LEGISLATIVE COUNCIL

Wednesday 29 September 2010

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.P. WORTLEY (14:18): I bring up the ninth report of the committee.

Report received.

The Hon. R.P. WORTLEY: I bring up the 10th report of the committee.

Report received and read.

PAPERS

The following papers were laid on the table:

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

Codes of Practice under Acts—Code Alterations—Gaming Machines—[Name of Venue]—
Advertising (No. 1) 2010
Responsible Gambling (No. 1) 2010

COMMERCIAL VEHICLE DRIVERS

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) (14:22): I lay on the table a ministerial statement made today by the Hon. Jack Snelling in another place about a new approach to assess fitness to drive for commercial vehicle drivers.

QUESTION TIME

PREMIER'S STATEMENTS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Leader of the Government, Minister for Urban Development and Planning and Minister for Mineral Resources Development a question about Labor reconnecting.

Leave granted.

The Hon. D.W. RIDGWAY: Premier Mike Rann promised six months ago that he would reconnect with the people of South Australia. I guess you could say he made a commitment and broke it. On the night of the March state election, when Labor suffered a 7.4 per cent swing against Mike Rann, he said:

> We've got the message from the public. In a number of seats we got a real hiding.

He went on to say:

> We've got to listen to the message from the public and learn from it and take our punishment.

He also said:

> We've got to learn from that kick in the pants.

On Monday 22 March the Premier said on radio FIVEaa:

> What we've got to do is learn from the kick in the pants and basically go out and reconnect with the electorate. So, I've already said that we want all our ministers and all our MPs, the new ones and the ones who've been re-elected, to go out and reconnect.

Will the minister advise the council in which suburbs and electorates he doorknocked when he reconnected with the South Australian community?

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) (14:23): I was out near the Port Adelaide region during the first such activity we have had and also in the electorate of Bright, along the southern coast. No doubt there will be further places.

MOBILITY SCOOTER SAFETY

The Hon. J.M.A. LENSINK (14:23): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about mobility scooter safety.

Leave granted.

The Hon. J.M.A. LENSINK: Members may be aware that death and injury as a result of mobility scooter accidents is a real and emerging issue in our community, so much so that I note the ACCC recently released consumer information in the form of a pamphlet entitled 'Help cut mobility scooter accidents'. Research by the Australian Research Centre of Monash University reports that death and inquiry by users is a serious and emerging trend among the elderly and disabled and that needs immediate attention. The ACCC document states that some 62 Australians, mostly in their 70s, 80s and 90s, have died from mobility scooter accidents since 2000.

A potential contributing factor to this incident rate is confusion by those using these devices in the community at large about their appropriate use, and it has been the subject of articles in the RAA member magazine. My questions to the minister are:

1. What information are sellers of mobility scooters required to give consumers?

2. What information does OCBA provide?

3. How many complaints were made in 2009 and have been made in 2010 to OCBA so far, and of those complaints have any arisen from government agencies?

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) (14:25): I thank the honourable member for her most important questions on the topic of mobility scooters. Very few complaints about scooters have been brought to my attention, but I can certainly inquire of the agency itself to find out, from files, what the history of complaints has been. In terms of complaints coming through my office, there may have been some, but at this point I cannot recall many at all. Nevertheless, I accept that these scooters are driven mainly on footpaths and are subject to the condition of footpaths and other walkway areas and that there is a potential for problems associated with their use.

These scooters mean a great deal to people who suffer from disabilities which impair their mobility to a degree that they require such assistance. An uncle of mine who suffered from muscular dystrophy and an auntie of mine who suffered from very severe arthritis both required the use of these scooters, and I guess they were privileged enough to be able to afford a scooter to assist them with their mobility. I recall the first day that my uncle went out on his; it was like opening up the doors to a new life. He had become progressively more restricted over the years and had then got the idea of getting a scooter, and it transformed his life.

These are very critical aids for people with disabilities and they mean a great deal to their lives, and it is most important that we ensure the use of these scooters remains safe. In light of that I am more than happy to take those questions on notice and bring back a response.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:27): My question is to the Minister for State/Local Government Relations. What was the source of the funds for the investigation into the Burnside Council during the 2009-10 financial year, and has the investigation been funded from the recurrent appropriations of the Office of Local Government or some other source?

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 am not sure of the source of the funds, but I am happy to take the question on notice and bring back a response.

