent match in Darwin, which was a great celebration of what Indigenous players bring to our game. We saw a fast and exciting game of footy played in trying conditions. Unfortunately, should you be a Port fan it was a heartbreaking loss.

On Sunday, Adelaide took on Brisbane, and it was tremendous to see a talented young Indigenous player, Jared Petrenko, toss a coin for Adelaide and captain the side to a courageous victory. Well done to Simon Goodwin for passing on that special honour to recognise the AFL's Indigenous round. I also take this opportunity to congratulate that particular player on his many dedicated years of service to one of the best football clubs in the land, the Adelaide footy club, now that he has announced his retirement at season's end.

Reconciliation Week will be observed across the state by a variety of activities, from the Blue Lake Walk for Reconciliation in Mount Gambier to the Ceduna Indigenous Coordination Centre, and there will be many other events in and around Adelaide. On Friday, I will attend a remembrance ceremony for Indigenous veterans, and this is a chance to honour and remember the service of those countless veterans who made the ultimate sacrifice for Australia. The Aboriginal Veterans Commemorative Service Committee has asked that in lieu of wreaths books be donated for Aboriginal school libraries. In 2009, 36 books were donated to the libraries at Port Victoria and Augusta Park primary schools.

Also this Friday the City of Adelaide will host Reconciliation Down Rundle. The event is intended as a chance to show the depth and diversity of Indigenous cultures across the country. It will give the people of Adelaide a chance to learn about the history of Australia's first inhabitants and provide information about opportunities to experience Indigenous culture firsthand.

Yesterday, I attended the graduation ceremony for students of Tauondi College in Port Adelaide; 62 students received qualifications, and the Minister for Aboriginal Affairs and Reconciliation, the Hon. Grace Portolesi, spoke. It is heartening to see a group of Indigenous students, both young and not so young, taking charge of their future. Many students of the centre arrive with only basic literacy and numeracy skills. 'Tauondi' means to penetrate and break through, which is just what these students have done, and I offer my sincere congratulations.

Although we have come a long way and there are many positive signs, we must not lose sight of the fact that there is still much to be done in areas such as Indigenous health, education and employment. On the opening day of parliament I asked a question about the government's response to the mining super tax and its impact on Indigenous communities. The minister's response was lacking in detail, and it is clear that this government has no clear strategy to protect Indigenous communities from this great big new tax.

On matters of education and health, in some remote areas as many as 70 per cent of Indigenous children do not attend school regularly, and the average life expectancy of Indigenous people is about 20 years shorter than that of other Australians. We must all work together towards better outcomes for Indigenous Australians.

This morning, I attended a Blue and Gold Society—which is part of Girl Guides Australia—breakfast, where I was extremely fortunate to hear a presentation by Ms Leanne Liddle, and I came away incredibly inspired. Ms Liddle oversees a program called Kuka Kanyini, which relates to managing country, conserving biodiversity, maintaining culture, providing employment and training, and improving the diet of remote communities. This program was initiated in 2003 as a pilot around the remote community of Watarru in the far north-west Anangu Pitjantjatjara Yankunytjatjara (APY) lands.

I have been fortunate enough to visit the Watarru community with the Aboriginal Lands Standing Committee, and it all made sense to me today why this community really looks like it is travelling particularly well. I pay tribute to Leanne Liddle from the Department for Environment and Heritage, and I will certainly watch her career with a great deal of interest.

Time expired.

ACCESSIBLE CINEMA

The Hon. J.A. DARLEY (15:44): I rise today to speak about accessible cinema. In February I was asked to introduce a brief session about accessible cinema at the Australian International Documentary Conference, which was held in Adelaide. I must admit that my knowledge of accessible cinema was next to nothing before being asked to be part of this event; however, I believe it is important to share with others what I learnt that day.

While many may dismiss accessible cinemas as merely an issue for those with a disability, accessible cinemas also provide access to films and documentaries for older Australians who have deteriorating hearing or vision, a service which is particularly important in a country with a growing ageing population. I learnt that currently one in five Australians is unable to experience a cinema session, an activity which too many of us take for granted.

Accessible cinema began in 2001 in Australia after a complaint was lodged with the Australian Human Rights Commission by Dr John Byrne. Dr Byrne lodged a complaint under the Disability Discrimination Act 1992, alleging discrimination by a cinema and a cinema chain as they did not provide captions or subtitles for English language films.

Following an inquiry by the Human Rights Commission, an agreement was reached to provide for one accessible cinema per capital city. Screen Australia, which is a federal government agency, has required that all feature films it finances be captioned. For the deaf or hearing impaired, accessible cinemas provide captioning, which many people may already be familiar with, given the prevalence of flat screen televisions in public locations, particularly in family friendly dining establishments.

For the blind or visually impaired, accessible cinemas provide an audio description, which is delivered to either individual headphones or personal listening devices. Currently there are only 11 accessible cinemas across Australia. These cinemas only provide captions and do not offer the audio description facility. Whilst I am heartened by federal government funding, which will provide an additional 12 locations, Australia still falls far behind the US, with over 830 accessible cinemas, and the UK with over 300.

The average cost to install an accessible cinema system is $20,000, which, although it may seem like a large capital outlay, especially for small independent cinemas, delivers a potential increase in patronage, which should dispel any hesitation against the system. Also asked to contribute to the session on accessible cinema was Alex Jones and Gerrard Gosens. Alex Jones is an Australian actor, theatre director and ambassador for the International Day of People with Disability and has been deaf from birth. He is also current chairperson of the Deafness Forum of Australia, one of Australia's peak bodies for deafness, and he does not believe that being deaf is a challenge—the challenge is learning how to educate people about deafness.

Gerrard Gosens is congenitally blind and, whilst probably best known for his appearance on *Dancing with the Stars*, he is also an adventurer who has climbed to 7,300 metres on Mount Everest, run 2,000 kilometres from Port Douglas to the Gold Coast and from Cairns to Brisbane, represented Australia at the Sydney and Atlanta Paralympic Games and co-piloted an ultra light motor glider around Queensland three times. Gerrard has competed in many competitions and, although he has never seen the finish line, he lives by the motto 'Success is a journey, not a destination'. Both Alex and Gerrard spoke about their experiences with accessible cinema and the need to increase the number of accessible cinemas across Australia.

Going to the movies is a social experience that many people enjoy, starting from childhood and extending through to their later years. Missing out on such an experience can lead to feelings of isolation and exclusion, and accessible cinemas will allow a greater number of people to enjoy cinematic experiences.

Time expired.

INTERNATIONAL STUDENTS

The Hon. J.S. LEE (15:48): I rise today to speak about the contributions of the higher education sector in South Australia. For 20 years I have been actively involved with many community organisations, universities, student associations and private companies in the education sector to promote South Australia as the education destination for overseas students. The international education industry is now South Australia's No.1 service export. According to the Australian Bureau of Statistics, the international education industry contributed $892 million to the South Australian economy in 2008-09, which is a 22 per cent increase from the year before.

My recent meeting with executives and professionals in the education sector, including Education Adelaide and various universities, highlighted to me that South Australia continues to build on its reputation for education excellence, with research showing that an increasing number of international students are choosing Adelaide as their preferred study destination. More importantly, Adelaide is considered a safe city for parents and students. I will share some of the findings given to me by Education Adelaide.

Adelaide continues to attract record numbers of international students, with more than 33,000 choosing Adelaide as their study destination in 2009. International education accounts for more than 6,500 local jobs and is the state's largest service sector export and the fourth largest overall export, according to the Department of Foreign Affairs and Trade. International students pay full fees for all courses and student spending contributes greatly to our economy.

In addition, international education offers multiple spin-offs and benefits for South Australia's tourism sector. Family members of overseas students will at some stage visit them during the duration of their study in Adelaide. An estimated 90,000 trips per year through Adelaide Airport are undertaken by international students, with a total travel spend of about $10.1 million per year, which is significant.

The majority—88 per cent—of South Australia's international students come from Asia. Key markets include China, India, Malaysia, South Korea, Vietnam, Hong Kong, Japan, Saudi Arabia, Singapore and Nepal. China and India continued to boom in 2009, growing by about 21.4 per cent and 48.5 per cent respectively. Students from those two countries comprise over 50 per cent of the total number of overseas students studying in South Australia.

Earlier I mentioned that safety is very important for overseas students. South Australia needs to protect its reputation in providing not only educational excellence and a quality lifestyle but a safe destination. Two months ago I met with the National Liaison Committee for International Students in Australia, the national peak body for all international students. The primary focus of this meeting was to raise awareness of international students' safety, both on and off campus, and engage all industry stakeholders on a central platform to address the safety concerns of the international student community.

During the meeting I was shocked and saddened to find out that 62 international students died while studying in Australia between November 2007 and November 2008. The Chinese community continue to deal with the tragic rape and murder of a young Chinese student in New South Wales and the horrifying murder of another Chinese student in Tasmania. Last year, 2009, also saw a sudden escalation of violence targeting Indian students in Melbourne, with brutal assaults, robberies and murders dominating news headlines across the world. The Indian community across Australia have come together to protect the children and young adults of the community.

While Adelaide is seen as a safe destination now, we really need to maintain this reputation to protect the growth of the international student industry and to capture and maintain our share of the market, so we must remind the government to address the increased crime rate and violent incidents in the city so that the international student market in Adelaide and South Australia will be protected.

Time expired.

AUSTRALIAN MARINE WILDLIFE RESEARCH AND RESCUE ORGANISATION

The Hon. A. BRESSINGTON (15:53): Aaron Machado was one of the founding members and eventual president of the Australian Marine Wildlife Research and Rescue Organisation, otherwise known as AMWRRO. This organisation was established in 1998 by local members of the community after the deliberate shooting of the six Port River dolphins. At this stage the project was known as Project Dolphin Safe. Aaron administered and ran AMWRRO from his home in Ingle Farm for eight years.

On one of their many patrols of the Port River, he and a group of volunteers saw the appalling condition of Mutton Cove, north of the Australian Submarine Corporation. This site was just about completely destroyed by years of commercial waste and public rubbish that had been dumped there. They decided enough was enough and called on community-minded businesses to assist. The community responded with cranes, waste disposal skips, trailers and other equipment, and after three years of hard work on this government-owned site the outcome was nothing short of

amazing: gone were 71 dumped vehicles and 59 tonnes of all kinds of garbage and household refuse.

The waterways through Mutton Cove, which were once red with toxic waste, are now back to pristine condition, and as a result 11 sea and shorebird species, some of which are migratory, are back in large numbers and breeding there. Mutton Cove is now fenced and has walkways and information on all flora and fauna species for the public to enjoy, thanks to AMWRRO.

This organisation is also involved in the care and preservation of all other areas of natural habitat within the Port River estuary. AMWRRO procured a site at TXU Torrens Island Power Station. This site consists of a small building of three rooms, which were converted into an office, boardroom and clinic. Project Dolphin Safe then set up SA Seabird Rescue to handle and rehabilitate injured seabirds, including many protected, endangered and migratory species.

Over time, the clinic became far too small to house the number of injured animals it was taking in. Aaron then sought permission from the new owners of the Torrens Island Power Station (AGL) to extend the area it had given him so that they could incorporate and build a large facility, which would house large numbers of marine wildlife in a natural environment. This site now consists of 12 self-contained cages, each having its own pond, which can be filled by either sea water or fresh water. It has a large central rehab area, with a 270 square metre U-shaped lake, which contains sea water pumped in from the Port River which is continually filtered whilst circulating.

This facility was built with the help of volunteers and sponsors and Aaron working part-time after hours at AGL to fund the $55,000 needed to complete this project. Without the efforts of these volunteers and sponsors, this facility would have cost $590,000. It has been completely replanted with natural vegetation in keeping with the area.

The president and volunteers travel extensively to all areas of South Australia every week—from Mount Gambier to the east to Ceduna to the west—to rescue marine wildlife that has been reported to them by either government departments or the general public.

This facility, apart from zoos, is now the only one in Australia capable of housing and rehabilitating all seal, seabird and sea turtle species. It is home at the moment to three seals (Miya, Kira and Lexie) from Taronga Zoo, one of the world's leading organisations. The seals are here for two to three months whilst their exhibit in Sydney is being renovated.

Aaron works in conjunction with various vets concerning marine wildlife issues, including the vets and conservation staff at the Adelaide Zoo, where he is well respected. Working closely with several government departments, Aaron worked his way up to be assistant collection manager at the South Australian Museum, at the Maceration Facility in Bolivar, where he coordinated South Australia's marine mammals for post-mortem examination and further studies. Aaron has also passed on his knowledge in the training of volunteers here in South Australia, at the Australian Seabird Rescue in Ballina New South Wales, and in Victoria. He also visits schools on a regular basis to educate our youth on the problems we face with ecology and marine wildlife.

AMWRRO is called upon every day by various organisations, including government departments, and is expected to be there to rescue animals. However, it still receives no funding of any description from anyone, including the government, and it relies solely on members, volunteers and fundraisers.

The infrastructure at this facility is truly amazing, and I would recommend anyone to become a member of this essential organisation. The people at AMWRRO are probably the only people here in South Australia at the coalface of marine wildlife protection, rescue and research, making sure our marine habitats are not damaged any more than they already have been.

FIREARMS ACT

The Hon. R.L. BROKENSHIRE (15:58): I move:

That the regulations under the Firearms Act 1977 concerning regulated imitation firearms, made on 17 December 2009 and laid on the table of this council on 11 May 2010, be disallowed.

I move this motion today with some regret, since it had been my hope that the minister and SAPOL would have been able to work with our constituents and the many other imitation firearm owners around South Australia to resolve this issue. Regrettably, my constituents tell me that the matter is still not resolved. In the worst cases, people have had imitation firearms seized, retained or they

are being threatened with prosecution under laws that could have got off to a much smoother start had the consultation been done properly.

As I highlighted in previous debate on largely similar regulations we previously disallowed, there was a consultative committee for this kind of issue, but it was bypassed by the government and they went straight to regulation. It is a classic case of putting the cart before the horse, and the government has had the nerve to attack people, including myself, who have expressed concern when the horse quite rightly starts kicking up about it.

My constituents say that the first attempt at the regulations was an abysmal catch-all approach, full of unintended consequences, with no compensation or procedure to make the regulations work. Those, of course, were disallowed. They also complain that the minister began to consult only when a disallowance motion was imminent.

After the first disallowance, my constituents offered further consultation to the minister to establish workable legislation to target the genuine items of concern while avoiding all the unintended consequences. I want to highlight to the council in particular the two replica firearms that SAPOL have expressed concern about which, even with these regulations as they are at the moment, are still available in other states in Australia. They should be addressed at COAG level. The point is that no-one—myself included—to whom I have spoken disagrees that they should be unavailable; they should be removed, but the unintended consequence is that it now makes some law-abiding citizens (some with generations of collectors' replicas) criminals. I have never seen this in all my years involved with issues around firearms.

However, my constituents were advised late that the minister would not even reply to the firearms council's letter. These new regulations were introduced after parliament rose (again, my constituents complain, without any consultation) and they have been varied only to a very minor degree, despite the Legislative Council's support for the disallowance, which got through, and the firearms council's recommendations for consultation and specific provision for compensation. My constituents assert that these new regulations are problematic because they are unduly wide, with catch-all provisions as before and they operate entirely at the discretion of the registrar (which will be the delegate registrar), and that was unworkable.

We have serious problems out there with firearms. Hardly a week goes by when we do not see tragic events. These are firearms that the firearms section of the South Australia Police should be getting off the streets. They are black-market firearms. That is the sort of focus that we need with firearms, yet the focus at the moment is on replicas and imitation firearms. Now we are advised that the delegate registrar will actually examine them on a case-by-case basis. I know from experience, when I was minister, that it was the same as it is now. There are not enough resources in the firearms section to even manage what needs to be managed on a daily basis—which is why we see so many of these black-market firearms in South Australia—let alone the delegate registrar examining these particular replica and imitation firearms on a case-by-case basis.

There is no compensation provided either, and that is the thing that really concerns many people. In the time that I have been involved with the issues of buyback and firearms management, I do not think there has ever been a case where no compensation has been offered. No procedure to manage the new system is provided and, in this second case, there has been no advertising or publicity, so the public do not know the new laws. There are many people out there who are now effectively criminals, hence leading the public to unknowingly break the law.

Perhaps a cynic might argue that it was adverse publicity the government did not want during an election campaign. The Combined Shooters and Firearms Council of South Australia has been accused of being the only group that complains about this legislation. However, I can testify that I have had many constituents—and I am sure my colleagues have, too—who are independent members of the public, not members of the council or members of sporting and shooting associations, who are very unhappy with the government's actions.

The fundamental overarching principle here is one of consultation; after all, the Premier himself has said that Labor will listen. The CSFCSA (Combined Shooters and Firearms Council of South Australia) has for many weeks been attempting negotiations in consultation with the government regarding these new regulated imitation firearms amendment regulations. A late meeting was called for 1 pm last Wednesday 19 May 2010, only after I had flagged the possibility of moving this disallowance.

It is also worth noting that these regulations were tabled a little over two weeks after the initial ones were disallowed by the Legislative Council, with no consultation in the intervening

period, despite the offer to the minister to assist in the redraft. They were tabled after parliament had risen, so that they could not be discussed, changed or disallowed. Apart from definitions, they are largely unchanged from the previous version and, therefore, many of the same problems still exist. Workable solutions to problems in the initial variation regulations arrived at in discussions between the SAPOL Firearms Branch and the Combined Shooters and Firearms Council in November 2009 were not incorporated in the current variation regulations.

The definition of what constitutes a regulated imitation firearm appears, on the surface, to be more precise but, in fact, it is still open to a fair degree of interpretation; so much so that five months into the operation of these regulations SAPOL Firearms Branch has in many cases been unable to advise what are or are not regulated imitations.

I put on the public record that I have had police officers contacting me personally expressing frustration at not knowing what to advise people when they come into the police station. It is just not satisfactory.

To date the registrar has made decisions on some areas of operation and interpretation after limited consultation. However, there is no formal documentation that we can obtain (other than possibly an email or verbal advice to an officer) advising the public of these decisions. There is still confusion within both SAPOL and the wider community as to how these regulations are to operate because much of what is happening depends on police policy, particularly that of the deputy registrar, as I understand it.

There are still no compensation provisions in the variation regulations or provision to waive licence and registration fees. In some cases the deputy registrar has used his discretion (from elsewhere in the act) to waive these fees but it is on a case-by-case basis. This information comes from a meeting on 20 May 2010.

Too many of these variation regulations rely on how the registrar or the deputy registrar interprets them. Because of changes in personnel within SAPOL, the interpretations will also change. The delegate registrar has already issued quite varying decisions in his interpretation of the amendments with conflicting interpretation of a number of major points in the new legislation.

Blank-firing imitation handguns and the people who misuse them have been the issue all along. These variation regulations drag in items that are legitimately held for collection, display and other purposes. I have spoken to people from the RSL who are very concerned because replica firearms have been handed in (by people who were involved in conflicts) and put on display to show the sort of weaponry that was used in particular wars and conflicts. As I said, these variation regulations drag in items that are legitimately held for collection, display and other purposes, where the real thing is either too expensive, illegal or inappropriate. To place them in the same class as real firearms largely defeats the reason for owning them.

Deactivation of imitation firearms has not been addressed and the matter of licences for imitation firearms has not been resolved. The storage of imitation firearms, in my opinion, is not necessary and is expensive. Locking up things like wooden replica pistols means that they will never be put in a china cabinet (where they often are displayed).

It is worth noting a few other closing points to illustrate how ill conceived these regulations are. At present, as we understand it, timber firearms will not be exempted purely because they are timber; the CSFCSA has been given different interpretations from different officers in the same meeting as to what is a regulated firearm under these regulations; remarkably, there is talk that persons wishing to retain or obtain a genuine imitation will still be required to undergo a full TAFE firearms training course or an approved full firearms club training course, notwithstanding that the firearm cannot be fired; and imitation firearms seized under the now disallowed laws are still being retained by SAPOL and indications are that there is no intention to return them nor pay any compensation.

I close by saying that this is a very regrettable exercise and, had consultation taken place properly, these regulations could have enjoyed a smooth path through parliament. In my experience, I have found that if you work with the sporting shooters associations and other peak bodies you get good outcomes, because they are not radical people. They are not the sort of people involved in criminal activities (such as we have seen again in recent days) that have tragic outcomes. These are people who are legitimate firearms owners. The cases we are talking about here involve people who have replicas and imitations.

Sadly, as evidenced by what I have outlined now and in debate on the previous disallowance motion, the only language I believe the government seems to understand is this action in the council. I urge members on the next Wednesday of sitting to support the disallowance in order to ensure the government gets this right for fairness and equity to all South Australian citizens.

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

CHILDREN'S PROTECTION (RECORDING OF MEETINGS) AMENDMENT BILL

The Hon. A. BRESSINGTON (16:10): Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993. Read a first time.

The Hon. A. BRESSINGTON (16:11): I move:

That this bill be now read a second time.

It is no secret in this place that child protection has been an issue I have pursued for four years. This bill will provide for the recording of interviews and meetings between parents and child protection workers, and children and child protection workers. I see this as a necessary amendment to the Children's Protection Act because of the numerous cases I have heard about and seen evidence of where parents are being falsely accused, where children are being verballed to make statements about their parents and where children have disclosed to their parents abuse and neglect that has occurred in state care. When I have taken these concerns to the social workers involved with these cases, the response has been, 'Well, perhaps the parents are asking leading questions.'

As I keep saying in this council, it was May 2008 when premier Mike Rann made an apology to forgotten South Australians about abuse in state care which we were made aware of through the Mullighan inquiry. The guts of that apology was, 'We are sorry we did not hear you, we are sorry that we did not believe you and we are sorry that we did not listen.' Over the past four years, I have heard about many cases where parents and children are simply not believed about the fact that abuse is occurring in state care as we speak.

I will not go through it case by case because we could be here for the next three days, but I will speak about a couple of very recent cases which have resulted in my meeting with the CE of Families SA, Mr David Waterford. He has agreed that questions need to be asked here. First, I refer to the case of two children who were in care. Two children (out of six) were taken from their parents, and the critical incident seems to be that the stepdad smacked the little boy three times on the bottom for breaking house rules. Child protection saw that as a critical incident which resulted in the removal of the children. They could never say that, simply because it is not against the law to smack our children.

The children were put into the care of NannySA. The little boy was aged nine and the little girl was aged seven. These children were covered—and the little boy from head to feet—with school sores. They did not have the school sores when they went into care. The parents videoed this on their phone. School sores (impetigo) need to be treated with antibiotic cream, and they need to be kept covered because they are highly contagious and spread like wildfire. None of this was being done. The children had not received medical care at all; certainly the little boy had not received medical care.

The parents made the video of this on their phone out of sheer concern that nothing was being done. The boy was now complaining that the sores had spread from his feet up to his body and through his hair, and that he was actually in pain. The little girl was covered in ringworms, which she did not have when she went into care. She was also not receiving any treatment for ringworms. This little girl was also verballed by a social worker and she was called an f-ing little whore; at the age of seven.

The little boy was sat down by one of these workers, for three hours on a lounge chair, and was lectured about what bad, bad children their mother had raised. These are children that had been removed from families because they were being allegedly abused and neglected, and we somehow believe that they are better off in this kind of care.

I believe that this particular case is on the record with Families SA. Five NannySA workers have been removed from the care of these children because of proven abuse and neglect. This is not a one-off case. When the children come to access—the parents get one hour supervised access a week with these children in a room not much bigger than the average bathroom—they

disclose this information to their parents. Their parents go to the social workers and make known what is happening. Then, it seems, the modus operandi is that the social workers will build a case against the parents.

These parents had an allegation made of them. The little boy of nine was promised a birthday party; he was actually in care on his birthday. It was not an access day for the parents, so he had his birthday away from his parents. The social workers promised him a birthday party with his sisters; it just did not happen. He did not have his birthday party or a birthday cake. He was not around his siblings or with his mum and dad on his birthday.

So the next day they went to access and, of course, the little boy was quite agitated, as a nine year old would be. He said, 'They promised me a birthday party and it didn't happen.' He got quite angry. Mum and dad sat down and tried to reason that they would go and talk to the social worker about this. They tried to calm him so that they could have a reasonable access.

When they got out of access they were accused of banging on the glass in an irrational way, threatening social workers and escalating the situation with the little boy. If they had not video-taped that access, that would have stuck. It would have gone in their report and affected the reunification plan that they were waiting to have drawn up to get their children back.

The stepfather has been accused of having anger management issues, when in fact a video recording shows a social worker, or a worker at that office, stepping in front of him and treating him aggressively. This was turned around to him being threatening and intimidating to the worker. This is all on DVD and I have provided it to Mr Waterford. It is not fantasy or something that a disgruntled parent has made up to try to counter the claims.

There is also the case I raised in my question yesterday of the mother who noticed that, at the age of 18 months, her son had some sort of behavioural issues. She had a suspicion that he may be assessed to be somewhere on the autism disorder spectrum, because there is another autistic child in this family. She tried for years to get help for this little boy.

When the boy was aged seven, she reached out to Families SA to try and get help because that is what they are there to do. They told her—and this should have been on video by the way—that what she probably needed to do was to criminally neglect her son so that she could be charged with criminal neglect and he could be taken into care. In that way, he could access the services that he needed.

After that, the mother signed a three-month voluntary order so that her child could access these services. After the three months was up, she was told that she was not getting him back and they were keeping him until he was 18. She is a good mum who has raised three other children very successfully. This little boy, as I said, was obviously a problem from the age of 18 months, yet she has now been deemed to be a bad mother.

The child will be in Families SA care until he is 18 years old. He has had his front teeth knocked out and not replaced. He has had a chair broken over his back, and I have seen the photos of all this. He has also incurred other injuries while in care. While he is in care he is staying out all night on the street and not going to school. This little boy won a $130,000 scholarship to a quite exclusive school in Adelaide. He is not going to school, and on Friday night he was arrested for a home invasion. This kid is 12 years old.

The mother has made numerous contacts with Families SA to try and get her son home, believing that if he was home he would not be exhibiting the behaviours he is now. She has had absolutely no response from the caseworkers and has basically been told on occasions that this has all happened because she is such a bad parent. These sorts of things need to be recorded because, when these parents try to make a complaint, it turns into a 'he said, she said' situation. I have seen numerous occasions where some social workers within Families SA have been caught out and, as a desperate attempt, will then simply make up a story to counter the claims that have been made by parents and children.

I know of another person whose two children were removed from him and his wife. He reached out to Families SA for nothing more than two weeks' respite, because his wife was bipolar and was unstable. The department took a three month voluntary order—and, by the way, when parents are asked to sign a voluntary order they are told that if they do not sign they will be taken to court and they will get it anyway, and they will go for an 18 year order. We need to get that on the record, that these orders are not actually voluntary. The signing of these orders needs to be

recorded and the information given to parents when they are forced to sign their children over to the state.

These children have been removed, but he has evidence that the department has mistaken him for his wife's previous husband, whom she fled because of domestic violence. It is a case of mistaken identity, but these children are now on an 18 year order and he is never allowed to see them. He has not seen them for four years. He has made claims about violence with social workers in meetings, and he has pressed an assault charge against one only to have a counter assault charge placed on him, because there was no recording. As I said, I could go on about this for hours with the number of cases I have seen.

