LEGISLATIVE COUNCIL

Thursday 16 September 2010

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (11:04): I move:

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

Motion carried.

CONTROLLED SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 July 2010.)

The Hon. S.G. WADE (11:05): I rise to indicate the opposition's support for the Controlled Substances (Miscellaneous) Amendment Bill 2010. The government tells us that this bill would amend the Controlled Substances Act 1984 to implement the 2010 Labor election commitment to create an aggravated offence of trafficking controlled drugs in or around licensed premises and entertainment venues. I acknowledge the Attorney-General's careful use of words in the other place in referring to this as an election commitment rather than the implementation of a mandate, because Labor has no mandate. The Liberal Party at the last election achieved 52 per cent of the two-party preferred vote.

Drugs are a major risk to the health of Australians and a major source of crime in our community. It is vital that we develop and maintain a balanced, outcomes-based approach to combating this social problem. Australia's approach to drugs is basically, on the one hand, to use the firm hand of the law to divert citizens away from consuming illicit drugs and to use an iron grip to try to deal with those who traffic drugs to others. We make a distinction between users and traffickers.

Antonio Mario Costa, the Executive Director of the United Nations Office on Drugs and Crime, has cited Australia as leading the world in terms of its balanced approach to drugs. I think it is vital in maintaining public support for the continuation and improvement of this approach that we recognise progress and acknowledge how much further we have to go.

The member for Morialta in the other place (a very worthy addition to this parliament) provided a useful overview of the Australian context in his contribution on this bill in the other place. The honourable member has worked on drugs policy at the national level and highlighted progress made in lowering overall drug use under the Howard government's tough on drugs approach introduced in the late 1990s.

A 2007 Australian Institute of Health and Welfare report shows that from 1998, the high point, marijuana use amongst Australians has dropped from 17.9 per cent to 9.1 per cent in 2007. In the same time, heroin use dropped from 0.8 per cent to 0.2 per cent, and that figure has been consistent for some years.

There has been a significant reduction in accidental deaths from opiates, from 1,116 deaths in 1999 to 374 in 2005, and the numbers have continued to decline. Of course, every death is one death too many. According to the National Secondary Schools Survey in 1996, 35 per cent of 12 to 17-year olds had tried cannabis in their lifetime, but a decade later, after the tough on drugs campaign, that figure had halved to 18 per cent. Again, in 1996, 11 per cent of our secondary students were smoking cannabis at least weekly, and by 2005 that had dropped to 4 per cent. Overall levels of drug use are diminishing, and that should be welcomed.

Having recognised the progress, the member for Morialta reflected on some aspects where we have gone backwards. Use of methamphetamines, cocaine and ecstasy are all increasing. In 1993 only 2 per cent of the population had tried methamphetamines; in 2007 that figure had almost doubled to 3.9 per cent. Methamphetamines are much stronger and cause significant behavioural changes in the users, and their use in the community is causing widespread concern.

Methamphetamines not only destroy lives and often lead individuals into crime, but an affected person may well be socially and morally challenged; revved up with adrenaline they can cause real harm to others and themselves.

These drugs rightly raise community concern, as people in the community never know when they may be the random victim of antisocial behaviour of drug users. Our state and federal police, customs and workers in the health and justice sectors deserve not only our thanks and admiration but also our continued support in their efforts, both in terms of the law and in terms of resources. But a balanced approach is predicated on consistency. This bill should be condemned because it undermines a consistent balanced approach. In particular, the government's proposal to exempt cannabis dealers from these provisions sends a very unfortunate mixed message.

Let me review the current legislation. Currently, trafficking a controlled drug is defined as selling or intending to sell the drug, and intention to sell is presumed in the absence of proof to the contrary if the person had a trafficable quantity of a controlled drug on their person. The maximum penalties for a large commercial quantity are a $500,000 fine and life imprisonment; for a below commercial quantity amount, the maximum is $50,000 and 10 years imprisonment.

The bill proposes to amend section 32 of the Controlled Substances Act to introduce a new offence, that of trafficking in controlled drugs in a prescribed area. The new offence will impose a higher maximum penalty—imprisonment for 15 years or $75,000 (as opposed to 10 years or $50,000)—for the basic offence of drug dealing in licensed premises and at licensed events frequented by young people.

The government's rationale is that this offence will target premises where young people are subject to a combination of alcohol, atmosphere and peer pressure which makes them particularly vulnerable to criminals selling illegal drugs. I think it is worth making the point that people are also vulnerable in these contexts to having their sexual integrity violated, to be the subject of theft and other criminal activity and to become the victims of physical assaults. Given this rationale, the government asserts that the offence does not need to apply to trafficking in all licensed premises.

The government claims that it aims to target the type of venues frequented by young people and, as a result, drug dealers targeting young people. The government specifically refers to pubs, nightclubs, wine bars and the like, and yet I found the list of prescribed premises surprisingly wide. It includes a hotel licence, a restaurant licence, an extended trading authorisation, an entertainment venue licence, a club licence that includes an extended trading authorisation and a special circumstances licence that includes an extended trading authorisation.

The opposition does not object to this wide list but it does seem to be broader than the government was at first suggesting. In that context, I asked at briefings how many premises and what proportion of licences are covered. I am yet to receive this information. Considering that the bill is about vulnerability to sellers, it is hard to understand why the government has excluded cannabis from the aggravated offence. We were told in a briefing that this exclusion was at the suggestion of the Drug and Alcohol Services Council of South Australia and the Department for Families and Communities. The key ground put forward by the government for the aggravated offence not to cover cannabis is that we should be cautious about criminalising young people or minor operators in drug distribution.

Let us be clear that we are not talking about necessarily petty amounts of cannabis. Trafficable quantities of cannabis are defined, for example, in relation to commercial quantities as one kilogram of pure or 2.5 kilograms of mixed. This is not necessarily limited to minor operators. A person subject to the new offence could have up to one kilogram of pure cannabis. I do not claim to be an expert in drug matters but I understand that one kilogram of pure cannabis could provide around 3,000 individual doses and would be valued on the street at about $11,000.

In comparison, in terms of cannabis possession offences, offences cannot be expiated once they exceed 100 grams. So we are talking about a person with months' (if not years') worth of supplies on their person potentially in licensed premises. We think that that fact again raises doubts as to why the government would exclude such persons.

The Hon. Ann Bressington indicated some months ago her concern about that exclusion and she indicated to the opposition her intention to file an amendment which I understand she has done. The opposition is certainly going to be supporting that, and we believe there are strong grounds for doing so.

Trafficking cannabis is illegal and, as I said, in terms of a balanced approach, it is vital to maintain a balanced approach in that we are consistent, and we believe that cannabis should be treated consistently with other drugs, particularly when we are not talking about a user-focused law: we are talking about a dealer-focused law. These are people who are trying to push drugs onto other people.

Secondly, we believe that the distribution of cannabis at licensed venues encourages the mixing of cannabis and alcohol which is known to have very concerning potential health implications including unpredictable reactions and diminished control. We should be discouraging a second drug into a licensed venue, which, if you like, is primarily involved in promoting another drug, although a legal drug.

While the interaction between cannabis and mental health is not fully known, we do know enough to be careful about the use of cannabis. Cannabis has been shown to have a range of long-term effects, and there is a significant range of hypotheses being researched in the long-term impact of cannabis. For these reasons, we believe there are strong grounds for 'aggravated offence' to cover cannabis, and the opposition will be supporting the Hon. Ann Bressington's amendment.

The member for Morialta in the other place observed that one of the reasons for the lowering of the overall drug use in Australia has been that the Tough on Drugs campaign and other educational approaches have reduced the acceptability of illicit drugs in the community. The opposition is concerned that this government is sending out mixed messages which may well undermine the campaign and give the impression that cannabis is acceptable.

As I said, we need to have a consistent and balanced approach on drugs and, particularly, not take our hand off the wheel in terms of cannabis. After all, we are dealing with cannabis which in the modern context often has a significantly higher THC count than it had previously, and the form of cannabis that is now distributed can have significantly greater health and behavioural impacts. If the government's rationale is the vulnerability of potential clients and to deter suppliers, why on earth would we support a legislation that excludes cannabis? As I said, it highlights the woolly thinking of this government; it undermines a consistent balanced approach.

On behalf of the opposition I would express our concern that, while this bill is supported, we do not consider that it is sufficient. Over the last eight years the Rann government has shown itself to be a government which repeatedly uses legislative action as a distraction from its lack of real action. The law will have no impact if the government does not provide the resources to implement it. This law needs the police to be resourced to enforce the law. Again, in the context of a balanced approach, we need to renew health and community programs and diversions.

I will have some questions to ask at the committee stage, but in concluding my second reading contribution I think it would be timely to ask some questions at this point. The Attorney-General advised the other place that SAPOL has said that since 2006-07 there has been a 179 per cent increase in detections or apprehension reports for drug-related offences in licensed premises. To further unpack that statistic, I ask the government: for each of the past four financial years how many detections have there been for drug related offences in licensed premises; how many prosecutions have there been for drug-related offences in licensed premises; and how many convictions for drug-related offences in licensed premises have there been? Secondly, how many licensed premises are there in South Australia by licence type, and what proportion of them will be covered by this bill? I commend the bill to the house.

The Hon. D.G.E. HOOD (11:18): I rise to indicate Family First's position on this proposed legislation. It would be of no surprise to members of this chamber, I am sure, to hear that we intend to support this legislation and, indeed, are favourably disposed to the proposed amendments that have been put forward by the Hon. Ms Bressington as well.

As you are aware, Family First has always been a vocal supporter of any moves made by this government and, indeed, any government, to take a tougher stance on drug dealers in particular. Family First is acutely aware of the destruction wreaked by illicit drugs on our families and community and will continue to do those things in our power to continue highlighting the dangers caused by illicit drugs and supporting measures to protect families, because these substances are, indeed, highly destructive to the family unit.

This bill amends section 32 of the Controlled Substances Act to create a new aggravated offence of trafficking controlled drugs in a prescribed area. A prescribed area is defined as:

(a) prescribed licensed premises or an area being used in connection with prescribed licensed premises; or

(b) premises at which members of the public are gathered for a public entertainment or an area being used in connection with such premises:

I understand that that is really targeting major events, such as the Big Day Out and the like. A higher maximum penalty is imposed in these circumstances, being imprisonment for 15 years—a very substantial penalty—or $75,000, as opposed to imprisonment for 10 years or $50,000 for the basic offence.

It is hoped that this will send a message to people in gangs that continue to deal drugs in licensed premises and entertainment venues frequented by young people. It is clear that not all licensed premises are included in the ambit of the definition. The minister states that the aim of the bill is to target the types of venues frequented by young people and where drug dealing is common; that is, pubs, nightclubs, wine bars and similar venues. So-called 'prescribed licensed premises' is therefore defined including these types of venues and includes the Adelaide casino and other venues as prescribed by regulation. I say 'young people'; but of course these sorts of activities certainly are not limited to young people.

The definition of a public entertainment venue that I referred to earlier, which is intended to include the Big Day Out and other similar events, is also intended to include dance, performance or exhibition events calculated to attract and entertain members of the public. The new offence would include areas being used in connection with these entertainment locations and licensed premises, such as car parking areas and other nearby areas out of sight of security staff, presumably where much of our illicit drug dealing activity usually occurs. This bill makes a blunt statement that the dealing of drugs in and around these venues is more serious than other drug dealing. Some may disagree with this, but I can certainly see the government's intent in pushing this sort of legislation.

There are obviously different types of drug dealer, and people deal drugs for different reasons. Some might supply a few tablets of an illicit drug to their friends, often without compensation and without any commercial motivation. That person, I believe, is in a different category to the professional drug dealer, often working as part of a nefarious organisation, who sells larger quantities of drugs to kids outside these sorts of venues. Neither is any good, of course, but the second case I think is clearly worse. I think it is appropriate that the penalties in this case should be higher, and hence our support for this proposed legislation.

The first major concern, however, that I would raise with respect to this bill relates to the willingness of the judiciary to pass on these higher penalties. Again, this is a government bill and increases the maximum penalty imposed, but it does not impose any minimum penalties for the offence. Maximum penalties are never imposed in the courts, as we know. In fact, a recent answer to a Family First question on notice confirmed that not one single defendant—not one—with cases finalised during the 2007-08 financial year actually received a maximum penalty for any of the following offences: assault; causing death or harm by dangerous use of vehicle or vessel; rape; production or dissemination of child pornography; and trafficking in controlled drugs or manufacture of controlled drugs.

It is all very well to increase the maximum penalty—and I am not criticising that, I think the increases are actually entirely appropriate—but the issue is, nobody will ever get these maximum penalties according to the history that we have so well established now. So the continual ramping up of maximum penalties when no minimum penalties are imposed can have an appearance of being tough on the one hand but with little practical consequence on the other.

A second concern, which I have raised previously in this place, concerns section 40(1) of the act. The wording of this section, which is not amended by this bill, retains an anomaly that possession of small quantities of illicit drugs, whether around licensed premises or not, has in some cases been essentially decriminalised in South Australia. The police drug diversion initiative provides that, when an offender is found in possession of less than a trafficable quantity of so-called hard drugs—a term that I do not like—such as amphetamines, heroin, LSD, ecstasy or cocaine, the regimen under section 40(1) of the Controlled Substances Act provides that no prosecution can proceed against them provided that the offender attend a meeting at a DASSA counselling office (and is not terminated from the program).

That means that anyone found with what is deemed to be a so-called personal use quantity, a non-trafficable quantity, of any drug other than cannabis, which includes heroin and LSD—the so-called harder drugs—receives effectively no penalty. They simply have to attend a

counselling session, and if they attend that counselling session then there is no penalty. In other words, if an offender promises to attend a counselling session, there is absolutely no penalty. Anecdotally I have been told that, when offenders do not attend the counselling session, there are rarely any consequences or follow-up, and I have had that confirmed to me by members of DASSA. To be blunt, this regimen sends the dangerous message that possession of drugs for personal use, particularly the so-called harder drugs, has in some circumstances been decriminalised and has no penalty.

The irony, of course, is that, if someone is detected with a personal use quantity of cannabis in their possession, what many people regard as the lighter drug, there is a penalty associated with the possession of cannabis but there is no penalty associated with the possession of heroin, which I think to most people seems odd, to say the least.

Indeed, if you asked any South Australian on the street (and I have asked many of them this exact question) what is the penalty for being found by the police with a couple of amphetamine tablets in their possession, for example, they would say that there should at least be some sort of fine of several hundred dollars. In fact, I have had some people say to me that the penalty would be imprisonment. Most people are absolutely appalled and surprised when I tell them that there is no penalty, other than attending a counselling session, which in most cases is not followed up on, anyway.

I have circulated an amendment to ensure that we add a financial penalty in the form of an on-the-spot fine for offenders who are found in possession of illicit drugs. This would align it with the penalties for being found in the possession of so-called personal use quantities of cannabis. In other words, those people found in possession of these drugs will still have to attend the counselling session but, if my amendment passes, they will also be given a new on-the-spot fine to reinforce the message that illicit drug possession remains illegal in South Australia, just as it is with cannabis currently.

The amendment would also fix an inconsistency in dealing with simple cannabis possession offences and other drug offences. Cannabis offences are dealt with in section 45A of the act by way of a $150 or $300 fine if a person is found with a personal use quantity of cannabis in their possession, pursuant to schedule 5 of the Controlled Substances (General) Regulations 2000. Compare this with possession of small quantities of so-called harder drugs for which there is no penalty at all.

In my view, it is inappropriate that possession of cannabis should carry a penalty whilst so-called harder drugs do not. I am sure that most people would be in agreement with that view. My amendment will fix that once and for all. In short, the amendment I am proposing will ensure that there is no longer an argument that possession of small quantities of so-called harder drugs is legal or has been decriminalised in South Australia in these circumstances. Further, the fines paid by drug offenders would help offset the cost of policing these activities.

In any event, I will discuss my amendment further during the committee stage, but I wanted to place on the record Family First's position regarding this bill and this amendment. As I have said, we support the bill, and I am hopeful that my amendment gets through; I think it will make a substantial difference.

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

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 July 2010.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:28): I rise on behalf of the opposition to speak to this bill, the main purpose of which is to correct some errors, omissions and anomalies from earlier amendment bills. I will make a reasonably brief contribution, given that it is quite a simple bill and that it is non-contentious. The amendment of the act needs to occur in order that the government's original motor vehicle legislation has the intended effect. The amendments relate to the graduated licensing scheme, regulation-making powers for the high powered vehicle restriction scheme, and the drug and alcohol dependency assessments.

Disregarding a few minor drafting issues, which have been tied up, the areas of some significance are as follows. The amendment of section 79B effectively replaces a scheme that the court had previously administered. We support the objective of relieving the courts from being

involved in certain matters. First, a licence applicant who has had convictions or expiations relating to drugs and alcohol must undergo a substance dependency assessment. Secondly, I point out that drug dependency is met with a licence refusal while alcohol dependency requires a licence subject to the alcohol interlock scheme conditions.

Further, section 47J of the Road Traffic Act lists the circumstances requiring the applicant to undergo an assessment and, where it was previously court based, this has now been transferred to the Registrar of Motor Vehicles. The move makes sense in administrative and resource terms. The bill also deletes an anomaly regarding a timing aspect. The bill proposes to use the date of committing the latest offence instead of using the date of application for a licence. In doing so, we avoid the potential abuse by an applicant to defer the date of application to avoid undergoing a dependency assessment.

The next amendment to mention relates to the bill of last year which dealt with particular licence class holders operating high-powered vehicles. Under that legislation, a P-plater can apply for an exemption to be able to operate such a vehicle. Section 81AB of the Motor Vehicles Act refers to situations where probationary licence conditions should be placed on a driver. The Graduated Licensing Scheme Act clarified those circumstances.

As I understand it, the amendments to section 81AB in the Graduated Licensing Scheme Act were significant and reasonably complex and, as such, there was a cross-referencing omission which meant that a disqualified P-plater may return to driving, after an appeals process, to non-probationary conditions. This was obviously not the intent of the legislation and certainly needs to be tidied up.

The opposition is happy to support this bill but is disappointed that the amendments from last year had to be revisited so quickly and, again, is an example of a government that has passed its use-by date and simply cannot get its act together and get things right. However, we are happy to correct it today.

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) (11:30): I thank the honourable member for his contribution and his support for this bill. I have also managed to speak briefly to most of the minor parties and Independents, who have also expressed support for this bill, and I thank them for their cooperation. This is, indeed, a very simple bill. It contains a number of very minor technical amendments that are aimed at improving the operations of the Motor Vehicle Act 1959. It is a simple bill and a non-contentious bill and, therefore, I look forward to it being dealt with expeditiously through the committee stage.

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

STATUTES AMENDMENT (MEMBERS' BENEFITS) BILL

Adjourned debate on second reading.

(Continued from 15 September 2010.)