ISLINGTON DEVELOPMENT PLAN AMENDMENT

The Hon. I.K. HUNTER (14:28): I direct my question on the Islington DPA to the Minister for Urban Development and Planning. Can the minister advise the chamber of any state government initiatives aimed at reducing urban blight by unlocking the economic potential of industrial sites along our city's major transport corridors?

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) (14:28): I thank the honourable member for his important question. The state government finalised the 30-Year Plan for Greater Adelaide in February this year. This far-reaching and comprehensive planning strategy contained several objectives, one of which was the designation of specific employment land close to major residential areas and transport services. Another was the revitalisation of major activity centres, clustering together specialist activities to create more efficient use of infrastructure and act as a stimulus for investment in key sectors of the economy.

These are not just empty words. This government is committed to using the 30-year plan as a vehicle to drive economic development within Adelaide. With that in mind it has begun taking initial steps to implement these policies, with a prime example being the announcement last week of the rezoning of the old Islington rail yards. The Mixed Use (Islington) Development Plan Amendment will unlock the economic potential of this degraded industrial site only six kilometres from the central business district of Adelaide. In doing so it will help to create job opportunities, initially through construction work and then within the new industries' commercial and retail offices that the government expects will be fostered by this rezoning process.

Just as importantly, this rezoning will encourage economic development in a way that renews degraded industrial land located close to the city in the inner north-western suburbs along the Churchill Road corridor. The development plan amendment which I have initiated proposes the rezoning of 38 hectares at Islington within the City of Port Adelaide Enfield and the City of Prospect north of Regency Road. The rezoning of a significant part of the Islington rail yards will provide an outstanding opportunity to revitalise this partially vacant, underused and partially blighted land which is currently owned by the Department of Transport, Energy and Infrastructure and leased to Genesee & Wyoming Australia and its freight operations.

The site is well-positioned, adjacent to both the Adelaide-Gawler rail line and Churchill Road. The rezoning of this area aims to broaden its potential use to include retail, commercial trade and light industry such as manufacturing and warehousing. Some upper level residential premises will be permitted, and these will be directed away from the industrial areas and along the road corridor above the envisaged commercial and retail premises.

This policy clearly recognises the degraded nature of the site after decades of use as a rail yard, which makes it unsuitable for low density housing. It also protects industries such as Genesee & Wyoming Australia from any incursions of housing into areas that might impinge on its operations. Importantly, containing development opportunities to key corridors such as this one will protect the things we value about Adelaide such as the character of our suburbs, heritage buildings, parks and open space.

The gazetting of the DPA last Thursday triggered an eight-week consultation process, to be conducted by the Development Policy Advisory Committee. People can submit their views on the proposal to DPAC in writing and at a public meeting to be held at the Mercure Grosvenor Hotel on North Terrace on 8 December this year. Members of the public have until Wednesday 17 November to lodge their submissions with DPAC by mail, email or fax.

I have decided that this development plan amendment should be on interim operation. In other words, development applications for this area will now be assessed against the zones, maps and policies proposed within the draft development plan amendment. In the past I have used interim operation to extend protection to heritage items identified in draft DPAs and recently during consultation on the caravan parks DPA. In this case I have decided to introduce this development plan amendment on interim operation to provide for the timely and orderly development of this area consistent with the targets and outcomes sought by the 30-Year Plan for Greater Adelaide.

Members of the public should not then be concerned that the consultation process will not take their views into account. In the proposed updated zoning there are many areas of policy that can be refined as part of the consultation process as we work towards the best outcome for this area. Changes can occur if considered appropriate, and the views raised by individuals, organisations and the local councils affected by the proposed DPA will certainly be taken into account. To that end, the Department of Planning and Local Government has initiated preliminary discussions with the City of Port Adelaide Enfield and the City of Prospect.

This area was previously zoned general industry within the City of Port Adelaide Enfield and light industry across the boundary in the City of Prospect. The DPA retains a part of the existing light and general industry zones to allow Genesee & Wyoming Australia to continue to conduct its freight operations. Other areas have been zoned mixed use at sites along the

Adelaide-Gawler rail line and Churchill Road. This mixed use zone will provide an opportunity to change the face of Churchill Road north of Regency Road.