I do not rely just on people coming in and spinning me a story. We keep extensive records and documents on these cases, and I have taken a number of the cases to Mr Waterford, or previously the minister or Ms Angela Duigan, who I believe is no longer with the department. So it is not a fantasy; this stuff is happening. Why have the Mullighan report? Why have the inquiry? Why make a big deal about the Mullighan report or have a day of apology if we will not believe that this stuff still goes on and will not take steps to fix it? Just fix it, for God's sake! I do not know what agenda is running in that department, but it is quite disturbing.

This will allow the recording of meetings in the department. If departmental staff decide that they want to have a meeting in a café, such as McDonalds, which we have seen happen, or in someone's lounge room at home or in the local park, parents themselves will have the option to video. We cannot imagine (we probably can; but we will not) that Families SA could have cameras everywhere, but parents will have the option to record these meetings on their own devices, make a copy of that available to Families SA and keep a copy themselves.

The department would be required to keep these recordings until the youngest child in care reached the age of 21, which is consistent with the statutory limitation on initiating negligence or breach of duty of care claims for a breach inflicted while the child is in care. They can file for a breach of duty of care up to the age of 21, so the recordings would need to be kept in case that were to happen.

If there is no possibility of a video-audio recording then an audio recording would be enough, and this also applies to telephone calls. It is not uncommon to hear stories of parents being rung and bullied, intimidated and threatened over the phone. There is no way of keeping a record of that because it is illegal to tape telephone calls, so when the parents complain that this type of conduct is happening they are not believed; it becomes a case of 'he said, she said'. In one particular case there was a string of abusive phone calls and, when a complaint of harassment was made to the department and the police, the department sought a restraining order against the person complaining, saying that he was the one ringing and doing the abusing.

This has to be cleared up once and for all. Parents need to have some rights in this state when their children are in care or when they are dealing with the department. They need to have some way of proving allegations they make or incidents that occur where there is no doubt that this is actually happening. Until we have that proof we will continue to hear the minister's response that these are complex people with complex needs, and that it is all very difficult. Well, I am putting forward a solution to at least one of the problems being faced by parents. Of course, this will work in reverse as well; if there are abusive and aggressive parents and it is on video, there will be no difficulty for social workers to prove that. So it works both ways.

This could also be used as an accurate record for the Youth Court, quite a strange court that does not work on the rule of evidence. People can create affidavits and put whatever they like in them. It does not have to be proven; it does not even have to be truthful. However, if we have video recordings of events that will give parents at least one foot over the line in proving that they have not abused or neglected their children, or abused or threatened workers within the department, or, like those other parents, that they have not been banging on two-way mirrors and threatening social workers.

This will also be required for psychological assessments. When children get a psychological assessment—if they are lucky enough—this will also be recorded; the information that children come forward with will also be recorded. I have spoken to children who used to be in state care who have told me that they were verballed. The police have recordings of all interviews with criminals and suspects for this reason, because it was known that police had been verballing suspects. That is contained within section 74D of the Summary Offences Act 1953, and was introduced for police interviews in 1995.

If social workers truly believe that parents are physically, sexually or emotionally abusing their children, it is a criminal act and therefore with the interviews that are done—rarely are charges pressed on these allegations—in case we intend to follow through the justice system right through to the end, this will provide evidence as well. It will help counter the false allegations. It is also a quality control issue, with social workers knowing that their conduct is there to be reviewed by supervisors, senior practitioners and managers, which may perhaps improve how they interact with members of the public, especially in quite devastating times.

One can imagine being a parent and having the false allegation made that you have bashed, abused or neglected your child and then having them removed, knowing that none of it is true. Yet when these people express any level of anger or frustration, they are told that they need anger management classes. That defies logic because, if anybody tried to step in between me and my kids, it would not be me needing anger management, but I will not expand on that on the record.

In addition, the ability of social workers to use this as part of their legitimate case building could be quite useful. It also opens the door and perhaps an avenue—if we were to be so lucky—for a complaints mechanism to be in place. At the moment, parents have absolutely no recall if they have been falsely accused. If their children are literally kidnapped based on a false allegation, they have nowhere to go, and if the department seeks an 18 year order they have nowhere to appeal.

This bill pre-empts another bill I will introduce to give parents a right of appeal, and it is important that both social workers, parents and children have a way of verifying the complaints being made. All that bad news said, I say yet again that I understand that child protection is one of the most difficult, most traumatic areas in which people can work: I totally get that. I know many good social workers who bust their backside to do their job well and to make sure that good outcomes are reached for these children where and when possible.

I have said before and will say again that there is a core group of social workers within this department, who one of these days I will name and shame, who are a common thread with these cases that I have heard about. If these sorts of mechanisms are in place, it will bring those social workers whom I have labelled 'rogue' social workers into line, and they will either comply or they will lose their job because this malpractice, this professional misconduct, simply cannot continue for the safety of our children, for the welfare of our families and also for the reputation of the good social workers out there. These guys are casting a shadow over everybody who works in the child protection system.

With that, I leave this with members and hope that the bill gets support for practical reasons. We have problems in this system that we need to address. I have waited four years, it has not happened, so I have decided to do it myself. It falls in line with the recommendations of the select committee inquiry that ran from 2007 to 2009, which I called for and which the Liberal Party supported. I leave it with members, and if any member doubts the horror stories, please access the report and have a read. It is not a huge report, but it is thorough. I hope this bill gets the support it needs for the safety of everybody.

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (PARENTAL GUIDANCE) AMENDMENT BILL

The Hon. J.M.A. LENSINK (16:35): Obtained leave and introduced a bill for an act to amend the Classification (Publications, Films and Computer Games) Act 1995. Read a first time.

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

That this bill be now read a second time.

This bill has only four clauses, but I think it is important and symbolic in its intent. It was not my idea but the idea of the YWCA (it was an issue that came up during the election campaign), and a number of candidates in the election addressed a public forum called by the Y and attended by the Hons Gail Gago, Tammy Jennings and Rob Brokenshire. This is one of the issues the Y has been very actively promoting, and we were all asked whether we would support this proposal to introduce a classification for those magazines marketed particularly at girls, but there may be others I am unaware of that are marketed towards boys. On the face of it, I think a number of us have indicated that we would support it because it seems like a sensible suggestion.

A number of websites have been developed and a number of groups that have been formed are concerned about the issue of what has been dubbed the sexualisation of young people at early ages. Part of the problem we have is the influence of various forms of media, including video clips, Facebook and kids accessing things without parental supervision, more than likely because most parents are unaware of the sort of content these children are accessing.

This bill targets magazines not only for so-called tweenies but also for older teenagers to bring in a classification of either PG or M so that it gives some guidance to parents about whether the content is appropriate for children of that age.

Some of the organisations and websites that have taken an interest in this and have promoted the concept of allowing children to be children and enjoy their innocence include Kids Free 2B Kids; Australian Council on Children and the Media, which incorporates Young Media Australia, which I think has been around for some time; sayno4kids.com; and Collective Shout. A number of renowned clinical child and adolescent psychologists who have been on talkback radio and various television programs, including *Sunrise,* have been warning for some time that normalising sexualised stereotypes of tweens and younger children will lead to increased levels of mental health difficulties in young people, the basic premise being that for children and young people it is not just the exposure to but also the interpretation they take from these images that that is the expectation they ought to have for themselves. So, it really comes down to an issue of self-esteem. The trends are linked to issues such as bullying.

A couple of the psychologists I want to mention are Dr Michael Carr-Gregg, whose website (www.michaelcarr-gregg.com.au) contains a lot of useful information; and Rita Princi. Dr Carr-Gregg postulates that one of the key losses in some contemporary children's development is a narrowing of what he calls the latency period prior to adolescence, which is critical for the development of social and emotional competencies and that, without a robust latency period, a young person's development from childhood to adulthood may mean that they miss out on learning skills and experience in a safe environment, which leads to their being emotionally immature young people who, when they are forced into complex situations, do not necessarily have the ability to make safe choices for themselves.

A public forum was held on 13 May at Walford, under the auspices of Young Media Australia, at which I think some 300 paying attendees listened to a number of guest speakers. Anglican Archbishop Jeffrey Driver spoke about the growing body of evidence that premature sexualisation makes young people more vulnerable to predation (in plain English, grooming by paedophiles). Judy Gayle, the founder of Kids Free 2B Kids, spoke as well and gave a very humorous presentation, dressed in a costume. She decided that the costume, which was made up of garments I think she pinched from children she knew and from her own children, was inappropriate, but she did make her point. Rita Princi is a clinical psychologist who obviously works with children and young people. Professor Elizabeth Hartley is from the School of Law at Flinders University. Dr Michael Carr-Gregg, whom I have mentioned, also addressed the meeting.

Returning to the YWCA forum, I certainly stated at that forum that, given that the proposal is aimed at providing targeted consumer information to parents to assist them in making informed choices for their children, I advised that we would be prepared to consider what seems, prima facie, to be a sensible suggestion.

There has also been an inquiry into the whole issue of sexualisation of children by the Senate's Environment, Communication and Arts Committee, which reported in June 2008. The committee made a number of recommendations, and I note that very few of these recommendations have even been responded to. One of the committee's recommendations, at paragraph 4.108, was as follows:

> The committee recommends that publishers consider providing reader advice, based on the Office for Film and Literature Classification systems of classifications and consumer advice, on magazine covers indicating the presence of material that may be inappropriate for children.

In reaching this conclusion, the committee noted that a recurring theme throughout the report has been that informed and assisted parental choice is the best way to reconcile the principles of freedom of choice on the part of adults and the need to protect children from inappropriate or offensive material.

The committee did make an age-based distinction, namely, that a 12 to 16 year old recommendation was not appropriate, given that children may mature at different rates, and instead recommended in favour of the Office for Film and Literature Classification system. On that

office's website is information relating to the Australian government's Attorney-General's Department publication called 'Understanding Classifications (Cinema)'. Many people would be familiar with the classifications; they seem to appear on all sorts of very mundane and different things you can find on free to air or Foxtel. There is a general classification, and I am not proposing to introduce one of those; but there is a PG classification, which states:

> The content is mild in impact. PG films contain material that a parent or carer might need to explain to younger children.

It goes on to refer to the M classification, as follows:

> The content is moderate in impact. M films are not recommended for people aged under 15 as a level of maturity is required.

So, it is an advisory classification rather than it being set in stone about a specific age. Just in relation to some technical issues, I am very grateful to parliamentary counsel for bringing me up to speed on how the classifications act operates both in our state and nationally. It is interesting that in South Australia we have reserved our right to make our own classifications, which is rather handy. This segues rather interestingly into some of the discussions that we have been having on particular bills before this place and whether or not it is in our best interests to refer certain powers to other jurisdictions.

Leaving that aside, the bill will amend the Classification (Publications, Films and Computer Games) Act to include a PG and an M rating for children's magazines. As I have stated, we have our own classifications act, under which the South Australian Classification Council is the relevant statutory body for this purpose, and it reports annually to the Attorney-General on its activities.

Classifications generally at commonwealth and state levels operate in a similar manner in that media is either considered restricted or unrestricted. 'Restricted classification' is a legal definition which indicates that the media concerned—that is, films, computer games and magazines—is suitable for adults only. There is an MA15+ classification, which is also a legally restricted classification, that is, not suitable for people under the age of 15.

'Unrestricted media' currently applies only to films and carries ratings, that is, G, PG and M, as an advisory classification. However, the classification of publications falls into four different types: unrestricted (which is the equivalent to the general category), category 1 restricted, category 2 restricted, or refused classification. States and territories can make further restrictions, and most of those further restrictions relate to categories 1 and 2 classifications, that is, for 18+.

A point to note is that classification boards receive submittable material, which distributors and producers have assumed needs to be assessed for classification as either restricted or unrestricted. Therefore, the vast majority of media items are never actually reviewed, because they do not need to be. That means that the boards are very dependent on complaints, so they will investigate and act only if they receive a complaint. They do not spend time looking for things that ought to be classified and, therefore, pinging people.

The example that was brought before the Senate select committee was the *Girlfriend* magazine, which has received quite a bit of press. In more recent times, the magazine has tried to make sure that it is doing the right thing, and it has actually engaged Michael Carr-Gregg to provide content for them. However, it is important to note that that particular magazine is marketed or intended for girls who are 15 or 16 and older, yet the magazine itself admitted to the Senate committee that it has girls as young as 11 and 12 forming some 20 per cent of the children who purchase the magazine.

A complaint was made in relation to the sexually explicit section, which is a so-called sealed section which provides advice on sexual activities. The example that was used was the answer to the question, 'Can I perform oral sex if I have braces?' I will just quote from the Senate committee report, because I think it gets to the point that these magazines have been able to get in under the radar because there is no classification for them specifically. The Senate committee report states:

> The board has reviewed the content of magazines aimed at teenage girls but did not find it to be in breach of the code.

The committee considered parts of the material contained in *Girlfriend* magazine to be sexually explicit. A number of examples of such material were drawn from a regular sealed section advice column, which I have mentioned. It goes on to say:

Despite the inclusion of such material, the committee heard that children's magazines are not submitted to or otherwise routinely classified by the Classification Board, because they are not 'submittable publications'.

Mr McDonald explained that submittable publications are those which contain the following:

...depictions or descriptions of sexual matters, drugs, and nudity or violence that are likely to cause offence to a reasonable adult to the extent that the publication should not be sold as an unrestricted publication or is unsuitable for a minor to see or read.

I think that is a long-winded way of saying that, if a reasonable adult—whatever that definition might be—would not be offended by reading such a thing, then they are in no position to take action against that particular content in that particular publication. The committee report continues:

Using the example of nudity, Mr McDonald explained that the content and purpose for which material is presented are important considerations in determining whether or not material is regarded as offensive and is thus submittable for the purposes of the Classification Act:

> [Nudity] is of itself not necessarily offensive...It is the way in which nudity is treated in publications that the guidelines in the act, in particular, require us to take account of. The way in which information is presented will be very important to the way that the judgment is made about the material. If it is not presented in a way that is gratuitously offensive, then it is simply information.

The importance of context and purpose thus means that the classification scheme does not prevent the exploration of strong themes or controversial views on issues such as 'child sexual abuse' or 'children's sexuality'.

I trust that that explains some of the technicalities of the bill, notwithstanding that it is a very small bill.

I flag for the chamber that I may seek to amend clause 4, which prescribes the information about what the markings recommend, so that it can more closely mirror the film classifications at a national level and take it on advice, given that the Senate committee specifically recommended against an age-related classification and that it have a slightly broader explanatory approach. With those words, I commend the bill to the council. I thank the Hon. Mr Hood and look forward to other members' contributions.

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

POPULATION STRATEGY

The Hon. J.M.A. LENSINK (16:54): I move:

That the Environment, Resources and Development Committee undertake a review into South Australia's population strategy, specifically:

1. the usefulness of the population targets as set in the State Strategic Plan;
2. the capacity of existing energy, water and arable land sources to provide for these projected targets;
3. the impact of the implementation of the 30-year plan on stressed habitats;
4. projections of the ability of South Australia's workforce to provide adequate skills for future demands and what changes to the mix of migration are required to address future needs, including for regional South Australia;
5. barriers to the retention of overseas skilled migrants;
6. limitations of existing data collection regarding skilled migrant trends; and
7. any other matter.

The issue of a population strategy for South Australia and, indeed, Australia has been playing on the minds of many people—to use that wonderful expression, 'the barbecue stopper'. It was brought home to me over the new year period while I was at the shack with my in-laws, when they and their friends reacted to the issue of a big Australia and to the South Australian government's plan for two million people.

I am not reflecting in any way on my in-laws and their friends, but I think it would be fair to characterise them as baby boomers, who have vigorous opinions on many things not necessarily on the conservation greenie side, as is my inclination, so I was quite surprised that they expressed some concern. In some ways I should not be surprised because South Australians have become acutely aware of our natural resources through water shortage and the ongoing drought and the impact that is having on the River Murray.

For many South Australians, that issue has come much more to the fore. It is not so much the old hysterical Hansonite view that we do not want people coming to our shores but more about

an awareness that we have finite resources and that perhaps we ought to be a bit more careful about increasing the number of people living in this country. Australia is largely an arid centre with a coastline, with not a huge proportion of the land that can be lived on.

Further to that is the issue of food security, which a number of people are quite concerned about. Even looking across the South Australian metropolitan area, a lot of the areas that used to be farmed to produce food and grapes are now covered with houses. We have had various bills, such as the one which the Hon. Robert Brokenshire introduced last year, and which we supported, in relation to the Willunga Basin. It is also an issue in Mount Barker, with the expansion of development, and in the Barossa. Those areas that we recognise here as critical to our food security may potentially suffer the same mistakes we might have made here by building all over the old farms in Athelstone and those sorts of areas.

The other side of this debate is the issue of skilled migration and the mix we have. The federal government recently announced that offshore migration has been suspended pending the introduction and outcome of its new skilled occupation list. I note that a local group of employers has formed the Skilled Migration Growth Group (SMGG), which has made submissions to DTED. It was reported extensively in *The Advertiser* of 11 May.

The SMGG is no fly on the wall in terms of expertise in skills and understanding skills shortages. It includes the MBA, the PIA, the CCA, the ANF, the AHA, the Planning Institute of Australia, Engineers Australia and so on. It collectively represents probably over 50 per cent of employment in South Australia. It is chaired by Mark Glazbrook, who has written quite an extensive paper on this matter. He states:

> Changes to Australian immigration policy, including the general skilled migration (GSM) program, is seeing a shift in focus away from traditional GSM and temporary employer sponsored 457 visa applications to permanent employer sponsored migration and State based skilled migration programs.
>
> The SMGG is looking at ways to address the gap being experienced from within the local labour market. We have identified both existing and ongoing protected skills shortages and are looking at how skilled migration can fill the gap. Fundamentally, this requires State Government to consult with and listen to local employers, industry and association groups in order to create additional and more focused opportunities. This also requires a commitment from the State Government to make recommendations on behalf of local employers, industry and association groups to the Minister for Immigration and Citizenship and to push for the creation of programs where there is clear evidence that such will directly benefit and increase South Australia's migration outcomes. Currently there are no existing Government Departments conducting such relevant research nor any other industry groups established with the sole focus encapsulated by the SMGG. The existing list of approximately 400 occupations is being replaced with a list of about 40. It will then be up to individual states and the territories to compile their own lists of occupations in demand. Our concern is that skills shortages, affecting local businesses, will result in many interstate businesses and companies taking a lot of opportunities away from local businesses. While competition in the marketplace is good, many local businesses simply cannot compete with interstate companies when we are talking about total capabilities.

We are at a very critical time in terms of determining what those priorities should be for skilled migration. I also note that a media release issued a couple of days ago by the ABS states that South Australia continues to lose overall migration to other states, and this has had an impact on our South Australian population growth. For the target of two million to be set and used as a default by every department in the South Australian government really indicates that they may not be working with the right tools or working on the right numbers, which is going to have an impact on infrastructure planning and a whole range of different areas. With those words, I commend the motion to the council.

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

MENTAL HEALTH (REPEAL OF HARBOURING OFFENCE) AMENDMENT BILL

The Hon. T.A. JENNINGS (17:02): Obtained leave and introduced a bill for an act to amend the Mental Health Act 2009. Read a first time.

The Hon. T.A. JENNINGS (17:03): I move:

That this bill be now read a second time.

This bill, which is called the Mental Health (Repeal of Harbouring Offence) Amendment Bill 2010, does simply one thing: it seeks to remove section 105 of the new Mental Health Act due to take effect on 1 July.

The section of concern here (section 105) creates a crime which will adversely impact on carers of those with a mental illness. Importantly, this has not yet come into being and there is still

time to change it. On 1 July the effect of this new section 105 will be to create a crime which is defined in the act as 'harbouring or assisting a patient at large' and that is to apply to:

> (1) A person who, knowing or being recklessly indifferent as to whether another is a patient at large, harbours the patient or assists the patient to remain at large is guilty of an offence.

The maximum penalty is $25,000 or up to two years of imprisonment. In this section interstate patients at large have the same meanings.

This is a new offence for this state. It has not yet come into being, and I believe there is still time to overturn this decision. Let me be clear: I am not opposed to offences being present in the Mental Health Act. I note that there is a number of offences in the new Mental Health Act and, of course, we do not want people to be able to have access to confidential information. I particularly note section 104 which applies to people who knowingly assist somebody to leave detention. We are not talking about that here: we are talking about creating a crime of harbouring that will criminalise carers.

Importantly, within the current Mental Health Act and in the new one, many sections relate to moving patients deliberately from treatment centres or assisting patients to leave. This is fair and just and we support that; we are not talking about that here. I find it quite odious that this new proposed crime of harbouring not only applies to people who do so knowingly but also to those who do so with reckless indifference or unknowingly. It just does not seem to be a fair cop for carers.

What we are about to introduce into this state does not exist anywhere else in the country. I looked at the other states' and territories' legislation in this area and I note that New South Wales, Victoria, Tasmania, Western Australia, the Northern Territory and the ACT have not created such similar offences in relation to those who care for someone—or 'harbour' them, to use this term—with a mental illness who is on a detention order. I note that Queensland does have a similar crime; however, I particularly ask members to pay attention to the fact that that applies where there is a forensic patient, which I think is a completely different matter.

The history of this debate would be known to most of the members here but not to all. Some newer members like me might be surprised to know that we are about to introduce a crime of harbouring for those who are determined to be patients at large. This particular amendment to the original act, which we are now about to see, came about because of the case of a man called Damien Paul Dittmar who died by his own hand on 16 May 2006. This amendment at the time of the debate about creating the crime of harbouring was put to the parliament arising out of recommendations from a coronial inquiry that related to that man's death.

It is quite clear that this man had suicidal intentions. He had been detained at The Queen Elizabeth Hospital. He absconded; he went to a friend's place and stayed there overnight. The friend then dropped him at his 87 year old grandmother's place, and that following morning he committed suicide. The Coroner in this case looked at whether, under criminal law, there could have been any possible prosecution for someone who had assisted a person who had absconded. He found that there was none. However, he noted that the police regarded their brief as simply being to attend the premises (Mr Dittmar's grandmother's house) and establish whether or not Mr Dittmar was there, which they had done. Mr Dittmar at the time had not been there.

The entry relating to the attendance from the police reports noted in the missing persons investigation diaries that the occupant of the premises, who was his grandmother, had been vague as to whether he had been home, and they noted that he was a missing person at all times, 'MP' being the code for missing person. He was certainly not in any way considered a suspect or a criminal by the police who were investigating this matter at the time.

The Coroner inferred that there was no further telephone communication made to the premises in order to establish whether or not Mr Dittmar had returned to his grandmother's home, which was also Mr Dittmar's home. The Coroner also raised concerns that he did not know why the police did not reattend the grandmother's premises or make any further telephone calls, but he did make this observation. He said:

> If reliance had been placed upon assurances or indications from Ms Coombes [the grandmother] that she would call the police if Mr Dittmar returned, then in my opinion confidence in that regard was utterly misplaced. I do not make that observation with the benefit of hindsight. It would have been naive to have placed reliance on anyone's assurance in those circumstances.

So I note that, although we are told that the Coroner has recommended this, he actually does not believe that it would necessarily be wise for the police to have assumed that the carer of this person, the grandmother in this case, should be relied on to have 'dobbed him in'.

The Coroner also made some other recommendations, which did not merit discussion when we debated this new harbouring clause in this place (not that I was here). He made recommendations about a range of things that had an impact on this case. He recommended:

> That the clinical staff of The Queen Elizabeth Hospital Emergency Department and the relevant current contractors for the provision of security services to The Queen Elizabeth Hospital continue to develop protocols and policies that will ensure that a patient detained under the Mental Health Act 1993 will not be left unobserved for any period of time following that person's detention and while that person remains within the confines of the Emergency Department.

Clearly, that is one issue that was not raised in the debate. He also recommended:

> if...Section 254 of the Criminal Law Consolidation Act does not apply to the act of absconding from detention under the Mental Health Act 1993, the Attorney-General and the Minister for Mental Health consider introducing legislation that would render it an offence to knowingly assist an absconded detainee under the Mental Health Act 1993 to avoid apprehension.

I note that he said 'knowingly'.

I gather the Attorney-General and the minister probably did consider this issue, because that is all the Coroner recommended. He did not recommend the law be introduced. He recommended that the Attorney-General and the Minister for Mental Health consider it. I imagine that they did consider it, but perhaps I may be wrong about that. Certainly they made no such recommendations. In their wisdom they have chosen not to introduce such legislation into South Australia.

The Coroner also recommended that the Commissioner of Police take the necessary steps to ensure that a detained person under the Mental Health Act, who has left their place of detention without permission, is not regarded as a missing person. He suggested and recommended that perhaps they be regarded as 'unlawfully at large' and liable to be apprehended under the law, and that, in particular, the necessary vigour that needs to be brought to bear in order to facilitate the return of that detained person to his or her place of detention be undertaken by police. In no parts of the report that I can see did he recommend that carers be put in charge of policing this law, and he certainly did not seem to recommend that carers be criminalised simply for caring for those who have a mental illness.

I introduce this bill today because I support those family members who are doing the best they can to support their loved ones in what we know are often stressful and draining circumstances. Those carers should not have the threat of fines or prison sentences hanging over their head simply for doing the necessary support work they do that contributes so much to our communities, and in fact saves the state so many dollars.

I note once again that the previous and the new act contain offences for removing a person from a treatment centre, or aiding their removal without a lawful excuse. That is all good and proper; I am not talking about that. A mental health patient, however, should not be likened to a prisoner who has escaped. We are talking about a very different case here. We hope that in this century we are no longer equating mental illness per se with being a criminal. No crime has been necessarily committed by this person with a mental illness who is treated as a patient at large. They have not committed a crime. If there had been a crime committed, then the criminal laws would come into effect and we would be looking at that person being treated forensically.

I also note that SAPOL actively searches for patients who unlawfully leave a treatment centre, and that many members of the community often equate being placed on a detention and treatment order with being imprisoned for a particular crime. I think we are strengthening this perception with section 105 of the new Mental Health Act, and I think it is a perception that we really need to cut the ties of, because mental illness is not a crime.

Educating people about why such orders are sometimes necessary would be preferable to criminalising members of the public who may believe that they are doing the right thing in 'harbouring', in the words of this new section, a patient. I would call it caring for this person. I would call it making sure that they are calm rather than calling the police straight away and having a person with a mental illness put in a straitjacket—going back to the bad old days when we did criminalise mental illness.

In my consultations about the bill I have introduced, I was part of the Mental Health Coalition of South Australia, as some members may be aware. In fact, I lobbied against this amendment to the bill when it was discussed in this place last year. I went to a consultation run by the Mental Illness Fellowship of South Australia a few weeks ago, and that was to inform the

mental health community sector, the NGO sector, the people who work with consumers day to day, about the new act. While there are many, many good things in the act and many things that they and I welcome, they were horrified when they heard about this new section.

Workers themselves also have some concerns that this law may be applied to them simply for doing their job. If they approach somebody, will they be put in a position where they have to first ask, before they see their mental state, 'By the way, are you currently on a detention order that you have escaped?' This would maybe have to be the first question rather than, 'Hi, how are you? How are you going?'