The Hon. R.I. LUCAS (11:34): I rise to support the second reading of the legislation that is before the council and, in so doing, make some general introductory comments. I indicate that on many occasions, on behalf of my party, I have supported bills that relate to the remuneration packages for state members of parliament, whether they relate to salary increases, allowances (such as the recent debate we had on motor vehicles) or superannuation over the years. I have been prepared in the past and again today to speak up on behalf of my party to support the particular propositions before the council.

In doing so, I make no apology for the fact that, as a member of parliament who has had the privilege of having served at least eight years in higher office in government and opposition for many more years, when I see coming before the Budget and Finance Committee senior public servants who are earning between $300,000 and $400,000 a year as chief executives (one of those manages a staff of 15 people with a remuneration package of over $300,000) and other public servants (not chief executives) at the upper levels of the Public Service earning significantly more than $200,000 a year, and significantly more middle to upper level people earning more than $150,000 a year, I have no problem at all in this council or publicly defending and arguing that, if we expect more of our members of parliament, we should be prepared to pay them an appropriate remuneration package.

The current remuneration package for members of parliament is just over $130,000 a year. Those in higher office, of course, receive higher benefits in accordance with the provisions that relate to those higher offices. There are other benefits that relate to the job, obviously, and they were listed publicly in the *Sunday Mail* in a recent article and various media outlets over the years.

When I first joined parliament—and I am one of a small number of members who is in the original superannuation scheme—superannuation was seen as an offset, in comparative terms, to the lower level of salary paid to, for example, senior public servants in the state, even at that stage, when it was a more generous superannuation package. Although, I hasten to say that the senior public servants in those days—and many of those are still serving—also had a very generous superannuation package which was not closed off until sometime in the mid-80s.

As with the parliamentary superannuation scheme, in the Public Service the more generous superannuation schemes—the defined benefit schemes, etc.—were closed off to new applicants at various stages, like the 1980s and 1990s. The newer public servants who were employed, as now with the newer members of parliament, receive only the new level of benefit that is being offered.

As I said, I have had this argument, as inevitably it is, because this is not a popular issue. I am not just talking about superannuation, but I am talking about what you pay members of parliament. The general view from the community is that frankly they would only be happy, I suspect, if members of parliament were paid next to nothing and paid for everything else that, in many other jobs, whether it be the public sector or others, are seen as a normal condition of employment.

The Hon. Mr Hood on occasions has spoken of his previous employment. Certainly for business executives in middle level and senior jobs the issue of the provision of a car is at no expense to the executive, whereas members of parliament currently pay $7,000 a year towards their motor vehicle. They are normal conditions of employment in the private sector and certainly in some parts of the public sector. However, in relation to the car, the public sector makes a payment for any motor vehicle benefit that is provided in the public sector.

The issue of members' superannuation and this particular change will inevitably attract significant criticism from some in the community, media and parliament. When you look at the details of this particular change as it was explained in the House of Assembly and has been explained now publicly for a good period of time—I think this proposal was first revealed in *The Australian* some three or four weeks ago—it has certainly been a relatively common secret in the corridors of Parliament House for a period of time. We have known that this government was contemplating changes along this line.

Put simply, it is increasing the superannuation entitlement for those members elected since 2006 from a 9 per cent to just over 15 per cent contribution. It is not returning to the days of defined benefit schemes or pension schemes. It is still an aggregation scheme where, as we have seen—not in the last year but in the two years prior to that—the earnings of the scheme will go up or down depending on the vagaries of the investment criteria of the trustees of the parliamentary superannuation fund.

Certainly, many public servants and members of parliament have indicated during that period (and many others in the community were in the same position) that if they had a nest egg of $100,000 they may well have lost $20,000 or $30,000 off their superannuation investment during that yearly period. As I acknowledge, that was the position of many in the community as well, given the implications of the investment policies of most, if not all, of the superannuation funds during that period. The rationale for the move to the just over 15 per cent superannuation benefit is to put state members in line with their colleagues in the federal parliament.

The Hon. Mr Wortley will be aware of the differential arrangements that federal members of parliament receive compared to state members; and the Hon. Mr Parnell, if he is not already, will soon be aware, I am sure, of the differential benefits and arrangements of federal members of parliament. As the Hon. Mr Parnell and his spouse become the Clintons of the South Australian Parliament, or the Wortleys of the South Australian Parliament—he can take the description he feels more comfortable with—he will be in a situation where both partners in a relationship are serving in public office (until next July, in the Wortleys' case, because Senator Wortley continues in office until July next year).

But there are significant differences in the benefits and entitlements of federal members and state members. I read all 258 comments (as they were at about 12.30 this morning) in the

budget issue on the Adelaidenow website, many of which related to superannuation; and I noted one comment that said, 'Of course, federal members should have higher benefits than state members because that is like comparing the CEO of GMH, or something, with the CEO of the local small deli at the corner shop.' With the greatest respect to whoever contributed to that particular blog, let me disagree—and disagree vehemently—with that view.

The work of a state member of parliament in his or her electorate as compared to a federal member of parliament in his or her electorate is every bit as onerous, every bit as difficult and every bit as important as that of the federal member of parliament; and any comparison saying, 'This is really like comparing the CEO of GMH with someone who is running the deli,' or whatever it might happen to be, is in some way seeking to downgrade the significance and importance of the work of state members of parliament. That is something I object to strongly, and I suspect that most members in this chamber and in the House of Assembly would object to it as well.

Yes, federal members have more electors in their electorate, but they certainly have more staff to support them, and I would happily note, on an equivalent basis, that a member in a federal marginal seat, as compared with a member in a state marginal seat, would see no more electors and attend no more functions in a year than would a state member in a marginal seat. Similarly, the comparison applies to safe federal seats and safe state seats as well. There is a limit and, clearly, just because there are more electors in a federal electorate does not mean a federal member will attend or see more of his or her electors in any year.

So, a relationship has been established, at least in relation to salary, that state members are paid at a level of $2,000 less than federal members. For a number of years now federal members have received a superannuation benefit of over 15 per cent and newer state members have received a superannuation benefit of 9 per cent. That is a significant differential, and this legislation seeks to amend that. I hasten to point out to the media and to the community that, while everyone is saying that all members of parliament will benefit from this change, that is not correct. There is not a 6 per cent increase in all members' superannuation, however they do the calculation—some do the calculation differently—that being an increase from 9 per cent to 15 per cent. It will relate to those members of parliament who have been elected since 2006.

Those who have the benefit of being in the older superannuation schemes will not receive the 6 per cent increase, because they already have a more generous superannuation scheme. That is the first point to make: not all members of parliament will receive this and, whilst I am happy to speak on this issue and have generally been the party spokesperson for these sorts of issues over the past 15 or 20 years, the other advantage is that I am obviously unaffected by this potential benefit to members and therefore am in a position to be able to speak more freely, as there is no direct benefit to me. There are other aspects of the legislation in relation to salary sacrificing and other things—insurance—

The PRESIDENT: I remind the cameraman in the gallery that the camera may only be on the member on his feet.

The Hon. R.I. LUCAS: I am happy to smile sweetly for the cameras and be so identified. I will even do up my jacket for them. We have a situation in South Australia—and I have spoken on this issue on a number of occasions before, and I know and a number of my colleagues know—that, increasingly, after decisions were taken in relation to superannuation, when you sit down and try to encourage people of capacity and merit from certain areas to run for parliament and to be an elected member and you actually outline to them the package of benefits that relate to members, for many in the community it will be a significant improvement; we acknowledge that. However, for senior public servants, it would not be, as I have highlighted.

There are other professional occupations, in particular, people in business, in the law or the medical profession and a range of other occupations—and I am sure other members could contemplate others themselves—where someone would be earning significantly more in those professions than does a backbench member of parliament. It is important for a parliament to, by and large, have the capacity to attract some people from these areas into our midst. I have said before, I suspect the days where we have the capacity to attract into this chamber someone of the undoubted capacity, recognised by all members in this chamber, of the Hon. Robert Lawson QC have now disappeared. The days of attracting people of that capacity, of that quality, into this chamber, I suspect, have disappeared.

I know from the discussions that I have had with people, when they are interested in politics, interested in being a member of parliament, when you actually say to them, 'Okay, this is

what the salary is and this is what the superannuation is,' they laugh at you and say, 'Why would I go into parliament when currently the remuneration package that I receive in the particular occupation I've got is significantly higher?'

I hasten to say, and I have said this before, you do not want everybody from the professions and business dominating the parliament. We do not want to end up like the American Senate where you have to be a squillionaire to be an elected member. Equally, I do not believe this chamber should be such that we in essence exclude the possibility of people like the Hon. Robert Lawson QC and others with that sort of capacity being able eventually to come into this place and to make a contribution to public life.

It is an easy cop, as I said, to attack members' salaries, their superannuation benefits and whatever other benefits there might be. Over the years, I have seen members of all colours and persuasions in both houses of parliament who have taken up the battle against these particular issues. I note—and I am sure he will speak in a moment—that the Hon. Mr Parnell has publicly opposed this particular provision on behalf of his party.

Being the man that he is, I am sure that the Hon. Mr Parnell will take up the option which will be available to him, and that is, if he is opposed, he will be able to set apart the additional superannuation benefit that he receives for the rest of his parliamentary career together with any earnings accruing through the Triple S scheme and make it available to a cause or a charity of his choice. As I said, I am pretty confident, knowing the Hon. Mr Parnell, that he will probably announce that today. That is probably what he is going to do.

The Hon. P. Holloway: It would be the Wilderness Society, wouldn't it?

The Hon. R.I. LUCAS: Well, good luck to him.

The Hon. M. Parnell: What a fine cause; an absolutely fine cause!

The Hon. R.I. LUCAS: Yes, you find a cause.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: And I make no criticism of that. Clearly you do not make donations to a cause that you do not believe in, so that is a choice for an individual member, but knowing the Hon. Mr Parnell, I know that he will be better than a member of the House of Assembly who used to adopt a similar position, at least in the early stages, and publicly oppose salary increases and say that he would be donating the additional salary to the unemployed or a worthy cause. However, six months later when the media publicity had disappeared, the donations stopped and he took the benefit until, of course, the next time there was a salary increase and he again attracted media attention to himself by making a similar public proclamation, which was warmly received by the media and the community, but there was never any checking, of course, further down the track.

As I said, I think the Hon. Mr Parnell is made of better stuff than that and any arrangements he announces today will be permanent and ongoing for the duration of his parliamentary career. If he does that, I applaud him for it because he is obviously entitled, as we all are, to put a view on this legislation as to whether it should be supported or should not be. That is indeed his right and, as I said, I have confidence that he will, in putting his position, also make some sort of announcement along the lines that I have indicated, which it is certainly open to him to make as a state member of parliament.

With that, I indicate the Liberal Party's support for the legislation. As I said, and let me conclude as I started, I am happy to have the debate with anyone that a state member of parliament is, in my view, entitled to some increase in remuneration benefit, particularly when chief executives in the Public Service are being paid $300,000 to $400,000 a year; and when middle and senior level managers within the Public Service are being paid at more than $200,000, I believe that a state member of parliament is entitled to a package of just over $130,000 a year, together with this just over 15 per cent superannuation benefit. Compared to what we pay senior public servants, I do not believe that is an overly generous remuneration package. I am happy to defend this change, and I am happy to defend others that might be contemplated in the future.

The Hon. M. PARNELL (11:56): I move:

That the debate be now adjourned.

The council divided on the motion:

AYES (4)

Bressington, A.	Franks, T.A.	Parnell, M. (teller)
Vincent, K.L.		

NOES (16)

Darley, J.A.	Dawkins, J.S.L.	Finnigan, B.V.
Gago, G.E.	Gazzola, J.M.	Holloway, P. (teller)
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.
Zollo, C.		

Majority of 12 for the noes.

Motion thus negatived.

The Hon. A. BRESSINGTON (12:00): I just want to state the reason that I supported the adjournment motion of the Hon. Mark Parnell. Number one, I am not opposed to this package at all, and I truly do not think it goes far enough. I agree and concur with everything that the Hon. Rob Lucas said in his speech. It is, though, the process that we are using here that I find objectionable; that this is being rushed through at a quarter to midnight pace. I would just like to very briefly—because I am not going to rave on—recap about when I was just an average citizen out there and heard about the pollies' car deal. There was no yap about it in the media until that was done.

You know, I do not think people actually give a toss about whether we get a pay rise, or whether we get a rise in our super to bring us equal to senior public servants, or even councillors, mayors, people who work in local council for that matter or chief executives. I think it is the process that we use, and the more that we sneak around and the more that we try and rush this stuff through to try not to have media scrutiny about it, then the more suspicious people get of what our benefits are. For example, nobody out there knows that there is no pension scheme any more. That did not get any media. You talk to anybody out there and they say 'You're all right; you'll retire on a pension.' When you say 'No, sorry; there is no pension any more', they just do not know.

I think that we should take the right process with this, as we do with other legislation: have it introduced, debate it, and have it voted on in two weeks or whatever. While people in the media out there are blabbing on the way that they will about pollies' perks and all the rest of it, we should actually take the time to defend the increase in superannuation and talk about the loss of benefits that have already been incurred by members of parliament and the fact that we do not have the security of tenure, that more than likely some of us in 2014 may walk away from here with not even so much as a percentage of long service.

I know when I came into this place I walked away from long service to take up this position and missed out on quite a neat little sum of money that would have come in handy to pay off our home or whatever. That is me personally. There are some people who do give up good wages, good salaries, to come in here—I know the Hon. Dennis Hood is one of those—to do a job, and it is a kick in the teeth every time you hear the media out there talking about how we are looking after ourselves and doing whatever not to have that opportunity for that two-week period when there will be a campaign—we know there will—to defend ourselves. Then, you know what: if we do not actually think we are worth it, then we are not, and the way that we are handling this makes people believe that we do not think we are worth it.

So we have had the federal election, where there was fifty-fifty support for the major parties; we have had the state election swing away from the government. Maybe we should just look at how we do things in here and meet public expectation, be open to the scrutiny of this, have an opportunity to respond to it, and be open and honest about the benefits that we do and do not get any more. Maybe, if we did that, all this angst would be gone and perhaps there would not be an opportunity then for populist politicians to go out there and continually criticise members of parliament for doing what I believe to be an honest day's work for an honest day's pay.

The Hon. M. PARNELL (12:05): This is a very low day in the history of this place. This bill was received by us, informally, at 6 o'clock last night. Every member here knows the protocols of this place: we do not vote on bills unless they have sat on the table for at least a week. The Greens are ready to debate this bill on the next week of sitting; that is how it should be.

You have to ask yourself why today have the government and the opposition agreed that the protocols of this place should be thrown out of the window and that we should be forced to vote on a bill less than 24 hours after it has been presented to this chamber. The answer, of course, lies next door in another place, and it lies down the road.

You all know that pretty well every journalist in this state is in the lock-up examining budget papers. They are trying to get their heads around which public services are going to be slashed in the budget that is brought down and which unmet disability needs we heard about yesterday will continue to be unmet. That is what the state is focusing on. Yet, whilst that is happening, in this place, the club—the club which is stronger than party allegiances—gets together and says, 'Let's vote ourselves an increase in superannuation while no-one is watching.' This is an appalling process.

Last night, at a quarter to 10, once we had wind that this was likely to happen, I wrote to the Leader of the Government, the Leader of the Opposition and crossbench members, and said:

> Dear Whips, Leaders and cross-bench MLCs,
>
> It has been suggested that the Statutes Amendment (Members' Benefits) Bill, which was introduced at 6 pm tonight, could be brought on for a vote tomorrow. The Greens oppose bringing the bill to a vote so soon after its introduction and before we have had a chance to properly consider it. We expect that the usual protocol of the bill staying on the *Notice Paper* for at least a week before any vote is taken will be followed. In the past, this convention has only been waived where all members agree.

I made it very clear yesterday that the Greens do not agree with our breaking with protocol and longstanding convention and rushing this bill through before we have had a chance to properly consider it.

The bill has 10 pages and 18 clauses; it is technically complex. Members will say, 'Yes, but you know the main bit is about increasing public contributions to MPs' superannuation. You know that the main thing is increasing superannuation from 9 per cent to 15.4 per cent.' However, there are other things in this bill. Apparently, there is material in here about salary sacrificing. I don't know how that works; I want to consult—I want to consult accountants, stakeholders and constituents to find out what this bill means. How does this bill relate to what other people in the community and public servants receive. My letter to the leaders, whips and crossbench MLCs continues:

> The Greens want the opportunity to consult with constituents and stakeholders and to consider amendments. We also require a briefing from the minister or the department.

That has not yet been offered. My letter concludes:

> If we are able to get a briefing early next week and if parliamentary counsel is able to draft any amendments expeditiously, I expect to be in a position to make a second reading contribution in the next week of sitting commencing 28th September.
>
> Yours faithfully
>
> Mark Parnell.

All members in leadership positions and on the crossbench were aware that the Greens were not happy for the conventions of this chamber to be trashed on the altar of expediency. There is pain, which members and the Hon. Rob Lucas have acknowledged; there is always pain when we discuss issues such as superannuation. You want the pain to be buried whilst the community of South Australia have their mind focused elsewhere. This has nothing to do with the merits of the actual increase: it is about the process of debating this matter in parliament. I ask any member of this chamber whether they can hold up a copy of the bill that says, 'As received from the House of Assembly'. Who has a copy of it? Come on, hands up! Who has a copy of the bill passed by the House of Assembly and endorsed that it has been delivered to the Legislative Council as received from the House of Assembly?

The Hon. P. Holloway: So you have?

The Hon. M. PARNELL: No, no-one has because—

The Hon. P. Holloway: Of course you do.

The Hon. M. PARNELL: —your rush to get this through, under the cover of the budget, has been so obscene that you have not even been able to wait until the House of Assembly has properly delivered a copy of the bill so that we know that it is the exact copy that was passed by the House of Assembly. What I have, and what I think you all have, is the advance that was introduced.

You might say, 'Well, it's my job to follow the debate in the lower house. I should have followed the *Hansard*. I should have worked out whether any amendments were made.' That is not how the system works and you all know it. We do not even have a proper copy of the bill as received by us from the House of Assembly—and it is an abomination that you are prepared to debate this bill so soon.

In terms of the Hon. Ann Bressington's comments, I agree with her. We may well have a difference of opinion on the actual content of the bill and whether or not the increase in superannuation, for example, is warranted but I congratulate her for standing up for the protocols of this place, for standing up for the rights of members to be given adequate time to consider all the detail of the legislation—not just of the superannuation increase but also the changes to salary sacrificing and the other things that are in this technically complex bill.

The process is appalling, and I imagine that next time anyone else who tries to introduce a bill and then have it voted on less than 24 hours afterwards is going to be told to get lost. In fact, if a private member introduced a bill on a Wednesday and tried to have it voted on on the following Wednesday, we would probably be told, 'No, not enough time. We need more time to consider it.' However, that is not the approach that has been taken here.