I add that the Prospect council is currently working on upgrading the appearance of Churchill Road south of Regency Road. By accommodating retail services ranging from supermarkets through to specialty shops as well as commercial operations such as bulky goods retail outlets, the corridor along Churchill Road will be rejuvenated. This zoning also allows for light industries such as low impact manufacturing, storage or warehousing.

Heritage sites within the development plan amendment are located within a central area and are associated with the Genesee & Wyoming Islington rail operations. The Islington workshops are recognised as fundamental to the history and development of South Australia and have been listed as heritage items. The apprentice shop, electrical shop, foundry, fabrication shop and its annexe and the chief mechanical engineer's office are located within the City of Port Adelaide Enfield and have been listed on the South Australian Heritage Register. This protection remains in force as part of the rezoning.

The changes incorporated into the development plan amendment are consistent with the targets in the 30-Year Plan for Greater Adelaide, with Islington identified by the plan as a key industry area within the western zone. Notwithstanding this development plan amendment's interim operation, I very much encourage individual members of the community, residents and industry groups to lodge a submission and work with the government to grasp this opportunity to harness the economic potential of this site in a way that creates jobs and improves the visual amenity of a degraded industrial precinct.

ISLINGTON DEVELOPMENT PLAN AMENDMENT

The Hon. M. PARNELL (14:35): I have a supplementary question arising from the answer. Can the minister confirm that 'interim operation' means that any changes made to the development plan after public consultation will not apply to any development applications that are lodged now, during the interim operation period?

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) (14:35): That is correct. I am sure that given, as I said, the area is currently zoned as general industry it would certainly be inappropriate if one did not have interim operation if there are development applications lodged now. If an application had been made and if it was complying with general industry, it would obviously be assessed under that zoning, and I am sure that the people of Kilburn would not want another foundry or, even it that was not permitted, some other like activity within that region. Obviously, given the activity taking place east of Churchill Road in that area involving the Housing SA redevelopment, we need to change the mix, and that is one of the important reasons for interim operation in relation to this matter.

ISLINGTON DEVELOPMENT PLAN AMENDMENT

The Hon. D.G.E. HOOD (14:36): I have a supplementary question arising from the answer. Can the minister provide a time frame for the project, and also—I might have missed it in his answer—will it include any residential property?

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) (14:37): Given consistency with the 30-year plan, we would like to see along our corridors areas where there will be commercial or retail development with the potential for some residential above that commercial activity. However, I did mention in my answer that that would obviously be fairly restricted in this area, given the adjacent industrial areas and the fact that the policies prescribed would restrict that to those areas well away from the heavy rail operations.

Regarding the other part of the question the honourable member asked in terms of the time frame, there are no applications for development on the land. The land, as I said, is owned by the Department of Transport, but it has a long-term lease with Genesee & Wyoming. I understand that Genesee & Wyoming have been in discussions with DTEI and other developers in relation to the future use of this, but obviously that is something that would have to be resolved between those parties. I think it is important that we do unlock the potential of this area.

The worst thing that could happen would be if this land, with its current zoning as general industry, remained a degraded industrial site that is really largely used at present to house a whole

lot of empty buildings no longer used as part of the old Islington arrangements. That is south of the Genesee & Wyoming operations, and to the north it is just a lot of vacant land that I think has been used for storing old graffitied railway carriages and the like. So it is important that we try to unlock the potential of that land, but obviously that is subject to negotiations between Genesee & Wyoming, respective developers or whoever else may be interested in this, and the Department of Transport.

DISABILITY ADVOCACY SERVICES

The Hon. K.L. VINCENT (14:39): I seek leave to make a brief explanation before asking the Minister for State and Local Government Relations, representing the Minister for Disabilities, a question about disability advocacy services in South Australia.

Leave granted.

The Hon. K.L. VINCENT: On Monday I attended the Disability Advocacy and Complaints Service of South Australia (DACSSA) annual general meeting. DACSSA is an organisation which provides advocacy services to people with disabilities in this state. In 2009-10 DACSSA staff members handled approximately 1,400 inquiries and advocated on behalf of more than 544 people.

Despite this organisation's great work, the services that it provides have slowly been whittled away on account of financial difficulty. Over the past year, staff hours have been cut and two advocate positions were made redundant in an effort to put the service back into the black, so to speak. However, the cuts were not enough, and I have learned that DACSSA's Whyalla office will be closing due to lack of financial resources. This is indeed a tragedy in view of the fact that access to disability-related services is extremely limited in regional areas. This is one organisation that was on the ground, rather than just being on the end of a phone line.