I think it sets a dreadful precedent, and I note that the sector was not aware of this coming because it was put into the debate at a very late stage. While there was a lot of consultation about the new Mental Health Act, this was certainly not part of the body of those consultations, so it was very much a surprise to those involved in the sector. They are quite horrified, and many of them have communicated to me that they are very pleased to see it challenged at this juncture.

I think that if we see this new harbouring clause put into the Mental Health Act, we will be making criminals out of people who are not criminals. We will be making criminals out of people who are carers.

An honourable member interjecting:

The Hon. T.A. JENNINGS: Apparently it might be what we do best; I hope to change that. It is all well and good to say that a carer should be calling the cops on their family member as soon as they see them when they turn up in a state of distress. However, many people will tell you stories of how a family member has come to them having left a treatment centre and they are possibly distressed. A cup of tea, some sympathy, a bed for the night and calming them down is a lot more effective than calling the police, wasting police resources that could be out there actually addressing real crimes, and having that person taken back to the institution in a state that does nobody's mental health any good.

I know it was not the intention of the mover of the original amendment to create this situation, but I think that some crisis will occur in the mental health sector and with carers because of new section 105. I think it is a knee-jerk reaction and a 'tough on crime' approach where no crime was involved. It took the Coroner's words and misinterpreted them, not deliberately but with the best of intentions. This is an area that touches so many of us, and people all have their own stories here and their own understandings. We want to see those with mental illness treated with dignity and respect in our community, but I particularly want to see the carers given a fair go in this situation.

What is most odious, as I said, is that you do not even have to be aware that your loved one has escaped detention. They could merely be recklessly indifferent. Does that mean that they just do not ask every time they see you whether or not you have hoofed it from The QEH? We are really concerned about creating a situation where families will feel the onus to dob in their family members. This will break down a family relationship or a friendship for a person with a mental illness who is most in need of that relationship to be one based on trust and respect. We will be taking people who already feel isolated from their communities because of their mental illness and putting yet another barrier in the way of their recovery and yet another burden on their families, who already have large burdens in caring for them.

We understand that there is concern that mentally ill people get the treatment they need to recover. Our concern is that people in crisis and perhaps suicidal will not turn to their families in such a situation. They will feel that they have nowhere to go. I think that section 105 will actually have the reverse effect of what it was intended to do. It will put people in a more distressing situation where they feel they have fewer options than they do now.

Not having this law does not stop families from turning to the police for assistance when they need to; however, sometimes, as I said, a cup of tea, some loving encouragement and calming them down before they return to the hospital, for example, is more effective than using the strong arm of the law. The point is that we should trust and support the people who are in these situations to use their best judgment. Genuinely trying to help a family member or a friend who is mentally ill should never be a criminal offence.

We are talking about people who are just not engaged with the mental health system and experiencing the worst of that; they are probably disengaged from all parts of our society, and families are often the last thing they have left. Friends are often the last thing they have left, and

often their friends also have mental illness because they have similarly been isolated. We are putting these people in a position where they will have very little recourse. We are also introducing a culture where the institution of the police will be the first and not the last resort.

I would really like to have the voices of those people heard. They have not been heard on this issue at all. I think that the late inclusion of this amendment to the original act—that is, section 105 being included at such a late point of the debate—meant that those voices have been silenced. I seek leave to conclude my comments on the next Wednesday of sitting, when I intend to bring members' attention to the voices of carers and families, of the members of organisations who support those with mental illness and of those who are living with mental illness themselves, to inform the decisions of this chamber.

Leave granted; debate adjourned.

BUDGET AND FINANCE COMMITTEE

Adjourned debate on motion of Hon. R.I. Lucas:

1. That a committee to be called the Budget and Finance Committee be appointed to monitor and scrutinise all matters relating to the state budget and the financial administration of the state.

2. That the standing orders of the Legislative Council in relation to select committees be applied and accordingly—

   (a) That standing order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only;

   (b) That this council permits the committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to any such evidence being reported to the council; and

   (c) That standing order No. 396 be suspended to enable strangers to be admitted when the committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

3 That members of the council who are not members of the committee may, at the discretion of the chairperson, participate in proceedings of the committee but may not vote, move any motions or be counted for the purposes of a quorum.

4 That a full-time research officer position be made available to assist the work of the committee.

(Continued from 12 May 2010.)

The Hon. B.V. FINNIGAN (17:22): The government opposes the establishment of the Budget and Finance Committee. The government does not oppose the establishment of the committee because it wishes to avoid scrutiny or because it is worried about the role of the upper house in scrutinising budget matters: as we indicated on the last occasion that the Hon. Mr Lucas moved the establishment of this committee, it is not the appropriate way for such a committee to be established.

The purpose of the standing orders for the establishment of select committees by the Legislative Council is so that the committees can be set up to look into a particular matter. This is a pseudo standing committee. It is a committee that met every two weeks or so during the last parliament, when it was established; and it has a one-line term of reference. It is not really a select committee at all.

There are a number of ways that the opposition or other members of parliament can scrutinise the executive or the government in relation to the budget. Obviously, one is the estimates process in the House of Assembly; there is also question time in both houses, the Auditor-General's Report, and other means. The government has indicated that it is willing to consider a proposition to have the upper house play a more permanent role in scrutinising the budget. We are all aware that at the commonwealth level there is an extensive senate estimates process, and my understanding is that just about all the other state upper houses play some sort of budget estimates role. So this government has indicated that it is willing to consider a proposition in relation to that, to create some sort of standing committee to play a role in budget matters. That is not to say that the government will necessarily support any particular proposition that comes up, but it will certainly look at it.

This government does not believe that a new standing committee should be created overnight without necessarily taking into account the whole Parliamentary Committees Act and what the various committees do. However, the government has indicated that it is quite open to the

proposition that there be a permanent standing committee of the upper house that would have some role in budget scrutiny. In fact, that was the policy the Liberal Party took to the last election, so it is surprising that it is going down this route again rather than attempting to move an amendment to the Parliamentary Committees Act.

The Hon. R.P. Wortley interjecting:

The Hon. B.V. FINNIGAN: As my colleague the Hon. Mr Wortley interjects, it is a toy for the Hon. Mr Lucas. For those members who are new to the chamber I should explain how this committee came about; it may be confusing to follow, because leadership coups are pretty common in the Liberal Party. There was one in, I think, 2005 when Mr. Hamilton Smith, the member for Waite in another place, knifed—who was it? It was the Hon. Mr Evans, who is still around and chafing at the bit to have another go.

The Hon. D.W. Ridgway: The dates are wrong; get the dates right.

The Hon. B.V. FINNIGAN: I do apologise; it was 2007, or 2008. As I said, it is very hard to keep track of Liberal leadership coups because they happen so often. However, Mr. Hamilton-Smith became leader of the Liberal Party in an overnight coup against the Right, and one of the warriors of the Right, the Hon. Mr Lucas, was dumped from the front bench. That left his position as leader in this place untenable, which meant that the Hon. Mr Ridgway became Leader of the Opposition in this place.

The Hon. Mr Lucas then decided that he needed to carve out a role for himself, given that he had been stripped of his frontbench responsibilities—even though he is the most senior member of the Liberal party in terms of cabinet service. Nonetheless he was knifed, so he thought he had better create for himself a bit of a plaything. He moved to establish the committee, and it was established by the parliament.

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: I am happy to provide the council with two examples of the Hon. Mr Lucas treating this committee in a quite contemptible fashion. On one occasion the Hon. Mr Wortley and I were absent; we were unable to attend a meeting. There was also one other member—it may have been the Hon. Mr Hood, I do not recall exactly—who was unable to be present, and thus there was no quorum for the meeting. I believe the committee purported to meet about midday that day, and minutes were taken. Upon subsequent reflection they thought better of it and realised that committee meetings cannot be called without informing the committee members, particularly myself and the Hon. Mr Wortley. That meeting then disappeared down the memory hole and apparently did not exist. That was one example, where the Hon. Mr Lucas called a meeting without inviting the two members from the government side.

I also draw honourable members' attention to the *Hansard* report of the Budget and Finance Committee held on Friday 13 November, when the Hon. Mr Lucas again demonstrated his contempt of the standing orders by continuing a meeting scheduled for 2pm. I drew his attention to the fact that it was past 4pm, past the time at which the meeting should have ended—in fact, it was 4.10pm and, as indicated in the *Hansard* report, I had given some latitude in allowing the committee to continue past the appointed finishing time. It went on for two hours, and I drew the Hon. Mr Lucas's attention to the fact that it was past 4pm and that the meeting should therefore end. I will now read from the *Hansard* report some of what the chairperson (the Hon. Mr Lucas) said, which regrettably will mean me referring to myself in the third person. The *Hansard* report reads:

The HON. B.V. FINNIGAN: …What I'm indicating is that you need to suspend the meeting.

The CHAIRPERSON: No, I don't, so long as there is a quorum at the start of the meeting. It's the same as the parliament. It's the same standing orders as in the parliament.

The Hon. Caroline Schaefer then tried incorrectly to correct me, but I will not bother with that. I then read out standing order 390, which states:

If at any other time a quorum is not present the chairman shall suspend the proceedings until a quorum is made up or adjourn the committee to some future time.

The chairperson, the Hon. Mr Lucas, then said:

That's if someone is here to draw attention to the quorum. There is a quorum present. If you're not here you can't draw attention to the quorum.

This exchange went on for some time, and then the Hon. Mr Lucas said:

> The notice that went to all members was from 2.15 to 4.15.
>
> The HON. B.V. FINNIGAN: When did the committee resolve that?
>
> The CHAIRPERSON: When we found that we were short of a member.
>
> The Hon. B.V. FINNIGAN: The committee met today and resolved that, did it?
>
> The CHAIRPERSON: No, as chairman I advised members.
>
> The Hon. B.V. FINNIGAN: You unilaterally decided to change the meeting?
>
> The CHAIRPERSON: I did, indeed.

That is the sort of contempt the Hon. Mr Lucas has. He says, 'The standing orders provide that a quorum must be present, but if you leave you will not be here to draw attention to the lack of quorum, and I'm going to continue the meeting anyway.' How can the meeting continue to a time past that advised to members? 'I decided that', said the Hon. Mr Lucas, 'I'm the chairman, I can unilaterally, as chair of the committee, just decide when it meets by myself, without reference to other members.' That is the sort of behaviour the Hon. Mr Lucas has displayed in his chairmanship of the committee, and if the council resolves to establish this committee it will not be the government's intention to support him for the position of chairman because he has consistently demonstrated that he treats the committee as his little plaything.

We know that most members opposite do not support the establishment of this committee; we know how much they burn up every time the Hon. Mr Lucas is far more successful than are they in getting in *The Advertiser* or any other media, and he does that quite successfully with the Budget and Finance Committee. We know very much how galling it is to the Hons Mr Ridgway and Ms Lensink, in particular, that the Hon. Mr Lucas continually outperforms them and outshines them as an opposition frontbencher, so in their heart of hearts they would probably like to see nothing more than see this committee not continue.

The Hon. J.M.A. Lensink: Stop it!

The Hon. B.V. FINNIGAN: Why don't you go on it, Ms Lensink, if you are that keen on it? You are not putting up your hand to go on the committee, are you? We have just had confirmation from the Hon. Ms Lensink that she has no intention of going on this committee, yet she claims that she strongly supports its establishment. I think we know what frontbenchers opposite genuinely think: they wish that the Hon. Mr Lucas would retire and go away so he does not continually show them up. We know members opposite are very keen for the Hon. Mr Lucas to depart because he continually humiliates them with his better performance as a frontbencher.

The final point is a new one on this motion to appoint a research officer. It is extraordinary that the Legislative Council should now decide to take upon itself the role of appointing staff and dictating that the council should start appointing staff for this, that or the other. I cannot wait to see what else the Legislative Council will come up with in future. Will we now decide the menus in the bar or blue room? Will the Legislative Council now determine what blend of coffee is used in the coffee machines? It is absurd—

Members interjecting:

The Hon. B.V. FINNIGAN: I highly recommend fair trade coffee to the house. It seems extraordinary that the council should attempt to usurp to itself the prerogative to make judgments about the resourcing of the house, which are typically your domain, Mr President, as presiding member in consultation with our professional Clerk, Black Rod and others. It is a very poor reflection to suggest that members opposite have no confidence in the permanent staff of the Legislative Council that they now have to start dictating terms in committee resolutions as to whether or not staff should be appointed.

For those reasons the government opposes the establishment of this committee. We certainly do not fear scrutiny and we are very proud indeed of our budget record, unlike members opposite and the mover of this motion who oversaw successive budget deficits. We are proud of our budget record, which has seen the state return to a AAA credit rating and has seen, in very difficult economic circumstances, the finances of this state maintained in good shape. We are more than happy to have scrutiny of that, but we have indicated that this is a bit of a sham. It is setting up a select committee that really operates like a standing committee.

If they were serious about this they would come back with a proposition about a standing committee that would be part of the normal structure of the houses of parliament. We know they will not do that because that would mean that the Hon. Mr Lucas would not get his way, and he still clearly calls the shots within the upper house party room of the Liberal Party. For those reasons the government opposes the motion.

The Hon. M. PARNELL (17:35): The Greens support this motion, as we supported it in the last parliament. I have listened very intently to the Hon. Bernard Finnigan's historical analysis of the origins of the committee and the different agendas various members of this place might have. I do not care for that analysis. I am not saying that he is wrong but that I do not care for it. I care for the ability of the Legislative Council to properly engage in its important function of scrutinising government decisions and, in the case of this committee, government expenditure.

The Hon. Bernard Finnigan talks about its being a select committee that operates as a standing committee. It may and that does not bother me one iota. This committee shows, for the shame that it is, the current sham of estimates committees where, once a year, only one house of the parliament has the opportunity to ask questions, when in fact questions on government spending arise continuously throughout the year. When we discussed this in the last parliament, one of the suggestions I had, which the mover of the motion accepted in the last parliament, is what is currently before us as point (3), namely:

> That members of the council who are not members of the committee may, at the discretion of the chairperson, participate in proceedings of the committee but may not vote, move any motions or be counted for the purposes of a quorum.

That was a sensible measure that allows participation by any of us in this parliament, from whichever side or party. Every single time I have asked to participate in committee meetings I have been granted that opportunity. I am not aware of other members who have said, 'I would like to come to this committee,' and the chairperson has said, 'No, you can't.' Members of the Labor Party might say, 'Oh, we tried to come along to a committee meeting, and we were turned away.' I have not heard any evidence from anyone that anyone has been denied the ability to participate in the committee meeting. On the occasions when I have participated, the committee had some procedures (and I understand that it will probably operate the same way this year) where non-members wishing to participate give notice—I think it is 48 hours; it may be 72 hours—of their intention to come along.

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: Seventy-two hours. As a courtesy to the witnesses, we usually advise the topics on which we wish to make questions, and that has been a very workable procedure. My understanding is that is the procedure that will be adopted again this year if this motion is successful.

The Hon. P. Holloway: How do you know?

The Hon. M. PARNELL: The minister asks, 'How do I know?' What I could say is that, if it was Tony Abbott, I would ask to get it in writing. I have seen it in writing. If the same procedures that were used last year—the 72 hours, the giving notice in advance—are to operate in this parliament, I think this will be a very useful and workable committee.

I do not know whether the Hon. Bernard Finnigan has moved his amendment yet; it certainly has been circulated and flagged. We will get to discuss that when we get to it, but for now, for the reasons I have mentioned and for the reasons we supported this committee last year, the Greens will again be supporting the establishment of the Budget and Finance Committee.

The Hon. K.L. VINCENT (17:39): I want to speak briefly in support of the Hon. Mr Lucas's motion. The operations of government departments must be open to scrutiny, and I believe that a budget and finance committee is an excellent vehicle to scrutinise and monitor how state government departments spend the people's funds.

While those in government and the opposition have the opportunity to scrutinise the financial administration of government departments during estimates committee hearings, as cross-benchers we do not have that option. In a sense, I am especially pleased that all members of this place may, with the permission of the chairperson, participate in the proposed committee's proceedings. For this reason, I support the motion.

The Hon. R.P. WORTLEY (17:40): I seek leave to move in an amended form the amendment I have distributed to members.

Leave granted.

The Hon. R.P. WORTLEY: I move:

Leave out the words 'at the discretion of the chairperson' and insert 'after notifying the chairperson'

In effect, the motion would then read:

That members of the council who are not members of the committee may, after notifying the chairperson, participate in proceedings of the committee.

The effect of the amendment is quite simple and quite harmless, really. All it means is that the chairperson does not have the discretion. Including the word 'discretion' means that the chairperson has the discretion. As the Hon. John Darley and the Hon. Mr Parnell will testify (and I think they are the only two people who have attended as non-participating members—

Members interjecting:

The Hon. R.P. WORTLEY: You have?

An honourable member interjecting:

The Hon. R.P. WORTLEY: Well, that's good. You're so irrelevant that I just didn't take note. What it means now is that, if a person wants to participate, all they have to do is notify the chairperson and they can participate; there should be no discretion involved. I seek the indulgence and support of the chamber.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (17:42): I rise to support the amendment moved by the Hon. Mr Wortley. I want to use this opportunity to point out some of the background to this committee because some of the newer members probably are not aware of it.

Recently, I spoke to the opposition, through the Leader of the Opposition, and I put to him that this committee has been around for some time and that, unquestionably, there will be moves to re-establish it following the election. I said to him, 'Why not consider making it a permanent standing committee, particularly since we have at the moment a Statutory Authorities Review Committee and there are relatively few statutory authorities to look at, so why not replace it—'

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, of course he said no—and that goes to the whole point. It would have made sense to absorb the work. Let's face it, we have a standing committee to look at statutory authorities, which is relatively well resourced relative to select committees, and that could have been used. That was the offer for consideration. Of course, we know why it was rejected, and that is because it is Rob Lucas's plaything. That is what it is all about. It is all about giving him a voice. Of course, he then gets one of the tame journalists from *The Advertiser*, who very uncritically publishes whatever he wants.

It is important that this parliament have scrutiny, but it is also important that this parliament has credibility. Why is it that a member of the opposition has to chair a committee of this nature? Does that make it objective? Does that make it fair, when someone who has spent his whole lifetime in this parliament—and it has been a long lifetime in this parliament, 28 years or so—attacking the Labor Party. This committee is a vehicle; it is not about scrutiny. If this committee was genuine—

An honourable member interjecting:

The Hon. P. HOLLOWAY: You can laugh, but you know what he is like. There has been no person in the history of this parliament who has made more personal attacks—

The Hon. T.J. Stephens interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Stephens is out of order!

The Hon. P. HOLLOWAY: —on members than that particular person, and you know it. The history is there. If this was genuine and he really wanted a select committee to provide some scrutiny, why not have one of the Independents? Why doesn't Mr Parnell volunteer to chair it? We all know who is going to be the chair of it now because the deals are done, and I think it is important that we put that on the record. The deal has already been done for Rob Lucas to be chair

of this committee to provide him with another vehicle. Because he wants an extra staff member, he is saying that the money from this parliament should go towards funding a full-time research officer the other committees do not have.

The Hon. B.V. Finnigan interjecting:

The ACTING PRESIDENT: Order! The minister needs no help from the Hon. Mr Finnigan.

The Hon. P. HOLLOWAY: This resolution requires a full-time research officer position to be made available to assist the work of the committee (that is, Rob Lucas). So, he will have an additional staff member that other members of the government and other members do not have. I think that the members who have come here fairly recently should understand that it was during the last parliament that the Liberal Party, in conjunction with the Independents, broke a long-standing convention—a convention of 150 years—in no longer having government members chair committees. That had always been the convention. It was a convention that the Labor Party, when it was in opposition, in conjunction with Independent parties, had always honoured. That has been broken. Okay, that is gone; that convention is broken.

However, if those members, particularly the Independent members, believe that there should be some independent scrutiny, why doesn't one of them offer to chair it? How much credibility do they think the committee will have if it has an opposition person, particularly shadow finance, using this as their personal plaything?

I think there has been a lack of integrity by certain journalists in their reporting of this matter, but I think that will change. One of the reasons I am speaking today is to highlight the fact that this is a flawed committee. It is profoundly flawed in that the shadow minister—I think he is the shadow minister for tracking the broken promises of government—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: It shows how dopey the Leader of the Opposition in another place is. How can you have someone as a shadow minister who is not tracking a minister? He is using this chair and using the numbers in this parliament, duping the Independents who are supporting him, to give him extra staff so he can carry—

The Hon. A. Bressington interjecting:

The Hon. P. HOLLOWAY: Duping. Yes, exactly; that's right—

The Hon. A. Bressington interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. P. HOLLOWAY: —so he can have extra staff to attack the government. No other parliament in the Western world behaves like this. It is just another breach of the Legislative Council—and he has made dozens of them—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. P. HOLLOWAY: This is yet another breach. Just like the convention that was broken in relation to the chair, now we have the breach where it operates at the discretion of the chairperson. That comes back to the amendment moved by the Hon. Russell Wortley. Why should the chairperson have sole discretion? It does not happen in any other committees. It does not happen anywhere else. Committees of the Legislative Council should be the property of the Legislative Council; they should not be the plaything of a particular member of the opposition. So, for that reason, I support the amendment moved by the Hon. Mr Wortley.

The Hon. S.G. WADE (17:47): I seek permission to ask a question of the mover in relation to the amendment.

The Hon. P. Holloway: He's not here, is he?

The ACTING PRESIDENT: You cannot ask a question but you can make a contribution and pose that question in the contribution.

The Hon. S.G. WADE: Thank you.

The ACTING PRESIDENT: If there are no further contributions, the Hon. Ms Bressington.

The Hon. A. BRESSINGTON (17:48): Just very briefly—

The Hon. T.J. Stephens interjecting:

The Hon. A. BRESSINGTON: No, I'm not going to—well, I am, sort of.

The ACTING PRESIDENT: I think the honourable member should proceed.

The Hon. A. BRESSINGTON: I will. First of all, I get a bit sick and tired every time a proposal for a select committee, or whatever, comes up in this place that we either have the Hon. Bernie Finnigan or the Hon. Paul Holloway saying that the Independents are being sucked in and duped, and that we don't know what we are doing and we don't know why we are doing it. How insulting is that, for a start!

The second point is about breaking conventions, about not having government members sitting in chairs of select committees. I sat on eight committees last year and not all of them were chaired by government members. In fact, the Hon. John Dawkins chaired a select committee that we established.

The Hon. M. Parnell: And water.

The Hon. A. BRESSINGTON: And the Hon. Mr Parnell here, for water.

Members interjecting:

The Hon. A. BRESSINGTON: But has it killed us? Has it really killed us? Has it changed the way this place works? I think not. Anyway, you should just watch what you say—that we have been duped into this—because some of us might just dig our heels in and vote for it despite the comments. Give us some credit for the fact that we come here every day, the same as you, and do our job. We have a pretty fair idea of what is going on and why we are voting for issues.

The Hon. P. Holloway interjecting:

The Hon. A. BRESSINGTON: Hang on. To say that the decision has already been made is not true. I have not been approached by Rob Lucas or the Liberal Party to vote anybody into this chair, or anything else. This is an independent vote. The last time I attended the Budget and Finance Committee, when Families SA officers were in attendance, the evidence they gave to the Budget and Finance Committee was completely different to the evidence given to the select committee inquiry, and it was a discrepancy that was pursued. So, there is value in this. I think it was in the Budget and Finance Committee that Mr Hamilton-Smith picked up on the poor reporting of Drug and Alcohol Services, involving its expenditure of almost $14 million. So, there is a reason for this committee, and it does serve a purpose. It might not serve it for you guys, but it actually does for us. Just be careful about what you say.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:51): I rise on behalf of the mover of the motion to establish the committee. Unfortunately, Mr Lucas has been called away on a family matter today and is unable to be here. I have listened to the debate and to the pathetic half-truths that have come from the opposite side of the chamber. The Hon. Mr Wortley's amendment is interesting. Nobody has been refused an opportunity to come to that committee. I am not sure whether any of the backbenchers—

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: Nobody has been refused.

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: Have you ever asked?

The Hon. P. Holloway: I haven't been able to, because it's when cabinet is sitting.

The Hon. S.G. Wade: What's the point of a minister asking his own minister?

The Hon. D.W. RIDGWAY: Exactly. Nobody has been refused. The Hon. Ann Bressington, members of Family First, the Hon. Mark Parnell, the Hon. Mr Wade, and I—a range of members—have come to the committee. To my knowledge, nobody has been refused an opportunity to come to the committee. So, clearly, we will not be supporting the Hon. Mr Wortley's amendment.

The comments of the Hon. Mr Finnigan—the next leader of the government—were interesting. I hope he sharpens up his performance before he becomes leader. He spoke about all

the opportunities for scrutiny, including question time. We still have hundreds and hundreds of questions on notice not answered. We rarely have questions without notice answered in this place. I know the Hon. Caroline Schaefer still has a number of outstanding questions that I suspect will never be finalised.

An honourable member interjecting:

The Hon. D.W. RIDGWAY: These are issues that the Hon. Mr Finnigan raised. My understanding is that, speaking on behalf of the mover, I am indicating that we will not be supporting the amendment and basically summing up the debate on the motion. Is that correct?

An honourable member interjecting:

The Hon. D.W. RIDGWAY: Yes, that is right. I beg your pardon, Mr President, I should stick to the amendment. I have dealt with the silly amendment and now I am dealing with the very important motion.

The PRESIDENT: I would imagine the summing up of the debate would have probably been done before the amendment was moved.

The Hon. D.W. RIDGWAY: You gave the Hon. Mr Wortley the call to move the amendment.

The PRESIDENT: Very well; carry on.

The Hon. D.W. RIDGWAY: May I carry on?

The PRESIDENT: Yes, carry on.

The Hon. D.W. RIDGWAY: Thank you. It was interesting that the Leader of the Government had a discussion about the Statutory Authorities Review Committee, the possibility of the Budget and Finance Committee being a standing committee, the change of standing orders—a whole range of things. I suggested to him that he, as the Leader of the Government, should put what he wants in writing. This government has a track record of saying one thing and then changing its mind halfway through. All we have seen so far from the government is a change to sitting times, so that we get up at 10pm on Wednesday nights.

The Hon. Mr Finnigan says we just establish a new committee at the drop of a hat. A little later on today I suspect we will pass a bill to add extra members to a committee—and the Hon. Kelly Vincent goes on to the Social Development Committee. It is interesting that this chamber was more than happy to have a reciprocal person from the House of Assembly, unlike this arrogant government where the House of Assembly has decided to put two extra members on the Natural Resources Committee and no extra members from the Legislative Council. They are quite happy to undermine the integrity of the Legislative Council. We see that the NRM committee (which I will make a contribution on later) now has nine members—six from the House of Assembly and three from the Legislative Council.

It is important that this committee be re-established. It has been a very useful tool to hold the government to account.

The Hon. A. Bressington: Very successful.