I can see no explanation for what this chamber is now doing other than cynicism in the extreme: a desire to hide from the community that here we have members of parliament voting themselves benefits, whether we agree with them or not, under cover of the state budget. I think that is appalling. It looks as if I am not going to have an opportunity to consult stakeholders to get a briefing from the government before this bill goes to a debate so I will do what I can now by way of second reading contribution in relation to the merits of this bill.

What I will primarily speak to are the merits of increasing MPs' superannuation. As members would be aware, the intake from the 2006 election and the 2010 election are covered by the Parliamentary Superannuation Scheme No. 3. That scheme provides that members of that scheme receive a 9 per cent government contribution or taxpayer-funded contribution to our super.

When I was elected (and the Hon. Rob Lucas referred to this before) one of the most common things that was said was, 'Well, you're okay now. You've got that lifetime pension.' In fact, members of the public incorrectly assume that there are all manner of benefits that MPs receive that are not, in fact, true. They say things like, 'You've got lifetime pensions. You can fly around the world as often as you want.' People have that perception of the benefits.

I was very pleased to be able to say to constituents, 'No. I get a 9 per cent public contribution to my superannuation just like you do. I get the same contribution as other workers'—and I think, most importantly for us, other public sector workers, other people in the Public Service who work, in many cases, as hard as we do advancing the public good. So, I am pleased that the amount is 9 per cent. Am I happy for it to go up to 15.4 per cent? I will be happy when that is the standard. When the industry standard is 15.4 per cent, when public servants and other workers in the community are getting 15.4 per cent, then it makes sense, I think, for politicians to reflect that standard.

However, for us to be voting ourselves an increase in the way that it is being proposed today is absolutely outrageous. I just hope that there are some members of the community who are awake to what this government is doing, with the collusion of the opposition. I think it is appalling behaviour, and the government and opposition need to be condemned for their role in it. In terms of other aspects of the bill, I expect we will have a lengthy debate in the committee stage. I will have a lot of questions.

I have not had the advantage of a briefing, and I have not had the opportunity to consult with constituents about how all these provisions work. I imagine that it is going to take a long time to get through the committee stage. I am going to want to know about the salary sacrificing arrangements. I am going to want some comparative data, and I am going to want to know the bottom line effect on the state budget—how much it is going to cost. I have a range of questions and, if we had gone through the proper processes of this place and had proper briefings and if the bill had lain on the table for a while, we could have actually addressed those concerns, but we are not going to get that opportunity.

The increase from 9 per cent to 15.4 per cent, from a quick glance at clause 14, is possible to ascertain fairly quickly. There is a formula in there, and you can see that the number 15.4 is replacing the number 9. I give members advance warning that I am going to be moving in committee that we replace the number 15.4 with the number 9.

You are not going to have that in front of you in writing, as you want. You are not going to have a written amendment from the Greens setting out all the amendments we have for this bill. The reason that we will not have it is because you have been so eager in your haste to hide this from the community that you are bringing it on during the one day that every journalist is locked up elsewhere considering other business of state. I think this is an appalling way to proceed.

The Hon. Rob Lucas made a number of comments. In his usual manner—fairly tongue in cheek—he made reference to the fact that I as a member who was elected in 2006 and the Hon. Tammy Franks, who was elected in 2010, are in this No. 3 scheme. So we are people who are going to benefit from it, as are the Hons. Dennis Hood, Ann Bressington, John Darley and Kelly Vincent. We are all going to benefit from the 15 per cent.

In the Hon. Rob Lucas's—I would like to think tongue-in-cheek—challenge he is saying, 'Oh, well, of course, when Mr Parnell turns 65 or older'—in fact, I am hoping I might be here till I reach the venerable age of some other members here. It is rude to comment on people's age, but I think it is no secret that the Hon. John Darley is in his eighth decade. I am hoping that I will still have an opportunity to serve this community to a reasonable age; I do not know how long it will be. Then perhaps the Hon. Rob Lucas and I can sit down and talk about how he is going to spend his retirement investment—his savings and superannuation—and we can talk about mine. We can have tax returns and charitable deductions at 30 paces or something.

The point here is that this is not personal. This is not about whether one member should hand back to Treasurer Foley a monthly cheque for the difference in superannuation between 15 and 9 per cent. What we are doing in this place is setting in place the rules that apply to all members of parliament. It makes no sense to have a system of individual bargaining. I know the Liberal Party likes that idea. The Labor Party tells us it does not; it likes collective bargaining. Perhaps the Liberals would like us to negotiate our salary and superannuation personally and directly with the Treasurer so that we can all make a case for what we are worth.

The Hon. Dennis Hood had a career in industry and reached senior levels; he might negotiate a salary. They might say, 'Well, Parnell only worked in the community sector; he only worked for non-profit groups. We won't give him as much; he doesn't deserve it.' Maybe that's what the Liberals want: individual negotiations with the Treasurer on our salaries and superannuation.

This is not personal. This is about putting in place measures that reflect as a parliament how we relate to each other, how we relate to the public purse, and that is the thing that is most important today: it is our relationship with the public purse. If I was one of the people who the Hon. Kelly Vincent referred to yesterday, the hundreds of people on the unmet needs list, whether it is for equipment or supported accommodation, and I read in the paper or heard on the radio that, whilst their cuts were being announced in the House of Assembly, in that red carpeted upper chamber, parliamentarians were voting themselves an increase in superannuation, I would be absolutely appalled.

I think members can make a case. If they think that we deserve more, make the case and we will vote at some stage—next week or next fortnight, I hope—on the merits of this bill and whether the number should be 15.4 or whether it should be 9; but I think it is appalling that we are doing that today.

As I said, I will have some amendments. We are going to have to do them on the hoof, and parliamentary counsel will have to be alert and have a biro ready when these amendments are moved, and it will be a difficult exercise for this chamber and will take us some time. However, I do not propose to say any more about the merits. I am as disadvantaged as everyone else. I got this bill at 6 o'clock last night. I am now going to have to go through it on the run in committee and work out what should be on the statute book of this state.

I think that our constituents expect more of us. They expect us to properly consider legislation. They will see this for the cynical exercise that it is, and I think this is a very sad day for the chamber. I will have more to say in the committee stage but, for now, the Greens indicate that we oppose the second reading of this bill.

The Hon. T.A. FRANKS (12:21): I move:

That the debate be now adjourned.

The council divided on the motion:

AYES (4)

Bressington, A.	Franks, T.A. (teller)	Parnell, M.
Vincent, K.L.		

NOES (16)

Darley, J.A.	Dawkins, J.S.L.	Finnigan, B.V.
Gago, G.E.	Gazzola, J.M.	Holloway, P. (teller)
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.
Zollo, C.		

Majority of 12 for the noes.

Motion thus negatived.

The Hon. T.A. FRANKS (12:26): I rise to speak to this bill and declare that I have a pecuniary interest in this measure: as an MP elected post 2006, I would benefit financially if this bill were to pass. I rise, first, to speak about process. My honourable colleague Mark Parnell has already touched on that, as has my honourable colleague Ann Bressington. We received the advance copy of this bill in the chamber at approximately five minutes to six last night. We still do not have the official copy, of course. In an unprecedented move in my short time here we are here debating this bill the very next sitting day, having been called back early and having had this item moved up the agenda at a time when the Hon. Mark Parnell was out of the chamber. I will not necessarily impugn any members opposite, but I do think that that is an interesting—

The Hon. P. Holloway: No, you had better not, because you might get reminded every time you are out, so it's a wise practice.

The Hon. T.A. FRANKS: I would not want to be out of the chamber when a government item I was wanting to oppose was on the *Notice Paper*. I will take that as some good advice on the way this government operates. I think the process here has been one which does not bode well for the way the public will view us as members of this place. It has been rushed through in a hurry to escape criticism, but I think it will draw more criticism than it otherwise would have had it been put through in a proper and orderly manner. You would simply have had to wait another week and had the bill debated in a proper and orderly way, and people would have been aware the issue was coming up.

The Hon. Robert Lucas mentioned that this matter has been common knowledge in the corridors for some four weeks and was a feature of an article in *The Australian*. I am afraid to say that the Greens do not necessarily pay too much attention to the contents of *The Australian* newspaper at present, but we will keep an eye on that should we be looking for leaked government and other matters in future.

The Hon. T.J. Stephens: So you didn't read any radio transcripts or anything like that either?

The Hon. T.A. FRANKS: We have been aware that it was coming, but we have not had this bill. Asking for a week between the tabling of a bill in this place and debate on it is simply good governance and what most people who elect us would expect. We have also heard that the amount we are talking about here is quite reasonable (given that we are on good salaries) and, in comparison with public servants, we are actually hard done by financially.

I point out that there are many people in our community who do not get the salaries of a senior management public servant's salary and do not necessarily think that MPs should be able to have their own benefits increased in such a hurried way. I point particularly to teachers, who recently undertook the longest arbitration case in South Australia's history in order to get a pay rise that was just and fairly deserved. In the findings and the rulings on that pay rise, when they finally

got it, I would note that those teachers, particularly the principals of schools, have been identified as very much under enormous pressures and expected to do far too much with far too little in their jobs.

Nurses, as well, have had to fight tooth and nail to get a pay rise and to get just conditions. Neither of those professions, I believe, is typically earning a lot more than a member of parliament and yet I would say that in many cases they are just as hardworking and just as deserving. What we should be talking about is not the rate of pay here that deters people from wanting to run for office: it is the fact that politicians, like journalists, suffer from being held in low regard in the community. A stunt like this, putting this debate on in the way that you have, will simply lower us and our esteem in the eyes of the majority of the community.

I think that is what is quite sad about this today. Simply waiting and giving due process to this matter would probably have been a better course of action. Yes, we know that there are going to be stories run any time a member of parliament is given a pay rise or a superannuation increase. That is something that we should just take on the chin but not try to hide from and not try to rush this through on the day that the budget is being announced when the journalists and many of our staff members are off to lockup so that—

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. T.A. FRANKS: Yes; it went through the house yesterday. That is the point. Why are we debating it today? The honourable member has an interesting point there: why are we debating it today if it went through the house yesterday? Surely the proper length of scrutiny is that we should have at least a sitting week but, no, we do not even have a full day before we are back here and rushing through benefits for ourselves. I think people will see that as offensive, particularly given the budget context.

In the last few days we have had the leaked documents on the budget as well, where we have seen a potential $1 billion worth of cuts across the sector for some really worthy things, but I want to know why the Sustainable Budget Commission had not actually looked at this option of maybe cutting superannuation for politicians who have been elected after 2006. Oh; that is because it was not on the table to discuss, but that might have been something that the Sustainable Budget Commission might have actually made some recommendations on and the Greens probably would have looked very favourably on that recommendation, had it been made.

The Hon. B.V. Finnigan interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Interjections are out of order. The Hon. Ms Franks has the call.

The Hon. T.A. FRANKS: So, I will be interested to see if any further incarnations of the Sustainable Budget Commission actually do make recommendations for lowering our superannuation. This common secret in the corridors of the parliament clearly was not a common secret known to that committee.

Again, I think many people in this community are hardworking and they do their jobs because they know that there is dignity in doing a good job. What is going to attract a good parliamentarian to this place is not necessarily that they are going to get some extra superannuation in their pocket. I think the things that will attract people to this place are our being held in high esteem, doing a good job and fighting for people in our community who are doing it hard.

I would just like to point out that many people are not going to have any superannuation at all. I do read *The Australian* sometimes, and in fact there was one good article recently in *The Australian* which told us about the increasing numbers of women over 45 who are becoming homeless and turning up at homeless shelters as they are unable to meet the cost of rising rents.

One of the reasons that they are doing so is that they are so poorly paid, and we are increasingly going to see women rising in the homelessness stakes because women do not have enormous amounts of superannuation stocked up and typically have been paid at a lesser rate than men; on average, 82 per cent of the average male earnings is what is, I would say enjoyed, but not so much enjoyed by female workers in this country. If we can start to look at fixing those sorts of problems, perhaps we could come back and debate this issue in a timely and appropriate manner.

I will have some questions in the second reading and in the committee stage because, as the Hon. Mark Parnell said, we have not had appropriate time to really look into this bill and, on that note, I cannot commend this bill to this 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) (12:35): I thank the Hon. Mr Lucas for his contribution to the debate on behalf of the opposition, and he very correctly predicted what would happen a few moments later when we had the Greens' members speaking. What a sickening, nauseating display of hypocrisy it was on behalf of the Greens. Of course, there is one reason they are doing this and one reason only, and that is to get publicity. In fact, during their speech all they could talk about was the media; all they could talk about was that apparently the allegation is that we are dealing with this today because the media are busy. All the Greens are interested in is going out to the media for two weeks so they can try to milk this.

The Hon. M. Parnell interjecting:

The Hon. P. HOLLOWAY: Spare us the hypocrisy, Mr Parnell. Your whole career in politics has been a struggle for the truth. Unfortunately, it is a struggle which you have all too often lost.

The ACTING PRESIDENT: Order! Interjections are out of order. The minister has the call.

The Hon. P. HOLLOWAY: Let us put some facts on the table in relation to this matter. Ever since changes were made to the superannuation scheme of the commonwealth government, when it was originally reduced and then it reverted back some two or three years ago now, I think, there have been discussions in this place. If the Hon. Mr Parnell and the Greens are not aware of it then they must be the only ones in this parliament who are not. They must be the only two people in this parliament who were not aware of all the discussions several weeks ago when this measure was announced.

There are complexities in legislation, of course. Superannuation is always complex in the wording of the legislation, but anyone who would suggest that the concepts behind it are complex is just kidding themselves. There is a lot that could be said about this, but it is quite clear that the Greens want to go out to the media. They will try to portray themselves as being a bit purer than the rest of us. They are not like the rest of us grubby politicians. They have motives way above and beyond the rest of us, even though, as I said, the Hon. Mr Parnell was out there almost every day in the media maligning the government, accusing it of misrepresentation, when, of course, he is the biggest misrepresenter of information.

The Hon. M. Parnell interjecting:

The Hon. P. HOLLOWAY: You are up there in Mount Barker peddling untruths, peddling deception. Today is typical of the sort of performance of the Greens. Here they are again, trying to be holier than thou, they are purer than the rest of us, and, of course, totally misrepresenting the position, as always, in relation to what has been known about this measure. As I said, everyone in this parliament has been well aware that there have been discussions, probably going back for two or three years and, finally, we are in a position where the bill has come forward. It was announced several weeks ago before the house, and to try to pretend, as the Greens are doing, that somehow or other it is a complete mystery to them until it is actually announced here last night, really, I do not think, does their credibility any good. No doubt they will be out there in the media over the next few weeks trying to tell everyone how purer they are than the rest of us politicians.

I am happy to support this measure, even though I am one of those fortunate people who is on the older parliamentary superannuation scheme. I believe it is important for the future that we do attract people of calibre. As the Hon. Mr Lucas said, we need a range of people in here, not just professionals. It is important, given the sacrifices that many politicians make, and it is not just about salary. Those members who stand for marginal seats, some of them may have a very short career, and there are many other sacrifices members make that are not really recognised in the community in terms of the disruption to private life, and the impact that that has on personal lives is significant.

For people like myself in government it is inappropriate for us to be dealing in shares and those sorts of things, and the public would not expect us to do that. As the Hon. Mr Lucas said, it has always been tradition, certainly from the time that I came into this place, that superannuation was one of the measures that members of parliament had so that they could focus entirely on their work without having to worry about retirement incomes and those sorts of things, so that they could

devote themselves to the job. I think that is a very sound principle, and at least through the measure before us I believe it will enable those MPs, instead of having an eye over their shoulder about what might be happening in their future, they can devote themselves, while they are here, fully to the job. So I am pleased to support this measure but I totally reject the argument of the Greens that somehow or other this is some mystery that has just cropped up in the last 24 hours, because we all know it has not.

The council divided on the second reading:

AYES (17)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P. (teller)	Hood, D.G.E.	Hunter, I.K.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.
Wortley, R.P.	Zollo, C.	

NOES (3)

Franks, T.A.	Parnell, M. (teller)	Vincent, K.L.

Majority of 14 for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. M. PARNELL: I have some questions on clause 1. My first question of the minister is: what is the net financial impact of the superannuation increase component of this bill on the state budget for 2009-10 and 2010-11? I ask about the 2009-10 year because I note that the increase in superannuation is to be backdated to 1 March 2010; so this will have a budgetary implication on the previous financial year as well as the current year. So, can the minister outline the net impact on the state budget in both of those financial years?

The Hon. P. HOLLOWAY: This, of course, has absolutely nothing to do with clause 1. However, since the Greens have already indicated that they are going to play by the rules on this, perhaps I should indicate to the Hon. Mr Parnell that I am happy to do likewise. I will endeavour to answer the first question but, if the Hon. Mr Parnell intends to play games and try to stretch the rules of debate, we might hold him to it. In relation to the annual costs, since there are 32 members of the PSS3, it would be about $300,000 per annum. However, that additional cost should be considered in the context of the reduction of about $520,000 in the government superannuation costs following the 2010 general election, which resulted in 11 former members of the PSS1 and the PSS2 schemes being replaced by new members in the PSS3 scheme.

The Hon. M. PARNELL: Just to be clear, I am asking the questions at clause 1 that relate to the financial impact of the bill because I believe it is a more convenient way for this committee to deal with it. If the minister prefers, I can ask at each section what the financial impact would be. However, I am doing it this way for the efficient operation of the committee. I am also interested to know whether the minister can advice the committee of the financial impact of the salary sacrificing provisions of the bill. I understand that those provisions will not operate for 2009-10, but he could provide at least an indication of the impact on the state budget for 2010-11.

The Hon. P. HOLLOWAY: There is no cost for the salary sacrificing scheme. A person sacrifices their own salary and puts it into the PSS3 scheme; it is their choice. It is just money that would otherwise have been paid that goes into the scheme.

The Hon. R.I. Lucas interjecting:

The Hon. M. PARNELL: I thank the minister for his answer and also the Hon. Rob Lucas for his clarification that a different part of the taxpayer base will be wearing that cost. In relation to on-costing, are there are provisions of this bill, other than the superannuation increase, that have an impact on state finances?

The Hon. P. HOLLOWAY: There is an additional cost for the new involuntary retirement payment to be paid under the Parliamentary Remuneration Act. The estimate is that that will average about $31,000 per year.

Clause passed.

Clause 2.

The Hon. M. PARNELL: There is no need for the haste; I was not going to divide on clause 1, it might surprise you to know. I want to ask about the commencement.

The CHAIRMAN: Did I crack a joke or something?

The Hon. M. PARNELL: No joke, Mr Chairman, at your expense, that is for sure. Your desire to expedite matters is similar to mine.

The CHAIRMAN: You can easily put the clause when the debate is finished, the Hon. Mr Parnell.

The Hon. M. PARNELL: Sorry?

The CHAIRMAN: A clause is usually put as the debate finishes, and nobody got to their feet.