DACSSA is just one advocacy organisation that my office has met with, but what I have found is that all of the advocacy organisations I have met with share one thing in common and that is a lack of funds and support from the state government. My questions are:

1. How much money does this state government spend on disability advocacy services in South Australia?

The Hon. A. Bressington interjecting:

The Hon. K.L. VINCENT: I know, but I am asking, anyway. You have to do these things.

2. What advocacy services organisations are funded by the state government and how many people have accessed these in the past 12 months?

3. What advocacy services are available to people in regional and remote areas in South Australia?

4. As at today's date, which advocacy services has the government consulted in relation to the draft National Disability Advocacy Framework?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:41): I thank the honourable member for her important questions. I will refer her questions to the Minister for Disabilities in another place and bring back a response.

PENOLA

The Hon. R.P. WORTLEY (14:42): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about Penola.

Leave granted.

The Hon. R.P. WORTLEY: Local government is a sphere of government that is often labelled as being about roads, rates and rubbish, but its experience in these grassroots areas means that it can act quickly when there is an unexpected event, such as a natural disaster. One such event was a tornado that hit Penola. Will the minister inform the house about the recovery in Penola from the recent tornado?

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) (14:42): I thank the honourable member for his important

question. As the Minister for State/Local Government Relations, I constantly see examples of extremely good work in local government that often does not reach the headlines or perhaps is not readily understood by the broader community. Frequently, these examples are seen in rural and regional South Australia, and the response of the Wattle Range Council to the tornado that hit Penola on 31 July is perhaps one of the best demonstrations of community spirit that I have seen in my role as minister.

When I visited Penola in late August, I was met by Mark Braes, Mayor of Wattle Range Council, and Frank Brennan, the Chief Executive. I was given a brief tour and explanation of the tornado's impact and subsequent repair work that had been undertaken. I also met with the SES volunteers and members and council staff and volunteers who I have to say worked magnificently to bring about an extraordinary transformation of their damaged community. I was also able to meet with some of the residents whose homes and businesses were directly impacted by the tornado.

Even though a colossal amount had been done, it was still possible to get a sense of the incredibly fearsome impact of the tornado and, having seen it firsthand, it is truly quite miraculous that nobody was killed or seriously injured—it is absolutely remarkable. The community, led by a very active local council, have worked magnificently to repair as much as possible prior to the canonisation of Mary MacKillop, which will occur in Rome on 17 October.

The Rann government has played a very active role in the recovery, too, having already provided a grant of $250,000 to the council for Penola's recovery and $100,000 towards repairing the Woods MacKillop Schoolhouse building damaged during the tornado. I understand the Woods MacKillop Schoolhouse is not yet completed. However, I understand it will be ready by the time of the 17 October announcement when, of course, there are significant celebrations planned for Penola.

The bowling club, which was totally destroyed, has now been removed, and the club is operating its bar and offices (the important parts of an organisation) from two shipping containers on an adjoining allotment. As they say, any port in a storm. The bowling club is in no great hurry to find new premises and is considering its options carefully. I think that is quite prudent, because there are some real opportunities for them to consider at present.

Most of the shop premises in Penola are open for business, but the Country Women's Association building is unlikely to be ready. Council is providing rate relief to nine property owners suffering hardship as a result of the tornado by waiving the first quarter rate instalment, and it has also waived building rules assessment fees for applications for the demolition and rebuild of existing premises.

When I was in Penola it was my great pleasure to make the first contribution to a local appeal designed to funnel all the funds that many generous people around the state and country have offered the Penola community. On behalf of the state government, through the Office of State/Local Government Relations, we were able to kick-start that appeal with a cheque for $2,000. The fund will be administered through the Stand Like Stone Foundation, which is a community-owned, Limestone Coast philanthropic body. The name Stand Like Stone is derived from a verse by celebrated local poet, Adam Lindsay Gordon, which is as follows:

> Life is mostly froth and bubble,
>
> Two things stand like stone:
>
> Kindness in another's trouble,
>
> Courage in your own.

I think the spirit expressed in that poem is still wonderfully reflected in the work I saw going on in Penola, and I certainly wish them well and congratulate them on their remarkable endeavours.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (14:47): I seek leave to make a brief statement before asking the Minister for State/Local Government Relations a question about the Burnside council.