The Hon. D.W. RIDGWAY: As the Hon. Ann Bressington says, very successful. Another question I posed to the Leader of the Government (we had this discussion prior to the start of the sitting) was the possibility of upper house shadows being involved in budget estimates but nothing has been forthcoming. This means the chamber, the shadow ministers, the crossbenchers and the backbenchers—anybody from the government side—may attend the Budget and Finance Committee. It has certainly been one way of holding the government to account. I am sure one of the very first groups that will be called in will be the Stadium Management Authority and a whole range of government officials in relation to this latest con by the Labor Party.

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: I beg your pardon, that we have made up our mind! We had the Treasurer today inform—

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: —the House of Assembly that he had received advice prior to the election that the expenditure was going to go beyond $450 million on the stadium. There was a range of very important unanswered questions about expenditure of taxpayers' money on a key election promise that this government made to the people of South Australia—$450 million and not a penny more. Now it is probably another $450 million. Goodness knows how large and how out of control this project will become. One of the things that the Hon. Rob Lucas discussed—

The Hon. P. Holloway: It is not a government project.

The Hon. D.W. RIDGWAY: It has government money—$5 million just to tick it off and $450 million of taxpayers' money. It is a government-sponsored project.

The PRESIDENT: Order! The Hon. Mr Ridgway should not be distracted by interjection.

The Hon. D.W. RIDGWAY: If it is taxpayers' money it is a project of interest to the Budget and Finance Committee and a project of interest to the taxpayers of South Australia.

The Hon. Mr Lucas did a study tour to the US a couple of years ago where he came up with the idea for a Budget and Finance Committee. He said that the ones that were most successful were the ones that had full-time research officers. I know members opposite cringe because the Hon. Rob Lucas has such a long corporate knowledge of the way government operates. He has certainly been here for a very long time but eventually—and it will be a sad day—the Hon. Rob Lucas will retire at some point and that corporate knowledge will be gone.

He said the example overseas is that, when you have a full-time research officer, you have somebody who has corporate knowledge who lives beyond terms of government and beyond terms of parliament and, therefore, whichever party is in government, there is a better opportunity to hold it to account.

Members interjecting:

The Hon. D.W. RIDGWAY: I suspect it will, Mr Finnigan.

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: This select committee has been so successful that I suspect that, after the next election (when we will have a Redmond-led Liberal government) members opposite—those who are left and sitting over here—will move to have a Budget and Finance Committee. I am sure that we will have a Budget and Finance Committee, whoever is in government, in this chamber. It has proved to be a very useful tool to hold the government to account. With those few words we indicate we are not supporting the foolish amendment of the Hon. Russell Wortley but we do urge members to support the real establishment of the Budget and Finance Committee.

Amendment negatived; motion carried.

The council appointed a select committee consisting of the Hons J.A. Darley, B.V. Finnigan, R.I. Lucas, D.W. Ridgway and R.P. Wortley; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 24 November 2010.

[Sitting suspended from 18:00 to 19:45]

ELECTORAL PROCESS

Adjourned debate on motion of Hon. S.G. Wade:

1. That a select committee of the Legislative Council be appointed to inquire into and report upon the following matters related to the general election of 20 March 2010—

   (a) the use of bogus how-to-vote cards and other election day material to mislead voters and measures that may be necessary to ensure that electors are not misled;

   (b) provision of voting services including voting by post and services to residents of declared institutions;

   (c) the integrity of the roll, including the identification of voters presenting and measures for subsequent verification; and

(d) management of the election by the electoral commission, including the powers and resources available to the commission.

2. That standing order No.389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

4. That standing order No.396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 12 May 2010.)

The Hon. B.V. FINNIGAN (19:47): The Hon. Ms Bressington, in speaking on the last item of business to establish the Budget and Finance Committee, was saying that Independents have a mind of their own and that we should not presume what they are going to do. I certainly hope that the Independents and crossbenchers on this occasion will demonstrate that they are prepared to consider reasonable amendments to terms of reference for select committees. The government is not opposed to the establishment of this select committee, with the amendments I have foreshadowed.

It is a common practice of one of the standing committees of the commonwealth parliament to make a review after every election, and there is nothing to be feared by the government or the Labor Party reviewing matters arising from the election. I accept that there is community concern over the use of how-to-vote cards, which were in my view entirely lawful and proper and were authorised by the Labor Party. However, we have accepted that there is community concern about that and we have already moved to amend the Electoral Act to ensure that no how-to-vote card could be distributed advocating a No.1 vote for someone without that candidate's consent.

We do, however, seek to amend the terms of reference of this select committee to slightly broaden them, not to make too great an expansion but to allow all matters to be considered. I note that the Hon. Ms Vincent also has an amendment in similar terms to ensure that there is no ambiguity about the terms of reference. I have a concern that, by drawing up very narrow terms of reference, it would run the risk that matters that come before the committee could not be properly examined by the committee. A number of members have said that they want the committee to be short, sharp and shiny and wrapped up in fairly short order, particularly given that a number of members have indicated an intention to amend the Electoral Act. We have a bill being introduced tonight to that effect, and I understand that, and it is certainly not the government's view or intention that this committee, if established, would be inordinately long.

We are not looking to have any sort of Ashbourne style, half a decade long extravaganza. What we want to do, by making very modest amendments, is to make sure that the evidence that comes before the committee is not ruled out of order or outside the terms of reference. I indicate that the government supports the amendment to be moved by the Hon. Ms Vincent for that very reason: we want to make sure that there is not any ambiguity.

A number of members have indicated that they do not think that anything in the terms of reference would preclude raising matters relating to previous elections, and I would be happy if they want to put that view on the record. It is certainly normally the case that there is a reasonable amount of latitude in questions but, nonetheless, one cannot be sure of that. The terms of reference here are quite narrow. The two amendments I have foreshadowed are to add the words 'and previous elections' after 'the date of the recent general election,' and to add 'any other relevant matter'.

In relation to the first amendment, as I have said, I think we all want the inquiry to be expeditious. However, matters may certainly arise regarding the last one or two elections in particular. It is extremely unlikely, I would have thought, and it is certainly not the government's intention, that we will be talking about the 1979 election or things from a long time ago.

However, if we are going to be looking at how-to-vote cards, as well as postal voting, resourcing of the commission and the general conduct of the election, it would seem extraordinarily incongruous to me that you would restrict that only to the most recent general election and not consider what might have happened in previous elections in recent memory.

If one is to say that the postal voting system on this occasion was inadequate or that there were problems with it, or that there was a problem regarding confusion over how-to-vote cards, it

seems to me a fairly unusual proposition to say that you cannot compare what happened on 20 March 2010 with what happened in March 2006 or March 2002, because that would obviously be pretty germane to the discussion. If you are going to look at a general election in isolation, you are certainly not going to be benchmarking it against other elections and what might have occurred in those elections.

Then, 'any other relevant matter' is a very standard provision in select committee terms of reference—and I draw honourable members' attention to 13 occasions in the previous parliament: Select Committee into Unlawful Practices Raised by the Auditor-General in his Annual Report, 2003-2004, paragraph (g) all other related matters; Certain Matters Relating to Horse Racing in South Australia, paragraph (g) any other relevant matter; Select Committee into the Collection of Property Taxes by State and Local Government, Including Sewerage Charges by SA Water, (f) any other related matters; Conduct of PIRSA in Fishing of Mud Cockles in Marine Scalefish and Lakes and Coorong Pipi Fisheries—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Finnigan has the floor.

The Hon. B.V. FINNIGAN: —thank you, Mr President—paragraph (e) any other relevant matter; Select Committee into Families SA, paragraph (g) any other related matter; Impact of Peak Oil on South Australia, (j) any other related matter; Pricing, Refining, Storage and Supply of Fuel in South Australia, (j) any other matters; Proposed Sale and Redevelopment of the Glenside Hospital Site, (f) other matters that the committee considers relevant; SA Water, (m) any other matters; Staffing, Resourcing and Efficiency of the South Australia Police, (k) other relevant matters; Taxi Industry in South Australia, (h) any other relevant matter; and Taxpayer Funded Government Advertising Campaigns, (d) any other matters that the committee considers relevant.

The Atkinson/Ashbourne/Clarke Affair did not have a reference 'other related matters' but what it did have was 21 different terms of reference to make sure that everything was covered. The house did, in fact, amend the terms of reference because it wanted to add a couple of things that had not been canvassed in the first terms of reference because they were too narrow. The last select committee to which I draw honourable members' attention is Selection Process for the Principal at the Elizabeth Vale Primary School, (f) any other relevant matter.

So, there we have 13 select committees established by the previous parliament in which there were terms of reference specifying 'other relevant matters' or 'other matters the committee considers relevant' or, indeed, 'any other matters'. I draw honourable members' attention to today's *Notice Paper* and the motion that was moved by the Hon. Michelle Lensink that the Environment, Resources and Development Committee undertake a review into South Australia's population strategy. Part 7 of that term of reference is 'any other matter', not 'any other relevant matter'. So, for the opposition, Family First or any of the crossbenchers to say that that amendment of mine needs to be defeated is absolutely extraordinary and indicates to me that this committee is certainly intended to be a kangaroo court.

I appeal particularly to the crossbenchers. The government has taken a very cooperative and collaborative approach. We have said that we are not opposing the establishment of this committee. We do not believe that the government or the Labor Party has anything to hide or to be ashamed of. We agree that there might be matters which arise out of this committee which can assist with the proper conduct of elections in this state in the future.

All we are asking the council to do is to add that the committee be able to consider previous elections and that it have, as part of its terms of reference, a paragraph that in some form is in virtually every other select committee terms of reference that this council passes. The test here is very clear: if the opposition, Family First and the crossbenchers defeat my amendments, I think it will be very clear that this is simply a political kangaroo court.

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: It would be clear evidence that this committee would simply be a political stunt and that it is not about improving the electoral process in South Australia.

The Hon. A. Bressington interjecting:

The Hon. B.V. FINNIGAN: The Hon. Ms Bressington interjects that this is like every other select committee: that is not the case. The government is not opposing—

The Hon. T.J. Stephens interjecting:

The Hon. B.V. FINNIGAN: Well, I certainly can count to 26, the Hon. Mr Stephens would be aware.

The Hon. T.J. Stephens: 26?

The Hon. B.V. FINNIGAN: Yes, 26 members of the lower house, thus giving a majority government. You should try it some time.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens will sit very quiet and take his punishment.

The Hon. B.V. FINNIGAN: Do we need an adjournment for the Hon. Mr Stephens to compose himself? The test is quite simple here: the government has indicated that it is happy to take a cooperative approach. We are not trying to say that this committee should not be established. All we are aiming for is two very simple amendments, similar to the amendment to be moved by the Hon. Ms Vincent, and I will be quite stunned if that gets defeated by the opposition. It is a simple amendment designed to slightly expand the terms of reference to ensure there is no ambiguity about what the committee is able to consider.

If the opposition and crossbenchers combine to defeat my amendments, which is, I think, what most of them have indicated that they intend, then it will be very clear that this is not about improving the electoral process in South Australia, it is not about getting to the bottom of the issues and it is not about ensuring that elections are conducted in a fair and proper manner in future; it is simply an anti-Labor kangaroo court.

One certainly has to ask: what do the Liberal Party and Family First have to hide? What is it in the 2006 election, or the 2002 election, or any previous election, of which they have such fear that they will not permit this committee to consider? This committee's terms of reference have been drawn up narrowly to try to focus only on one election. The Liberal Party and Family First clearly do not want this parliament to look into matters that happened in the 2006 or 2002 elections; they want to have narrow terms of reference, they want to ensure that this committee is hamstrung from the start and that this committee is simply an anti-Labor kangaroo court. That is what will be the clear outcome if the Liberal Party, Family First and other crossbenchers combine to defeat my very reasonable and simple amendments, which basically ensure that there is no ambiguity about the terms of reference covering other elections and add a paragraph that is in virtually every select committee reference.

Certainly, if members opposite combine to knock off 'any other relevant matter,' I am sure that I will look forward to them moving to delete that from the terms of reference of every other select committee they establish, when it is, in fact, they who move the terms of the select committees. Now it appears that Liberal members opposite are saying that we cannot have 'any other relevant matter'—something that appears in almost every other select committee terms of reference. That is just a clear admission, a clear indication, that this is designed to be a particular political witch-hunt, a political stunt, because if it was not, the Liberal Party would have nothing to fear.

The government has said that it is not opposed to establishing this committee. We do not believe that the government or the Labor Party have anything to fear from establishing this committee. We believe that everything we have done has been lawful, but we accept that there has been concern about certain practices. We are happy to have a committee to look into that—we have already indicated that we are prepared to move to amend the Electoral Act—but why restrict it to one Saturday in 2010 and forget about what happened in 2006 and 2002?

If the Liberal Party, Family First and other crossbenchers combine to defeat an amendment to simply add 'any other relevant matter' and if they combine to ensure that this committee cannot look at any previous election, what do they have to hide? What is it that they are so fearful of? That is the question that South Australians will ask themselves.

If the select committee terms pass without these very simple, straightforward and commonplace amendments, it will be very clear to the people of South Australia that they can have no confidence in this select committee getting to the bottom of any issues and making any concrete proposals to improve the electoral process in South Australia because, if the terms of reference are restricted to a very narrow basis only intended to beat up on the Labor Party, people will know that

this is a stitch-up from the start and that they should not rely on anything that the select committee has to say.

I commend my amendments to honourable members, which I will move. It is very clear that they are simple, straightforward and commonplace. One of them in particular, as I have clearly demonstrated, was in virtually every other select committee reference in the previous parliament and, if honourable members opposite and the crossbenchers combine to defeat those amendments, to my mind it will be a very clear indication that this committee is not intended to achieve anything to advance democracy in South Australia; it is merely intended to be an opportunity to beat up on the Labor Party.

The Hon. A. BRESSINGTON (20:03): I will agree with 90 per cent of what the Hon. Bernie Finnigan has said. When I saw the terms of reference and the amendment, I thought it was a reasonable amendment. I was surprised that 'any other relevant matter' was not included in these terms of reference. I did approach one of the other crossbenchers and commented that I thought it was perhaps a little one-sided that we were only going to look into the 2010 election when, in fact, there had been allegations in the 2002 election, I think—or 2006, whatever—that other people, other parties, participated in similar exercises as what we saw at the 2010 election.

However, I did have a conversation with the Hon. Bernie Finnigan and I asked him if he would consider changing the first part of the amendment from 'and previous elections' to be specific about the 2006, 2002 election. He indicated that he would be open to that but I notice that it has not been changed. The implications of having 'and previous elections' is that if the Labor Party wanted to drag out this particular select committee and influence the results or the outcome or just take their sweet time, we could go back 150 years.

An honourable member interjecting:

The Hon. A. BRESSINGTON: Well, we could—we could go back. We all know that there is no morality in politics, don't we? Morality is up to philosophers not politicians. My concern is that the Hon. Bernie Finnigan did not see anything wrong with amending that and then did not amend it.

This is basically a cheap political stunt by him. If he really wanted an honest and open select committee and the Labor Party was more than willing to have this inquiry into the election because there was nothing to hide, then it would have made sense to get the support of the house and the crossbenchers, and that simple amendment would have been made and we would have felt quite comfortable with it. However, that did not happen.

The second point is that if we are also concerned about any other relevant matter it could have been a separate amendment. It could have been supported and I certainly would have supported it. On the face of all that, I raise concerns about this amendment and how it was drawn up. I did seek advice from people (not from the Liberal Party) who know how these things work and the concern was that the phrase 'and previous elections' in this amendment is very broad and one could go back 150 years if one really wanted to.

I was going to support this amendment when I first saw it. However, after hearing the Hon. Bernie Finnigan's rave, that if the cross-benchers don't agree to the Labor Party amendment—which is deficient I believe—and that therefore crossbenchers do not think for themselves and are somehow aligned—

The Hon. P. Holloway interjecting:

The Hon. A. BRESSINGTON: What!—given that an opportunity was put to the honourable mover of this amendment to make a reasonable amendment to make it acceptable, and that it was not done tells a story in itself.

The Hon. P. Holloway: It's qualified by (a), (b), (c) and (d). It can only be for further elections in relation to those matters.

Members interjecting:

The PRESIDENT: Order!

The Hon. A. BRESSINGTON: Hang on. No, that is actually not the advice that I got from an independent source. The meaning of this amendment 'and previous elections' could mean every election that we have ever had. The Hon. Bernie Finnigan made the point himself that he would want to see—

An honourable member interjecting:

The Hon. A. BRESSINGTON: Are we having a debate here or what? What are we doing?

The PRESIDENT: Order! You've got the floor.

The Hon. A. BRESSINGTON: Thank you.

The PRESIDENT: If you cease responding to interjections then you will find that it works a lot better.

The Hon. A. BRESSINGTON: I didn't respond—I don't think. Anyway, 'and previous elections' could have been qualified to make us all feel comfortable with what we were voting for. The Hon. Bernie Finnigan made the point that if the Liberal Party was genuine about wanting a true inquiry into this it would have been more qualitative as well, or more descriptive in its terms of reference, so it seems as though everybody is playing games with this.

I will not be supporting this amendment, given that I did approach the Hon. Mr Finnigan to amend the amendment and he shook his head but then did not do it. That tells me that this is a stunt in itself. I will be supporting the motion as it stands.

The Hon. M. PARNELL (20:10): The Greens support the establishment of this select committee. We support fairly narrow terms of reference because I think that the mover of the motion has encapsulated the main issues that were of concern in this election. Certainly, the media and public attention was on the how-to-vote cards, but there were also serious concerns raised about declared institutions, and I know from communications that the Greens received that there were a number of residents of nursing homes who were dissatisfied with the level of service that they received by both officers of the state electoral office and also people at nursing homes.

In terms of whether the terms of reference should be broader than just the last election, one of the reasons the Greens are attracted to the motion as it is is the commitment on the part of the Hon. Stephen Wade for this to be a short, sharp inquiry that does not go for the half a decade that the Hon. Bernard Finnigan referred to. There is probably no doubt in anyone's mind that if we trawled through the last several elections we would find bad behaviour on all sides. What has been interesting about this election is the position Family First found themselves in, and the Greens have found ourselves in, during previous elections, at the hands of both the old parties, and we have, to the best of our ability, dealt with those as they arose.

For now, I think we need to focus on what went wrong in this last election, and I think the terms of reference are broad enough given that it includes the ability for the committee to identify 'measures that may be necessary to ensure that electors are not misled'. That is fairly broad and can cover a range of things, and it may well be that in formulating those measures examples are taken from previous elections where poor practices have been followed.

I am pleased that we are going to set up an inquiry that will look at this. As members would know, as well as this select committee, the Greens have an electoral reform bill, Family First has an electoral reform bill, and the government itself says it wants to reform the how-to-vote provision. We will debate that when we get to it, but there is every indication that those provisions, which have existed for half a century or so in commonwealth law and do not work there, will not work here either, which is why the Greens took the position that banning how-to-vote cards altogether is the way to go.

In terms of expanding the terms of reference to include any other matters, I think that would be inviting us to rehash the whole Electoral (Miscellaneous) Amendment Bill of last year. There are issues of birthday cards being sent to people as a result of their birthdate being on the electoral roll. There is a whole range of matters that relate to elections that is broader than the relatively narrow range of problems that was identified in the March 2010 election.

With those words, I indicate that the Greens support the motion and its terms of references as drafted and we do not support the proposed amendment of the Hon. Bernard Finnigan. We will, however, support the foreshadowed amendment of the Hon. Kelly Vincent. If it is moved, we will be pleased to support it because it fits nicely with the range of concerns that were expressed—for example, the nursing homes that have been mentioned—and there are many categories of voters who I think need to be better served by the electoral system than they have been.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (20:13): I move the amendment in the name of Hon. Mr Finnigan:

Paragraph 1—

After 'General Election of 20 March 2010' insert the words 'and previous elections'.

After subparagraph (d) insert new subparagraph (e) as follows—

'(e) any other relevant matter.'

Why should we do that? Why should we look at elections prior to 20 March? I have already indicated in answer to a question, I think on the very first day of the sitting, my experiences back in the 2006 election. As I was not a candidate at that election, I was handing out how-to-vote cards for Mr Tom Kenyon, who subsequently was elected as the member for Newland. In that election, Family First had, I think, an open ticket. That was its decision. It had not deemed preferences.

Clearly, that had upset the Liberal candidate for that electorate, and so what I witnessed during that election—I observed them quite closely and subsequently—were the same people handing out Liberal how-to-vote cards. They sort of swapped over halfway through, but they were handing out a how-to-vote card that was meant to appeal to Family First voters, and it was to give the second preference to the Liberal Party. Quite clearly it was designed to do that.

When I witnessed that, as I indicated in answer to the question, it was a matter that I raised, because I thought, 'Well, look, I think this is not proper behaviour, because it could tend to misrepresent.' For that reason, I specifically raised it after the election to see whether we could do something about it. Of course, subsequently in this place amendments were moved to the Electoral Act; it was section 112C, which would have followed a similar clause in the federal parliament. There have been these things. As the Hon. Mark Parnell just said, parties have been handing out cards to try to encourage and get the second preference, and, really, why should candidates not try to get the second preference of votes?

We do have a preferential system. After all, Family First does not own its voters any more than the Liberal Party and the Labor Party own its voters and own their intention. I am sure that many of the 340,000 voters who voted for the Labor Party did not follow the how-to-vote cards.

The Hon. S.G. Wade: You don't use other people's brand.

The Hon. P. HOLLOWAY: But you did. The problem, Mr Wade, is that you did. That is what you did—at least, not you personally, but it is what your party did.

The Hon. S.G. Wade: I did not.

The Hon. P. HOLLOWAY: You pioneered this, and I am coming to this point in a moment. We tried to outlaw it. History shows, if you look at it, that it was rejected in this council. So, what conclusion could any reasonable party official take? This practice had existed before in the 2006 election. Measures specifically aimed to remove it had not been passed by the parliament, so was it not reasonable to assume therefore that that would happen again?

Of course, the difference this time was that Family First had decided to give its preferences, I think universally, to the Liberal Party. Of course, Family First did not do this in 2006. It was to the Liberals' benefit in 2006, and they did it and they pioneered it. It was not enough to get the Hon. Mr Brokenshire across the line when he was running for the Liberal Party back in 2006. I believe the same thing that I saw in Newland happened in Mawson. Whereas that was not effective then, of course, what has happened subsequently is that, because at this election it did not suit the Liberals' purpose and they had no need to do it, they did not do it.

We know what it is like in politics: once a precedent has been set, it is likely that, if it is successful and it is legal, it will be followed by other parties. In this case, as far as I am concerned, the conscience of the Labor Party is quite clear. We tried to amend it. We put the amendment up and it was rejected in this place. We tried to outlaw it and we were unsuccessful, so what other conclusion could you have? If it is legal, if it has happened in the past, then what do you do in politics? There is one alternative: you either do it yourself for self-preservation or you try to get it changed. We tried to get it changed.

We were not successful in doing that, as history shows. The reason I am supporting the amendment is that, from my own experience, I know that is what happened. The events of previous elections are relevant to what happened in the build-up to this election. Of course, this behaviour should be changed. I wish it could have been changed after the 2006 election. I wish that it did not happen at the 2006 election, but what I cannot stomach is this hypocrisy by members opposite who pioneered this. Variations of this have been used plenty of times in the past, as the Hon. Mr Parnell has indicated.

For as long as I have been in politics, as long as I have been a member of the Labor Party (and that is some 40 years), I have seen instances where dummy candidates are run simply to draw preferences. A certain proportion of people will always vote for Independent or non-aligned candidates. I saw it when I was working for Ralph Jacobi in 1975, when Steele Hall was running and had a candidate called Wallace, whom no-one ever knew, but the preferences were handed out. At the polling booths where people were handing out how-to-vote cards for this unknown Independent, they went strongly towards the Liberal Party. Everywhere else (where they were not handing them out) and in postal votes it was the usual fifty-fifty split; it was the usual donkey vote, protest vote.

We all know about the shadow treasurer in another place and the mystery of Annie Seaman in the 1997 election, where a dummy candidate turned out to be his relative and did not turn up or have anything to do with the election. Why did she run for election?

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: The honourable member says that is not true. The reality is that we all know it happened. The honourable member should read the *Hills & Valley Messenger* of Wednesday 29 October 1997. This has happened. This is the history of this issue. I do not wish to condone the behaviour. Let us get rid of this behaviour. Let us pass the bill and ensure that it does not happen, but let us not have the hypocrisy that this idea of getting a second preference vote for a major party is somehow new or immoral or unprecedented—because that is just not true. Everyone who has been involved with elections knows it is not. This is a complete stitch-up. The most important thing the parliament can do is to pass the amendment—which it should have passed last year—to get rid of it. I cannot stomach the hypocrisy within this debate that somehow something new has happened.

In relation to the amendment that was opposed, what happened in the March 2010 election arose out of events that happened in the previous election. It is important that it be put on the record, if this committee is to be a kangaroo court like so many of these upper house committees are. If it is not really interested in finding out the truth, so be it. If it is yet another Legislative Council committee set up to play politics, so be it. But at least I would have put on the record that what happened at the 2010 election was a direct result of what happened previously. It should be examined by the committee but, if this committee just wants to denigrate the reputation of the Legislative Council, if we have another committee that plays politics and does not seek to get to the truth, so be it, but I suggest that it will be the reputation of this chamber that will be at stake, not the reputation of the Labor Party.

The Hon. R.L. BROKENSHIRE (20:23): On behalf of Family First, I advise that we will be supporting the opposition's motion and that we will not be supporting the government's amendment. I will explain briefly why. Irrespective of the minister's contribution, what happened in 2010, in the opinion of our party, is totally unprecedented. Secondly, there are not only issues in relation to polling day but also issues regarding the whole management of this election with respect to the Electoral Commission which have raised a lot of concern. Those issues, in a short, sharp and shiny way, need to be dealt with.

I am a little tired of the government using the excuse that because clause 112C was defeated in this council it gave the government a gateway to be able to get up to its tricks on 20 March 2010. I have heard the most senior people in government say that the whole reason that they were able to get up to skulduggery on that day is that I personally removed clause 112C. Well, the fact is that I did move that clause 112C be removed and it was supported unanimously; it was supported by the government.

I will tell members the reason why I removed clause 112C. The intent of clause 112C was to shut down the Farmers Federation, the Australian Conservation Foundation, the AMA, the AEU and any organisation in the history of the democracy of this state that has put out a report card on how they rate individual members of parliament, parties and Independents on issues of the day. The government wanted to shut them all down and stop them from being able to put out their report cards because the government was not travelling well when it came to rural areas, conservation, teachers, disability services, and even the PSA. It wanted to shut them down and stop the democratic process.

That is the one and only reason why I moved that we not support that. I repeat again that every member of parliament, including every member of the government, supported that. However, I will put a little more on the public record. A very senior minister—

The Hon. I.K. Hunter interjecting:

The Hon. R.L. BROKENSHIRE: Say that outside; I would like your house. The fact is that a most senior minister, as I am advised, went to the Labor Party and said, 'Why are you doing this because it is illegal under the new amendments?', and only then was that minister challenged by someone else in the organisation of the Labor Party who said, 'No, we have had advice on this, we can get away with it on this technicality.' If members look at sections 112A and 112B (which are still in the act today) they talk about preventing this stuff that occurred on 20 March. However, because section 112C was removed, as advised by my legal team, it created a technicality that allowed the government to get away (supposedly) with what occurred on 20 March 2010. I put that on the public record because they are the clear facts. Finally, Family First also supports the Hon. Kelly Vincent's amendment because it makes sense.