The Hon. M. PARNELL: No, I think your reflexes are to be admired. I note that in the commencement clause (clause 2) there are two different commencement dates. I understand that the increase in public contribution to the superannuation fund is to be backdated to 20 March. I note that clause 18, which relates to additional invalidity or death insurance, is not to come into operation until a day fixed by proclamation. Will the minister explain why clause 18 needs to be treated separately in relation to commencement?

The Hon. P. HOLLOWAY: The reason for that is to enable some appropriate regulation to be introduced before that is brought into effect.

Clause passed.

Clauses 3 and 4 passed.

Clause 5.

The Hon. D.G.E. HOOD: I have a brief question for the minister. This clause refers to a payment to a member who is subject to involuntary retirement. I wonder if the minister could outline the circumstances under which that would be anticipated. Obviously, if somebody loses their seat I understand that would qualify but are there any other circumstances? For instance, if somebody lost their preselection, would they qualify?

The Hon. P. HOLLOWAY: Yes, that could be the case. I think there have been precedents for that.

The Hon. M. PARNELL: To clarify the minister's answer to that question, involuntary retirement has usually been regarded as a person who stands and then fails to be elected. In terms of a sitting member who fails to get preselection, what basis does the minister have for saying that they fall into the same category as people who are not elected?

The Hon. P. HOLLOWAY: I think the answer to that is because they have an expectation to be elected.

Clause passed.

Clauses 6 to 13 passed.

Clause 14.

The Hon. M. PARNELL: This is the clause that has received the most attention to date. The clause, as I understand it, replaces the formula currently in section 14C(1) of the act with a new formula. In fact, from memory, I think that the formula is now calculated in a different way. This is the provision that provides that the public contribution will be 15.4 per cent rather than 9 per cent. Normally, at this point, I would be seeking the assistance of parliamentary counsel to help me draft an amendment because I do want to move an amendment to this clause. In the absence of that assistance, I move:

That the figure 15.4 be replaced with the figure 9 at the only occasion where it occurs.

The Hon. P. HOLLOWAY: Given that it is almost lunch time, it might be appropriate to adjourn and then the honourable member can have his amendment prepared.

Progress reported; committee to sit again.

[Sitting suspended from 12:56 to 14:15]

PAPERS

The following papers were laid on the table:

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

Review of Parts 4 and 4A of the Land and Business (Sale and Conveyancing) Act 1994—Rules, July 2010

Children and Young People in Care—Charter of Rights

QUESTION TIME

WOMEN'S STUDIES RESOURCE CENTRE

The Hon. J.M.A. LENSINK (14:21): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question on the Women's Studies Resource Centre.

Leave granted.

The Hon. J.M.A. LENSINK: I received within the last week a flyer from the Women's Studies Resource Centre entitled 'WSRC needs your help!', and in it the resource centre states that it is the first and largest women's library in the southern hemisphere, comprising a diverse and comprehensive range of more than 20,000 non-fiction and fiction resources by women and/or about women and relating to gender issues. I understand that the centre is primarily an information service for students studying gender-related courses from a range of South Australian and Australian education facilities—public institutions like DECS, TAFE SA and the three South Australian universities. The resource centre also allows the public to link in with South Australia's support services for women, including the Women's Information Service.

The flyer states that as of 1 July 2010 DFEEST is withdrawing its funding of the resource centre, so funds available to run the operation of the service will cease. My questions to the minister are:

1. Is the Office for Women or the Women's Information Service concerned by the vulnerability in which this has left the resource centre?

2. The resource centre has sought support to lobby DFEEST to restore its funding. Have the Office for Women, Women's Information Service or the Premier's Council for Women made any submission to DFEEST about the withdrawal of funding, and, if not, does the minister commit to undertake representations with the Minister for Employment, Training and Further Education about this matter?

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) (14:23): I thank the honourable member for her important question. Indeed, the Women's Studies Resource Centre was actually founded around 1975 by women educators. The resource centre was the first women's and feminist library to be established in the southern hemisphere, and it provides resources particularly for students, teachers, lecturers of women's studies, in women's education and gender study courses at high school, TAFE and university levels. However, the library is open for all in the community who may want to use it.

I guess it is a reflection of modern technology and the use of the internet, but my advice is that the number of visits to the resource centre have been somewhat on the decline over recent years, which is more likely to be an indication of our technological advances and the way we access information in such a ready way.

However, I understand that the centre is seeking financial assistance to continue its operations, and the provision of funding has been an issue for a number of years. Joint funding from the Department of Further Education, Employment, Science and Technology and the Department of Education and Children's Services has been provided to the service, I have been

advised, since about 2002 and ceased in June. I also understand that the centre continues to open on a part-time basis with paid and volunteer staff and, unless it receives further funding, it will be able to operate only with the use of those volunteer staff who, I have to say, have provided a very dedicated and diligent service for some time.

I have actively liaised with the Minister for Education and the Minister for Employment, Training and Further Education to secure funding on behalf of the centre and to facilitate discussions regarding its future, and particularly a sustainable future for the service. I am certainly committed to continuing to work towards ensuring that we can reach a satisfactory resolution of this matter so that we can preserve this very valuable resource and, obviously, make that collection available for future generations.

DON'T CROSS THE LINE

The Hon. S.G. WADE (14:26): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question relating to the Don't Cross the Line campaign.

Leave granted.

The Hon. S.G. WADE: On 29 June, in this council, the minister described the Don't Cross the Line campaign as:

> ...a campaign to ensure that we protect all victims of domestic violence and that we put in place strategies to ensure that we develop better respectful relationships, particularly between young men and women.

Subsequently, the Ombudsman made adverse findings against the Office for Women particularly in relation to its misuse of data on the Don't Cross the Line website. As a result, the website has been updated. The updated Don't Cross the Line website includes a page called 'Information for the media', which gives the facts and statistics supporting the campaign. All the information on this page relates to violence against women. This page includes a reference to the National Crime Prevention study which states:

> A study of 5,000 Australians aged between 12-20 found that about one-quarter (23 per cent) of the 5,000 young people reported at least one act that could be described as physical domestic violence against their mothers or stepmothers.

The source study did indeed find that 23 per cent of Australian young people had experienced male to female parental violence, but the study also found that 22 per cent of Australian young people had experienced female to male parental violence.

In spite of the difference being only one percentage point, the Don't Cross the Line website fails to mention violence against males. The continued lack of balance in campaign material confuses the goal of the campaign, brings the campaign into controversy and distracts from the fact that women are more likely to be the victims of more severe violence, sustain more injuries and experience more fear. I ask the minister:

1. Is the government's Don't Cross the Line campaign a general antiviolence campaign or a violence against women campaign?

2. If it is the former, will the minister direct that the campaign material be revised to reflect that balance, including by revising the website to include statistics about violence against men?

3. If it is the latter (a campaign to deal with violence against women), will the minister clarify that fact both on the public and on the parliamentary record?

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) (14:28): I thank the honourable member for his question. The Don't Cross the Line campaign includes amongst other things a website, and indeed the core of that campaign is about promoting respectful relationships amongst young men and women.

The Don't Cross the Line website provides information for both men and women. It promotes a positive message about respectful relationships to both men and women, and it provides a range of resources for men and women as both victims and perpetrators. I have not reported on the Ombudsman's report. I do not think that had been delivered at the time I spoke on the issue. However, I did identify that we had been made aware, through a complaint that was before the Ombudsman, that there were problems with the statistics on the website or the way that

some of those numbers had been reported and that we had had a review of the data by an independent body and the website had been amended accordingly.

The changes made are consistent with the Ombudsman's reports and findings, and we have complied with all of the changes and adopted all of the recommendations proposed by the Ombudsman in accordance with the reports that the Ombudsman utilised to assist him in his analysis. I have been advised that the information on the website has been thoroughly checked and is accurate, and we now have an ongoing monitoring system to make sure that as future research is done and other findings come in to the public arena our website will be amended and updated accordingly.

I have also said before in this place that violence against men and women manifests itself in slightly different ways. For instance, we know that men are more likely to be victims of violence that occur in public places, with the perpetrators being strangers, whereas I have been advised that violence against women tends to happen in domestic or private dwellings and the perpetrator tends to be people that they actually know. Clearly, as minister for women, I am very keen to make sure that the issues around violence towards women are addressed and that we employ strategies and programs to prevent violence against women. There are a number of other programs and strategies in place under the purview of other ministers that deal with those other issues resulting from violence towards men and the circumstances that tend to surround that violence.

I have said in this place before, I am sure, that this is not a contest about who is the biggest victim. It is not a contest, and I will not enter into such a debate. Any violence against any human being is to be abhorred. This is not a contest. To ensure that our resources are targeted, structured and focused in an efficient and effective way, we need to understand the patterns around violence, for both men and women, to make sure that we harness the best programs possible to address that violence and, as I have said, violence against women is slightly different from violence against men. I can only stress that this is not a competition about who is the biggest victim. All violence against men, women and children is abhorrent, and we should all continue to work on ways to make sure that that does not happen.

DON'T CROSS THE LINE

The Hon. S.G. WADE (14:34): I thank the minister for her answer, and I would urge and ask whether the minister will have the goal updated, so that people can appreciate that there is a focus on violence against women. I support that; I just think it is being made controversial.

The PRESIDENT: Order! Just ask the question.

OFFICE OF THE LIQUOR AND GAMBLING COMMISSIONER

The Hon. T.J. STEPHENS (14:34): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the Office of the Liquor and Gambling Commissioner.

Leave granted.

The Hon. T.J. STEPHENS: I am advised that the Office of the Liquor and Gambling Commissioner is in crisis, with many staff having left the office not long after the election but few having been replaced. Subsequently I am advised that the work the office performs, such as approval of persons, applications to vary a licence, approval of new machines, and approval to alter premises, such as renovations, as well as the many other roles the office performs, have been either slow or simply not happening. My question is: can the minister confirm these staff shortages within the Office of the Liquor and Gambling Commissioner, and will she acknowledge that this is impacting on venues, the ability of venues to do business, and the ability of many people to become gainfully employed?

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) (14:35): I thank the honourable minister for his question although it is misinformed, sadly misinformed. The Office of the Liquor and Gambling Commissioner is not in crisis. The office is always looking at ways to improve efficiencies and at ways to improve the way we use resources, to streamline the way we do things. We do that there and we continue to look at strategies to improve the way we do things. It is an absolute nonsense that the office is in crisis. They continue to do an extremely good job, and they continue to devise new, efficient and effective ways and work practices to meet service needs.

OFFICE OF THE LIQUOR AND GAMBLING COMMISSIONER

The Hon. T.J. STEPHENS (14:36): I have a supplementary question arising from the answer. Will the minister acknowledge that the number of office staff of the Office of the Liquor and Gambling Commissioner has been decimated with people leaving, and that the services have dropped to near nil?

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) (14:37): That is an absolute nonsense. It is absolute nonsense and it is totally misleading. Where are the facts? He uses these general terms. There is no substance at all behind his questions. As I said, he is misinformed and he is misleading the chamber. Staff come and go all the time. They do so right throughout all of our Public Service. That is absolute nonsense, and I challenge the member to substantiate the allegations with facts.

OPEN SPACE FUNDING

The Hon. B.V. FINNIGAN (14:38): I seek leave to make a brief explanation before asking the Leader of the Government and Minister for Urban Development and Planning a question regarding open space funding.

Leave granted.

The Hon. B.V. FINNIGAN: The Department of Planning and Local Government currently administers the Open Space and Places for People grants programs and provides financial assistance to councils for the purchase, development and planning of open space. Will the minister advise of any recent funding announcement within the Adelaide area that will be of interest to members?

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) (14:38): I thank the honourable member for his question and his interest in the Open Space and Places for People grants programs. These grant programs are financed through the Planning and Development Fund and provide significant assistance to councils across South Australia to improve and protect open space in the public realm. Since July 2002, more than $75 million in funding has been provided through the Open Space and Places for People grants programs.

Honourable members will be interested in some of the recent grants that have been provided through these programs. Just this week I wrote to the City of Prospect to inform the council that the state government will provide $1.1 million from the Places for People program to support the development of the Prospect Village Hub and Vine Street Plaza. This government is working closely with the City of Prospect to develop Prospect Road as the heartbeat of the inner northern suburbs. This funding will be supported by a further half a million dollars provided by the Department for Transport, Energy and Infrastructure to resurface this important traffic corridor, which extends from the Parklands to the inner northern suburbs. The City of Prospect will also be coming to the party with a $1.5 million contribution to the village hub and plaza project.

So, not only will this $3.1 million in funding create a special place within Prospect, adding to this important community's vibrancy, but the vision embraced by the City of Prospect is consistent with the principles and objectives of the 30-Year Plan for Greater Adelaide. The redevelopment will provide for wider footpaths to accommodate outdoor dining, improved landscaping and street lighting and special features, such as drinking fountains, street furniture, cycle lanes and public art.

I would like to take this opportunity to thank Mayor David O'Loughlin and his fellow councillors for pushing hard to deliver this vision for Prospect. We have a very good relationship with the council which we expect will continue to deliver real benefits to its residents.

Members interjecting:

The Hon. P. HOLLOWAY: Well, personally I would be delighted if that is the case, because this is a council that is a delight to work with in terms of delivering for its constituents. However, our provision for a better Adelaide is not confined to the northern suburbs. I was most pleased recently to attend the official opening of the zone 2 trail network located at the Lynton, Sleeps Hill and neighbouring reserves in the City of Mitcham. This project to develop the zone 2 trail network of walking and cycling through the Lynton, Sleeps Hill and neighbouring

reserves was made possible by a grant of $260,950, through the Open Space Grant Funding program, from the Planning and Development Fund. This project was also made possible by a grant of $125,000 provided through the Office for Recreation and Sport.

Along with the Mayor of the Mitcham council, Ivan Brooks, who I believe is retiring at the next election, I jointly opened the latest stage to this trail network. In fact, Ivan and I had the pleasure, if I can call it that, of hopping on a couple of mountain bikes and pedalling down a part of the track to mark the occasion.

An honourable member interjecting:

The Hon. P. HOLLOWAY: The member for Waite was also in attendance at the opening in his electorate. He wasn't encouraged to jump on a bike, but it was good to see the former opposition leader acknowledging the work that is being carried out by the local council in developing this bike network.

This exciting project is a result of many years of planning and consultation by the City of Mitcham to ensure that the trails are developed in a way that carefully balances the biodiversity, conservation and recreation opportunities of these hills face zone reserves. The City of Mitcham holds the largest network of council-managed reserves within the hills face zone, with the connectedness of those reserves having great appeal to walkers and mountain bikers from across Adelaide. As such, I acknowledge the work undertaken by the City of Mitcham on this excellent project to create a whole network of trails for walkers and cyclists of a variety of difficulty and skill levels—I took the very easy one.

The zone 2 trail project has resulted in the rationalisation of the existing trail network, the closure and rehabilitation of unsustainable trails and the development of walking, cycling and shared-use recreational trails. These have been developed as a demonstration of international best practice sustainable trail construction. The protection of the remnant vegetation has been an important component of this project. The grey box woodland found in this area of the Adelaide foothills is a nationally endangered plant association. I also acknowledge the work of the local Trees for Life and Bush for Life volunteers, who provide many hours of volunteer work to remove weeds up there—and there are lots of them—and promote biodiversity in the Mitcham reserves.

The state government is committed, through the 30-Year Plan for Greater Adelaide, to develop walking and cycling trails and sustainable recreational facilities, such as the Mitcham trails project. This project typifies the government's commitment to enhancing opportunities for walking and cycling and promoting a healthy and active lifestyle while protecting our biodiversity assets. I am delighted that the South Australian government has been able to play an important role in providing these wonderful facilities for the people of Adelaide and also local residents in the Mitcham council area. I am sure that projects such as these have the support of not only the local members, the member for Waite in the latter case, but all members in this place.

PUBLIC SERVICE EXECUTIVES

The Hon. J.A. DARLEY (14:44): I seek leave to make a brief explanation before asking the Minister Assisting the Premier in Public Sector Management a question regarding tenure of Public Service executives.

Leave granted.

The Hon. J.A. DARLEY: On Tuesday 24 June it was reported in *The Advertiser* that 505 out of 568 senior public servant executives had ended their lifetime tenure in government service by accepting three and five-year contracts under the government's new Senior Executive Service. Whilst an 88 per cent acceptance rate is noteworthy, will the minister advise whether there have been ongoing negotiations with the other 63 executives to sign up to the Senior Executive Service and, if there are, is the minister able to provide details as to what measures have been taken to encourage executives to forfeit their tenure?

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) (14:45): I will take that question on notice and obtain a considered response for the honourable member.

SIGNIFICANT WOMEN OF GAWLER PROJECT

The Hon. CARMEL ZOLLO (14:45): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding the Significant Women of Gawler Project.

Leave granted.

The Hon. CARMEL ZOLLO: The Minister for the Status of Women has previously spoken in this place about the importance of South Australian women being recognised for their achievements. I understand that an event is being held this weekend which recognises the contributions of women from Gawler. Will the minister tell us more about this event?

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) (14:46): I thank the honourable member for her important question. The Zonta Club of Gawler initiated the Significant Women of Gawler Project 2003, working with other women. This weekend their hard work will come to fruition with the release of *The History of Significant Women in Gawler* book. The book contains a number of inspiring stories which acknowledge the diversity of women in the Gawler community and the significant contributions that they have made. I understand that many of these stories have been published in the local paper, *The Bunyip*, and there is other information on the Significant Women of Gawler website. For interested members it is www.freewebs.com/gawlerwomen/.

The book is called *Backwards and in High Heels,* which members may recognise as the famous quote about Ginger Rogers: that is, she did everything that Fred Astaire did but she did it backwards and in high heels. It was a pleasure to meet with the Significant Women of Gawler group last year. I realised that this was an invaluable resource being produced by a very dedicated and committed group of women. In my opinion, all too often, unfortunately, recorded history is dominated by stories about men, which is why I am so supportive of this particular project. I was happy to provide financial assistance and I was also very pleased to be invited to provide a foreword to the book, which I did, because I strongly believe that women's histories and stories need to be recorded and valued.

There is an extraordinary diversity of women represented in the book from a wide range of different backgrounds and personal circumstances. I would like to make a special mention of the story of Constance Lillian Dawkins who, I am very sorry to say, passed away earlier this year. I met Constance last year at a reception at Government House to celebrate the Women's Honour Roll and her inclusion on that roll. Reading from the book and listening to her background, she had an amazing life. She was involved in many different organisations and made a vast contribution to her community while raising her family and working, as well as learning musical instruments. It is a very rich story.

I spoke to her personally when I sat down beside her at that function and I congratulated her on her award. It was interesting that the first thing she said to me was how proud she was of her son John Dawkins who, of course, is a member of this chamber. I thought how typical it was of women generally, but particularly women of that generation, that, instead of wanting to talk about her own stories and successes or sing her own praises, she was quite self-effacing and referred to her pride in her son. I thought how typical that is of women and women of that particular generation.