Leave granted.

The Hon. J.A. DARLEY: I understand that over the past four years the Minister for State/Local Government Relations has received a number of complaints about the Burnside council. In particular, I understand that over the past 2½ years approximately 40 complaints have

been made by councillors and members of the community, with one councillor lodging 44 highly detailed complaints.

Further to this, I have been contacted by a constituent who made a number of complaints to the minister outlining their concern that it appeared to them that an external person had been controlling and manipulating a number of councillors and council staff for a number of years. It would seem that the minister's first course of action in response to these claims was to call for an investigation into the council by Mr Ken MacPherson, which commenced in 2009, some three years after the first complaints were made. My questions to the minister are:

1. If the minister or her predecessor did respond to the complaints over the past four years, can the minister give details as to what action was taken or what response was given?

2. Why has it apparently taken four years for any action to be taken, especially given the nature of the complaints relating to external influences?

3. Why did the minister not request an interim report from Mr MacPherson when an extension of time for the investigation was requested?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:48): I thank the honourable member for his questions. The answers to these questions I have put on the record many times previously in this chamber, so all the information that answers these questions is well and truly on the record. I have gone into considerable detail on a number of occasions here in this chamber and gone to some lengths to provide detailed responses to the matters raised by the honourable member.

In relation to past complaints, I have detailed the investigations and inquiries that took place in the past, and the results of those I have put on the record in the past, as well. I have already explained at some length why it would be ill-advised for me to have requested an interim, and virtually incomplete, report at any time and how that could be seen to be prejudicial to my final findings and any recommendations that may or may not come out of those. So, all of that is well and truly on the record.

Clearly, I have been very careful in the way I have answered these matters today. Given that related matters are before the court, it would be ill-advised, most imprudent and most inappropriate of me to be discussing these matters that are before the court. I advise the honourable member to go back through *Hansard*: all the answers are provided in detail on the record.

REGIONAL SUBSIDIARIES

The Hon. J.S.L. DAWKINS (14:51): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about regional subsidiaries under section 43 of the Local Government Act.

Leave granted.

The Hon. J.S.L. DAWKINS: On 22 June of this year, I asked the minister to consider exempting regional subsidiaries from the auditing requirements forced upon the sector by the amendments to the Local Government Act 1999. From information provided to the opposition, I understand that the minister has advised the local government sector that she is currently in the process of redrafting local government financial management regulations but has not confirmed whether or not she will provide a regulatory exemption to regional subsidiaries such as the Murray and Mallee Local Government Association (MMLGA). With that in mind, I ask the following questions:

1. Can the minister explain why she believes a regional subsidiary like the MMLGA, which holds no assets, has no long-term liabilities, employs no staff, has no capital leasing commitments, holds all meetings in public, publishes its agendas and minutes as appendices on its website and has 16 very experienced delegates with intrinsic financial and local government expertise, should be required to spend between 6 and 10 per cent of its annual budget of $110,000 establishing an audit committee, when its external auditors, who have local government experience and annually review its books, state that this regional subsidiary poses no material credit risk?

2. When does the minister envisage finalising the regulations, given that the amendments to the act came into effect on 1 July, almost three months ago?

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) (14:53): I thank the honourable member for his important questions. It is a matter that has been brought to my attention, and I have entered into correspondence with a number of subsidiaries that have written to me about these matters. Unfortunately, it was some time ago so I cannot actually remember the details of my responses to them.

I know that I did consider these issues. I know that I was also sympathetic to the concerns they raised and did seek advice. I do not believe that I have received final advice in relation to that matter. In fact, I understand that the regulations are expected towards the end of this year. If my memory serves me well, I believe that we are still wrestling with some of these issues.

So, they have been brought to my attention. The principle around these requirements is to lift public accountability and transparency across the board, and that is a very important principle. Obviously, it would be difficult for those subsidiaries that do not have income to find the money required to meet regulatory requirements or imposts.

I have had some discussions about ways that audit committees can be formed, and we have looked at ways of simplifying the audit committee requirements to enable greater flexibility and simplicity for some of those organisations. So, I know that some work has been done on that, and work is still being done on the regulations. Clearly, we have in our mind's eye some of the effects on some of the smaller subsidiaries.