The Hon. K.L. VINCENT (20:27): I move:

Paragraph 1(b)—

After 'post and services to' insert the words 'people with disabilities and'

I wish to place on the record my support for this motion; that is, the establishment of this select committee. South Australians deserve an open and accountable electoral process that will ensure that those who are enrolled to vote are in fact given the opportunity to vote, and I consider that the proposed select committee could well improve the current process and help to ensure this. It was with great concern that I saw the dodgy how-to-vote card scandal unfold in the days following the 20 March 2010 election. However, as I see it, the proposed select committee will do more than simply name and shame those involved in that particular scandal, as it would also consider measures that may be necessary to ensure that our electors are not misled in future elections.

Further to this, the proposed committee would also report on other important aspects of the March 2010 election, including the integrity of the roll. This must be upheld on the grounds that a vote is both a right and a privilege. It is outrageous that we even need a select committee to ensure that this basic element of the electoral system is upheld, but clearly we do. The proposed committee would also report on the provision of voting services, including voting by post and services to residents of declared institutions. For me, this term of reference is most important as I believe that effective and inclusive voting services are central to ensuring that all eligible voters are able to cast their vote.

I am aware that the Electoral Commission SA has a disability strategy to help ensure that its services are tailored to meet the needs of people with disabilities. However, my office has been contacted by a number of people with disabilities who have raised concerns about the voting services for people with disabilities in the 2010 election.

I received contact from several constituents who are outraged at a state system that does not allow those with vision impairments, for example, to vote in privacy unlike the federal electoral system which already has in place strategies to accommodate people with visual impairments.

My mandate, and the mantra of my party, is to achieve dignity through choice for people with disabilities, and choosing one's own elected representatives is fundamental to that idea of choice. This is, after all, the people's parliament, is it not?

While I consider that the Hon. Mr Wade's current terms of reference for the proposed committee may well cover services for people with disabilities, I feel that it would be somewhat remiss of me not to move an amendment that ensures that services for people with disabilities will definitely be addressed if the committee is established. I ask that my fellow members support me in this amendment.

The Hon. S.G. WADE (20:31): I would like to thank all honourable members including members of the government for being willing to consider this motion merely one sitting period since it was moved. I appreciate that it is normally the practice of the council to let matters lie on the table for some time, and I appreciate the cooperation of all legislative councillors to ensure that this matter is dealt with expeditiously.

I would like to thank all honourable members for their contributions to the debate. Even the government seems to be reluctantly willing to admit that there was a problem that needed to be looked at, even if government members seem to be more keen to play the blame game. They have moved amendments which they seem to want to use as an excuse not to support the substantive

motion, but let me explain to honourable members why I would encourage them not to support any amendments other than the amendment moved by the Hon. Kelly Vincent.

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: If I could, in that case, turn to the amendment of the Hon. Kelly Vincent first, because I think it illustrates the weakness in one of the government's amendments. Government members wanted to make it open slather, by including 'any other relevant matter'. They said that that was going to provide clarity and remove ambiguity. I would have thought that adding 'any other relevant matter' would have added ambiguity not clarity. The Hon. Kelly Vincent did the courtesy to the council—

Members interjecting:

The Hon. S.G. WADE: Mr President, could you clarify who has the call?

Members interjecting:

The PRESIDENT: The Hon. Mr Wade has the call.

The Hon. S.G. WADE: Thank you, Mr President. Secondly, the Hon. Kelly Vincent, as I said, has provided an amendment which clarifies a matter which, as she hinted in her comments, I believe would have been covered by the amendment but, for the sake of clarity, I appreciate it and I will certainly be supporting it.

In relation to the government's amendments, the Leader of the Government, in moving the amendment on behalf of the Hon. Bernard Finnigan, who apparently seems to forget how to do these things—

The Hon. B.V. Finnigan: Normally, you include 'any other relevant matter' and I don't need to amend it. Normally you include 'any other relevant matter'.

The PRESIDENT: Order!

The Hon. B.V. Finnigan: It's just that this time you didn't. I had to move an amendment.

The Hon. S.G. WADE: You didn't move it, Bernie. That is the problem. You waffled on and then you didn't move it.

The PRESIDENT: Order! The Hon. Mr Wade will stick to the substance.

The Hon. S.G. WADE: What the honourable Leader of the Government said, on behalf of the Hon. Bernard Finnigan (who was not lost for words but was lost for an amendment), was that he was concerned that this seemed to be targeted at the Labor Party. Could I remind honourable members that paragraph 1(a) states, 'the use of bogus how-to-vote cards...to ensure that electors are not misled'. End of reference. There is no reference there that reads 'misled by the Labor Party'. It is misled by anyone. The fact of the matter is that this committee will fail if it does not provide recommendations to this council that will protect voters from any party working against their interests.

Secondly, the other reason why I believe the first part of the amendment is ill-founded is because it suggests that we should be looking not just at the 2010 election, but at all previous elections. There have been 52 general elections since 1851—

Members interjecting:

The Hon. S.G. WADE: —excuse me—and goodness knows how many by-elections. So if the committee really thinks that we've got time to have a select committee on so many elections I think that is ill placed.

An honourable member interjecting:

The Hon. S.G. WADE: The honourable Leader of the Government—of course it would be disorderly of me to be distracted by his interjection, but he says there was a suggestion earlier there might be elections that were relevant. We were told that perhaps 1975 might be relevant, when Ralph Jacobi was up against Steele Hall; it was suggested that 1997 might be relevant because of Mr Evans; we were told that 2006 might be relevant because the honourable Leader of the Government was handing out how-to-vote cards in Newland. The fact of the matter is that this reference needs to be timely and focused.

Thirdly, I think it was the Leader of the Government, or it might have been the honourable Bernard Finnigan, mentioned that the commonwealth government has had reviews into elections which have been broad. I was interested that they did reference the commonwealth practice because the commonwealth, indeed, does have a general review after every election, but that is by a standing committee. It is by a joint standing committee. In other words it is not just this house telling the other house how to run its business. And, secondly, none of those references are for more than one election. Why would you, after every election, have a committee that looks at all other elections back to 1851?

Fourthly, the Senate has actually passed a very similar reference to this to the joint select committee on electoral matters. Believe it or not, they have not included the 1851 election. They have only included this election, because this is the election that has shown a gaping hole in both the law and the morality of the Labor Party.

The other point concerns the second part of the government's amendment in relation to 'any other relevant matters'. The Hon. Bernard Finnigan suggests that adding 'any other relevant matters' would avoid ambiguity. I cannot see how it would. 'Any other relevant matters'—doesn't that just say anything?

The Hon. A. Bressington: Why do we have it in every other one?

The Hon. S.G. WADE: Let me answer the hypothetical question: why do we have it in every other select committee? That is not true; we do not have it in every other select committee. As the Hon. Bernard Finnigan said in relation to a committee that he referenced, we added matters as we needed to. I was very keen to make sure that this reference was focused and timely. It is not going to be a four year select committee, and to that end I believe it was necessary to keep it focused.

If the Legislative Council is of the view that other matters come up in relation to the 2010 election that warrant further investigation, first of all I would be surprised. It is two months since the election and we would have thought that all significant matters had already been identified. It is always open to the council to amend it, just as we did in relation to the committee that the Hon. Bernard Finnigan related to, we can refer additional matters to this committee. But I believed it was very important to maintain faith with those members who expressed an interest in this committee, to keep it timely and focused, because we want the results of the committee back so that the council can consider the amendments in relation to the Electoral Act well before the local government elections in November.

The Hon. A. Bressington interjecting:

The Hon. S.G. WADE: I made that clear in my moving speech. We are not the only representative government.

The PRESIDENT: Order! The honourable member will address his remarks through the President.

The Hon. S.G. WADE: In summary, Mr President, the opposition is strongly of the view that it would be most useful for the people of this state if the committee was focused and timely. We do not believe that the government amendments serve that end. We would urge honourable members to support the Hon. Kelly Vincent's amendment and oppose those of the government and then support the motion as amended.

The council divided on the Hon. P. Holloway's amendment to paragraph 1:

AYES (5)

Finnigan, B.V.	Gazzola, J.M.	Holloway, P. (teller)
Wortley, R.P.	Zollo, C.	

NOES (12)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Jennings, T.A.	Lee, J.S.
Lensink, J.M.A.	Parnell, M.	Ridgway, D.W.
Stephens, T.J.	Vincent, K.L.	Wade, S.G. (teller)

PAIRS (4)

Gago, G.E.	Lucas, R.I.
Hunter, I.K.	Hood, D.G.E.

Majority of 7 for the noes.

Amendment thus negatived.

The Hon. K.L. Vincent's amendment carried; the Hon. P. Holloway's amendment negatived.

Motion as amended carried.

The council appointed a select committee consisting of the Hons J.A. Darley, B.V. Finnigan, D.G.E. Hood, R.P. Wortley and S.G. Wade; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 24 November 2010.

ELECTORAL (VOTING) AMENDMENT BILL

The Hon. M. PARNELL (20:48): Obtained leave and introduced a bill for an act to amend the Electoral Act 1985. Read a first time.

The Hon. M. PARNELL (20:48): I move:

That this bill be now read a second time.

This is a simple and fairly short bill which seeks to achieve four outcomes. Firstly, it seeks to ban the handing out of how-to-vote cards on election day and, secondly, it introduces the system known as Robson rotation for House of Assembly electoral ballot papers. Thirdly, the bill introduces a system of optional preferential voting for the Legislative Council and, fourth, the bill bans political parties from being involved in the collection of postal voting information.

I will run through each of these briefly. First of all, in relation to how-to-vote cards, we have had a great deal of debate about the dodgy how-to-vote cards that were handed out by Labor Party supporters in this last election. The debate has revolved around the best method of stopping these dodgy practices. The Greens believe that we have the simplest and best method of all, and that is to ban the practice of handing out how-to-vote cards on election day altogether.

Members need to bear in mind that how-to-vote cards date back to a period when it was the primary way for people going to a polling booth to vote to find out about the candidates, the party that they represented and how they should vote. If members recall, in the past the names of parties did not even appear next to the names of candidates and, if you had Smith, Jones, Brown and White on a ballot paper and you did not have a how-to-vote card, you would not have known which party each of those people represented.

That has changed over the years. We now have the names of political parties next to the names of candidates on the ballot papers. In each voting compartment we also have registered how-to-vote cards on display for anyone to see. So really the how-to-vote card has passed its use-by date. It had a useful purpose many years ago; it no longer serves any purpose at all. However, no party or candidates will choose not to hand out how-to-vote cards whilst other parties and candidates do. That means that unilateralism is not going to achieve any outcome: it is either all out or all in. So this bill very simply says that on polling day how-to-vote cards will not be handed out.

It is worth pointing out that what the bill does not cover is the how-to-vote cards that are displayed in each booth, put up by the electoral office. It will not cover the posters that appear on Stobie poles and elsewhere, exhorting voters to vote 1 for a particular candidate or party. My amendment will not cover the distribution of material—letterboxing, for example—and it will not cover electronic communications, including emails and SMS.

Very simply, this bill bans the handing out of how-to-vote cards on election day. If you ban them all, you ban the dodgy ones as well as the legitimate ones but, given that the legitimate ones are past their use-by date, there is no great harm. In fact, voters I think will appreciate not having to run the gauntlet. The cards add very little to the democratic process; they perform no useful function.

The next amendment is to introduce the system known as Robson rotation in House of Assembly ballot papers. What that means is that the candidates' names are varied on the ballot paper so that each candidate appears at the top, at the bottom and in the middle in an equal number of ballot papers. Of course, that completely negates any effect of donkey vote or reverse donkey vote. In other words, one of the sad outcomes of our compulsory system of voting is that people not wanting to be fined will simply turn up, have their name ticked off and then will pay no further attention to what is on their ballot paper. They will vote 1 through to 4, for example, or 4 backwards to 1, and political science (I think it is science rather than mythology) says that the donkey vote is worth something. Whether it is 1 per cent or 2 per cent or half a per cent is unknown, but it is worth something.

Robson rotation means that everyone has a go at the top of the ballot paper and everyone has a go at the bottom. Of course, it also ties in beautifully with not having how-to-vote cards, because it would be very difficult, if not impossible, to have a worthwhile how-to-vote card with a Robson rotation system on the actual ballot papers.

The third amendment is to institute optional preferential voting in the Legislative Council. As all members here know, the level of informal voting in the Legislative Council is very high. In fact, in this last election it was over 6 per cent. Some of those people may have intended to vote informally. The vast majority, I would say (and this is the evidence of scrutineers), have made a mistake on their ballot paper that has resulted in informality.

One of the best ways to reduce the level of informal votes and to also increase the democratic rights of individuals is to allow people to vote for as many or as few candidates as they want on the ballot paper. The way my bill is constructed is that, if a voter chooses to vote below the line, rather than having to vote 1 through to 74 in sequential order, they can vote for just one, they can vote for five, they can vote for 20, but they do not have to vote for all—as many or as few as they want.

This system, also in my bill, is extended to above the line voting. At present, you only have the choice of putting one number above the line. As we all know, when you do that you lose the right to allocate your own preferences. The party or the candidate you vote for determines where your preferences go.

My amendment proposes that voters should be able to number as many or as few squares above the line as they see fit. So, in the most recent election, when there were 35 parties and groupings above the line, you would not have had to number all, but you would be allowed to number more than one. What this means, of course, when we put these two amendments together, is that we do need to slightly change the system of counting of votes, because there will be some votes that exhaust.

For example, if a person votes for one party or just a small number of parties or candidates, if those people are either elected or exhausted, the ballot itself will exhaust. That means that the last person, or even the last few people elected, may be elected on less than a full quota, in which case it is those with the highest votes left at the end who will be elected.

People might think that that is not a good system, where people can get elected on less than a quota, but I say that the democratic principle, which states that you should not have to vote for people you do not want to, overrides any disadvantage that might arise from an election of someone without full quota. I think it is an important amendment.

The Greens have adopted a system of optional preferential voting in all our internal elections, and that means that you vote only for those you want to; you are not forced to vote for anyone you do not want to. However, as I said, the most important thing this does is take the deal-making power away from parties and put preferences back into the hands of the voters, where it should be.

Once you do that, you get preferences being allocated by voters according to what they really think about parties and candidates and what they stand for. At present, unless you want to number all 74 squares, as it was last time, you are only allowed to put No. 1 above the line and someone else decides where all your votes go. That is not democratic.

The fourth thing that this bill does is ban all political parties from being involved in the collection of postal votes and postal voting information. Members would know that this has been used by both Liberal and Labor parties over many years. Official looking documents are prepared, sent out to voters inviting them to apply for a postal vote.

Most people who get these, I imagine, do not know that they do not come from the Electoral Commission; they probably imagine that they do. The parties are harvesting details of people who are postal voting, and one consequence of that, of course, is that a larger proportion of the population than is necessary is now voting with postal votes.

For some people, of course, postal voting is absolutely the way they need to vote. It is the most convenient and the best way to go, but a lot of people are unnecessarily using postal votes, and that has consequences, such as election results taking longer to determine. If it is a close result, then a final outcome is unlikely to be known on the night if there is a large number of postal votes. Basically, my bill prevents political parties interspersing themselves between the voter and the state electoral office. I think that getting rid of that system of party involvement in postal votes will in fact lead to better democratic outcomes.

Those four matters are not by any means the only things that need fixing in our electoral system, but the Greens believe that they are important and that they represent, if you like, a first tranche of reforms that we will be introducing in this term of parliament to reform the electoral system and to make it more democratic.

Because we have now established a select committee on dodgy how-to-vote cards, amongst other things, I imagine that that committee will want to look at some aspects of this bill. However, it is my intention that it remain on the *Notice Paper*, rather than being formally referred and removed from the *Notice Paper*. However, I urge members who have now formed that select committee to consider seriously at least that aspect of this bill: the idea that banning how-to-vote cards is the best way to get rid of dodgy how-to-vote cards. I commend the bill to the council.

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

MEMBERS' REMARKS

Adjourned debate on motion of the Hon. M.C. Parnell:

That this council—

1. Notes the decision of the Supreme Court on 9 April 2010 in the matter of White and Others against the State of South Australia.

2. Notes with alarm the misguided intervention of the two government ministers in this case, namely, the Treasurer (Hon. K.O. Foley) and the Minister for Police (Hon. M.J. Wright).

3. Notes the remarks of His Honour Justice Anderson that the comments of the ministers were unfounded, unreasonable, antagonistic, unjustified and offensive and that His Honour increased the award of damages to the plaintiffs by $135,000 as a direct consequence of the ministers' behaviour.

4. Calls on the Treasurer and the Minister for Police to apologise to the South Australian people for the impact their comments have had on the finances of the state.

(Continued from 12 May 2010.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (21:00): I rise to oppose this motion. The matter of White and Others against the state of South Australia is the result of events that occurred between 7 and 9 May 2000 at the Beverley uranium mine. On 7 May several protesters were arrested for various offences such as tying themselves to a vehicle-mounted drill rig and breach of the peace, but were later released on the same day. There were no major incidents at the protest site the following day.

However, on 9 May about 100 protesters jumped the Beverley uranium mine fence and entered the mine site. Legal action arising from the police response was commenced by 11 protesters and two others in the Supreme Court of South Australia. Recently on 9 April 2010 the Supreme Court of South Australia handed down its judgment on White and Others v the State of South Australia. The plaintiffs were awarded a total of $724,560 in damages plus costs. Exemplary damages of $15,000 each were awarded to the nine plaintiffs who were arrested and detained, or $135,000 in total.

The central premise of this motion is false: namely that $135,000 of exemplary damages was awarded as a direct result of comments made by two government ministers to the media. It is incorrect to assert that $135,000 in exemplary damages was awarded solely because of the comments made by the Treasurer and the police minister. When assessing exemplary damages

Justice Anderson took into consideration the circumstances in which the plaintiffs were detained and arrested, in addition to the comments made by the two ministers. The judgment does not provide a cost breakdown of how the exemplary damages were decided. Even though the Treasurer and the police minister made reference to the plaintiffs collectively, not all the plaintiffs in this case were awarded exemplary damages. Only those plaintiffs who were detained in a shipping container were awarded exemplary damages.

The Hon. Mark Parnell also criticises the government for choosing to defend the case rather than settle the matter before trial. He argues that it was financially irresponsible to take the matter to trial and that the government should have instructed its lawyers to negotiate a settlement. While the court ultimately held the state of South Australia liable in this action, the government had every right to defend this matter in court. South Australia Police have the full support and confidence of this government. Police officers are expected to operate in stressful and often dangerous circumstances, and the protest action at the Beverley mine was clearly one of those instances. When police are faced with a peaceful protest, there is mutual respect and things stay calm; however, increasingly too many protesters get caught up in the mob mentality and become aggressive and threatening.

The violent clashes of the past decade at the G20 summit in Sydney, the World Economic Forum in Melbourne, and the Baxter Detention Centre in 2003 and 2005 all demonstrate that protests can often suddenly become riots. I saw some absolutely disgraceful behaviour at the World Economic Forum in Melbourne, where protesters threw large plastic garbage bins at police. It was some of the most disgraceful public behaviour I have ever seen. In that instance the police showed great restraint, given the provocation they faced.

When confronted with this type of behaviour, it is essential that South Australia Police know that their government will back them, not just in words but with action. Sometimes there is a political or financial cost to the government for giving that support, and in this case the government supported the police both in the media and the courtroom. This government is frequently criticised by the opposition and minor parties for its tough stance on law and order, but this government makes no apology for supporting South Australia Police in this matter.

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

PARLIAMENTARY COMMITTEES (MEMBERSHIP OF COMMITTEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 May 2010.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:06): I rise on behalf of the opposition to speak to this bill. Members would be aware that we have a number of standing committees of the parliament and, as has been the practice for almost the eight years I have been here, we have had an opportunity for every member of the crossbench and the opposition to have at least one position on a committee. Government numbers are somewhat reduced because they have a couple of ministers and the President, and there are several opportunities for members opposite to be serving on committees.

This election, we are pleased to see Kelly Vincent and Tammy Jennings being elected, so we have an extra crossbench member and there is not a neat number of positions to go around. We should not adopt the view that every player wins a prize and everybody automatically can be on a committee, because when I was first elected that was not the case. When I was preselected, Angus Redford thought that Terry Stephens, at No.5, would not be elected, that I would be the last person elected and, therefore, I would not get a committee position because I was the junior person. He said, 'We divide everything up on seniority,' and added, 'Your office will be a broom cupboard at the end of the corridor and, if we have an uneven number of pieces of paper, you will get the lesser number.' There was a view that we did not all get a committee position.

In the first term of parliament that I was here we saw the government establish the River Murray committee, because that was something it needed to do in order to provide the Hon. Karlene Maywald with chairmanship of a committee and a chauffeured car, although I do not believe she took up the offer of a car in the early stages. It went on to become the Natural Resources Committee and at about that time the Aboriginal lands committee was also established. That meant extra committees and everybody had an opportunity to serve on one.

With the election of an extra crossbencher—sadly, we are one less than we were before the last election—the opposition believed that we should have at least one person on every

committee, and to do that we suggested to the government—and I am glad it agreed—that maybe the best way to resolve this situation was to put two extra people on some committees. Kelly had expressed a real desire to be on the Social Development Committee and, as Dennis Hood, who is also a crossbench member of the Legislative Council on that committee, expressed a desire to remain on it, it made sense to the opposition to suggest to the Leader of the Government that maybe the best way around this is to increase that committee's number by two members.

The Hon. Mark Parnell is a bit of a student of elections, but even with his wildest dreams fulfilled at the next election there is a chance that we have reached a high watermark for the crossbenchers. But, who knows what happens in elections—they are very strange things. The Liberal Party at the next election clearly will win five or six seats in this place, and if there are extra positions for the crossbenchers they will be at the expense of people like Bernard Finnigan and others who will be relegated back to the union somewhere, having not been re-elected.

The Hon. B.V. Finnigan interjecting:

The Hon. D.W. RIDGWAY: Strange things can happen, Bernard. At the end of the day—

The Hon. B.V. Finnigan interjecting:

The Hon. D.W. RIDGWAY: It looks like you are going to be up here in about 12 months or so and Paul will be mowing the lawn and smelling the roses. I am sure he is looking forward to that day, whenever that day does happen.

This is an opportunity to increase the committee by two positions, one in the Legislative Council, which will be taken by the Hon. Kelly Vincent, and one in the House of Assembly. This is a joint house committee, and it has always been a time-honoured tradition and the convention in the South Australian parliament that, when you have a joint house committee, you have equal numbers from both houses. That is something we agreed on, and we thought it was a good compromise. It will be sunsetted until the next election, and then we will re-assess it, as we do after each election, and nominate new members for committees. If we need to rejig the make-up of things after the next election, that can be done.

This amendment bill deals not only with that committee but also the changes to the Natural Resources Committee. While we do support the changes to that committee, it is a little disturbing when we see that the government in the House of Assembly, where it clearly has the numbers, has made a decision that it would like to increase the House of Assembly committee membership on the Natural Resources Committee by two. We are a little disappointed about that. We understand that Don Pegler was the nominee for that committee, and we support that. We also believe that the major opposition party needs one person from each house on that committee as well, and I think our representative is Dan van Holst Pellekaan, the member for Stuart. Don Pegler was the extra one to be added.

We would have seen it as being sensible to provide the Legislative Council with another position because it is a joint house committee; the chair comes from the House of Assembly. However, we thought that a nine member committee, four from each chamber and a chair from the House of Assembly, would have upheld the time-honoured tradition and convention that joint house committees are somewhat balanced between the two houses.

While we are happy to support the changes, we are a little disappointed that the government has sort of undermined the Legislative Council. We have always had joint house committees that are relatively balanced, and now we have this committee with nine members, six from the House of Assembly and three from the Legislative Council. Clearly, that is a disappointment to the opposition on the basis that joint house committees should always be more balanced.

The two houses of parliament have equal standing when it comes to dealing with legislation—ministers in this place can introduce legislation in the same way as ministers in the other chamber, and we have the same powers. However, in this case, the value of the Legislative Council has been diminished. Likewise, it is my understanding that that particular change has been sunsetted and that at the commencement of the first session of the 53rd parliament it will be nine members and thereafter seven members. Clearly, it has been sunsetted to be in line with the change to the Social Development Committee.

The opposition is happy to support the changes. We in this place think it is a common-sense solution to allow everyone on the crossbench to be involved and participate in the committees they have some passion for and interest in. I am a little disappointed that the

government has not been as balanced in its view in the House of Assembly and allowed the Legislative Council to have an extra person on the Natural Resources Committee to give us that same balance in a joint house committee. With those few words, I indicate that the opposition supports the bill.

The Hon. M. PARNELL (21:14): Very briefly, the Greens will also be supporting this bill, which increases the membership of the Social Development Committee and the Natural Resources Committee. The Hon. David Ridgway said that it should not be the case that every player wins a prize. Clearly, the fact that it is being sunsetted shows that this bill has more to do with the specific make-up of the current parliament rather than any great commitment to parliamentary democracy and the role of committees on the part of government.

What the Greens would call for is an overhaul of the committee system. We have already had some debate today about whether the Budget and Finance Committee should be a select committee of this council—it is an important committee—or whether it should be a standing committee. I think it is time for us to look at all of the committees in a collective and holistic way rather than this ad hoc amendment of individual committees' membership and then sunsetting those changes.

I would also like the parliament to have a good, close look at the entitlements that accompany committee membership. Clearly, much of this is about pay and conditions for members. For the life of me, I cannot understand why there are chairs of committees who get chauffeur-driven cars as a part of their responsibilities for a very small number of meetings and, in my experience, not a great deal of extra work.

It seems to me that we should be overhauling the whole system of the chauffeur-driven car fleet and perhaps moving to a pool which different members can use, including members who are not chairs of committees or ministers; that would be a better way to go. The idea of someone winning a prize where, if they miss out on a ministerial position, they get to chair one of the committees that has a car and a chauffeur I think is a very poor way for us to manage our parliamentary resources.

I also think that, rather than just increase the membership of a couple of committees, we should look at some of the practices and procedures, many of which date back, I think, to close to the Dark Ages. There is a presumption in favour of secrecy, denial of access to information and, in fact, many of the traditional practices of committees do not relate to democracy in the digital age.

The fact is that most of the people who interact with this parliament do so electronically: they send us emails and electronic submissions and, whilst the parliamentary website has undergone a number of improvements, and I commend those people responsible for that, we still find that the content is dependent on some very outdated rules which basically value privacy and secrecy over openness and transparency. So, I think there is a lot more work we can do there.

For now, I understand the intent of this bill. It does enable, for example, someone like the Hon. Kelly Vincent to take a place on the Social Development Committee, which absolutely no-one would deny that with her constituents and her own experiences she will have a contribution to make on that committee—that makes eminent sense—and if increasing the statutory number on the committee is the way to achieve an outcome like that then we support it.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (21:18): I thank the Hon. David Ridgway and the Hon. Mark Parnell for their contributions in debate. I will respond, firstly, to the Hon. Mr Ridgway; he was expressing disappointment that the two extra members of the Natural Resources Committee were from the House of Assembly rather than this place. There are two important points to make on that: first, there are 47 members of the House of Assembly and there are 22 members of the Legislative Council.