There are many other inspiring stories to be found in the book, far too many for me to do justice to today. *The History of Significant Women in Gawler* provides an important historical record of the lives of some extraordinary women. It also gives younger people a glimpse into the day-to-day life of Gawler in another era when people talked about the empire, or knitting socks for the war effort, or when things like bush biscuits, epidemics and gas lamps were very much part of everyday life.

As members know, I wholeheartedly support recognising the achievements of women, and the Women's Honour Roll is an example of how we recognise them. The opening of nominations in 2009 was announced at the International Women's Day luncheon on 4 March 2009, and 242 nominations were received, 100 women were selected to be included in the Honour Roll publication, 10 outstanding women were highlighted and one woman received an honorary acknowledgement.

In addition, to promote the nomination of women for national honours and awards, a web-based information pamphlet was developed. That pamphlet, or booklet, recognised that women, when nominated, were often successful and focused efforts on increasing the number of women to be nominated by increasing the awareness of the processes for providing nominations for national awards and honours. It is quite a complex process and can be quite intimidating for some people, so this material was designed to try to make that easier to understand and follow.

As I mentioned, the SA Women's Honour Roll is now being held biennially, and the next one is to be scheduled in 2011. I would like to commend the women of Gawler for producing this wonderful and quite charming book, which certainly, I am sure, will be treasured by many people. I want to congratulate everyone involved in the creation of that book and wish them all the very best for Saturday's launch.

SOUTH AUSTRALIAN CERTIFICATE OF EDUCATION

The Hon. T.A. FRANKS (14:52): I seek leave to make a brief explanation before asking a question of the minister representing the Minister for Education about the implementation of SACE.

Leave granted.

The Hon. T.A. FRANKS: In June this year the Industrial Relations Commission handed down its arbitration decision, stage 2. In that, the commission concluded:

> Across the school sector, teachers and leaders are working unreasonable hours because of excessive workload.

In addition, it also indicated that teachers and leaders suffer poor job design where the tasks and demands outweigh the personal resources of the teaching staff and the financial resources of the school.

Into this environment, where teachers are already overworked and the limits of both their personal resources and the resources of their institutions are so stressed, we are trying to introduce a new SACE curriculum with new assessment measures and new performance standards. The new SACE program was, of course, announced in 2006, and the first students to embark on the new plan were year 10 students in 2009, with the new SACE curriculum taking effect from this year, 2010, for year 11 students.

There have been a number of problems with the implementation and rollout of the new SACE Stage 1, or year 11, particularly in relation to timetabling and advance readiness of curriculums. In 2009 the teachers surveyed with regard to this were incredibly concerned about the new SACE, including concerns with training and development, particularly in the areas of content, assessment, reporting and newly developed performance standards. These concerns have not gone away.

I note that, in particular, of serious concern is a new element, the research project, which requires students to conduct a six-month project in which they must achieve at least a C to pass. Not only is this process and its assessment—

The PRESIDENT: Order! I am getting fairly concerned about these long explanations. You must ask the question.

The Hon. T.A. FRANKS: —almost virtually untested, but teachers remain in the dark and many think their students will be unlikely to succeed without their support and guidance. My question to the minister is: can the government now guarantee that teachers will be provided with adequate pupil-free time in the coming four months for the new program and that this new time will not eat into their annual leave?

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) (14:54): I thank the honourable member for her question, and am pleased to refer those questions to the Minister for Education in another place and bring back a response.

HIGHBURY AQUEDUCT LAND

The Hon. J.S.L. DAWKINS (14:54): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question in relation to the government-owned Highbury aqueduct land.

Leave granted.

The Hon. J.S.L. DAWKINS: In November 2009 the minister was made aware of the significant bushfire risk posed by the Highbury aqueduct land. In response, the minister sent out some staff to do some minor works and rectify the danger. On 22 February this year the minister came under fire (pardon the pun) for not clearing the Highbury aqueduct land adequately. In fact, Leon Byner called the land a disgrace and had to resort to putting photos on the FIVEaa website depicting the risk to local residents. On 24 February the minister told FIVEaa listeners:

> I don't want to pass the buck. It's my responsibility now. I accept it. I'm doing what I can. I can't order anyone to do anything now as we're in election caretaker period.

On 26 February 2010 the minister told South Australians:

> Well, of course, the state should be a model citizen and, look, if the CFS came to a government department and said, 'Look, we believe there's a fire risk in our area,' then I'm sure that that would be taken care of. Look, if anyone comes to me and says, '…under my department, if there is a risk they'll do something about it,' that's exactly what happened in relation to this.

On 15 March 2010 the minister said:

> I can commit this government—I can't commit another government—that we accept responsibility for bringing this park up to the standard of the rest of the Linear Park. It's our land. We'll take responsibility for it.

Yesterday, the MFS and Tea Tree Gully council again raised concerns about the fire risk posed by the Highbury aqueduct land and called on the government to have it cleared by 1 December this year. In response, a spokesman for the Department of Planning and Local Government was quoted by the *Leader Messenger* as saying there was no bushfire management plan for the Highbury aqueduct land. Anyone wanting to have this fire risk emphasised to them would only need to have a look at the photograph on page 3 of this week's *Leader Messenger*. My questions are:

1. Will the minister commit to appropriately clearing the land by 1 December 2010?

2. Will the minister guarantee that the government will not seek a contribution from the ratepayers of the City of Tea Tree Gully for what is state government owned land?

3. Why, given the publicity surrounding this piece of land last summer, does the state government still not have a bushfire management plan for this piece of land?

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) (14:57): The Highbury aqueduct, of course, has been under state government control for a long time. It was formerly under the control of SA Water. It was constructed back in the 1870s, and in May 2009 that 50-hectare area was purchased, in effect, by the Department of Planning and Local Government to ensure its protection.

Anyone who knows that aqueduct area would know that there is a considerable number of significant trees, most of which I think are Mediterranean pines, which are a particularly vigorous growing variety. Arguably, they present a fire risk but, of course, I am sure that, if one were to remove them all, the neighbouring people who were concerned about the undergrowth would also be concerned about that.

The honourable member referred to the period of February this year. The department (I think using the department of environment's contractors) was able to remove a significant amount of deadwood, some of which had obviously been there for a very long time although, of course, the drought had undoubtedly added to the problem. So, there was a significant clear-up and slashing and, obviously, that will be conducted again this year. I think it is a little premature to expect that slashing to have taken place, given the weather we have had. Anyone who knows anything about these issues knows that if you slash grass before it is cured then, of course—

The Hon. J.S.L. Dawkins: Are you going to leave it until it all dries out?

The Hon. P. HOLLOWAY: No, we will slash at the appropriate time, Mr President. Surely the honourable member is not really suggesting that it is posing a fire risk right now. It certainly has the potential to do so, and we will address it as we did last year. Given that we are in the wettest year we have had for many years, clearly that area will still grow.

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

The Hon. P. HOLLOWAY: It's incredible, isn't it? Here a government takes action to preserve for the residents and spend a lot of taxpayers' money. At the moment we are undertaking

a plan, on which the taxpayers, through the Planning and Development Fund, will spend a significant amount of money to upgrade the whole Highbury aqueduct area. We will have to do it in stages, but it will require millions of dollars spent on it over the next few years to try to bring it up so that it is a reserve that is comparable with the Torrens Linear Park, to which it is adjacent.

There is the considerable threshold issue—and the residents ought to be consulted and it should not just be my decision—of what to do with these Mediterranean pine trees. If they were in a national park they would probably be cut down almost as a weed species, but they have been in this area for a long time. Where they have dead branches and the like they need to be cleaned up, and that was the exercise we did with the more urgent cases earlier this year, but what we do where there should be some thinning is something on which we would like to consult with the people of the area.

In the past few days I have had some preliminary plans for the future of this aqueduct land. I established a committee, and one of the members of it was the mayor of Tea Tree Gully, along with the local member of parliament for the area, Tom Kenyon. Other members have been looking at the future of this, and over time we hope to upgrade the quality of this park so we do not have the level of weeds we do now and so that it is accessible to people. There is no point having a multi-million dollar reserve fenced off as it is at present from people because of the risks. We would like to open up this whole area to the community, but to do so it will need significant upgrading at significant cost.

We are happy to undertake that, but certainly the advice I have is that the Department of Environment and Natural Resources, between November and March last year, conducted a program of fuel reduction work based on an assessment of bushfire risk for the reserve. The Department of Environment and Natural Resources has advised that the work carried out provides a very good level of bushfire protection for neighbouring properties. My advice is that the Department of Environment and Natural Resources is currently preparing a comprehensive fire management plan with on-ground fire prevention works for the 2010-11 fire season, commencing in September 2010. That is the information I have.

The Highbury Aqueduct Land Consultative Committee has been established to consider the future management options, and it has currently been working with the Land Management Corporation, which has engaged Outer Space Landscape Architect consultants, who are in the process of finalising this concept plan and arranging an arborist's report for the reserve. I have seen the preliminary version of that in the past few days. It is important that we get an arborist's report, because we have to know which of these trees are healthy and should be retained and so on, as it is a significant issue. We would like to talk to the community about that.

Finally, there is some council land adjacent to some of the gullies along the aqueduct land. When I was out there last year I could not help noticing that for some of the properties adjoining the gullies where there are council reserves there is significant fire risk. In fact, one house had at least 20 centimetres of pine needles piled up on a large section of its roof because of some of the trees on the council reserve next to it.

It is not just the aqueduct land. I think we are being reasonably responsible in trying to reduce that risk, particularly given the size of the area, but there is also risk from some of the council land and private landowners because it is a very steep area and therefore poses a higher fire risk than it might elsewhere.

While the Department of Planning and Local Government will be good tenants, as the honourable member mentioned in his introductory comments, other landholders in the area will also need to be responsible. We are well aware of the need for fire prevention for this season. We will do so but ultimately it will be our goal to upgrade this whole reserve so that it not only poses a much lower fire risk but also is much more accessible to the people of Highbury.

HIGHBURY AQUEDUCT LAND

The Hon. J.S.L. DAWKINS (15:05): As a supplementary question, will the minister outline how much the government plans to spend on this piece of land to upgrade it to the level of Linear Park and when will this work commence?

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) (15:06): As I said, it will obviously have to be done in a number of stages because it will cost, I imagine, some millions. I think there are four stages

proposed, and I would be surprised if the first stage cost any less than $1 million. I suspect it will be somewhat more. Obviously we will only be able to afford to do that over a number of years, so we will have to progressively work through it. That was part of the commitment that we took on when we took over the land. I am sure the end result will be a fantastic facility for the people of Highbury, but we will obviously have to work through that progressively.

CAROLINE CLARK MEMORIAL GARDEN

The Hon. I.K. HUNTER (15:06): My question is directed to the Minister for Urban Development and Planning. Minister, will you advise the chamber of recent work undertaken by the Adelaide Cemeteries Authority at the West Terrace Cemetery in regards to the Caroline Clark Memorial Garden?

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) (15:07): I thank the honourable member for his important question. I was honoured to attend and officially open the Caroline Clark Memorial Garden back in July this year at the West Terrace Cemetery. The West Terrace Cemetery is one of four major cemeteries administered by the Adelaide Cemeteries Authority and obviously the state's oldest cemetery. The other cemeteries administered by the authority are the Cheltenham Cemetery, the Enfield Memorial Park and Smithfield Memorial Park.

I greatly appreciated the invitation from the Adelaide Cemeteries Authority Board to officially name and open this new memorial honouring those buried in unmarked graves at the West Terrace Cemetery. The Caroline Clark Memorial Garden provides a sign of respect to the 50,000 people buried at public expense in unmarked graves at the West Terrace Cemetery from settlement until the mid-20th century.

In colonial South Australia, as in Britain, a lavish funeral was seen as a symbol of social status and respectability but, by contrast, those who had the misfortune to die without next of kin or whose family could not afford the cost of burial faced a paltry farewell. From the earliest days of settlement many families facing hardship had to rely on the state to bury their loved ones. Sadly this often translated into burial in common graves and without ceremony.

This approach reflected societal attitudes at the time both in Australia and overseas and contrasts sharply with government and community values in the 21st century. Today government-assisted funerals offer the deceased and the grieving families the same level of dignity and respect as any member of the community, and that is why it is important for us to remember now those who were not provided such respect in times past.

The Caroline Clark Memorial is named in honour of philanthropist and reformer Caroline Emily Clark for her tireless efforts in the fight for improved treatment of destitute children. Caroline Emily Clark is a remarkable woman in our state's proud history. Caroline Clark was appalled by the inadequate treatment of destitute children. She believed that they should be removed from the destitute asylum and placed with families who were subsidised to care for, clothe and educate them.

With the support of her friends and family, Caroline Clark successfully lobbied the government to introduce a boarding-out system, as it was called, back in 1871. To aid the Destitute Board in supervising the system, she also formed the volunteer-based Boarding-out Society with another well-known reformer, Catherine Helen Spence. By 1888, 700 of the 800 state wards were boarded out, affording destitute children better conditions and reducing the burden on the Destitute Board's limited resources. So successful was the system that it was substantially adopted in New South Wales, Victoria and Tasmania. Following her death in 1911, Caroline Clark was cremated at the West Terrace Cemetery crematorium and her remains were interred in the Clark family vault within the cemetery.

Those attending the official opening and dedication ceremony to the Caroline Clark Memorial Garden were also privileged to be present to hear from Kathy Grant, who spoke about the many members of her family buried at the West Terrace Cemetery, including those buried in unmarked graves at the site. Kathy Grant spoke most poignantly on the importance of the memorial to members of the community who, like herself, have loved ones buried in the unmarked graves at the West Terrace Cemetery.

The Caroline Clark Memorial Garden provides families with an area they can visit to reflect on and remember those who have gone before them. The memorial garden also offers families, in

many cases several generations removed, the opportunity to place a lasting tribute to their loved ones and ancestors buried in unmarked graves at the cemetery.

I would like to thank all those involved in the Adelaide Cemeteries Authority for their work in bringing to reality this outstanding memorial to those buried in unmarked graves at the West Terrace Cemetery. In particular, I would like to thank Mr Robert Pitt, Chief Executive Officer of the Adelaide Cemeteries Authority; Ms Kathy Bowden, Manager, Marketing and Client Services; Mr Tony Amato, Tourism and Marketing Officer; the grounds staff at the West Terrace Cemetery; and all those involved in this initiative.

RAPE INVESTIGATION

The Hon. D.G.E. HOOD (15:11): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question regarding a rape investigation.

Leave granted.

The Hon. D.G.E. HOOD: Thank you, sir, and I have shortened it, you will be happy to know. For over a year now my office has been assisting a rape victim who has been struggling to obtain justice. The constituent, who has asked for her name not to be used but whose details I have provided to the Minister for Police's office, was the victim of a rape by a taxi driver in 2006. She immediately reported the rape to police and was sent to hospital for DNA testing to ascertain the identity of her assailant.

Due to an administrative failure by the hospital, however, she was wrongly sent away without being tested and told to return the next day. She was wrongly told to go home because they were actually waiting for an urgent case. Unfortunately, the urgent case they were waiting for turned out to be herself: a tragic error. Given the delay in the forensic testing and the absconding of her assailant, there were problems in proving the case and no charges were ever laid. In short, the system has let her down substantially.

The fact that her assailant was not charged is distressing enough, but unfortunately not unusual. What disappoints her and myself were the continual problems this victim then had when fighting for justice. The victim applied for criminal justice injuries compensation but was told that there was no DNA evidence and therefore the claim was denied. After the claim had been denied the victim has informed me that she was then advised that some DNA evidence was actually obtained.

Police investigations led them to a person but no charges were laid against this person, nor were they even arrested to be formally interviewed, as I understand is standard procedure in DNA match cases. To cap matters off, the victim was then presented with a bill of $523.80 for her freedom of information request which she made in order to try to obtain the person's statements. My office re-lodged the request on her behalf to assist her in having those fees waived, although the record of interview has still been denied.

My office has also assisted her in her complaint regarding the investigation and in raising the same concerns with the Commissioner for Victims' Rights. The victim remains disappointed that she has not seen justice nor compensation, nor has she been able to find out why the possible perpetrator has not been charged. Given conflicting accounts by SAPOL, she is uncertain whether or not DNA evidence is on the record regarding her case. My questions for the minister are:

1. Was there, or is there, DNA evidence obtained of the likely perpetrator in this case?

2. Why was the perpetrator not charged, as would be standard procedure in a case where DNA evidence is available?

3. Will the minister ask the Attorney-General to make a special dispensation from the Criminal Injuries Compensation Fund to financially assist the victim to obtain psychological counselling and compensation for her rape?

4. Will the minister work to ensure that victims of rape and other victims are not presented with bills like the $523 bill this victim received for making freedom of information requests relating to their own case?

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): I can understand the honourable member's

concern with the case. I will refer those questions to my colleagues. I think it was not just the Minister for Police but it was also the Attorney-General from whom he sought some consideration of aspects of this case. I will refer these to my colleagues in another place and bring back a reply.

MIGRANTS AND INTERNATIONAL STUDENT WORKERS

The Hon. J.S. LEE (15:14): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about migrants and international student workers being exploited in workplaces.

Leave granted.

The Hon. J.S. LEE: The *Messenger Community News* conducted an investigation about the exploitation of vulnerable migrant workers in metropolitan Adelaide, especially in the western suburbs, sparking calls for tough new laws. Reported in the *Weekly Times Messenger* on 11 August the Employee Ombudsman, Stephen Brennan, stated that the typical scenario would be that they do not get correct pay, correct allowances or hours that are reasonable. These areas are unregulated because historically they were not areas of concern, and there is a lack of award and legislation protection for those people. The *Messenger Community News* investigations further revealed that information under the 2007 code requiring retailers and manufacturers to keep a register of all outsourced work is not even being collected by SafeWork SA because it is too under-resourced. My questions are:

1. How does the government intend to address the lack of award and legislation protection for migrants and international student workers?

2. As SafeWork SA is already under-resourced, how would the government educate and promote employment services and rights to vulnerable migrants residing in South Australia?

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) (15:16): Following the legislation that was passed by this parliament last year, the industrial relations jurisdiction for workers in the private sector has passed to the commonwealth. The jurisdiction of the state essentially now is for government workers and local government employed workers, but under arrangements with the Fair Work Ombudsman the state, through SafeWork SA as a contractor, provides services, both educative and inspectorate services, to Fair Work Ombudsman.

I imagine most of these cases that have been raised would come under the federal jurisdiction, because they would be involving private employers. So whereas the jurisdictional responsibility is with the commonwealth for regulating such matters, as I said, the state acts as a contractor in relation to both educative and policing services under those acts. Clearly, the state has to operate to the extent that SafeWork SA is involved, and it is funded accordingly by the commonwealth government to undertake such matters.

There were some cases last year with one particular employer. From memory, it related to the dismantling of parts of the former Mitsubishi plant, and some allegations were made in relation to some Chinese workers there which have been investigated, but there are clearly issues that relate to the type of visa that migrant workers might be issued for entry into the country, so it is quite a complicated issue.