REGIONAL SUBSIDIARIES

The Hon. J.S.L. DAWKINS (14:55): Given that I first raised this issue on behalf of subsidiaries in the committee stage of the bill last year, will the minister give an assurance that she will expedite 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) (14:55): I seek to expedite all of the responsibilities that are before me. There has been an enormous legislative and regulatory workload for the agency. We work through this in a very diligent and vigilant way to ensure that all of our legislation and regulations are of the highest order. This matter is important, but it is one of many matters before us, and we seek to do the very best we can in the most timely way.

RECOVERY AND RETURN TO WORK AWARDS

The Hon. CARMEL ZOLLO (14:56): Can the Minister for Industrial Relations provide any information on what is being done in South Australia to recognise the many injured workers, and their employers, who strive to return to work after workplace accidents?

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): I thank the honourable member for her important question. I was delighted this month to attend the annual Recovery and Return to Work Awards hosted by WorkCover SA. The ceremony provided an opportunity to celebrate the achievements of those who have demonstrated outstanding commitments and excellence in recovery and return to work in this state.

The Recovery and Return to Work Awards have been designed to enable South Australians to recognise excellence in injury management and return-to-work services. it was inspiring to hear the amazing stories that show us what can be achieved with motivation, dedication and determination to succeed.

Take for instance the stories of this year's joint winners, David Goold and Ross Trussell. David is a manufacturing supervisor with Alltech Refrigeration Services. While doing some maintenance on a pallet machine in Queensland for his South Australian-based employer, the power was switched on and David's leg was dragged into the trolley loader, nearly costing him his life. Suffering horrific injuries, he was trapped for two hours before he was found by a co-worker. David has now been back at work for 12 months and is pretty much able to do what he was doing before this horrific accident.

Ross is a boilermaker at Manuele Engineers. He was using a crane to place a 15 metre-long thick beam (weighing 1,300 kilograms) in a safe position when it fell, crushing both

his ankles. A well-intentioned rescue saw four of his toes broken also when the beam landed on him again. However, within four months he was back at work on modified duties. Both David and Ross have shown great motivation to overcome their challenges to make sure they recover and return to work. They have overcome great adversity and continued to achieve in their workplace and their community.

However, these awards are not just about the injured worker. There are many people to thank for their recovery: their families, friends, employers, return-to-work coordinators, medical and rehabilitation providers, case managers and their workmates. Their support is crucial in the recovery and return-to-work process, and it is appropriate for us to recognise that. Everyone in the workplace has a vital role to play in improving our return-to-work outcomes. Achieving a successful and sustainable return to work is possible when we all work together.

The significance of recovery and return to work cannot be overstated. As a community, we must ensure that injured workers receive the necessary assistance to recover and return to work as safely and as soon as possible.

MARATHON RESOURCES

The Hon. M. PARNELL (15:00): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Marathon Resources.

Leave granted.

The Hon. M. PARNELL: The mineral exploration licence for Marathon Resources over the spectacular and iconic Arkaroola Wilderness Sanctuary expires in just 12 days, on 10 October this year. Has the minister made a decision on whether he will grant a new mineral exploration licence to Marathon Resources? If he has, what are the details and, if he has not, when will he make his decision?

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) (15:00): As was discussed at some length during the debate on the Mining Act amendments, the government is still formulating its response to the 'Seeking a balance' document, which involves not just the input of obviously the primary industries and resources division that deals with minerals but also the Department for Environment Natural Resources. In many of the submissions we received—and I am sure the honourable member has read many of them—no doubt he would be aware that a number of proposals have been made in relation to further investigation of this area.

Whereas I am hoping to have that response finalised, obviously it will be a matter that will go to cabinet. There are really two issues here: one is the licence, but perhaps more important is the long-term position the government takes in relation to how mining operations should be regulated or controlled in future in the Arkaroola area. I would like to have that finalised as soon as possible. In many ways the lease issue, while it has a number of important ramifications, is perhaps a secondary issue.

SHOP TRADING HOURS

The Hon. J.S. LEE (15:02): I seek leave to make a brief explanation before asking the Minister for the City of Adelaide a question about shop trading hours in Rundle Mall.

Leave granted.

The Hon. J.S. LEE: Yesterday, 28 September, the Capital City Committee presented an annual report to the House of Assembly. The minister is fully aware of this report, because the minister is on the committee. On page 3 of the document it listed a number of functions of the Capital City Committee. One of them is to promote growth of the City of Adelaide as a primary focus for the cultural, educational, tourism, retail and commercial activities of South Australia. On 16 September the member for Adelaide in another place spoke passionately about the importance of Rundle Mall as a tourist destination.