For those committees which have traditionally been balanced, we have done that. For example, the Social Development Committee, which has traditionally been joint house, that has been preserved, but there was never a balance on the Natural Resources Committee, which, of course, is a relatively recent committee of this parliament.

Why should members of the House of Assembly be treated any differently from members in this place? The Hon. Mark Parnell talked about remuneration and other matters relating to these committees. I would point out that members of the House of Assembly generally, certainly those in

city seats, have a much lower electoral allowance than members in this place, and there are some members of the House of Assembly who will probably not be on any committees because of the larger number of members there. I think that needs to be borne in mind.

The important thing is, to answer the arguments of the Hon. Mr Ridgway, that there has never been an exact balance on the Natural Resources Committee as there has been with other committees.

Finally, just in response to the Hon. Mark Parnell, he expressed the view that there should be some review of the committees. Part of the problem has been that, whenever that has been done in the past, inevitably amendments have come out of this place to it. I would like to see the committees system reviewed as well but, unfortunately, I have no confidence whatsoever that we would get anything out of it other than playing politics, given the debate we heard earlier tonight. Yes, committees should work better, but they can do so only if the playing of politics is removed. We just saw examples earlier tonight—

The Hon. T.J. Stephens: Well, you got your numbers; why are you trying to lose them?

The Hon. P. HOLLOWAY: Because I want to make a point, that's why, because it is important that—

The Hon. T.J. Stephens: Do you want to lose your numbers?

The Hon. P. HOLLOWAY: I would like to see this parliament actually work. You might not want to see it work, Mr Stephens, but I would actually like to see it work better. Committees are a very important part of parliamentary life. It is important that they work. I actually agree with Mr Parnell in that, personally, I would like to see some changes made. However, I disagree with him in relation to one of his comments about moving away from some of the traditions of committees, where the consideration of those committees are not made public until the committee reports. In my view, it is absolutely essential to good committee work that all the information that is put into it is considered and then released at the end of the process, not during the process.

I think we are now increasingly seeing that the process in parliamentary committees is becoming more important than the outcome. Surely the best committees are those that bring down a well balanced report after duly considering all the evidence, rather than the process dominating it because of politics being played through the selective leaking of documents that come before the committee. The whole lot should be released at the end in a balanced way. So, to that extent, I cannot agree with the Hon. Mark Parnell.

However, I definitely think that we need to modernise committees in many ways. Certainly in relation to modern technology, there is no reason why we cannot update the processes to allow some greater interaction between the public and the committees. In my view, I think it would be a sad situation if we had the continuation of the selective leaking of information before it has all been properly considered.

I thank honourable members for their support and look forward to this bill swiftly going through the other house of parliament. As I have indicated, in our case, we would then nominate the Hon. Kelly Vincent to join the Social Development Committee when this bill has been assented to.

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

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 25 May 2010.)

The Hon. S.G. WADE (21:25): I rise to support the motion for the adoption of the Address in Reply, and in doing so I thank the Governor for his speech. I also take this opportunity to thank the Governor and his wife for their service to the state and, in particular, I appreciate their tireless work with the charitable and voluntary sectors offering, on behalf of all South Australians, encouragement for this vital work.

I congratulate the President on his first four years in that role, and I look forward to continuing to work with him and with all members of this chamber to ensure that this council effectively discharges its responsibilities for the benefit of the people of the state. In an earlier motion on the first day of sitting I took the opportunity to welcome new members to the council, and

I reiterate those comments today. I wish them all the best for their time in this place, a time which is both personally enriching and for the benefit of South Australia.

The Address in Reply is an opportunity for this parliament to reflect on the message that the community sent us on 20 March at the general election. I am delighted that the South Australian community responded so warmly to the vision offered by the Leader of the Opposition, Isobel Redmond, and the South Australian Liberal team. After eight years of Labor, they rejected a government which was tired and untrustworthy. On a two-party preferred basis, the Liberal vote in the House of Assembly increased by 8.3 per cent to 51.5 per cent.

I accept that, in accord with the conventions of the Westminster system, the government has remained in office. However, this government is not the preferred government of the majority of South Australian electors. I accept that it is constitutionally legitimate, but I consider it lacks a popular mandate for its policies and platform. In this regard, the moral primacy of the popular will over the parliamentary majority has also been the focus of recent elections in both Tasmania and the United Kingdom.

I note that since 1970 the Liberal Party has received the majority of votes at four elections, when it either did not win a majority of seats or did not form government—what is commonly called 'a wrong outcome'. In 1989 changes were brought in to the Constitution Act to seek a prospective lack of bias in electoral boundaries. The process was founded on the presumption of the uniformity of swings and used redistribution as the tool. In most elections since the fairness test was introduced, the number of seats that changed hands at each election was very similar to the number of seats that would have changed hands on the basis of the swing achieved.

The 2010 election was unusual: less than half the number of seats that were expected to change hands on the swing achieved did change hands. The 2010 election produced a wider range of swings than previous elections had done—from a 1.5 per cent swing to the Liberals in marginal Labor seats to a 11.2 per cent swing to the Liberals in safe Labor seats.

In the other three elections that I have looked at since 1993, the average range of swings is 2.5 per cent compared with a range of 9.7 in 2010. The lack of uniformity of swings highlights, in my view, that we need to look again at how our electoral system reflects the popular will. Is there a viable mechanism to ensure a majority of electoral votes produces a majority of seats in the parliament? These issues are about the design of our electoral system. No participant can be blamed for a wrong outcome; everyone knew the rules.

However, the same cannot be said for other actions by Labor in the recent campaign. The Labor government claimed that its amendments to the Electoral Act in 2009 would prohibit bogus how-to-vote cards but then used bogus how-to-vote cards in the election, stimulating broad community outrage. Labor distributed a range of misleading electoral material which it deliberately and knowingly set out to use to mislead the people of the state.

In a range of seats, a letter from a person called Danielle Maguire was distributed which incorrectly claimed that the Liberal Party intended to abolish the family home visiting program. Personally, I found that claim particularly bizarre because the Liberal disability services policy, for which I was spokesperson, specifically promised to build a peer visiting program on the foundation of the home visiting program. In the seat of Reynell, the member for Reynell distributed a letter which misstated the Liberal policy on public housing.

I think it is important for this council to consider, in particular, the vote for this chamber. In the vote for the Legislative Council, the primary vote for the Liberal team increased by 13.4 per cent to 39.4 per cent. This is a very strong increase in support, well above the statewide swing in the House of Assembly. In spite of this increase in support, the Liberal team in this council has been reduced by one as a result of a particularly poor showing at the 2006 election.

I note that while the crossbench representation has increased by a net one member in the 52nd parliament, the minor parties and Independents achieved 23.3 per cent of the vote this election, which is 14.1 per cent down on the 2006 vote and the lowest vote since 1993. Non-major parties are an enduring presence in the Legislative Council and I believe are a vital part of this council's distinctive dynamics. However, it is important for all members of this place to hear the message of each poll and acknowledge the respective mandates that we bring to this council.

I turn now to my shadow portfolio responsibilities, they being attorney-general and justice. The Rann government is unprecedented in the state's history in terms of its disregard for the legal profession and the judiciary. We have had premier Rann declaring, 'I'm not interested in what some

mullet-headed lawyer has to say.' The Premier showed a disregard for the role of defence lawyers when he told parliament, 'I hope that when you drive your BMWs to the court you feel proud that you are living off the earnings of those who murder and try to sell drugs.'

As the corrections spokesman in 1994, the now Treasurer criticised a Liberal minister for defending doubling up of prisoners in cells, referring to racking, packing and stacking them in prisons, yet 14 years later, in 2008, treasurer Foley dismissed claims of prison overcrowding saying, 'What we're making very clear is that if we've got to [rack, pack and stack them], we will.' In April this year, Supreme Court Justice Timothy Anderson criticised deputy premier Foley and police minister Wright's comments in relation to a protest at Beverley with the following words:

> It is my view that both ministers in making these statements have acted with a highhanded and contumelious disregard of the plaintiffs as citizens of the state with the right to protest and with the right to be treated according to law if they did protest.

The Supreme Court awarded $15,000 in exemplary damages to nine of the 10 plaintiffs, including consideration of comments made by treasurer Foley and minister Wright, costing the state $135,000.

During the 2010 state election campaign, the Labor Party distributed fliers and ran TV and internet advertisements implicitly criticising the Parole Board, every single member of which had been appointed by this Labor government. The ads depicted pictures of convicted murderers, implying that without Labor they would be on the streets. The chair of the Parole Board, Frances Nelson, said on ABC radio that the implication of the material was that the board was either incompetent or not doing their job properly. 'I think the manner in which this has been portrayed and the purpose for which it's being used is regarded as deeply offensive,' she said.

A range of Rann government ministers have shown disregard for the law, and I have not even mentioned the hoon in cabinet, the member for West Torrens. Judges and lawyers may expect rougher than usual treatment from politicians but they do expect the Attorney-General, the first law officer of the state, to better understand their role and to provide leadership in the government on matters relating to the legal system. I accept that the role of the Attorney-General in Australia has developed in a very different way to the way that role has developed in the United Kingdom.

In Australia an attorney-general is primarily a politician. They head a government department and are vested with various statutory powers. However, even in the Australian tradition, the Attorney-General is expected to be more than a politician. Incumbents are seen as having a hybrid role, bringing together a policy function, a legal service function and a public interest function. In case I be accused of preaching Liberal fantasies, let me quote a former Labor Attorney-General of South Australia, the Hon. Len King QC CJ, who described the role in the following terms:

> The Attorney-General—
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> *The Hon. B.V. Finnigan interjecting:*
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> **The Hon. S.G. WADE:** —in the year 2000 it was written—

> has the unique role in government of being the political guardian of the administration of justice. It is the special role of the Attorney-General to be the voice within government and to the public which articulates and insists upon observance of the enduring principles of legal justice and respect for the judicial and other legal institutions through which they are applied.

After eight years of Labor and eight years with the member for Croydon as Attorney-General, it is timely to consider how well another Labor attorney-general has been a political guardian of the administration of justice. The Hon. Mr Atkinson's antipathy to the legal profession is longstanding. In 2003 he said:

> They live in leafy suburbs, drive late model cars...

When opposition leader Isobel Redmond was referring to the Criminal Law Committee of the Law Society, Mr Atkinson interjected:

> The usual suspects—enemies of the people.

That last reference stimulated the President of the Law Society to reflect that that phrase is the common mantra of totalitarian regimes of both the left and the right. Lawyers were not safe when they were elevated to the bench, either. Late last year, the government paid a $210,000 bill in

relation to defamation proceedings against the member for Croydon by Deputy Chief Magistrate Andrew Cannon after the then attorney-general described the magistrate as 'daft and delusional'.

Far from being the political guardian of the justice system, it is the attorney-general launching the attacks. During a formal meeting with Chief Justice Doyle, the then attorney-general was himself studying the racing form guide—so much for respect for the law. In October 2009, he described a gang, including juveniles, as 'pure evil...some of whom are beyond rehabilitation'. The long catalogue of Mr Atkinson's failings include his involvement in the stashed cash and Ashbourne/Clarke affairs, his unwarranted attacks on the DPP, his attacks on the chair of the Parole Board and his attacks on the President of the Law Society and others.

Put simply, the then attorney-general failed dismally to encourage community respect for the law and its practitioners. Writing recently in *The Advertiser*, former head of the Law Society John Goldberg welcomed the former attorney-general's resignation, and he referred to 'his monumental unpopularity and his accident-prone manner in which he handled his portfolio'. He declared:

> He was the wrong person for the role of the Attorney-General in the first place.

It is an indictment on the Premier and the whole cabinet that the member for Croydon was kept in such a sensitive role for so long. In the context of this record, I was surprised to hear comments on 13 May 2010 in the House of Assembly when the former speaker, the Hon. Jack Snelling, paid tribute to his political mentor in glowing terms and claimed:

> The member for Croydon was the victim of a campaign of vilification against him from the very early days he took office as the attorney-general. Despite everything, I think that he will go down in the state's history as one of the greatest attorneys-general—an incredibly reforming attorney-general.

Let me pose that as a question: one of the greatest attorneys-general in the state's history? I do not think so. I think that the incoming Attorney-General does not think so, either. In his recent address to the Supreme Court on the occasion of presenting his commission, attorney-general Rau listed a line of his distinguished predecessors in the attorney-general's role, including, might I say, a Liberal attorney-general, yet he did not even mention former attorney-general Atkinson.

The Hon. J.S.L. Dawkins: He didn't use the 'A' word.

The Hon. S.G. WADE: In fact, he did not mention the member for Croydon at all in his whole speech. As one of my honourable colleagues reflected, he dare not mention the 'A' word. Perhaps it was out of embarrassment for his predecessor's legacy. The member for Croydon failed in the core responsibility of an attorney-general as laid down by the former chief justice, a former ALP attorney-general, that the role is to be the political guardian of the administration of justice. In my view, the government as a whole has failed in its collective duty to support the administration of justice.

To draw this retrospective to a close, I will quote Appleby and Williams from the Don Dunstan Foundation publication *State of South Australia 2009*. They start their reflection by referring to an exchange of letters between the Chief Justice and the Premier. As I am reading this, I would ask members to reflect on how extraordinary it is that the Chief Justice needs to engage the Premier about the need for the legal system to be supported. I quote as follows:

> In July 2006 letters between the Premier and Chief Justice Doyle revealed the latter's concern that the Premier's comments were undermining public confidence in the court system. The Premier responded that he would not be 'censored'. The Premier rightly highlights that the government he leads is responsible to the public for the quality of law in the state. However, if the impression is allowed to develop that the judiciary or lawyers are not operating in compliance with the laws of the parliament as enacted, then the public's confidence in the judicial system will inevitably be eroded. Such a result highlights the need for reasoned commentary by parliamentarians. Andrew Harris QC noted: the Premier and the attorneys-general of this state deserve criticism for failing to adequately support the administration of justice.

Later in the same article on law and order, Appleby and Williams in the *State of South Australia* reflective state that in many respects the reform agenda has been welcomed as it 'has updated antiquated principles no longer appropriate in the modern era or it closes proven loopholes in the law'. It continues:

> However, many of the reform attempts show a government unwilling to falter in the pursuit of its policy at the expense of other well thought out measures. The examples illustrate a persistent refusal by the government to listen to advice—from academics, legal professionals, the judiciary, the Director of Public Prosecutions, civil liberties campaigners, political opponents and non-government organisations—but a determination to pursue its agenda at all costs.

This observation reflects the arrogance of the Rann government and the fact that public relations, rather than outcomes, drives the agenda. The former attorney-general acknowledged this publicly on 1 July 2005 when he said on Channel 10 *News*:

> Yes, there have reductions in the crime rate in South Australia since our government came to office, but my suspicion is that it doesn't have much to do with our policy.

In *The Advertiser* of 2 April, Greg Kelton reported that Labor sources had told *The Advertiser* that the government would have a range of social reforms at the top of premier Rann's third term agenda. The article states:

> The Premier plans to use his third term in the same way Don Dunstan did, press ahead with sweeping reforms, especially in the area of social issues.

What a joke! Can anyone who knows anything about Don Dunstan really believe that he would wait eight years before he would turn his attention to social reform? Would Don Dunstan have wasted eight of the state's best years of revenue before he turned to social issues? Premier Rann and his ministers have had ample time to deal with social issues but, like their counterparts in the federal parliament, they have proven themselves to engage in nothing but talk.

I am reminded of the 2006 Australian Democrats campaign for Norwood which was run by David Winderlich, a former member of this council. In fact, he walked through Norwood with a banner that stated 'Rann's Labor has corrupted Don Dunstan's legacy'. The Premier responded, asserting that that observation was offensive, which stimulated political commentator Dean Jaensch to say that the Rann government is 'on the way to the right' and that it could not be considered 'traditional Labor'. Mr Jaensch reckoned that Mr Dunstan would not be a happy person if he could see South Australian politics today.

In relation to the law and order issue we do not need to speculate about Don Dunstan's views: we have Don Dunstan's words. In March 1997 in *The Adelaide Review* Don Dunstan wrote about:

> ...state politicians who seem intent on climbing aboard the populist bandwagon of the 'hang them, bash them, castrate them, shut them up at public expense forever—retribution is what we are all about' brigade…The courts are in the best position to have all the relevant facts of a criminal case and, provided that there is adequate legal representation before them (which is being endangered by the cuts to Legal Aid), the best opportunity to decide appropriate sentencing with the primary aid of preventing further crime.

It continues:

> As Len King (then Chief Justice) said cogently in 1979: 'Public concern about crime, however understandable and soundly based, must never be allowed to bring about a departure from those fundamental concepts of justice and mercy which should animate the criminal tribunals of civilised nations.

Don Dunstan went on to say:

> I did not, as a former Attorney-General, responsible for significant law reform in this state, anticipate that the day would come when I should be defending the position taken on the criminal law by the present Attorney-General, but I do...While the Government believes penalties need to be tough but fair, ratcheting up penalties alone will not solve the crime rate. Imprisonment will punish a specific offender, but increasing penalties and locking up offenders does not result in less crime and increased public safety.
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> Amen to that.

That is an article written by the Hon. Don Dunstan, a former premier of this state and a former Labor attorney-general of this state, and I think it highlights the fact that this government cannot be said to be in the Labor tradition in relation to law and order.

The newly appointed Attorney-General, John Rau, the member for Enfield has committed to a more respectful relationship with the legal profession and the judiciary. In a speech to the Supreme Court, he said:

> The courts and the legal profession are the arbiters of civil disputes, the gatekeepers of liberty of the individual, a bulwark against bad government and independent auditor of executive action.
>
> I pledge myself to open, respectful communication with the judiciary and the profession.

However, our state needs more than a change in tone, and on key policy issues there are already worrying signs that attorney-general Rau either does not have the courage or the political influence to effect change.

For example, on the issue of law reform, South Australia remains the only state or territory without a law reform commission or institute. When the Director of Public Prosecutions made a

submission to the Kapunda royal commission, he suggested that a law reform commission should be established to review and coordinate changes to the law. That earned him a quick rebuke from the Premier who said:

> We do not need a law reform commission—another expensive lawyers' talkfest. What we need is people's law, not lawyers' law.

The *Sunday Mail* recently highlighted that attorney-general Rau has 'rejected the need for a law reform commission amid continuing criticism from the legal community about lack of consultation concerning the framing of some laws and that others have been made hastily to suit a political agenda.'

Likewise, the Attorney-General seems to be falling into line with the government's opposition to an ICAC. Members of the council would remember that, in May 2008, 80 of the state's most senior lawyers, including Queen's counsel, petitioned the government to set up an ICAC. Immediately, the Premier and the Attorney-General rejected the calls. There were other calls for an ICAC, including from former Queensland Labor premier Peter Beattie, who said that an independent anti-corruption fighter is essential in South Australia. Former New South Wales premier Morris Iemma insists that South Australia is 'crazy' not to have one.

Other supporters include former senior Labor senator Chris Schacht, former auditor-general, Ken MacPherson, and all political parties in this chamber other than the government. With all due respect, I do not think that the Hon. Kelly Vincent has had a chance to address that issue, so we look forward to hearing Dignity for Disability's view on an ICAC in due course. Yet it was disappointing that, on the first day in parliament in his new role, the new Attorney-General went out of his way to make a ministerial statement to reiterate that, under him, the government would not have an ICAC.

In terms of the Rann government's broad law and order agenda, the new Attorney-General has made clear that it is business as usual. *The Independent Weekly* of 7 to 13 May reported a statement by the Attorney-General:

> The Government program hasn't changed in any way because I'm the Attorney.

One of the early tests for the new Attorney relates to the urgent problem of resources for the justice system. In his speech to the Supreme Court, attorney-general Rau acknowledged that we are already in crisis. He said:

> Yet, integrated solutions to the pressing problem of lengthy court waiting lists, high levels of custodial remands, mental health and substance abuse issues, have yet to be fully conceived and implemented. This issue is pressing. Being tough on crime, means being smart on crime.

So here we had an incoming Labor Attorney-General saying that he had inherited lengthy court waiting lists, high remand, a series of mental health and substance abuse problems and that responses had not even been fully conceived and implemented.

We had evidence of the government's failings in this area even today when the morning *Advertiser* carried revelations in relation to problems in the Supreme Court complex as custodial officers are being trapped in dodgy lifts with unhandcuffed defendants. We also had further evidence today when the annual report of the Coroner was tabled. It was interesting to note that that report was provided to the former attorney-general on 30 October. Here we are, more than six months later, and it has been made available to the parliament. One hopes that it was not merely being buried for the sake of an election.

That report shows that it can routinely take up to three years for a matter to go to the Coroner's Court. There are 32 outstanding inquests and the annual throughput is about 42. Two of those outstanding matters go back to 2005. The inquests concluded this year have taken an average of 33 months from the date of death to completion. In his report, the state Coroner expresses grave concerns about this:

> Such lengthy time frames cause me much concern. I am aware that the time frames cause families heartache and, at times, hardship. I regret that the time frame contributes to a family's grief and anxiety. With current resources and planned budget cuts, I cannot see the time frames improving in the near future. In fact, the reverse is likely to occur.

Later in the report, he reiterates these concerns:

> Recent cuts in the Coroner's Court budget are likely to exacerbate the situation. These cuts have come about as a result of the general savings required of the Courts Administration Authority.

In relation to law and order, what is very clear coming out of the last election is that the community is no longer willing to tolerate more spin and more press releases. What the community insists on is outcomes on the ground. They want to be safe and they want to feel safe, but under this government they do not. According to ABS figures, between 2002 and 2008 homicide and related offences increased by 22.6 per cent, armed robberies increased by 10.4 per cent and assault has increased by 3.9 per cent. At the end of the day, what really matters to the community is not tough talk: it is actually taking real action that has real outcomes on the ground.

The Liberal Party is committed to outcomes but believes that a strong legal system is an important part of delivering good outcomes for all involved. A good, strong legal system avoids miscarriages of justice, promotes quality policing, increases the prospect of rehabilitation and therefore reduces the prospect of future crime and also provides timely and reliable verdicts for victims of crime.

I look forward to serving as the shadow attorney-general for the honourable Leader of the Opposition, Isobel Redmond. I am proud of the campaign that she ran, particularly in the law and order area, focused as it was on common sense and outcomes.

I am proud of the fact that it was the Liberal Party that was providing innovative suggestions in the justice area. The honourable Leader of the Opposition was a former member of the juvenile justice select committee and has continued to have a vigorous interest in innovation in the juvenile justice area. I also note that it was the Liberal Party that promised a problem-solving court in the child protection jurisdiction, while the government is, if you like, still thinking about it with the work of Peggy Hora.

The Liberal Party will continue to have a strong commitment on outcomes. In that regard we will still have a particular focus on the police because we believe that having police on the ground is the most important contribution to community safety. That is not just a matter of police numbers: it is also a matter of police resources. It was the Liberal Party that stood shoulder to shoulder with the police association and the police community insisting that tasers be provided to our police.

It was also the Liberal Party that had a strong commitment at the last election to crime prevention. In contrast with the government—a government that abolished the crime prevention program—we had a commitment to introduce a program this year. The Leader of the Opposition, Isobel Redmond, has a particular interest in communities and police working together. In fact, she has visited the United Kingdom to explore ways in which that is done over there. We will continue in our law and order work to do what we can to support our police and to provide safer communities in South Australia.

I wish all members well in the four years that we have ahead of us. As a number of members have mentioned in their contribution, it is a privilege to serve in this place and to work with other members to do the best we can for the good governance of the people of this state.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (21:56): I thank all members for their contribution to the Address in Reply. I also begin by congratulating the Governor and Mrs Scarce on the outstanding job they do for the people of South Australia. The Governor is in China as we speak, leading an important delegation, and his service to the state has been invaluable in so many different ways.

I congratulate you, Mr President, on your re-election, and I also congratulate the members in this place, particularly the three new members who made their initial speeches, the Hon. Jing Lee, the Hon. Kelly Vincent and the Hon. Tammy Jennings. I think from each of their speeches we can conclude that all those members will make an invaluable contribution to this parliament over coming years. I congratulate them on the beginnings of their political career.

The Governor, of course, outlined the government's program for the coming four years, and we do that in challenging economic times. The country has just come through the global financial crisis in remarkably good shape, but I do not think that one should necessarily overlook some of the clouds on the horizon, particularly in Europe at the moment with some of the financial challenges facing the countries particularly in southern Europe—Spain, Greece, Italy, Portugal, Ireland and even the UK and France. Unquestionably, there are challenging economic times ahead, and as a state we will have to come to terms ourselves with the consequences of the economic downturn. That will be the government's challenge leading up to the coming budget.

I do not want to say too much about the speeches that were made, just a couple of things in summary. There were those members who seemed to challenge the election result. The reality is this government set out to be re-elected—and re-elected it was. It sought to win, as one must do, 50 per cent plus one of the vote and 50 per cent plus one of the seats, and the government achieved that by winning 26 of the 47 seats in the House of Assembly.

Whatever some members might say about it, the reality is that it was just like when John Howard was elected with the less than 50 per cent of the vote in 1998. I did not notice too many members of the Liberal Party complaining about that. He did what he had to do: he won a majority of seats in the House of Representatives, just as this government has won the majority of seats in the House of Assembly. That is what you need to do under our electoral system.

It is interesting that the Hon. Mr Wade just referred to the Legislative Council and the results in the Legislative Council. Can I suggest that the Hon. Mr Wade has a look at what would have happened had some of the government's changes been introduced, in particular the four year term, and what that might have done to the results in this council.

The composition of this parliament would have been not only more contemporary but also quite different in composition. We used to hear members say that the Legislative Council had the most democratic election system of any parliament. I think it was the Hon. Sandra Kanck who used to try to make this claim. I think the election result this time would rather bring that into question if one looks at the relative representation.

Nonetheless, just like the Liberals might complain about the final outcome in the House of Assembly, this government is not going to complain about the outcome here. We do not have a majority here but we will live with it for the next four years as we have done in the past and we will get on with the job of doing our best for the people of this state.

Finally, the Hon. Stephen Wade spoke about the subject of law and order. He was particularly critical of my colleague the member for Spence, the former attorney-general. As someone who has been a—

The Hon. S.G. Wade: For Croydon.

The Hon. P. HOLLOWAY: Sorry, the member for Croydon. As someone who has served as Attorney-General of this state during the last eight years, I believe that it is important to support the administration of justice in this state. However, one does not, I would suggest, best serve the administration of justice by agreeing with everything that the legal profession or the judiciary does.

I am not sure whether it is an achievement, but one of my more notable moments as Attorney-General was to become the only Attorney-General in this state who directed the Director of Public Prosecutions to appeal. That was in the Nemer case. I can assure the honourable member that that was an extremely difficult decision to come to, but I took the view in taking that decision that, to protect confidence within the judicial system, it was necessary to take that action. The subsequent decision of the Court of Appeal, which with a 2:1 majority overturned that decision in the Nemer case, I believe showed that sort of action was necessary to protect the administration of justice. It is certainly why I took that decision and I would suggest that my colleague, the member for Croydon, would also have had that as his motive.