In relation to resources, as I said, to the extent that SafeWork SA enforces conditions against private employers it does so as a contractor, in effect, for Fair Work Ombudsman, because it is under commonwealth acts that it is enforcing them. We work very closely with the Fair Work Ombudsman in relation to ensuring that there is effective industrial relations enforcement within the state. Of course, through SafeWork SA the state does retain occupational health and safety issues, so, if there are issues involved in migrant or any other workers that relate to occupational health and safety, that of course remains under a state jurisdiction. If they are wages and other conditions, as I said, they are Fair Work Ombudsman matters.

As I have said, if the honourable member has any specific instances, we do need to know about them. One of the problems in this area involving migrant workers is being made aware of those situations. Where we are made aware of it, I believe that SafeWork SA, either acting on its own behalf if it is an occupational health and safety issue or in relation to its responsibilities under contract with Fair Work Ombudsman, has been effective in policing these matters, but we do need to know about them.

WHITE RIBBON DAY

The Hon. J.M. GAZZOLA (15:20): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding preparation for White Ribbon Day.

Leave granted.

The Hon. J.M. GAZZOLA: Tuesday 25 November 2009 was the United Nations Day for the Elimination of Violence Against Women, White Ribbon Day, which is a day for the community, and men in particular, to say no to violence against women. Can the minister tell us about White Ribbon Day activities planned for this year?

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) (15:21): In 1999, the United Nations General Assembly declared 25 November International Day for the Elimination of Violence Against Women, and a white ribbon has become the symbol for that day.

The campaign is increasing in profile all the time, with more men becoming involved in the elimination of violence against women in our community. Wearing a white ribbon or wristband on or around White Ribbon Day lets others know that you have taken action to stand up against violence against women. Wearing a white ribbon is not a sign of purity or a badge of perfection. It doesn't mean that the wearer has perfect relationships. What it does mean is that the wearer believes that violence against women is unacceptable. It is a visible sign that the wearer does not support or excuse the use of violence against women.

I remind members that everyone can show their commitment to ending violence against women by wearing a white ribbon. Indeed, I am pleased to inform honourable members that some our very own colleagues are not just White Ribbon Day ambassadors, which is clearly to be commended, but they are also setting up events and forums to encourage other ambassadors to take an active role in spreading the white ribbon message. I am, of course, referring to the Hon. John Gazzola and the Hon. Ian Hunter, who recently hosted an event for ambassadors in the Old Chamber. I was pleased to attend that event, and I enjoyed hearing from the guest speakers, the former captain of Port Adelaide Football Club, Gavin Wanganeen, and Sam Ciccarello, Chief Executive Officer of the Adelaide United Football Club.

I believe that Mr Hunter and Mr Gazzola had great success in getting sporting clubs interested in White Ribbon Day activities, particularly some of the SANFL clubs. I am sure that they have something special planned for 25 November this year. I do not know whether they want to offer any hints to us—

The Hon. J.M. Gazzola: No.

The Hon. G.E. GAGO: —no hints?—but I am sure it is going to be very special. I would like to take this time to formally acknowledge them for their hard work and their commitment to White Ribbon Day and for their unflagging enthusiasm. Most importantly, I want to thank them as men, because White Ribbon Day is really about men saying no to violence against women, and these men, by engaging with other ambassadors and planning ambassadorial events, have shown themselves to be leaders of whom we can feel very proud.

I also acknowledge the other white ribbon ambassadors in the chamber: the Hon. Russell Wortley, the Hon. Stephen Wade, the Hon. John Dawkins, the Hon. John Darley and the Hon. Robert Brokenshire. I again acknowledge and—

The Hon. M. Parnell interjecting:

The Hon. G.E. GAGO: I beg your pardon—and the Hon. Mark Parnell. That was indeed an oversight; do forgive me. Again, I acknowledge and appreciate the work and efforts of all of those ambassadors; it is a very important role. I urge members who have not become White Ribbon Day ambassadors to do so, and there is plenty of information available for those who are interested.

ANSWERS TO QUESTIONS

POINT LOWLY

In reply to the **Hon. M. PARNELL** (11 May 2010).

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): The Minister for Environment and Conservation has been advised that:

1. All EPA communications to the media regarding the Santos Port Bonython oil leak have been factually correct. The EPA is aware that the oil leak has reached groundwater below the Santos site and has migrated to the foreshore or intertidal area adjacent to the Santos site. No hydrocarbons have been found in the subtidal environment.

A recent survey of the marine environment adjacent to the affected foreshore area, conducted by the EPA, found no evidence of environmental harm in the intertidal or subtidal areas that could be linked to the presence of hydrocarbons.

The EPA holds a number of reports relating to the incident, including outlining the extent of the hydrocarbon contamination, that are available on the Public Register to members of the public.

2. The investigation into whether there have been any breaches of the *Environment Protection Act 1993* as a result of this incident is still underway. Santos has been cooperating with the EPA and is trying to find the source of the leak. This is a time consuming process as it involves progressively testing each tank at the site. The investigation also involves the provision of a number of reports from independent experts.

The time required to undertake the investigation will depend upon the information that is discovered during the investigation process. It is therefore not possible to say how long it will take for the investigation to be concluded.

STRATHMONT CENTRE

In reply to the **Hon. K.L. VINCENT** (26 May 2010).

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): The Minister for Disability has provided the following information:

1. Heating to the bedrooms in all villas is efficient and effective. Each bedroom has it own heater panel, and bedroom doors are kept closed at night. However, it was recognised that heating to the living areas of the three remaining villas was not satisfactory.

Earlier this year, funding was approved to address the heating problems in the living areas. The most effective and efficient solution was to install reverse-cycle air-conditioning to each of the twelve areas.

I am advised that installation of the air-conditioning has now been completed.

Disability SA will monitor the effectiveness of the heating.

WATER RATES

In reply to the **Hon. T.J. STEPHENS** (22 June 2010).

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): The Minister for Water has been advised that:

1. The highest water rates applying to sporting clubs in 2010-11 will be $2.48 per kilolitre, not $2.98 per kilolitre as was stated in the brief explanation provided before the Honourable Member's question.

Where the property concerned is used exclusively for charitable purposes, an exemption from normal water rating would apply. To qualify for such an exemption, the organisation involved would need to demonstrate that they are exempt from Income Tax as a charitable institution. The exemption would entitle the organisation to use water at a 25 per cent discount to the water use prices that apply to other non-residential properties.

The introduction of the Code of Practice for Irrigated Public Open Space (IPOS) in March 2008 has made it possible for sporting and recreation sites to maintain 'fit for purpose' turf while working towards maximum water efficiency.

IPOS won the Parks and Leisure Australia National Award for Water Conservation and Management at the National Parks and Leisure Australia Conference in 2008 and was developed in conjunction with a range of industry professionals to provide a best practice guideline for the management of turf.

WATER RATES

In reply to the **Hon. J.A. DARLEY** (22 June 2010).

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): The Minister for Water has been advised that:

1. SA Water has implemented a communication strategy to inform customers about water and wastewater prices for 2010-11.

Information is featured on residential accounts for the July to September quarter, outlining the water usage prices and an explanation of water use charges across the financial year. Customers are referred to the SA Water website or the Customer Service Centre if they require more information.

The website features information (linked directly from the homepage) on water and wastewater pricing, including a detailed fact sheet addressing frequently asked questions and a residential water bill comparison table for the new prices.

A media release was distributed by SA Water at the start of the financial year.

PLUMBING INDUSTRY REGULATION

In reply to the **Hon. J.M.A. LENSINK** (23 June 2010).

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): I am advised that:

In response to your supplementary question, the Council of Australian Governments (COAG) agreed to establish a central national licensing system for selected occupations. COAG has agreed that national licensing initially be applied to building, electrical, plumbing and gas fitting, air conditioning and refrigeration mechanics, transport, maritime and property occupations.

The National Licensing system is due to commence on 1 July 2012 for plumbers. Regulators, industry and other key stakeholders are playing an important role in designing the new system.

The benefits of national licensing for the selected occupations include reducing cost to business, ensuring consistent behaviour, simplifying arrangements for licence holders and maintaining public protection for consumers.

In addition to reforms that are occurring at the COAG level, the Rann Labor Government has committed to enacting new legislation (the *Water Industry Act*) to better reflect the needs of a modern, more competitive and diverse water industry. The proposed legislation will provide for the appointment of a technical regulator of plumbing activities. This role would be similar to those within the electricity and gas sectors.

OLYMPIC DAM

In reply to the **Hon. M. PARNELL** (30 June 2010).

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): The Minister for Environment and Conservation has been advised that:

1. Not all underground workers at the Olympic Dam mine are required to be issued with personal radiation monitoring devices.

The type and extent of monitoring of workers is based on the risk of receiving a radiation exposure irrespective of whether a worker is a BHP Billiton employee or a contractor.

2. Under BHP Billiton's licence conditions, the company is required to implement and comply with a Radiation Management Plan which includes providing the EPA with quarterly dose reports summarizing the radiation exposures for all work groups underground. The EPA also regularly receives dose data which details individual radiation doses estimated for all mine workers.

3. It is the company's responsibility as part of their Radiation Management Plan, to issue regular radiation dose reports to workers.

4. Radiation levels are calculated by using both personal and location monitoring methods approved by the EPA and in accordance with accepted regulatory practice.

The EPA reviews quarterly reports received from BHP Billiton and also meets with the company to thoroughly discuss monitoring methods, the results, and any related issues that may arise.

BUDGET PAPERS

The following papers were laid on the table:

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

Budget Overview 2010-11 Budget Paper No. 1
Budget Speech 2010-11 Budget Paper No.2
Budget Statement—2010-11 Budget Paper No. 3
Portfolio Statements—Volume 1—2010-11 Budget Paper No. 4
Portfolio Statements—Volume 2—2010-11 Budget Paper No. 4
Portfolio Statements—Volume 3—2010-11 Budget Paper No. 4
Portfolio Statements—Volume 4—2010-11 Budget Paper No. 4
Capital Investment Statement—2010-11 Budget Paper No. 5
Budget Measures Statement—2010-11 Budget Paper No. 6
Budget Improvement Measures—Restoring Sustainable State Finances, Volume 1—Second Report by the Sustainable Budget Commission dated August 2010
Budget Improvement Measures—Restoring Sustainable State Finances, Volume 2—Second Report by the Sustainable Budget Commission dated August 2010
Second Report by the Sustainable Budget Commission—Government Response, dated September 2010

STATUTES AMENDMENT (MEMBERS' BENEFITS) BILL

In committee (resumed on motion).

Clause 14.

The CHAIRMAN: The Hon. Mr Parnell had moved an amendment on clause 14. I understand he has another amendment now on file to take the place of that amendment. Perhaps you could first of all seek leave to withdraw that.

The Hon. M. PARNELL: I seek leave to withdraw the verbal amendment that I announced before the luncheon break. The amendment has been distributed to all members in writing, and I move:

Page 7, lines 2 to 4 [Clause 14(1)C and (2)]—Delete subclauses (1) and (2) and substitute:

(1) Section 14C—after subsection (1) insert:

(1a) A member may, for the purposes of section 14B(1), elect to make contributions to the Treasurer at 4.5 per cent of the combined value of the basic salary and additional salary (if any) payable to the member.

First of all, I would like to thank parliamentary counsel for the work that has been done to prepare this amendment at short notice. The verbal amendment that I moved before the house broke for lunch was the best that I could do given the short amount of time that we had had the bill. It was a simple amendment—and I have now withdrawn it, so I am not going to speak to it—but I need to explain to members why this amendment is different.

It seemed to me that replacing the figure of 15.4 with the figure of 9 would achieve the objects that the Greens seek, and that is a reversion to the status quo in relation to members' superannuation. I have now been advised that it was not that simple and, as the Leader of the Government said, the technical side of these superannuation bills is always complex.

This amendment removes the section of the government's bill that increases the superannuation contribution to 15.4 per cent. It thereby reverts to the status quo, which is 9 per cent. However, it has never been my intention for superannuation arrangements or entitlements to be cut so I have reinstated the ability of members to be able to make their own contributions to the superannuation fund, and hence the reference to the 4.5 per cent being put back in. I thank parliamentary counsel for clarifying that. Members need to know that the effect of this amendment is to revert to the status quo and that is that the taxpayers' contribution to PSS3 Superannuation Fund members will remain at 9 per cent.

I have had the opportunity, albeit brief, over lunch and earlier today, to consult with the Public Sector Association, which has confirmed what I understood was the case, and that is that the vast bulk of public servants are on 9 per cent superannuation from their employer—being the state. We can always find examples of groups here and there who have negotiated a higher amount with their employer, but the bulk of state public servants get 9 per cent.

Much has been said in this debate about parity. People have talked about the need to have parity between what state members of parliament get by way of superannuation entitlement and what our federal counterparts get. I understand that it is a great convenience for members in this place to tie the pay and other entitlements of members to what someone else gets elsewhere, because that avoids the need for having to debate it.

In terms of wage increases, we know that there is a formula in place where members here get $2,000 less than backbench members in the federal parliament. In relation to superannuation, however, this is a state scheme and we are responsible for the content of the legislation; it is state legislation. My amendment provides that the current amount of 9 per cent should be the amount that continues into the future. I said before in my second reading contribution that I would be more than happy for members of parliament to be getting 15.4 per cent, but when the people that we work alongside with in the governance of the state—that is, our public servants—when they get 15.4 per cent. That is the parity that we should be aiming at.

What people forget is that here is a state where we have three arms of government: we have the judiciary, the executive and the legislature. Here in parliament, we have some responsibilities for supervision of the executive, and the executive consists not only of ministers, of whom we ask questions in question time, but also public servants, who work on behalf of the community to deliver the programs that the government of the day brings forward and to administer the legislation that we pass in this place. If we are looking for parity, let us look for parity with our public servants.

People are distracted at present because the Treasurer, as I understand it, has just finished delivering the budget, and the fact that each member here has been provided with several kilograms of paper indicates that the speech has probably finished. I did not hear it, because I was here in question time. We were doing our work. According to the first news reports to come online, I am advised that 3,743 full-time equivalent public sector jobs are axed in this budget. Until we read the papers, we cannot check the veracity of that, but that is what the news reports now are announcing: 3,743.

The Hon. B.V. Finnigan interjecting:

The Hon. M. PARNELL: The Hon. Bernard Finnigan is ready to debate the budget; he knows the figures. All I am saying is that we are seeing public servants losing their job today as a result of this budget, and here we are, voting ourselves an increase in superannuation. As to the two amendments I have on file, I will make the first amendment a test for the second, which is an amendment to delete the schedule. I would urge all honourable members to have regard to what has already been said today about the need for us to lead by example and not put ourselves ahead of our co-public sector workers who, on our behalf, do such a diligent job in advancing services in South Australia.

The Hon. P. HOLLOWAY: The government obviously does not support the amendment. In effect, it is just a direct contradiction of the bill itself and the purpose of the bill itself. If we were to carry this, then there would have no point in having the bill. In fact, in the rules of debate in many organisations, you would not be able to move such an amendment because it does directly negate the purpose of the bill and, given we have already debated at length the purpose of the bill, it probably does not warrant too much attention.

The honourable member used the argument about parity with the public sector, and so on. There was already one interjection that referred to salaries, and I know the Hon. Mr Lucas talked

about that earlier in his second reading contribution, but one might also talk about such things as severance pay, long service leave, overtime, etc. The fact is that the working conditions of members of parliament are different from everyone else. You are subject to election in the House of Assembly every four years. Here it is less often.

When I was a member of the House of Assembly I had been in four years under the old superannuation scheme, which was regarded as very generous—and it was, if you had been in for six years but not if you were there for four years. Some of my colleagues who lost only got back their contribution. They did not even get parity rates of interest on the money that they had paid at 11 per cent contribution. They did not get paid back.

So, while it is often said that that old scheme is generous—and certainly it is for someone like myself who has been around for a number of years—at the time, if you happened to lose your seat after one election, it was one of the least generous schemes possible. One needs a bit of perspective in this. The fact is that the conditions that face members of parliament are significantly different. The working conditions are not really comparable to those in the Public Service, and that is why the parliamentary superannuation scheme has always been different, to reflect those conditions.

As I said earlier in the second reading response, it was also meant to enable members of parliament to focus on their job. Members of parliament, given the work they do, are not able to necessarily concentrate on work after politics or investments, and so on, which may well be quite incompatible with the job we are doing. As I said earlier, certainly in relation to ministers, it is not appropriate that ministers should be perhaps investing money in shares and other forms of investments that might be incompatible with the work they do. There are also, obviously, workload issues. There are agreements that ministers undertake, and there are the same constraints the media effectively put on senior members of the opposition, and others, about the jobs you can do when you finish here, and all that sort of thing.

So there are a number of constraints on members of parliament that do not exist for other members of the community, and it has always been accepted, for many decades, that superannuation for politicians should be different—as, indeed, it is for judges. Judges have a very generous superannuation scheme as well, for much the same reason—so that they do not have to worry, if you like, about financial inducements or considerations in relation to their work. I think it is important to put that on record. It is not just a matter of simple parity with public servants. There are good reasons why parliamentary superannuation is different. Here we are just simply bringing it into line for those newer members with what exists in the federal parliament.

The Hon. M. PARNELL: I will respond briefly to some of the things that the minister said, because I do not believe they are correct. He said that, as a matter of process, I should not be allowed to move an amendment such as this because it negates the purpose of the whole bill.

The Hon. P. Holloway: No, I said in many organisations that would be the case. I am not saying here.

The Hon. M. PARNELL: I am glad the minister has clarified the situation because I think this is a very appropriate amendment and it does not negate the purpose of the whole bill because, of course, it has no bearing on some of the other provisions in this bill that we have not debated in any great detail. Because of the extraordinary circumstances surrounding this debate, we have not talked about the salary sacrifice provisions or the other measures that are in this bill. I am focusing on this issue of superannuation.

In terms of what the minister is saying about the parity of salaries, for example, there is no suggestion of some socialist utopia where every person gets paid the same amount. No-one is talking about that. Of course there will be different levels of pay for different levels of work that will reflect responsibility, skill, hours and things like that. The point to remember—and this is why parity is important with public sector employees—is that MPs are paid well for the work we do, and we work hard; and our superannuation is higher as a result, because it is 9 per cent on a higher base salary. So, yes, there are provisions that have more super for MPs than many other public servants have, because we are starting from a higher base.

The minister has referred to a range of other areas where it is perhaps desirable for members of parliament to have special arrangements, but they are not in this bill. There is no mention here of redundancy or anything like that. If members were seriously concerned about what happens to someone on election day when they are unsuccessful, it would be addressed here. We know what happens here; it happened to a colleague here in the upper house: his pay stopped on

election day when he was not elected. There is no redundancy. Why has not the government brought forward measures like that if it thinks that is a reasonable way to handle it? Tell the former member here, the Hon. David Winderlich, that when he retires he will eventually get superannuation. It does not help him when his pay stops the day of the election.