The Rundle Mall Management Authority also believes Rundle Mall must be designed as a tourist precinct, and it outlined its key arguments in expanding the shop trading hours. Studies have shown that Rundle Mall is home to over 700 retail stores, 200 service providers and 15 unique arcades and shopping centres. It accommodates about 23 million visitors every year, and 85 per cent of Adelaide's tourists visit Rundle Mall and generates $800 million in annual sales.

As the Minister for the City of Adelaide what are the minister's views on opening Rundle Mall on non-religious public holidays and, with the Rundle Mall Management Authority outlining positive economic benefits to the tourism and retail sector, will she formally recognise Rundle Mall as one of Adelaide's main tourist precincts and, if so, would she approve the extension of shop trading hours in Rundle Mall?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:02): I will take the question as the minister responsible for shopping hours, which comes under the industrial relations portfolio. I have had some discussions with Theo Maras, who is the new chairman of the mall authority. I believe that there was an announcement recently. Mr Maras as a business leader has been very successful in what his commercial activities have done to open up the eastern end of Rundle Street. Mr Maras suggested looking at changing the hours of operation of Rundle Mall, and there has been some publicity given to this recently. Most of the shops in the mall currently close at 6 o'clock, but under the shopping hours regime it is possible for those shops to open to as late as 9pm and still comply with current laws.

Very few shops do that, but I think what the mall authority is seeking to do, by arrangement with some of the traders, is to differentiate their hours in the mall—but within the current operating hours—to create perhaps a different product. I think it has been suggested that they open until 7pm, and the mall can do that under the current shopping hours. I think it would be a good idea if they were able to create a different market for the mall in relation to other parts of Adelaide, and if it encourages people who work in the city to stay later in the city on nights other than the usual Friday late shopping that is a good thing.

The government's position has not changed in relation to shopping hours and public holidays. Back in 2003 this government deregulated shopping hours to a significant extent, and I think there are now only 11 days—Christmas Day, Good Friday and the other public holidays—on which shops cannot open. This government introduced Sunday shopping and, as I said, changed the legislation to enable shops to remain open up to 9pm. So there has been significant relaxation; it is just 11 days of the year, on public holidays, and the government does not propose to change that. However, I would certainly encourage the mall to seek out a unique market, as I am sure my colleague the Minister for the City of Adelaide would, in terms of encouraging business within the CBD.

On a related matter, one of the issues Mr Maras raised with me is that many of the shops within the mall are two or three storeys but most of the area above the ground floor is vacant. Mr Maras raised with me a number of development issues, which are factors that make it difficult to fully utilise those buildings for residential or other purposes but, clearly, if more people lived within the CBD it would reinvigorate the city. Nothing would be better in this regard than encouraging more people to live in the city, and what this government is seeking to do with its 30-year plan—and we talked about it earlier today with Islington—is encourage people to live above retail areas.

Apparently there are reasons that does not happen to any significant extent at the moment in areas such as the mall—there are access and other development controls, and a whole lot of good reasons historically—but these are matters on which, as planning minister, I am happy to work with the mall to address, get more people living in the city and make the mall more vibrant. In the short term, I wish the mall every success in extending its shopping hours within the currently permitted hours, outside public holidays. Let us see how that works.

BUSINESS SCAMS

The Hon. B.V. FINNIGAN (15:09): My question is to the Minister for Consumer Affairs. Can the minister update the council regarding current consumer scams of which members and the South Australian public should be aware?

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) (15:09): I thank the honourable member for his important question. Indeed, the Office of Consumer and Business Affairs (OCBA) provides advice and warnings to the public in relation to a wide range of scams and get-rich-quick schemes, as well as other illegal pyramid-type schemes.

It is really the public's awareness and diligence around these get-rich-quick schemes that are important in preventing them from being ripped off, sometimes very badly. Warnings are

usually published by a media release with the information on specific schemes available through the Consumer Affairs telephone advisory service and on OCBA's internet site. OCBA also publishes booklets providing information to consumers on how to spot scams and avoid getting caught.