I would just like to point out to the honourable member that some of the achievements of my colleague included the hoon driver legislation with its various elements and the introduction of DNA legislation. When I was police minister I was very pleased to work with the honourable member on that. This state leads the country in DNA legislation, which has been very successful in solving some of the crimes that have been outstanding for many years. I think it put this state at the forefront of law reform and has probably done a lot more for justice, I would suggest, than other areas.

There was also firearms prohibition legislation. I think that we have in many ways led the country in that form of legislation. There was legislation dealing with unexplained wealth and the control of bikies. In the social area, we have also had the domestic violence reforms and some equal opportunity reforms as well under the member for Croydon.

It is just simply erroneous, I would suggest, to say that this government has over the past eight years not had some very significant law reforms—some of it to do with the criminal system certainly, but also in social areas as well. I certainly refute the suggestion made by the Hon. Mr Wade that Don Dunstan would in any way have problems living with this—

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: Well I don't think he would turn in his grave at all because Don Dunstan was very much a contemporary politician who addressed the issues of his day. When he came in, this state had 6 o'clock closing; it did not have any lotteries; it was a very closed society. Indeed the Hon. Mr Wade in many ways has actually tried to oppose and also restrict some of the reforms in many respects. I think that the Hon. Mr Wade, if I recall correctly, over the last eight years, has tried to oppose some of those reforms that were in the direction in which Don Dunstan tried to lead this state.

The honourable member mentioned a number of other issues which we will debate in other forums. I do not wish to spend any more time on that other than to conclude by congratulating the members elected to this parliament, particularly our new members. I look forward to the coming term of this government to implement the policies that were set out by the Governor in his speech.

Motion carried.

The PRESIDENT: I would like to advise honourable members that His Excellency the Governor will be pleased to receive honourable members of the Legislative Council at 4.15pm on Wednesday 23 June 2010 for the purposes of presenting the Address in Reply.

PAYROLL TAX (NEXUS) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (22:05): I move:

That this bill be now read a second time.

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

The *Payroll Tax (Nexus) Amendment Bill 2010* (the 'Bill') amends the *Payroll Tax Act 2009* to vary the payroll tax nexus provisions where wages are paid to workers who provide their services in more than one State or Territory in a month, to the jurisdiction of the employee's principal place of residence or, where the worker does not reside in Australia, to the jurisdiction where the registered Australian Business Number address of the employer is located.

A further minor technical amendment is being made to the employment agent provisions of the Act to ensure the continued operation of an existing exemption.

Currently, where an employee has provided services in more than one jurisdiction in a month, their wages are liable for payroll tax in the jurisdiction where the wages are paid (i.e. the location of the employees' bank account into which the payment is made). The current legislative nexus for all States and Territories is the same in this regard.

Electronic banking makes it possible for employees to have a bank account or accounts located across Australia and/or overseas. After considering the application of the current nexus provisions, all jurisdictions expressed concern because of the potential for an employer to direct employees to situate their bank accounts for payment of wages in a State/Territory which has either the lowest rate or the highest threshold depending on which provided the most benefit in the circumstances ('forum shopping').

To negate the opportunity for 'forum shopping', in cases where services are performed in more than one jurisdiction, and to ensure administrative simplicity, State and Territory Revenue Commissioners recommended that the principal place of residence of an employee is a more suitable tax nexus to use going forward rather than the location of an employee's bank account. This recommendation has been accepted.

The proposed principal place of residence nexus will address the potential avoidance opportunity.

From a policy perspective, the employee's principal place of residence is the preferred nexus. In many cases, the location of a bank account may have no relationship whatsoever to the location of the employee or where the relevant services are provided.

An alternative of requiring employers to ascertain where work is undertaken in these situations would significantly increase employers' compliance costs.

In the limited circumstances where an employee does not have a principal place of residence within Australia, a secondary nexus will be required. In this regard, the employer's ABN registered address will be used.

All States and Territories have formally announced their agreement to provide new payroll tax nexus provisions, with an application date of 1 July 2009, subject to retrospective legislation being passed by State and Territory Parliaments. This measure is essential to maintaining the payroll tax harmony established between the States and Territories.

The fact that the legislation will come into force after the commencement of the financial year does not present a problem, as a reconciliation of the total liability is undertaken subsequent to the close of the financial year.

The formal announcement made by South Australia, in regard to the new payroll tax nexus provisions, recognises that there may be transitional and implementation issues for some employers who may have to make changes to their payroll systems, which may affect the timeliness or accuracy of their monthly returns while necessary changes are made.

Accordingly, whilst there is no requirement for employers to lodge returns under the new arrangements until the legislation is enacted, RevenueSA has been willing to accept payroll tax returns in line with the proposed nexus from 1 July 2009. Alternatively, it will be permissible for employers facing transitional and implementation issues to make any necessary adjustments, without penalty, as part of the annual reconciliation process for the 2009-10 assessment year.

It has also been identified that a minor technical amendment to the employment agent provisions of the Act is required to ensure the continued operation of an existing exemption.

An exemption for employment agents is provided for wages paid to a service provider, under an employment agency contract, where the wages would be exempt from payroll tax under Part 4 of the Act had the wages been paid by the client to the service provider as an employee.

As part of the rewrite and repeal of the *Pay-roll Tax Act 1971*, several existing South Australian specific exemptions that are not provided in New South Wales and Victoria were moved from Part 4 to Schedule 2 of the new Act.

An unintended consequence of moving these South Australian specific exemptions to Schedule 2 of the new Act is that wages paid to persons provided by an employment agency to those organisations are arguably no longer exempt.

The opportunity is therefore being taken to make a minor technical amendment to the employment agent provisions of the Act to confirm that wages paid to persons provided by an employment agency to those South Australian specific organisations now listed in Schedule 2 of the new Act (and which, in their own right, are exempt from payroll tax) are exempt.

The amendment to the employment agent provisions applies retrospectively from 1 July 2009.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be taken to have come into operation on 1 July 2009.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Payroll Tax Act 2009*

4—Amendment of section 3—Interpretation

This clause inserts definitions that are relevant to the provisions that are now to form part of the Act. It is noted that *Australian jurisdiction* will mean a State or a Territory.

5—Substitution of sections 10 and 11

Sections 10 and 11 are to be replaced by new sections relating to what constitutes taxable wages, including where some of the work may have been performed out of the State.

New section 10 will provide that *taxable wages* are wages that are taxable in this jurisdiction (but will not include exempt wages).

Under new section 11, wages will be taxable in this jurisdiction if the wages relate to services performed wholly in this jurisdiction or, if that is not the case, wages will be taxable in this jurisdiction if—

(a) the employee is based in this jurisdiction; or

(b) if the employee is not based in an Australian jurisdiction, if the employer is based in this jurisdiction; or

(c) if neither the employee nor the employer are based in an Australian jurisdiction, if the wages are paid or payable in this jurisdiction; or

(d) if nothing under a preceding paragraph relates to an Australian jurisdiction, if the services were performed mainly in this jurisdiction.

Section 11 also contains a number of related rules.

Section 11A sets out the principles to be applied to determine in which jurisdiction an employee is based.

Section 11B sets out the principles to be applied to determine in which jurisdiction an employer is based.

Section 11C sets out principles to determine at which place wages are to be taken to be paid.

6—Amendment of section 13—What are wages?

The amendment to section 13 of the Act clarifies that the Act applies in respect of wages referred to in subsection (1)(a) to (e) (inclusive) that are paid or payable to or in relation to a person who is not an employee in the same way as it applies to wages paid or payable to an employee.

7—Amendment of section 24—Inclusion of shares and options granted to directors as wages

8—Repeal of section 25

9—Amendment of section 26—Place where wages are payable

These are consequential amendments.

10—Amendment of section 40—Amounts taken to be wages

This amendment clarifies that various exemptions set out in Part 3 of Schedule 2 will apply in connection with the operation of section 40 of the Act.

11—Insertion of Part 4 Division 9

This clause sets new section 66A, which will provide that wages are exempt wages if they are paid or payable for or in relation to services performed wholly in 1 or more other countries for a continuous period of more than 6 months.

12—Amendment of Schedule 3—Repeal and transitional provisions

These amendments will allow the regulations to make provisions of a savings or transitional nature consequent on the enactment of an Act amending the principal Act.

Schedule 1—Related amendment and transitional provisions

Part 1—Amendment of *Taxation Administration Act 1996*

1—Amendment of section 4—Meaning of taxation laws

This amendment updates a cross-reference.

Part 2—Transitional provisions

2—Transitional provisions

This clause sets out transitional provisions associated with the enactment of this measure.

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

LAND TAX (MISCELLANEOUS) AMENDMENT BILL

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

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) BILL

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

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (22:09): I move:

That this bill be now read a second time.

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

South Australia has had some form of regulation of health practitioners for nearly one hundred years. The earliest Acts, the *Medical Practitioners Act 1919*, the *Nurses Registration Act 1920* and the *Opticians Act 1920* required registration of those persons wishing to practice in these professions with a registration board. The number of health professions regulated was added to over the next fifty years and all of the Acts were reviewed in the early 2000's. This was principally for the purposes of the National Competition Policy Review, but also to reflect changed practices that have occurred in the professions over time, and to ensure that the health and safety of the public is paramount in the regulation of the health professions.

The registration Acts have enabled the public of South Australia to have confidence that the health practitioners under these Acts are appropriately qualified and accredited, and are required to maintain high standards of competence and conduct in the provision of services.

The Acts covering the regulation of health professions have served the people of South Australia well. However, with the advent of mutual recognition there has been the potential for the public in South Australia to be exposed to practitioners who may not meet the registration requirements established by local registration boards. Under mutual recognition, any practitioner registered in one jurisdiction is deemed to be eligible for registration in another jurisdiction. Mutual recognition has seen some professions work towards developing national standards for registration, but this does not apply to all registered professions. The prospect of incompetent health practitioners registered and practising in other States and Territories, such as Doctors Patel and Reeves, being eligible to practise in South Australia, is not something that this Government wishes to see happen. This is why we believe it is important for South Australia to participate in the National Registration and Accreditation Scheme for the Health Professions. The scheme will ensure that health practitioners will be subject to nationally consistent registration standards and codes for their professions.

The *Health Practitioner Regulation National Law (South Australia)* before the House forms part of a national reform process in the registration and accreditation of health practitioners agreed to by the Council of Australian Governments, or COAG, in March 2008.

The origins of the National Registration and Accreditation Scheme date back to 2005 when the then Howard Government commissioned the Productivity Commission to undertake a report examining the issues impacting on the health workforce including the supply of, and demand for, health workforce professionals, and to propose solutions to ensure the continued delivery of quality health care over the next 10 years.

The Productivity Commission found that there were 90 or so boards in place around the country responsible for the registration of health practitioners through an assessment of their qualifications, experience and 'character' to practise in their chosen field. The boards were also responsible for ensuring that these practitioners complied with the requirements to practise and their continuing professional development.

This jurisdictional-based system has led to variations in registration and accreditation standards across the country and also resulted in an additional administrative and cost burden on health practitioners that impedes their movement across jurisdictions. If a practitioner currently wishes to work in two or more jurisdictions they need to register in each jurisdiction and pay the relevant registration fee in each jurisdiction.

Under the Howard Government, COAG considered the recommendations from the Productivity Commission to establish a single national registration board for health practitioners, and separate to this, a single national accreditation board for health practitioner education and training. However, when this proposal was presented to stakeholders it was seen as too cumbersome, and under the Rudd Government, COAG agreed to a single national registration and accreditation scheme.

Commonwealth, State and Territory Health Ministers were tasked with the development and implementation of this national scheme, culminating in the passage of the *Health Practitioner Regulation National Law Act 2009* in the Queensland Parliament on 29 October 2009. I will elaborate on this National Law later. I must stress that the National Law is agreed legislation between all Health Ministers. It is not Commonwealth law.

This National Law will commence on 1 July 2010 and cover ten health professions including: medicine, nursing and midwifery, pharmacy, physiotherapy, dentistry (consisting of dentists, dental prosthetists, dental therapists and dental hygienists), psychology, optometry, osteopathy, chiropractic and podiatry. In addition, the inclusion of a further four professions will commence on 1 July 2012: medical radiation practitioners, occupational therapists, Chinese medicine practitioners, and Aboriginal and Torres Strait Islander clinical health practitioners. Further consideration will be given to the inclusion of other health professions in the National Scheme over time.

The primary objectives of the National Scheme are:

(a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and

(b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between jurisdictions or to practise in more than one jurisdiction.

The National Scheme will be administered by the Australian Health Practitioner Regulation Agency, which is establishing offices in each State and Territory. A National Board has been established for each profession. Each Board will be responsible for the registration of the health practitioners, developing standards and codes for the profession, approving accredited programs of study, and the receipt and investigation of complaints against practitioners. Each Board may establish a jurisdictional committee to provide an effective and timely local response to health practitioners and other persons. I am pleased to advise that under the national legislation South Australia has at least one representative on each of the ten national boards established.

As with the current registration boards in South Australia, the National Scheme will be self-funded from registration fees from health practitioners. The Commonwealth, State and Territory Governments have contributed funding towards the establishment of the scheme through the Australian Health Ministers' Advisory Council, but in the longer term the scheme will be self-funding. Fees for the professions will be set by the National Boards in line with the overarching principle that the fees are to be reasonable having regard to the efficient and effective operation of the scheme.

For registrants wishing to practise in more than one jurisdiction, they will only need to be registered in one jurisdiction, and will only be required to pay one registration fee. This is in contrast to the current situation where practitioners are required to pay a registration fee in each jurisdiction in which they wish to practise.

I will table a copy of the *Health Practitioner Regulation National Law Act 2009* of Queensland for the information of honourable members. This Act is the outcome of a long and complex process to negotiate nationally

consistent standards and processes across nine jurisdictions and ten professions, however I am pleased to inform the House that the strongest elements of health practitioner legislation from all jurisdictions have come together in this Act. The development of the Act involved extensive consultation with stakeholders and I must thank the South Australian registration boards, the Australian Medical Association (SA) and the Australian Nursing and Midwifery Federation (SA Branch) in supporting my efforts to ensure that student registration was included in the National Scheme. While student registration has previously been adopted across all regulated health professions in South Australia, for other jurisdictions this is a new practice. However, students at various stages of their training work directly with patients or clients in clinical practices and it is important to ensure that these students are also subject to standards, codes of conduct and medical fitness to ensure the health and safety of the public is protected.

The National Law has been agreed by the Australian Health Workforce Ministerial Council, and it is important that this law is adopted in this State as agreed by the Ministerial Council. To do otherwise will undermine the basic principles of the Act to have nationally consistent standards and processes and to facilitate workforce mobility across jurisdictions.

There are two health professions that are currently regulated in South Australia that will not be included in the National Scheme from 1 July 2010. The first, occupational therapists, will join the National Scheme from 1 July 2012. Until their inclusion in the National Scheme they will continue to be regulated under the South Australian *Occupational Therapy Practice Act 2005*. The second profession is dental technicians. Dental technicians, unlike the other dental professions, are not currently regulated in all jurisdictions, and this is why they have not been included in the National Scheme. Despite dental technicians not being included in the National Scheme, Health Ministers can continue their regulation within their jurisdiction.

The primary reason for the regulation of a health profession is to minimise the occupation's potential risk to public health and safety. We have considered carefully the arguments for and against the continued regulation of dental technicians and have decided that dental technicians will no longer be required to be registered in South Australia from the commencement of the National Law. Dental technicians construct and repair dentures and other dental appliances, including crowns and bridges. They make these dental appliances to the specification of a dentist or dental prosthetist, who is responsible for the care of the patient. Dental technicians do not deal directly with the public. Any potential risks associated with the work of dental technicians can be appropriately managed by existing infection control and occupational health and safety legislation. The profession may wish to adopt a self-regulatory approach if they so choose, and there are many examples of professions of where this approach has been used successfully, including social workers and speech pathologists.

The legislative process in the implementation of the National Registration and Accreditation Scheme is a three stage process. The first stage was the passage of the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* of Queensland which enabled the legal and governance arrangements to be established to assist the implementation of the National Scheme from 1 July 2010.

The second stage was the passage of the *Health Practitioner Regulation National Law Act 2009* of Queensland, which will repeal the 2008 Act from 1 July 2010, and cover the substantial elements of the National Scheme including registration and accreditation arrangements, complaints, conduct, health and performance arrangements, privacy and information sharing arrangements, and transitional arrangements.

The third stage is the introduction of adopting or corresponding legislation by other jurisdictions to apply the National Law as a law of that jurisdiction, or in the case of Western Australia, the introduction of corresponding laws to achieve the same effect.

This Bill fulfils this third stage in the legislative process. The Bill also makes consequential amendments needed to fully implement the National Scheme in South Australia, continues arrangements in this State for matters not covered by the National Scheme, and repeals existing health practitioner registration legislation that will now be covered by the National Scheme.

The Bill adopts the *Health Practitioner Regulation National Law Act 2009* of Queensland as a law of this State. This gives effect to the registration and accreditation of health practitioners that wish to practise in this State falling under the responsibility of the national board for that profession. The South Australian registration boards that currently provide this function will be wound-up with the repeal of the State registration Acts.

Some of the national boards have decided to maintain State or regional committees to provide an effective and timely local response to health practitioners and the public. Although the constitution and names of the Boards will change, members of the Medical Board of South Australia, the Nursing and Midwifery Board of South Australia, and the Physiotherapy Board of South Australia will continue under committees of their respective national boards. Members of the current Dental Board of South Australia and the South Australian Psychological Board will transition to a regional board with board members from the Northern Territory and Western Australia respectively. Although no State or regional committee of the national board has been designated for the other health professions, there will still be a strong local presence through the State Office of the Australian Health Practitioner Regulation Agency to be headed by Ms Alyson Smith, Registrar/Chief Executive Officer of the Nursing and Midwifery Board of South Australia.

The Bill establishes the South Australian Health Practitioners Tribunal to hear disciplinary matters against health practitioners and appeals against decisions of the registration boards. Under the Intergovernmental Agreement to establish the National Scheme each jurisdiction must establish an external complaints and review process. The South Australian Health Practitioners Tribunal will fulfil this requirement. This tribunal will be established as a stand-alone tribunal outside of the Court system. The Government has decided to opt for this model because we believe that it will be able to provide a more timely resolution of matters than an equivalent tribunal established within the Court system. Similar tribunals operate in the Northern Territory, New South Wales and New

Zealand, and reports from these jurisdictions indicate that practitioners find these tribunals to be less threatening and friendlier, thereby minimising anxieties for both complainants and practitioners. Such a tribunal structure is also expected to be less costly to parties and to provide lower operating costs. Decisions of the tribunals also tend to be more consistent within professions and across professions.

Matters before the tribunal will be heard before a President or Deputy President who will sit with a panel of three members, consisting of two health practitioner members from the same health profession as the practitioner to whom the matter relates, and one member who is able to represent the interests of the broad range of consumers of health services. To be eligible for appointment as a President or Deputy President of the tribunal, a person must be a legal practitioner of not less than seven years standing.

The tribunal will be supported by a small registry that will be responsible for the receipt and coordination of matters to be heard by the tribunal and administrative support to the tribunal.

The licensing of pharmacy premises and pharmacy ownership restrictions are not covered by the National Scheme and will continue to be the responsibility of the States and Territories. This Bill continues the provisions for the regulation of pharmacy premises and depots in South Australia that are currently contained in the *Pharmacy Practice Act 2007*. A separate independent statutory authority, the Pharmacy Regulation Authority SA, will be established to oversee the regulation of pharmacy premises and pharmacy ownership restrictions. The Authority will be a much smaller body than the current Pharmacy Board of South Australia, with membership from the Department of Health, The Pharmacy Guild of Australia, the Pharmaceutical Society of Australia, the Australian Friendly Societies Pharmacies Association, and a consumer representative.

The Authority will be responsible for the appointment of a General Manager and such staff considered necessary to allow the Authority to perform its regulatory functions. As currently occurs with the Pharmacy Board of South Australia, the Authority will be funded solely from the registration and other fees associated with the regulation of these premises.

The Bill also continues the restrictions on the sale of optical appliances without a prescription, including cosmetic contact lenses, that are contained in the current *Optometry Practice Act 2007*. While the National Law restricts the prescribing of optical appliances to optometrists, opticians or medical practitioners, there are no restrictions on the supply of optical appliances to people who possess a prescription. Unfortunately jurisdictions could not agree on a national approach and the supply restrictions were left to individual jurisdictions to consider under their own legislation.

We believe that it is important to maintain the restrictions on the sale of optical appliances, including cosmetic contact lenses or plano lenses, to people who have a prescription from a qualified practitioner. This is in the interests of public safety. This will ensure that people wishing to wear cosmetic contact lenses will have lenses that fit correctly as well as the information they need to use, store and clean them properly. While cosmetic contact lenses do not have any therapeutic value, there is evidence that they can change the physiology of the eye, and if not fitted properly, can cause serious infection and damage to the eye.

It is interesting to note that the national Optometry Board of Australia wrote to all jurisdictions encouraging them to include provisions within their legislation to restrict the supply of optical appliances to achieve a national approach, and the Government had no hesitation in agreeing to their request.

The Bill also covers consequential amendments to a number of South Australian Acts to ensure consistency with the National Law. Under the National Law the Health and Community Services Complaints Commissioner in South Australia must be notified of a complaint received by a National Board in relation to a South Australian practitioner. The Board and the Commissioner must attempt to agree on how the complaint is to be dealt with, and if they are unable to agree, then the most serious action proposed by either must be taken. For example, if the Commissioner believes that the matter should be referred to the South Australian Health Practitioners Tribunal but the National Board believes that the matter could be dealt with by a panel of the Board, the matter will be referred to the tribunal. The consequential amendments to the South Australian *Health and Community Services Complaints Act 2004* are definitional and relate to the bodies and provisions within the National Law. The Commissioner will have the ability to make a report to the Minister for Health if dissatisfied with the outcome of an investigation by a National Board. The Commissioner will also have the power to request information from a National Board on the progress, or result, of an investigation.

The Bill also includes a number of saving and transitional provisions related to the repeal of the current South Australian health practitioner legislation and the wind-up of the registration boards. This includes the transfer of assets and liabilities from the registration boards to the Australian Health Practitioner Regulation Agency, which will then distribute these funds to the corresponding National Boards. The amount to transfer into the National Scheme has been determined by an agreed formula covering the operating costs, liabilities and revenue derived from registration fees across all registration boards. Some registration boards will have a balance of funds after the transfer to the National Scheme and these funds will transfer to the Minister for Health for distribution to external agencies to administer for purposes agreed between the Minister and those boards (for example, research, scholarships). Funds from the Pharmacy Board of South Australia derived from the regulation of pharmacy premises and depots will transfer to the newly established Pharmacy Regulation Authority SA. No funds from the current registration boards will be used by the Government for other purposes, and funds collected from one profession will not be used for another profession.

Eligible staff from the current registration boards will be offered redeployment with the South Australian Department of Health if they are not offered a position with the Australian Health Practitioner Regulation Agency, or if they are declared excess to requirements by the Agency within a two year period of the commencement of the National Scheme in South Australia.

I would like to take the opportunity to thank those staff and members, both past and present, of the South Australian registration boards for the service that they have provided in ensuring the health and safety of the public through the regulation of health professions. The transition from the State-based system to a national scheme does not imply that the tasks that they have carried out in the past have failed. In fact, South Australia has been fortunate not to have cases similar to those widely publicised in other jurisdictions of practitioners that have not been fit and proper persons to practise or that have engaged in unprofessional conduct. But I believe that it is now time to move from the current jurisdictional-based system to a national scheme where practitioners will be subjected to consistent registration standards and codes.

A number of jurisdictions have already passed legislation to participate in the National Scheme from 1 July 2010. It is now important that the legislation is passed to allow this State to also participate in the National Scheme. Failure to do so will require South Australian practitioners wishing to practise in another jurisdiction, or a practitioner from another jurisdiction wishing to practise in this State, to pay an additional registration fee and be subject to a separate registration process and possibly be required to adhere to different codes of practice. This is an unnecessary administrative burden to impose on health practitioners. Failure to pass this measure will also be disruptive for practitioners and registration boards who have already made plans to transition into the national scheme on 1 July 2010. Passage of this measure will also allow the State to meet its commitment to the Council of Australian Governments to implement the National Scheme on 1 July 2010.

This Bill will ensure the continuation of the objectives to protect the health and safety of the public through the regulation of health services and ensuring that practitioners that provide these services maintain high standards of competence and conduct from the current State legislation into a nationally consistent scheme.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Definitions

This clause provides for definitions of terms used in the Act. Subclause (2) provides that if a term is used in the Act and in the National Law, the terms have the same meanings in the Act as they have in the National Law.

Part 2—Adoption of Health Practitioner Regulation National Law

4—Application of Health Practitioner Regulation National Law

This clause provides that the *Health Practitioner Regulation National Law* (the 'National Law') set out in the schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland, as in force from time to time, applies as a law of South Australia.

Each jurisdiction that adopts the National Law will have an equivalent provision in its adopting Act so that the National Law will be the law of each jurisdiction and is not only the law of Queensland. The effect is that a person registered as a health practitioner under the National Law is registered nationally, rather than requiring registration in each jurisdiction, and each of the entities created by the National Law is created not only by Queensland law but the law of each jurisdiction. For example, each National Board will be not only a Queensland body but also a body of each of the jurisdictions in which the National Law is applied. Section 7 of the National Law clarifies that the effect is the creation of one single national entity rather than separate bodies in each jurisdiction.

Clause 4(b) provides that the Act may be referred to as the *Health Practitioner Regulation National Law (South Australia)*.

Clause 4(c) provides that the National Law, as applying in South Australia, is part of the Act. This is to ensure that the text of the National Law has effect for all purposes in South Australia as an ordinary Act of Parliament. The effect of the provision is that a reference in legislation to 'an Act' or 'any other Act' will include the National Law as applying in South Australia.

5—Meaning of generic terms in Health Practitioner Regulation National Law for the purposes of this jurisdiction

This clause defines some generic terms used in the National Law for the purposes of the application of that Law in South Australia.

6—Responsible tribunal for Health Practitioner Regulation National Law

This clause provides that the South Australian Health Practitioners Tribunal, constituted under Part 3 of this measure, is the responsible tribunal for the purposes of the *Health Practitioner Regulation National Law (South Australia)*.

7—Exclusion of legislation of this jurisdiction

This clause provides that a number of Acts that generally apply in South Australia do not apply to the *Health Practitioner Regulation National Law (South Australia)* or instruments, including regulations, made under that

Law. In particular, Acts dealing with the interpretation of legislation, financial matters, privacy, freedom of information, the role of the ombudsman and matters relating to the employment of public servants will not apply to the *Health Practitioner Regulation National Law (South Australia)*. Instead, provisions have been included in the National Law to deal with each of these matters, ensuring that the same law applies in relation to each jurisdiction that adopts the National Law.