I do not accept for one minute that this bill represents a measured response to the special circumstances that apply to our role as members of parliament. This amendment—and I urge members to support it—puts us fair and square on the same footing as the people we work with in the public sector: 9 per cent is good enough for public servants, and it should be good enough for MPs as well.

The committee divided on the amendment:

AYES (3)

Franks, T.A.	Parnell, M. (teller)	Vincent, K.L.

NOES (18)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Holloway, P. (teller)	Hood, D.G.E.
Hunter, I.K.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	Zollo, C.

Majority of 15 for the noes.

Amendment thus negatived; clause passed.

Clauses 15 to 18 passed.

Schedule.

The Hon. M. PARNELL: I move:

Page 9 lines 5 to 41 and page 10 lines 1 to 21—Delete the Schedule

I regard my previous amendment as a test for this, so although I move it, I will not be dividing on it.

Amendment negatived; schedule passed.

Title passed.

Bill reported without amendment.

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) (15:48): I move:

That this bill be now read a third time.

The Hon. M. PARNELL (15:48): I will make a brief third reading contribution. I am obviously disappointed with not just the content of the bill that the chamber has now passed but also the appalling process that we have gone through to get to this stage: voting on a bill less than 24 hours after its introduction against all the protocols and all the established practices of this council. The opposition is not covered in glory through its support of this process. It is appalling and it is cynical in the extreme.

Now we find that shadow ministers are off trying to hold the government to account by reading their budget papers, working out where the cuts have been in their portfolios. They are upset that the Greens have been calling for divisions because I am keeping them from their task of holding the government to account. It is remarkable that the opposition, having colluded with the government to bring this bill on within 24 hours, is now angry because I am keeping them here talking about politicians voting themselves superannuation while they want to be writing their press releases about how lousy the government's budget has been.

No doubt the government members here are thinking, 'Parnell, call another division! Greens, call another division! We've got our budget speech done. The opposition are going to be

distracted. Let's bring them back in here so they can't write their press releases.' What irony! What an absolute joke of a process that we are following here in the Legislative Council!

I think this is a remarkable day. It is not unique. This is, I think, my fourth budget and every single budget day the government has chosen to bring something on that it would rather not see the light of day. One year I think it was the climate change bill, I think we were bringing back amendments from the lower house, and WorkCover was one as well, where this is an ideal time to bring it on. Readers of the *Government Gazette* should read the New Year's Eve or Christmas Eve version of the *Government Gazette* because that is where you will find things that the government wants to hide away, that it does not want you to notice.

In the future, I think that Politics 101 will be that, if you want to find out when politicians are feathering their own nest and self-serving, look at what they do in the upper house of state parliament while the budget is being delivered in the lower house. I think it is an outrageous process and I hope that we do not have to go through this again.

I accept the will of the council in relation to this bill and I will not divide again. The Liberals will be happy. Liberal shadow ministers can sit in their offices and draft their press releases to point out the deficiencies in the government's budget. We have had some divisions today. Members are in no doubt where the Greens stand. The community is in no doubt where you all stand on this. I think this is a sad day for democracy in this place.

Bill read a third time and passed.

STAMP DUTIES (PARTNERSHIP INTERESTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 July 2010.)

The Hon. R.I. LUCAS (15:52): I rise to speak to the second reading of the stamp duties bill. In the earlier discussions on this bill and the briefings that the Liberal Party had, and as would have been evidenced by its rapid passage through the House of Assembly, we would have expected or anticipated that this might have been a relatively easy passage of legislation through the upper house.

At the outset, I say that this debate we are about to have, I think, is further testimony to the uniqueness and value of having a state upper house, a second chamber, to allow views to be put to the parliament which otherwise might not have been considered by the parliament. I think members ought to be reminded of that on occasions like this, that if it had not been for a second chamber this legislation would have passed without the opportunity for this parliament and chamber to consider some of what I will endeavour to do justice to—and I suspect I will not do it complete justice—namely, a comprehensive submission that we have now received from the Law Society of South Australia and the Law Council, representing a number of other groups, raising some significant questions on the legislation.

With that introduction, I apologise to members. I advise Hansard that the submission from which I read, and read quickly, is nicely typed, so I can provide a copy of it. I refer to this submission, which is dated 18 August 2010. When one looks at the debate in the House of Assembly, I am not sure of the time but it looks as though it might have taken all of four or five minutes. There was a second reading explanation from the minister and a speech from the Liberal shadow, on behalf of the Liberal Party, supporting it. There was no committee stage at all and the bill passed through all stages, as I said, in probably three or four minutes. Subsequent to the bill having passed the House of Assembly, we have received a copy of this submission dated 18 August 2010, signed by John Tucker, Rankine Tucker Lawyers, who is the chair of the Members in South Australia of the Taxation Committee of the Business Law Section of the Law Council of Australia, with a detailed 17-page submission, indicating that two other people, Bernie Walrut and Paul Ingram, have been involved in the preparation of the submission.

For those members who have followed these debates before, as soon as the name Bernie Walrut is mentioned I am sure bureaucrats' eyes glaze over, their ears are pinned back, the hackles rise on the back of the neck, and they know they are in for a discussion of the debate, because Mr Walrut has a formidable reputation over many years in terms of advising on tax law, nationally, but in particular in South Australia, and is respected, I think, by most in terms of his views on tax law. So if he has been involved in this submission, as I suspect he probably has been, then it is a warning sign to the state government and to Revenue SA that they ought to give proper consideration to the issues raised.

This was dated 18 August, sent to Graeme Jackson. It does say Commissioner of State Taxes, but I think Mr Jackson works within that unit. Then a copy of the letter was sent to Iain Evans, as the shadow treasurer. The letter had actually been sent to the Law Society, and Richard Mellows on 24 August, a week later, said, 'Thanks for the letter', and stated:

> The bill is being considered by the society's Commerce, Corporate and Tax Committee and the society has endorsed the submission of the Law Council to Revenue SA, a copy of which is attached.

So the Law Society has looked at the Law Council's submission on the bill and has endorsed the Law Council's view on it. I do not propose to read all 17 pages of the submission into *Hansard*. Obviously the government and its advisers do have copies of it, but I do want to highlight a considerable number of the issues that the Law Council and the Law Society have raised about the legislation, and perhaps I can just read in its entirety the summary to indicate the significance of the views they are putting forward. Page 16 of the submission states:

> 82. The retrospectivity cannot be justified and the limited grounds put forward for it to be adopted are contradicted by the Commissioner's own Circular.
>
> 83. The creation of penal sanctions retrospectively is untenable.
>
> 84. Unlimited power to amend past assessments to give effect to untenable retrospective provisions compounds and completes a trilogy that makes a mockery of the rule of law.
>
> 85. The substantive provisions of proposed legislation are drawn in the most pervasive possible terms:
>
> 85.1 deeming partners to have an interest in assets that they do not have at law;
>
> 85.2 deeming dealing with interests to be made by persons who are partners even though they, under the terms upon which they are partners, have no interest in the surplus of partnership assets over liabilities nor possibly beyond a share of the income of the partnership;
>
> 85.3 deeming collectively held assets to be the asset of a person and thereby creating a curious concept of a collective member of a partnership and also potentially imposing double duty in any situation where an interest has been assigned in equity but not law, once upon the assignor, once upon the assignee;
>
> 85.4 deeming a basis of valuation for duty which is not reflective of market value but which requires the Commissioner to apply a formula to create some other, deemed, value which will potentially have no correlation to market value.
>
> 86. This is instead of just legislating to impose the Commissioner's losing argument in *Cyril Henschke Pty Ltd v Commissioner of State Taxation* or introducing the most onerous regime from among the existing legislation of other states.
>
> 87. Clearly the provisions are anti-business, will reflect very badly on any legislature that passes them, compromise those who are to administer them and ought not to be pursued or passed in their present form.

Other than that, I think they thought the legislation was all right! It is a fairly damning indictment of the legislation from the Law Society and the Law Council's view. It certainly challenges all that we have been told in relation to retrospectivity and its impact on business.

I propose, as I said, to highlight in detail some of the issues that are raised in the submission, but—and I accept this—I am sure that the government and Revenue SA in particular will disagree with a number of the elements of the submission. However, having read the submission, I would be surprised if Revenue SA can dismiss all elements of the submission that have been put now to members of the Legislative Council and the government.

There is reference in the first three pages of the submission to a number of Commissioner of Taxation circulars. I seek the response from the minister to provide these to members prior to the debate on this issue. I was going to suggest that, given that we are up for a week or so, the minister could provide them prior to the council having to debate this issue, because our party room, I am sure, will want to at least give further consideration to the government's response to some of the serious issues that have been raised by the Law Society and the Law Council.

Could the government provide copies of the Commissioner's Circular 191—Conveyances and Transactions Involving Partnership Interests, issued in August 1999, also, a copy of Commissioner's Circular 165, issued in March 1998 and the Commissioner's Circular 86, which was issued in October 1993? So, could members have copies of those circulars to assist them in consideration of this submission and also any response from the government?

I refer to page 4, point 17 of the submission firstly, under the heading of Retrospective Effect—Fundamental Proposition. There are a number of points there which I do not propose to read into *Hansard*, but point 17 I do:

> The foregoing is further accentuated by the fact that Circular 191—

which is the most recent Commissioner's Circular—

confirms that if a partner retires from a partnership and receives nothing more than the partner's capital account and there is no goodwill, then there is no duty consequence. So simply stated a partner retiring and being paid out the partner's capital entitlement involves no duty consequence as confirmed by the Full Court of the South Australian Supreme Court in Cyril Henschke Pty Ltd v Commissioner of State Taxation. The relevant example from the Circular is as follows:

> Some Examples
>
> The following examples, while not exhaustive, illustrate the principles involved. All examples will relate to the following hypothetical partnership. The statement of affairs of a partnership just prior to the change in partnership interest is as follows:
>
> A, B, C & Co
>
> | | | |
> |---|---|---|
> | Assets | $35 | |
> | Liabilities | $(10) | |
> | Net assets | | $25 |
> | Partnership Funds | | |
> | Capital A | $5 | |
> | Capital B | $10 | |
> | Capital C | $10 | |
> | Total funds | | $25 |
>
> The profits (capital and income) of A, B, C & Co are shared by A, B and C in the ratio 1:2:2...
>
> 3 Retirement of a Capital Partner
>
> B retires by taking $10 from the partnership interest.
>
> Scenario 1—The partnership has no goodwill.
>
> Since the interests of A and C (the remaining partners in the partnership fund before/after retirement of B) remain the same, the amount on which duty will be levied is zero. However, a statement pursuant to Section 71E(3) is required to be lodged.

18. On the basis of that example the Bill is not retrospectively reinstating the Commissioner's practice but reversing it.

19. The foregoing clearly demonstrates that there has been no fixed view since 1993 let alone 1923 as to the appropriate treatment of dealings in partnership interests such as to justify retrospective legislation that seeks to impose a view that at most, in limited respects, has been the practice of the Commissioner since 1999.

20. Further parts of Circular 191 adopts the same view as adopted by the Full Court of the South Australian Supreme Court in Cyril Henschke Pty Ltd v Commissioner of State Taxation whilst other parts appear to adopt a view that is inconsistent. They appear to be the views now being espoused by the Commissioner as inconsistent and correct. Clearly, the Circular does not cover all aspects of partnership dealings, it does not reflect a shared view notwithstanding the level of consultation that preceded it. It has not always been applied consistently. The foregoing highlights that the views expressed in the Circular are confused and inconsistent.

Then, under the next heading 'Retrospective Effect & Reassessments—How Far', it states:

21. The provisions expressed to be retrospective but without limit. On one view it would therefore appear that they are retrospective to at least 1923, on the consolidation of the then Stamp Duties laws and the Stamp Duties Act 1923. It is possible that they are retrospective to some time prior to that but it is unclear how that will work without a close scrutiny of the various acts consolidated in 1923.

22. Section 1 of the Transitional Provisions permit the Commissioner to reassess duty with respect to any instrument or transaction created or entered into before the commencement of the proposed act.

23. Section 47 of the Taxation Administration Act 1996 provides for no time limitation on the right to recover taxes in this state. Section 16 of the Stamp Duties Act 1923 provides for the duty to be payable by reference to the rates in force at a time the document is to be stamped. The rates have changed very significantly since the introduction of stamp duties in South Australia.

24. The penalty regime has also changed significantly in the period from 1923 to now. Section 2 of the Transitional Provisions provides that there is to be no penalty. The Taxation Administration Act 1996 distinguishes between penalty and interest. Division 1 of Part 5 provides for interest where there is a tax default

in Division 1 of Part 6 for penalty tax. The reference to a penalty in the Transitional Provisions appears to be limited to the penalty tax under Division 2 of Part 5.

25. There appears to be a number of situations that require consideration. There are those situations where there has been no assessment and there are those situations where there has been an assessment.

There is a comprehensive summary of two areas, 'Retrospective Effect & Reassessments', where there is no assessment, and 'Retrospective Effect', where there is assessment. I do not propose to read those three pages of the submission into *Hansard*, other than referring to them, and then summarising the last point, which is point 35, as follows:

35. It is completely inappropriate for legislation to be proposed which the community could not, if properly informed, reasonably be expected to support and which will compromise the Executive through it failing or deciding not to administer according to its terms.

The next section of the submission, on page 8, is section 71AB. It states:

36 The section uses the concept of an 'asset'. The Stamp Duties Act 1923 has generally used the concept of property. The concept of an asset has been introduced into a number of parts of the act, but its use creates further issues rather than resolving them.

37. The possibility that an asset is a concept that is wider than property is highlighted in the definition of section 91(1) where an asset is defined to include property. The Accounting Standards define assets in a manner that raises many issues, if that is what is intended in this situation. The relevant heads of charge are concerned with property; this is mixing and confusing concepts. The provision should be limited to property. This is also consistent with conveyancing provisions and agreement for sale provisions, both of which refer to property.

The next section refers to a detailed analysis of section 71AB(1) of the bill. I do not propose to read all four pages of that, other than for two or three sections of that that give you a flavour of the concerns in this aspect of the submission. It states:

45. The provisions would apply where partners draw down pro rata to their contribution of it or entitlement to it capital contributed by them. This is contrary to the position with the unit trust, where pro rata distributions of capital are expressly exempt.

46. It also appears possible that, if the departments collectively sell an asset of the partnership, the provisions are triggered. In this situation, there is a transfer of the interests of the persons and the asset of a partnership is held collectively. While such a transfer within the scope of the Stamp Duties Act 1923 will be liable to normal conveyance duty under section 60 and the head of charge conveyance on sale, section 78AB(5) will prescribe a different method for determining the liability for duty or impose an additional liability. This raises the question whether this is a situation to which Speyer Bros v IRC applies or one to which section 14 and Commissioner of Stamp Duties (NSW) v Pendal Nominees Pty Ltd apply? Where the asset that is sold is not one that attracts ad valorem duty, say, the sale of goods in the ordinary course of business, then duty will be imposed in accordance with these provisions. This is patently inappropriate. Many other like situations can arise under these provisions as currently drafted. They require considerable clarification, both of the interests within their scope and in their drafting.

47. Section 71AB(1)(b) provides that the section is triggered if there is a conversion of the relevant interest in an asset into money. There are potentially two different situations where this works considerable injustice. The first is where the partnership buys an asset. In every such situation section 39 of the Partnership Act 1891 converts the rights of the partners in the purchased asset into a right to receive the payment of the surplus after payment of debts of the partnership, namely the right to receive money or some other benefit. So section 71AB(1)(b) appears to be triggered.

48. The second is where the partnership sells an asset or collects a debt. In each situation the interests of the partners in the assets of the partnership are converted into money or other consideration or benefit. In the case of a partnership conducting a supermarket every sale of its stock in trade involves the conversion of the interests of the partners in the assets that are stock in trade into money or a right to receive money from a credit card provider. The right to receive payment from the credit card provider will be consideration or a benefit. On the conversion of that right to receive payment from the credit card provider to actual money section 71AB(1)(b) will again apply because the chose in action will be converted into money or another benefit, this time it is likely to be the right to recover from the partnership's bankers the amount credited.

49. Indeed if taken to its literal legal conclusion each drawing on a partnership bank account that dilutes the partnership's asset of a legal chose in action against the bank has the potential to attract duty. That the dilution of this asset discharges a liability, is not accommodated by the draughtsman, there is no concept of net benefit. Duty is levied on the value of the deemed interest in the asset to which it applies. Again it is not an acceptable response to argue that the Executive or the Courts will not apply the literal interpretation of the provisions. Given the extent of the provisions their constitutional base is also a potential issue.

Further on the submission states:

52. According to partnership law, partners do not become entitled to their share of the net income until the partnership accounts are struck and approved by the partners. In this situation a resolution of the partners approving the accounts and consequently the distribution of profit to the partners will necessarily convert the interest of partners in the surplus existing at the time of approval into an entitlement to payment of money for each of the

partners entitled to a share of the net income. The payment will stand to be made out of the assets of the partnership be they funds in the partnership bank account or by way of set off against the right of the partnership to recover from the partners' drawings made in anticipation of their respective shares of net profit and repayable if their share does not materialise to the extent of the drawings. Section 71AB(4) will treat these resolutions for the distribution of net profit as a conveyance of property operating as a voluntary disposition inter vivos. The valuation of the property deemed so conveyed would appear to be the consideration given for it, in the above example the value of the obligation to repay drawings set off against it, or the full amount of the net profit.

53. It cannot be intended that duty be chargeable in the above circumstances. This will retrospectively impose duty on partners who could not reasonably ever have been expected to anticipate such duty. In the future well advised partners will avoid ever creating an instrument to distribute profits whilst others may inadvertently become exposed to such duty. The concept of such a potentially wide reaching provision is critically flawed.

54. The foregoing demonstrates, using the words of others, 'this is a great big new tax', not simply the clarification of a situation.

There are then further submissions on sections 71AB(2), 71AB(3), 71AB(4), 71AB(7) and 71AB (9) which I do not propose to outline in detail. I now turn to page 15 of the submission, which refers to 71AB(10) of the bill, as follows:

68. Section 71AB(10) continues the Commissioner's denial of reality. It requires that the goodwill of a partnership be included as an asset of the partnership. In many larger professional practices goodwill is not brought to account nor charged on either the admission or retirement of a partner.

69. These partnerships are rarely capable of converting the goodwill into anything. In some smaller partnerships goodwill may still be paid for and it is appropriate in those situations that it be brought to account. It reflects reality. Accountants' theories of valuation, which have found some support in particular circumstances, ought not to be legislated to have effect to deem values where clearly none exist in genuine market circumstances.

70. Notwithstanding the current factual situation the Commissioner continues to insist on an amount being included for goodwill. This unreality should not become reality by law.