Part 3—South Australian Health Practitioners Tribunal

Division 1—Establishment of Tribunal

8—Establishment of Tribunal

The *South Australian Health Practitioners Tribunal* is established.

Division 2—Members of Tribunal

9—President and Deputy Presidents

The membership of the Tribunal will include a President and 1 or more Deputy Presidents. A person will not be eligible for appointment as the President or a Deputy President unless the person is a legal practitioner of not less than 7 years standing, or a magistrate.

10—Panel members

The Tribunal will also consist of members drawn from 2 panels established under this clause. One panel will consist of members of the health professions under the *Health Practitioner Regulation National Law*. The other panel will consist of persons who are suitable to represent the interests of consumers of health services.

11—Allowances and expenses

This clause entitles a member of the Tribunal to remuneration, allowances and expenses determined by the Governor.

12—Validity of acts of Tribunal

This clause protects acts and proceedings of the Tribunal in cases where there is a vacancy in the membership of, or a defect in an appointment of a person to, the Tribunal or a panel.

13—Registrar of Tribunal

This clause provides that there will be a Registrar of the Tribunal (and there may also be a Deputy Registrar). The office of registrar may be held in conjunction with another office or position.

14—Immunities

A member of the Tribunal has the same immunities from civil liability as a Judge of the District Court. Officers and staff of the Tribunal are also protected from personal liability for honest acts or omissions in carrying out (or purportedly carrying out) official functions.

Division 3—Constitution of Tribunal

15—Constitution of Tribunal

This clause sets out how the Tribunal is to be constituted for the purposes of particular proceedings.

Division 4—Jurisdiction

16—Jurisdiction

The Tribunal will have the jurisdiction conferred by this measure or the National Law (as it applies as a law of South Australia).

Division 5—Proceedings, related powers and orders

17—Determinations

Any question of law will be determined by the presiding member. For other questions or matters, the Tribunal (when constituted by more than 1 member) will act according to unanimous or majority decision.

18—Provisions as to proceedings before Tribunal

This clause deals with the conduct of proceedings by the Tribunal.

19—Powers of Tribunal

This clause sets out the powers of the Tribunal to summons witnesses and require the production of documents or other evidence in proceedings before the Tribunal.

20—Enforcement of decisions of Tribunal

This clause provides for the enforcement of certain decisions of the Tribunal under the National Law.

21—Costs

Any costs awarded by the Tribunal under the National Law may be recovered as a debt.

22—Power of Tribunal to make rules

The Tribunal will be able to make rules regulating the practice and procedure of the Tribunal or providing for other matters relevant to the Tribunal.

Division 6—Appeals

23—Rights of appeal

An appeal will lie to the District Court, in its Administrative and Disciplinary Division, against a decision of the Tribunal.

24—Operation of order may be suspended

This clause empowers the Tribunal or the District Court to suspend the operation of an order pending the determination of an appeal.

25—Variation or revocation of conditions imposed by Court

This clause will allow the District Court to vary or revoke a condition that it may impose under the National Law.

Part 4—Pharmacy practice

Division 1—Interpretation

26—Interpretation

This clause provides for definitions of terms used in this Part.

Division 2—Pharmacy Regulation Authority SA

Subdivision 1—Establishment of Authority

27—Establishment of Authority

This clause establishes the *Pharmacy Regulation Authority SA* as a body corporate with perpetual succession, a common seal, the capacity to litigate in its corporate name and all the powers of a natural person capable of being exercised by a body corporate.

Subdivision 2—Authority's membership

28—Composition of Authority

This clause provides for Authority to consist of 5 members appointed by the Governor on the nomination of the Minister. It also provides for the appointment of deputy members.

29—Terms and conditions of membership

This clause provides for members of the Authority to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on the expiry of a term of appointment. The clause sets out the circumstances in which a member's office becomes vacant and the grounds on which the Governor may remove a member from office. It also allows members whose terms have expired, or who have resigned, to continue to act as members for the purposes of proceedings under Division 4.

30—Presiding member and deputy

This clause requires the Minister, after consultation with the Authority, to appoint a pharmacist member of the Authority to be the presiding member of the Authority, and another pharmacist member to be the deputy presiding member.

31—Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Authority are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

32—Remuneration of members

This clause entitles a member of the Authority to remuneration, allowances and expenses determined by the Governor.

Subdivision 3—General Manager and staff

33—General Manager and staff

This clause provides for the appointment of a General Manager by the Authority on terms and conditions determined by the Authority. It also provides for the Authority to have such other staff as it thinks necessary for the proper performance of its functions and empowers the Authority to employ persons on leave from employment in the Public Service or a Crown instrumentality or agency, as well as making use of the services, facilities or officers of an administrative unit (with the approval of the relevant Minister).

Subdivision 4—General functions and powers

34—Functions of Authority

This clause sets out the functions of the Authority and requires it to perform its functions with the object of protecting the health and safety of the public by achieving and maintaining high professional standards in the provision of pharmacy services in South Australia.

35—Delegations

This clause empowers the Authority to delegate its functions or powers.

Subdivision 5—Authority's procedures

36—Authority's procedures

This clause deals with matters relating to the Authority's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

37—Conflict of interest etc under Public Sector provisions

This clause provides that a member of the Authority will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with pharmacists generally or a substantial section of pharmacists in this State.

Subdivision 6—Accounts, audit and annual report

38—Accounts and audit

This clause requires the Authority to keep proper accounting records of its financial affairs and have annual statements of accounts prepared in respect of each financial year. It requires the accounts to be audited annually by an auditor approved by the Auditor-General and appointed by the Authority, and empowers the Auditor-General to audit the Authority's accounts at any time.

39—Annual report

This clause requires the Authority to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

Division 3—Registration of pharmacies and depots

40—Registers

This clause requires the General Manager to keep certain registers, specifies the information required to be included in each register, makes the General Manager responsible for the form and maintenance of the registers and for the correction of entries. The clause also requires the registers to be kept available for inspection by the public and permits access to be made available by electronic means. A person ceasing to carry on a pharmacy business must inform the General Manager of that fact. A maximum penalty of $5,000 is fixed for non-compliance.

41—Registration of premises as pharmacy

This clause makes it an offence for a person to provide restricted pharmacy services except at premises registered as a pharmacy and fixes a maximum penalty of $50,000.

42—Restriction on number of pharmacies

This clause makes it an offence for Friendly Society Medical Association Limited (FSMA) to provide pharmacy services at more than 40 pharmacies in South Australia. A person other than a friendly society must not provide pharmacy services at more than 6 pharmacies, and a friendly society other than FSMA must not commence to provide pharmacy services at a pharmacy if friendly societies other than FSMA already provide pharmacy services at 9 pharmacies, or if another number is prescribed, that number. The maximum penalty for a breach of these restrictions is $50,000.

43—Supervision of pharmacies by pharmacists

This clause requires a person who carries on a pharmacy business to ensure that a pharmacist is in attendance and available for consultation by members of the public at each pharmacy at which the business is carried on while the pharmacy is open to the public unless restricted pharmacy services or prescribed pharmacy services are not offered to the public and access to those areas of the pharmacy used for the provision of such services is physically prevented and certain other specified requirements are met. A maximum penalty of $50,000 is fixed for non-compliance.

44—Certain other businesses not to be carried on at pharmacy

This clause makes it an offence to carry on certain kinds of businesses at a pharmacy. The maximum penalty fixed is $50,000.

45—Registration of premises as pharmacy depot

This clause makes it an offence for a person to use premises outside Metropolitan Adelaide as a pharmacy depot unless the premises are registered as a pharmacy depot and fixes a maximum penalty of $50,000.

46—Conditions

This clause makes the registration of a pharmacy or pharmacy depot subject to any conditions imposed by the Authority or prescribed by the regulations. It also empowers the Authority to vary conditions of registration on its own initiative or on application by the holder of registration. The clause makes it an offence for a person to contravene or fail to comply with a condition of a registration and fixes a maximum penalty of $50,000.

47—Notices

This clause empowers an authorised officer to issue a notice for the purpose of securing compliance with a condition of a registration or a requirement imposed in relation to registration under this Division. It makes it an offence for a person to fail to comply with a notice without reasonable excuse and fixes a maximum penalty of $5,000. The clause also creates an offence of hindering or obstructing a person complying with a notice and fixes a maximum penalty of $10,000. The General Manager is empowered, after due enquiry, to suspend or cancel the registration of premises as a pharmacy or pharmacy depot if a person fails to comply with a notice,

48—Appeals

This clause provides a right of appeal to the District Court against certain acts and decisions of the Authority.

Division 4—Registration of pharmacy services providers

49—Registers

This clause requires the General Manager to keep registers of current and former pharmacy services providers, specifies the information required to be included in each register, makes the General Manager responsible for the form and maintenance of the registers and for the correction of entries. The clause also requires the registers to be kept available for inspection by the public and permits access to be made available by electronic means.

50—Registration of pharmacy services providers

This clause makes it an offence for a person to act as a pharmacy services provider unless registered under this Division and requires a pharmacy services provider to keep the General Manager informed of any change in particulars required to be given in relation to registration. In each case the maximum penalty is fixed at $1000.

Division 5—Restrictions relating to provision of pharmacy services

51—Restrictions relating to provision of pharmacy services

Subclause (1) regulates the provision of restricted pharmacy services. A natural person must be either a qualified person and provide the service personally or through the instrumentality of another natural person who is a qualified person, or be a pharmacist who does not hold a current authorisation to practice but provides the service through the instrumentality of another natural person who is a qualified person. A body corporate must be a corporate pharmacy services provider and provide the service through the instrumentality of a natural person who is a qualified person. A trust must be a trustee pharmacy services provider and provide the service through the instrumentality of a natural person who is a qualified person. A maximum penalty of $50,000 or imprisonment for 6 months is fixed if a restricted pharmacy service is provided other than by a person authorised by subclause (1). A qualified person, in relation to a restricted pharmacy service, is either—

- a pharmacist who holds a current authorisation to practice in the pharmacy profession (other than as a student) under the National Law; or
- a person authorised by or under other legislation to provide a restricted pharmacy service.

However, subclauses (2) and (3) provide that subclause (1) does not apply in relation to—

- a restricted pharmacy service provided by a natural person who is an unqualified person if the person carried on a pharmacy business before 20 April 1972 and has continued to do so since that date and the service is provided through the instrumentality of a natural person who is a qualified person; or
- a restricted pharmacy service provided by the personal representative of a deceased pharmacist or person referred to above within 1 year (or such longer period as the Authority may allow) after the date of death if the service is provided through the instrumentality of a natural person who is a qualified person; or
- a restricted pharmacy service by the official receiver of a bankrupt or insolvent pharmacist if the service provided for not more than 1 year (or such longer period as the Authority may allow) and is provided through the instrumentality of a natural person who is a qualified person; or
- a restricted pharmacy service provided by a person vested by law with power to administer the affairs of a corporate pharmacy services provider that is being wound up or is under administration, receivership or official management if the service is provided for not more than 1 year (or such longer period as the Authority may allow) and is provided through the instrumentality of a natural person who is a qualified person; or
- a restricted pharmacy service provided by an unqualified person in prescribed circumstances; or
- a restricted pharmacy service provided by an unqualified person pursuant to an exemption.

The Governor may grant an exemption by proclamation if of the opinion that good reason exists for doing so in the particular circumstances of a case. The clause makes it an offence punishable by a maximum fine of $50,000 to contravene or fail to comply with a condition of an exemption.

Division 6—Disciplinary proceedings

52—Preliminary

This clause provides that in this Part the terms *occupier of a position of authority* and *pharmacy services provider* includes a person who is not but who was, at the relevant time, an occupier of a position of authority or a pharmacy services provider. The clause also provides for the Authority and the National Agency or National Board, or all 3 entities, to agree on protocols relating to the handling of disciplinary proceedings.

53—Cause for disciplinary action

This clause specifies what constitutes proper cause for disciplinary action against a pharmacy services provider or a person occupying a position of authority in a corporate or trustee pharmacy services provider.

54—Inquiries as to matters constituting grounds for disciplinary action

This clause requires the Authority to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Authority considers that the matter should be dealt with under the National law or the Authority considers the complaint to be frivolous or vexatious. If after conducting an inquiry, the Authority is satisfied that there is proper cause for taking disciplinary action, the Authority can censure the person, order the person to pay a fine of up to $10,000 or prohibit the person from carrying on business as a pharmacy services provider or from occupying a position of authority in a corporate or trustee pharmacy services provider. Fines imposed by the Authority are recoverable by the Authority as a debt.

55—Contravention of prohibition order

This clause makes it an offence to contravene a prohibition order made by the Authority or to contravene or fail to comply with a condition imposed by the Authority. A maximum penalty of $75,000 or imprisonment for 6 months is fixed.

56—Constitution of Authority for purpose of proceedings

This clause sets out how the Authority is to be constituted for the purpose of hearing and determining proceedings under this Division.

57—Provisions as to proceedings before Authority

This clause deals with the conduct of proceedings by the Authority under this Division.

58—Powers of Authority in relation to witnesses etc

This clause sets out the powers of the Authority to summons witnesses and require the production of documents and other evidence in proceedings before the Authority.

59—Principles governing proceedings

This clause provides that the Authority is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms. It requires the Authority to keep all parties to proceedings properly informed about the progress and outcome of the proceedings

60—Representation at proceedings before Authority

This clause entitles a party to proceedings before the Authority to be represented at the hearing of those proceedings.

61—Costs

This clause empowers the Authority to award costs against a party to proceedings before the Authority and provides for the taxation of costs by a Master of the District Court in the event that a party is dissatisfied with the amount of costs awarded by the Authority.

62—Appeal

This clause provides a right of appeal to the District Court against decisions of the Authority under this Division.

63—Operation of order may be suspended

This clause empowers the Authority or the Court to suspend the operation of an order made by the Authority where an appeal is instituted or intended to be instituted.

Division 7—Related provisions

64—Authorised officers

This clause provides for the appointment of authorised officers for the purposes of this Part and sets out their powers for the purposes of investigations. It makes certain conducts towards an authorised officer (such as hindering or obstruction or using abusive language) an offence punishable by a maximum fine of $5,000 and also makes it an offence for a person in charge of premises to fail to give an authorised officer assistance and facilities necessary to enable the officer to exercise powers. A maximum penalty of $5,000 is prescribed.

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

65—False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under this Part and fixes a maximum penalty of $20,000.

66—Disclosure of information

This clause authorises the Authority to disclose information obtained by it while acting under this Part to the National Agency or to a National Board if reasonably required in connection with the administration or operation of the National Law.

67—Use of word 'pharmacy'

This clause makes it an offence for a person to describe premises as a 'pharmacy' in the course of business unless the premises are registered as a pharmacy or pharmacy depot under this Part. The maximum penalty is fixed at $50,000.

68—Pharmacy services providers to be indemnified against loss

This clause prohibits pharmacy services providers from providing pharmacy services unless insured or indemnified in a manner and to an extent approved by the Authority against civil liabilities that might be incurred by the provider in connection with the provision of such services. It fixes a maximum penalty of $10,000 and empowers the Authority to exempt persons or classes of persons from the requirement to be insured or indemnified.

69—Information relating to claim against pharmacy services provider to be provided

This clause requires a pharmacy services provider to provide the Authority with prescribed information relating to a claim made against the provider for alleged negligence by the provider in connection with the provision of pharmacy services. The clause fixes a maximum penalty of $10,000 for non-compliance.

70—Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against this Part and grounds for disciplinary action under this Part, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

71—Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences against this Part.

72—Vicarious liability for offences

This clause provides that if a body corporate is guilty of an offence against this Part, each person occupying a position of authority in the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

Part 5—Optometry practice

73—Interpretation

This clause provides for definitions of terms used in this Part.

74—Unauthorised dispensing of optical appliances

This clause makes it an offence for a person to sell an optical appliance by retail unless it has been prescribed for the purchaser by an optometrist, orthoptist or medical practitioner. A maximum penalty of $30,000 is fixed.

75—Dispensing expired prescription

This clause makes it an offence to dispense an optical appliance pursuant to an expired prescription. A maximum penalty of $15,000 is fixed.

76—Failure to give free prescription on request

This clause makes it an offence for a person who prescribes or dispenses an optical appliance to give the patient a free copy of the prescription on request. A maximum penalty of $5,000 is fixed.

77—Authorised officers

This clause provides for the appointment of authorised officers for the purposes of this Part and sets out their powers for the purposes of investigations. It makes certain conducts towards an authorised officer (such as hindering or obstruction or using abusive language) an offence punishable by a maximum fine of $5,000 and also

makes it an offence for a person in charge of premises to fail to give an authorised officer assistance and facilities necessary to enable the officer to exercise powers. A maximum penalty of $5,000 is prescribed.

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

Part 6—Miscellaneous

78—Delegations

This clause empowers the Minister and the Chief Executive to delegate their functions and powers.

79—Commissioner of Police may give criminal history information

This clause authorises the Commissioner of Police to give criminal history information to the National Board and certain law enforcement bodies.

80—Application of fines

This clause provides for fines imposed for an offence against this Act to be paid to the Minister, the Attorney-General or Pharmacy Regulation Authority SA (according to specified circumstances).

81—Investigators

This clause allows State public sector employees to be appointed as investigators under the National Law.

82—Regulations

This clause empowers the Governor to make regulations.

83—Review of Part 3

The Minister will cause a review of the operation of Part 3 to be conducted after the Act has been in operation for a period of 3 years.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Acts Interpretation Act 1915*

2—Amendment of section 4—Interpretation

It will be most useful for the purposes of other Acts that there is a general definition of *Health Practitioner Regulation National Law* (being the National Law as in force from time to time under the *Health Practitioner Regulation National Law Act 2009* of Queensland and as it applies as a law of this State, another State or a Territory, or the law of another State or Territory that substantially corresponds to the national law).

Part 3—Amendment of *Births, Deaths and Marriages Registration Act 1996*

3—Amendment of section 4—Definitions

This clause sets out an amendment that is consequential on new arrangements for the regulation of health professions under the Health Practitioner Regulation National Law.

Part 4—Amendment of *Boxing and Martial Arts Act 2000*

4—Amendment of section 3—Interpretation

This clause sets out an amendment that is consequential on new arrangements for the regulation of health professions under the Health Practitioner Regulation National Law.

Part 5—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995*

5—Amendment of section 4—Interpretation

This clause sets out amendments that are consequential on new arrangements for the regulation of health professions under the Health Practitioner Regulation National Law.

Part 6—Amendment of *Controlled Substances Act 1984*

6—Amendment of section 4—Interpretation

This clause sets out amendments that are consequential on new arrangements for the regulation of health professions under the Health Practitioner Regulation National Law.

Part 7—Amendment of *Coroners Act 2003*

7—Amendment of section 3—Interpretation

This clause sets out an amendment that is consequential on new arrangements for the regulation of health professions under the Health Practitioner Regulation National Law.

Part 8—Amendment of *Cremation Act 2000*

8—Amendment of section 4—Interpretation

This clause sets out an amendment that is consequential on new arrangements for the regulation of health professions under the Health Practitioner Regulation National Law.

Part 9—Amendment of *Criminal Law Consolidation Act 1935*

9—Amendment of section 269A—Interpretation

This clause sets out an amendment that is consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

Part 10—Amendment of *Health and Community Services Complaints Act 2004*

10—Amendment of section4—Interpretation

It is necessary to make consequential amendments to the definitions used for the purposes of the *Health and Community Services Complaints Act 2004*.

11—Amendment of section 57—Complaints received by Commissioner that relate to registered service providers

It is necessary to ensure that the scheme under Part 8 of the *Health Practitioner Regulation National Law (South Australia)* applies if a complaint received by the Commissioner relates to a nationally registered health practitioner.

12—Amendment of section 58—Referral of complaint to registration authority

This clause is mainly concerned to insert a saving provision with respect to section 150 of the *Health Practitioner Regulation National Law* (South Australia).

13—Amendment of section 59—Action on referred complaints

This is a consequential amendment.

14—Amendment of section 60—Referral of complaint to Commissioner

If a complaint received by a registration authority relates to a nationally registered health practitioner, the matter will proceed under section 150 of the *Health Practitioner Regulation National Law* (South Australia).

15—Amendment of section 62—Information from registration authority

This is a consequential amendment.

16—Repeal of Schedule 1

This is a consequential amendment.

Part 11—Amendment of *Health Professionals (Special Events Exemption) Act 2000*

17—Amendment of section 3—Interpretation

This is a consequential amendment.

18—Amendment of section 5—Definition of visiting health professional

This is a consequential amendment.

19—Amendment of section 10—Exemptions relating to offences

This is a consequential amendment.

20—Amendment of section 11—Complaints about visiting health professionals

These are consequential amendments.

Part 12—Amendment of *Landlord and Tenant Act 1936*

21—Amendment of section 13—Interpretation

This clause sets out an amendment that is consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

Part 13—Amendment of *Mental Health Act 2009*

22—Amendment of section 3—Interpretation

This clause sets out amendments that are consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

Part 14—Amendment of *Rail Safety Act 2007*

23—Amendment of section 4—Interpretation

This clause sets out an amendment that is consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

24—Amendment of section 148—Immunity for reporting unfit rail safety worker

This clause sets out an amendment that is consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

25—Amendment of Schedule 2—Provisions relating to alcohol and other drug testing

This clause sets out an amendment that is consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

Part 15—Amendment of *Road Traffic Act 1961*

26—Amendment of Schedule 1—Oral fluid and blood sample process

This clause sets out an amendment that is consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

Part 16—Amendment of *Summary Offences Act 1953*

27—Amendment of section 81—Power to search, examine and take particulars of persons

This clause sets out amendments that are consequential on new arrangements for the constitution of health professions under the Health Practitioner Regulation National Law.

Part 17—Repeal of certain South Australian Acts

28—Repeal of certain South Australian Acts

The following Acts are to be repealed in connection with the introduction of the new National Law:

(a) the *Chiropractic and Osteopathy Practice Act 2005*;

(b) the *Dental Practice Act 2001*;

(c) the *Medical Practice Act 2004*;

(d) the *Nursing and Midwifery Practice Act 2008*;

(e) the *Optometry Practice Act 2007*;

(f) the *Pharmacy Practice Act 2007*;

(g) the *Physiotherapy Practice Act 2005*;

(h) the *Podiatry Practice Act 2005*;

(i) the *Psychological Practices Act 1973*.

Part 18—Saving and transitional provisions

Division 1—Interpretation

29—Interpretation

This clause sets out definitions relevant to the operation of the saving and transitional provisions set out in Part 18 of this measure.

Division 2—Transfer of assets and liabilities

30—Ministerial orders

This clause will allow the Minister to deal with any assets or liabilities of a prescribed body. Any dealing under this clause will be effected by an instrument (to be called an 'allocation order').

31—Effect of allocation order

An allocation order will vest assets or liabilities specified in the allocation order to the transferee in accordance with the order. If an allocation order relates to the transfer of a prescribed body's interest in an agreement, the transferee will become a party to the agreement in place of the prescribed body and the agreement will take effect as if the transferee had always been a party to the agreements.

32—Continued effect of certain acts by a prescribed body

An act or omission of a prescribed body in relation to assets or liabilities transferred by an allocation order will, if it is of continuing effect, be taken to be the transferee's act or omission.

33—Continuation of proceedings

Proceedings involving a prescribed body in relation to assets or liabilities transferred by an allocation order may be continued and completed by or against the transferee.

34—Evidence of transfer

The Minister may provide evidence of the transfer of assets or liabilities under these provisions.

35—References

A reference in an instrument or other document to a prescribed body in connection with an asset or liability transferred under this Division is, from the date of transfer, taken to be a reference to the transferee (unless the instrument or document is excluded by the Minister by notice in the Gazette).

36—Substitution of relevant entity

This clause provides for the transferee to be taken to be a party to any contract, guarantee, undertaking or security given by a prescribed body that is subject to the application of these provisions.

Division 3—Staff

37—Staff

This clause sets out certain arrangements that apply to qualifying staff of a prescribed body. A qualifying member of staff is, essentially, a person employed on a permanent basis by a prescribed body whose salary (or salary package) does not exceed $120,000. A qualifying member of staff who has not gained employment with the National Agency will be incorporated into the Department as a redeployee. Furthermore, a qualifying member of staff employed by the National Agency who, within the period of 2 years after this provision comes into operation, is declared by the National Agency to be excess to the requirements of the National Agency may elect to be incorporated into the Department as a redeployee.

Division 4—Provision of information and assistance

38—Provision of information and assistance

A prescribed body is authorised to provide documents and other information, and assistance, to a national body (or a person nominated by a prescribed body) to assist the national body in the performance or exercise of its functions or powers.

Division 5—References

39—References to members of professions

This clause provides a scheme under which references to a member of a profession, now to be regulated under the National Law, will be taken to be a reference to a member of the profession under the National Law.

Division 6—Complaints, notifications and disciplinary proceedings

40—Extended application of disciplinary proceedings

This clause makes it clear that the disciplinary provisions of the National Law may extend to any conduct or other circumstance occurring, arising or existing before the participation day for this jurisdiction. This clause is a facilitating provision that has effect subject to the other provisions set out in this measure.

41—Proceedings before boards

This clause is primarily intended to ensure that a matter brought before a prescribed body (or the Registrar of such a body), but not yet subject to a formal complaint, will continue as if subject to a notification under Part 8 of the National Law.

42—Proceedings initiated by complaint

This clause sets out the arrangements that will apply if a formal complaint has been laid before a prescribed body or a Tribunal under an existing Act. If the proceedings have commenced so as to be part-heard, they will continue in all respects under the existing Act. If the proceedings are not yet to the stage of being part-heard, they will continue before the responsible tribunal constituted under the new scheme but in other respects will be dealt with under the relevant State Act.

43—Complaints being dealt with on participation day

This clause makes it clear that the responsible tribunal may act under the scheme established by section 289 of the National Law (subject to the arrangements applying in the preceding provisions).

Division 7—Other matters

44—Actions with respect to immunity

This clause provides that an action that would otherwise lie against a prescribed body under section 74(3) of the *Public Sector Act 2009* (but for the dissolution of the prescribed body) will lie instead against the Crown.

45—Pharmacies and pharmacy depots

This clause sets out transitional arrangements that will apply in relation to the registration of pharmacies and pharmacy depots.

46—Pharmacy services providers

This clause sets out transitional arrangements that will apply in relation to the registration of pharmacy services providers.

47—Areas of special need

An area of special need in force under section 33(2)(d)(iii) of the *Medical Practice Act 2004* will continue for the purposes of the National Law.

48—References to Registrars

This clause makes provision with respect to references to a Registrar under a repealed Act.

49—FOI applications

This clause relates to any FOI application where the relevant agency would be a prescribed body (which will now be dissolved). The National Agency, or a National Board nominated by the National Agency in a particular case, will be taken to be the relevant agency for the purposes of dealing with the application.

50—Fees

This clause will allow arrangements to be put in place to provide an extension for the payment of fees by members of designated health professions.

51—Regulations

The Governor will be able to make additional provisions of a saving or transitional nature.

52—Validity and effect of steps

This clause ensures that nothing done under this scheme can give rise to any liability or cause of action under another law.

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

At 22:10 the council adjourned until Thursday 27 May 2010 at 14:15.