Then there is a submission on section 71AB, other provisions and exemptions, a submission on valuation methodology, which I do not propose to read into *Hansard*. Finally, there are sections 91 and 95, general amendments. Point 76 states:

The possibility of these amendments to Part 4 having retrospective effect was never foreshadowed. They seek to overturn the operation of section 22 of the Partnership Act 1891, which was not an issue in Cyril Henschke Pty Ltd v Commissioner of State Taxation. There is simply no justification for these provisions to apply retrospectively. It was never foreshadowed.

Point 77 states:

The provisions either do not integrate or integrate unfairly with the land rich provisions. A corporate or private unit trust partner will now be deemed retrospectively to hold an interest in land which is an asset of a partnership of which it is a partner. If there have been changes in significant interest in an entity which was a partner in a partnership but not land rich it will now be retrospectively deemed to have held an interest in land and this will raise an issue as to the application of the land rich provisions, after the date on which those provisions came into force.

It goes on at point 78 to state:

The land rich provisions require the lodgement of a statement within 2 months after a dutiable transaction occurs. If the statement is not lodged within that time an offence is committed. In effect a person will be made liable for a prosecution retrospectively.

Then point 79 states:

Non-dutiable transactions that have occurred will be retrospectively made dutiable though the partners to them are unlikely to be appropriately informed of this occurring. Consequently the law will be applied in a discriminatory way and be incapable of fair administration.

I have read significant sections of that submission of 18 August onto the *Hansard* record. My request to the minister is that a comprehensive reply from Revenue SA is provided to the opposition well prior to any time that the minister intends to further consider this legislation.

Having read that submission only on the weekend, as I was given it late last week, late yesterday I received a further submission. It was a copy of a letter from Mr Tucker for the Adelaide members of the committee to which I referred earlier, to the Hon. Iain Evans, shadow treasurer, and dated 13 September—only Monday of this week—and I am assuming Mr Evans received it either Tuesday or Wednesday. It was only late yesterday afternoon that I received a copy of it.

That submission is now a 25-page submission. The one that I read earlier was a 17-page submission and it was quite complex. As I said, I only had the opportunity to work my way through it on the weekend. The covering letter to this 25-page submission from Mr Tucker states that his

understanding is that not only does the Law Society support the Law Council's submission now but the Australian Institute of Conveyancers South Australian Division Inc. has also supported the submission.

Mr Tucker notes that, since the submission was delivered (that is the earlier one), further issues have been identified, and that is why it has been updated. He goes on to say that it has been so widely drafted that it will have many unintended consequences. He says the retrospective operation is particularly onerous, and he points out that the Commissioner's appeal against the Full Court decision in the High Court has now been heard by the High Court, and its decision is now pending. He makes the suggestion that perhaps the government ought to wait for the decision of the High Court before it proceeds with this legislation, given the defects that he claims exist.

He indicates that the Commissioner for Taxation has not yet responded to their submission of August. However, they have spoken with the Deputy Commissioner about the legislation. Whilst I had the chance to work through the 17-page submission on the weekend, given the budget arrival today and having received a further 25-page submission late yesterday afternoon, and the fact that we are not sitting next week, I have not had the chance to read it, other than to skim through the 25-page submission.

It is fair to say that I think that the 25-page submission picks up most of the elements of the earlier 17-page submission to which I have referred. I do note that it does have some easier to read and understand examples highlighted in the 25-page submission, which does make exploration of some of the issues a bit easier because it does highlight some of the problems that will possibly ensue. I might just read three of those examples onto the record from the 25 pages. They are practical examples of some of the problems that the Law Council and the Law Society are highlighting. The first example is:

> Many small businesses are conducted in partnerships involving a husband and wife. Sometimes other family members are partners, particularly rural partnerships. So a farming partnership selling 100 lambs for $90 each will trigger a stamp duty liability of $90. This in effect a new impost. If there is no document then they are required by section 71E to file a statement and pay duty on it. The failure to lodge that statement constitutes an offence.

The second example:

> An example of the foregoing is where a husband and wife conduct a small supermarket in partnership. Each time they sell a can of soft drink and a sandwich they convert the assets of the partners into cash and the proposed provision is triggered. If there is no document then they are required by section 71E to file a statement and pay duty on it. The failure to lodge that statement constitutes an offence.

The third example:

> In the example of the husband and wife conducting a small supermarket they decide to buy a new display refrigerator for $4,000 with funds from the partnership bank account. The partners have converted their interest in the bank funds into a new piece of property in which they now have new interests. The provisions once again are triggered with a stamp duty consequence of $40. Once again if there is no document then they are required by section 71E to file a statement and pay duty on it. The failure to lodge that statement constitutes an offence.

I am sure it was never the intention of the government to pick up the sorts of examples that Mr Tucker, the Law Society and the Law Council have highlighted and require them to pay stamp duty on those every day circumstances in business, and if they do not lodge documents, that there would be an offence. Nevertheless, the Law Society and the Law Council are saying that a literal interpretation of this drafting would leave these sorts of normal business transactions such as buying a fridge in a partnership or selling goods in a deli or supermarket liable to penalties and the payment of duty in a whole range of circumstances, which I am sure (whilst I am always happy to impute improper motives to the government of the day, particularly this government) not even this government would stoop so low as to want to pick up these sorts of normal transactions and impose duties and penalties in the event that documents are not completed by partners in various partnerships.

However, the Law Society and the Law Council are highlighting that that is the literal reading of the drafting of the legislation. In highlighting some of the elements of those submissions from the Law Society and the Law Council, I conclude by again saying to the minister in charge of the bill—I know he is the not responsible, this is the Treasurer's—that the opposition is now seeking a detailed response from Revenue SA to the quite serious—

The Hon. P. Holloway: The government is seeking crown law advice.

The Hon. R.I. LUCAS: Yes, I am sure it is, but what I am saying is that, in terms of our expediting this, the opposition is now seeking a quite detailed response from the government to the

serious claims being made by the Law Society and the Law Council. We have thus far accepted in good faith the briefings that we have taken from the government's advisers on the impact of the legislation, and that is why the bill went through the House of Assembly very quickly. However, it is certainly our very strong position as members of the Liberal Party that we will urge the Independent members and minor party members to support us in not proceeding—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes—with consideration of this legislation until we can reach the stage of receiving the government's response, having the opportunity to discuss it with the Law Society and the Law Council and then, if we do need to contemplate amendments, we would need to go back to our party room. As I said, we are not sitting next week. I thought it was useful for me to place on the record our position on this last sitting day before the break, which gives the government and its officers fair warning of the Liberal Party's position.

Hopefully, prior to the government wishing to continue the debate, if we could receive a copy of the government's detailed response from the Treasurer or the minister to the claims that have been made by the Law Society, and with sufficient time so that we are able to meet with them to further consider their position in light of the government's consideration of their submission. With that, I thank the minister for his assistance.

Debate adjourned on motion of Hon. R.P. Wortley.

STATUTES AMENDMENT (ARTS AGENCIES GOVERNANCE AND OTHER MATTERS) BILL

Second reading.

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) (16:26): I move:

That this bill be now read a second time.

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

Leave granted.

South Australia's arts companies and cultural institutions make an immeasurable contribution to our State's culture, heritage and identity. In many respects these organisations lead the nation, and indeed the world, in their collections, research and artistic endeavours.

South Australia is unique in establishing so many of its major arts bodies as statutory authorities, providing them with both status and protection as key government entities. Each organisation has its own governing Act, is staffed by public sector employees and has a board or trust offering a range of expertise.

The operational structure of the organisations is tailored to the distinct needs of each. However, while the overarching governance model is the same, there is significant variation between the Acts.

The Premier asked Arts SA to review the arts portfolio statutes to determine whether there was scope for, and benefit in, standardising sections of the Acts. The review concluded that the variation between Acts was not surprising given that they were created at different times over a sixty year period. Further the review identified that there was an opportunity to introduce a number of consistent and contemporary arrangements across the portfolio to address out of date drafting and governance arrangements.

The examination of the Acts included research of governance models used interstate and overseas and referenced current legislation in South Australia. The expertise of Crown Solicitor's Office and Parliamentary Counsel was also drawn upon. The result was an initial list of fifty areas for potential change within the Acts. Consultation with the arts boards and other key stakeholders led to some additions and refinements to the proposed changes.

The object of the *Statutes Amendment (Arts Agencies Governance and Other Matters) Bill 2010* is to introduce a suite of governance arrangements for the major arts bodies. The Bill does not change the operations or objectives of the organisations. Rather it seeks to streamline their relationship with government and ensure a consistent, clear set of powers and functions for each board or trust.

The Acts included in the Bill are:

- Adelaide Festival Centre Trust Act 1971
- Adelaide Festival Corporation Act 1998
- Art Gallery Act 1939
- Carrick Hill Trust Act 1985
- South Australian Country Arts Trust Act 1992

- History Trust of South Australia Act 1981
- South Australian Film Corporation Act 1972
- South Australian Museum Act 1976
- Libraries Act 1982
- State Opera of South Australia Act 1976
- State Theatre Company of South Australia Act 1972

The Bill introduces consistent provisions for board structure, such as board size and the appointment and removal of members. A board appointment term not exceeding three years and limited to a nine year maximum will be prescribed. A gender balance provision of a minimum of two men and two women is also introduced for all of the boards.

Some boards currently have two or three positions reserved for representative groups such as subscribers and employees. This can limit the ability to achieve the ideal mix of expertise on each board. The boards have identified alternate ways for some stakeholder groups to be represented so that a number of representative positions are no longer needed. Key representative positions, such as the Local Government members on the Libraries Board, are to be retained.

Board proceedings are also to have common guidelines addressing quorum size, meeting procedures, conferencing, delegations and sub-committees, consistent with 21st century business practice. In addition the Bill introduces a requirement for each board to meet at least six times per year.

The revised board powers section has been drawn from several existing Acts, providing each of the agencies with powers relevant to their activities in today's environment. The powers section is tailored where required. For example, all are given power to charge admission or entry but Art Gallery of South Australia, South Australian Museum and State Library of South Australia can only charge for special events, thereby preserving free access to their permanent collections. Clauses which provide greater protection for official titles and logos have also been introduced.

In order to streamline government monitoring of the arts organisations, consistent requirements relating to budgets, annual reporting and Ministerial control are included. These provisions are aimed at maintaining an appropriate balance between the Government's responsibility to safeguard its investment in the organisations and each Board's ability to manage its operations. All of the Acts will have provisions dealing with authorised officers and their powers. For six of the Acts, this was simply a process of elevating to the level of the Acts provisions currently contained in regulations under those Acts. In other cases the powers are new and will be available to the Boards if required.

The regulation making powers under each Act have been reviewed and made consistent across the board. This was also done with a view to underpinning the regulations under those Acts with robust regulation making powers.

The Bill also contains some changes to individual powers. For example, the clause in the *South Australian Film Corporation Act* relating to automatic production rights and copyright for all South Australian Government films is to be deleted. This power achieved its 1970s objective of giving the Film Corporation the ability to control much of the departmental film production in the State but, in today's world of digital technology, such a prescriptive provision is no longer feasible or indeed necessary.

In opening up these Acts for changes the opportunity for a statute law revision and a general 'freshen up' was created. The Bill incorporates a revision of style and language, including use of gender neutral terms, updating of penalties and the removal of sections considered redundant.

In summary the Bill introduces consistent and contemporary governance arrangements, clarifies the obligations and powers of the boards and streamlines administration.

I commend the Bill to Members.

Explanation of Clauses

General remarks

This Bill seeks to achieve consistency in governance arrangements and other matters across the various arts agencies. The Acts that have been amended in this Bill are:

- Adelaide Festival Centre Trust Act 1971
- Adelaide Festival Corporation Act 1998
- Art Gallery Act 1939
- Carrick Hill Trust Act 1985
- History Trust of South Australia Act 1981
- Libraries Act 1982
- South Australian Country Arts Trust Act 1992

- South Australian Film Corporation Act 1972
- South Australian Museum Act 1976
- State Opera of South Australia Act 1976
- State Theatre Company of South Australia Act 1972

The following standard provisions have been incorporated into all of the above Acts. These provisions are substantially the same in each Act, varying only in minor ways as necessary to reflect differences between the Boards and their specific functions. The standard provisions are as follows:

- The Board—this Part deals with governance provisions relating to the Board (also referred to as 'Trust', 'Corporation' or 'Company' depending on the particular Act) and contains the following clauses:
    - Establishment or continuation of the Board- each Board is either established or continued.
    - Composition of Board—each Board will have a maximum of 8 members including at least 2 women and 2 men.
    - Conditions of membership—Board appointments will be for renewable terms of up to 3 years with a 9 consecutive year maximum.
    - Proceedings—the Board must meet at least 6 times in each year.
    - Validity of acts and proceedings—acts and proceedings of the Board will be valid despite any vacancy in membership or a defect in a member's appointment.
    - Ministerial direction and control—each Board will be subject to the general direction and control of the Minister, however, the independence of the Board is retained in matters of artistic, scientific, historical nature or content (as may be relevant to each particular Board) of objects, works, collections, performances and other events or activities and in other matters.
    - Committees—committees may be established by the Board.
    - Delegation—the Board may delegate powers or functions—such delegations must be by instrument in writing.
    - Conflict of interest under Public Sector (Honesty and Accountability) Act—Board members will be exempted from certain conflict of interest provisions under the *Public Sector (Honesty and Accountability) Act 1995*.
    - Common seal of the Board and execution of documents—this is a standard provision regarding formalities of execution of documents by the Board.
    - Functions—the functions of the Board are set out.
    - Powers—the existing powers of the Board are incorporated into a comprehensive list of powers of a natural person that the Board may exercise.
    - Staffing arrangements—staffing arrangements are preserved.
    - Annual budget—the Board must prepare an annual budget for approval by the Minister.
    - Accounts and audit—accounting requirements are set out including instructions and scrutiny by the Treasurer and the Auditor General.
    - Annual report—an annual report must be forwarded to the Minister before 30 September in each year.
- Authorised officers—this Part elevates to the level of the Act, provisions currently dealt with by regulation for 6 of the 11 arts agencies. For the 5 agencies that currently do not have these powers, the powers will be available should they be required. The Part provides for:
    - Appointment of authorised officers—this clause deals with the appointment of authorised officers and declares that all police officers are authorised officers for the purposes of the Act.
    - Powers of authorised officers—the powers of authorised officers include the power to remove or exclude persons from premises of the Board or to seize objects that an authorised officer reasonably suspects may be used to contravene the Act (or regulations under the Act).
    - Hindering etc authorised officers—this will be an offence attracting a penalty of up to $2,500. Some of the ways in which a person might hinder an authorised officer include obstructing an authorised officer, or failing to comply with a requirement or direction of an authorised officer.
- Official insignia—this Part deals with matters relating to official insignia of the Board including:
    - Interpretation—*official insignia* is defined, as are the circumstances in which goods will be taken to be marked with official insignia.

- Official titles and logos—official titles under which the Board may conduct its operations are declared and powers are included to declare other official titles and logos.
- Unlawful use of official insignia—official insignia are vested in the Board. It is an offence attracting a maximum penalty of $20,000 to use official insignia without the authorisation of the Board.
- Seizure etc of goods marked with official insignia—authorised officers may seize goods marked with official insignia reasonably suspected to be unauthorised.

- Miscellaneous—this Part includes miscellaneous provisions as follows:
  - Gifts etc—each Board may receive and deal with land and gifts of personal property and is exempted from the obligation to pay stamp duty on any such land.
  - Ministerial delegation—functions or powers of the Minister may be delegated under the Act—such delegations must be by instrument in writing.
  - Approvals by the Treasurer—may be specific or general and conditional or unconditional and they may be varied or revoked at any time. (Such approvals and are required before the Board acquires or deals with shares or securities issued by bodies corporate or borrows money or obtains other forms of financial accommodation.)
  - Regulations—the regulation making powers have been bolstered in order to provide a solid footing for the kinds of regulations that may be required under each Act. There will be regulation making powers to—
    - provide for the use, care and protection of objects, works, collections or any other property of, or under the care or control of, the Board; and
    - provide for the admission, exclusion or expulsion of members of the public to or from premises of the Board or a part of those premises; and
    - prohibit disorderly or offensive behaviour on premises of the Board; and
    - prohibit or regulate eating, drinking, smoking or the consumption of unlawful substances on premises of the Board or a part of those premises; and
    - prohibit or regulate any other conduct or activities for the purposes of—
      (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the Board; and
      (ii) protecting property under the care or control of the Board; and
    - prohibit or regulate the driving, parking or standing of vehicles on premises of the Board; and
    - provide for the approval by the Board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
    - prescribe fees for the parking of vehicles on premises of the Board and provide for their payment and recovery; and
    - provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
    - provide for procedure in relation to alleged offences against the regulations dealing with the driving, parking or standing of vehicles; and
    - provide for evidence or burden of proof in proceedings for offences against the regulations dealing with the driving, parking or standing of vehicles; and
    - provide for the management (including disposal) by, and vesting in, the Board of unclaimed property; and
    - prescribe penalties not exceeding $1,250 for breach of any regulation.

The opportunity has also been taken to make other isolated changes in addition to the standard provisions. Examples of these changes are as follows:

Section 35 of the *Libraries Act 1982* has been amended in order to enable the Parliamentary Librarian to exempt the provision of material to the Parliamentary Library and to enable the provision of material to the Parliamentary Librarian and the Board in electronic form in restricted circumstances.

The Bill removes powers in section 11(a) and (aa) of the *South Australian Film Corporation Act 1972* that currently entitle the Corporation to sole and exclusive right to produce, or arrange for the production of, film for or on behalf of the government and to ownership of all rights in any film made for or on behalf of the government. These changes reflect a more flexible approach to production and ownership since the early days of the Corporation.

Another noteworthy change in several of the Acts is the removal of sections that fix particular persons to positions, for example 'Secretary to the Board' (under the *State Opera of South Australia Act 1976* and *State Theatre*

Company of South Australia Act 1972), 'Secretary to the Trust' *Adelaide Festival Centre Trust Act 1971* and 'Director' (under the *Art Gallery Act 1939* and *South Australian Museum Act 1976*). Removing the references to positions provides Boards with greater flexibility in relation to appointments and functions of appointees.

Schedule 1, Parts 1 to 11 of the Bill includes statute law revision amendments to the Acts, updating archaic language and obsolete references.

Schedule 1, Part 12 of the Bill includes transitional provisions that—

(a) will enable current members of Boards to continue in office for the balance of their terms, thus enabling a smooth transition to the new model (with the only exception being that the terms of office of subscriber and employee members on the State Theatre Company Board will cease on the commencement of the Act); and

(b) provide for names, titles and logos declared under the *Adelaide Festival Corporation Act 1998* to continue as if declared under the new provisions; and

(c) provide for the appointment of authorised officers or persons under the respective regulations to continue as if appointed under the new provisions.

Debate adjourned on motion of Hon. D.W. Ridgway.

At 16:26 the council adjourned until Tuesday 28 September 2010 at 14:15.