One of the recent scams reported to OCBA is the fake government grant cold calls. These scammers claim to represent the Australian government. They cold call victims and offer grant services or grants themselves. The scammers request a fee of $199 to release grant funding. Sounds too good to be true? You are absolutely right—it is. The ACCC and the departments of infrastructure, transport, regional development and local government have issued scam alerts warning potential victims that the government does not cold call offering grants and does not charge a fee to release grant funds either.

Another is the pedigree puppy scam. There are reports of non-existent pedigreed puppies being advertised at low prices in newspapers and on classified websites. The seller claims that they live overseas and that it is necessary for the buyer to pay a fee to have the puppy transported. Payment is subsequently made via money transfer, but the puppy is never delivered. This type of scam is also common, I understand, with cars, boats, motorbikes and, more recently, horses and saddles as well. As you are a horseman, Mr President, and a lover of horses, I know that you will be particularly careful of that scam when you are looking for a saddle next time.

There is the Do Not Call Register scam. This involves telemarketers calling Australian consumers and requesting payment to list their telephone numbers on the Australian government's free Do Not Call Register. If you agree, any payment made will be lost, but you could also be putting your financial details and personal security at risk as well. Consumers who receive such a call should contact the administrators of the Do Not Call Register and the Australian Communications and Media Authority and make a complaint. Information provided will help prevent the scam. As members would be well aware, the Australian government's Do Not Call Register is, of course, free for anyone who wishes to register—no fees are required.

The Hon. R.I. Lucas: Speak louder and keep Russell awake, will you?

The Hon. G.E. GAGO: He needs to concentrate. When he closes his eyes, it helps him to concentrate and absorb the full extent of the information I am giving him.

Members interjecting:

The Hon. G.E. GAGO: It shows his intense interest.

The PRESIDENT: Order! I am sure the Hon. Mr Wortley is well aware of all the schemes.

The Hon. G.E. GAGO: I know he is listening, Mr President. Consumers should also be suspicious if they receive a colourful travel brochure in the mail which contains scratchy cards. At least one of the scratchy cards received will be a winner. The scam takes place when you contact the trader to claim your prize and then you are asked to provide payment for various fees via transfers. If the payment is made, the consumer does not receive their prize and will usually never see their money again.

There is also a mystery shopper scam that I should draw members' attention to. If job hunters see a mystery shopper job ad in the employment section of their local newspaper, they should be extremely wary, because it is likely to be a scam. I am advised that the unsuspecting job hunters are asked to send their CV to an overseas email address and, after doing so, they are sent American Express travellers cheques in US dollars, European dollars or British pounds.

The cheques, which are often forgeries, will generally be for a round sum of money such as $1,000 or $2,000. Recruits are then told to cash the cheques at financial institutions and take a percentage as a wage or commission. They are then asked to transfer the remaining cash back overseas. Anyone who has replied to a mystery shopper job scam and has been sent travellers cheques should not—I stress, not—cash them, as they may be committing an offence and they may also receive further emails pressuring them then to cash the cheques. They should immediately delete those emails and not respond. If any honourable members have concerns or constituents who may have concerns, they can simply contact OCBA for advice.

ILLICIT DRUG USE

The Hon. D.G.E. HOOD (15:15): I seek leave to make a brief explanation before asking the minister representing the Minister for Mental Health and Substance Abuse a question regarding the consequences of illicit drug use in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: Australia has the highest per capita rate usage of methamphetamines in the world, and I was recently made aware through the Drug Advisory Council of Australia of a Royal Perth Hospital study into the effects of methamphetamine use. The study, which is published in the *Medical Journal of Australia*, followed 30 patients and found that one in five speed users treated at the hospital's emergency department had a brain abnormality linked to memory loss, dementia and an increased risk of stroke. The fact that this drug is causing long-term brain damage has serious consequences for the users, the study said, their families, and also for society in general.

The fact that this brain damage is occurring in relatively young people, who averaged just 29 years of age in the study, means that society will have to live with the effects of these drugs for a long period of time indeed. The cost of dealing with a young person with brain damage caused by drug abuse is significant, and it will be an ongoing cost factored over the lifetime of the individual.

The Drug Advisory Council is calling for mandatory rehabilitation for drug users currently on court-ordered and supervised bail conditions, given the serious findings of the study and the ramifications of the cost to society and governments in years ahead. My questions are:

1. Is the minister aware of the report?

2. Has the minister read the report?

3. Does the minister agree with the society about the very serious nature of the problem, and what will the minister do to address it in the very short term?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:17): I thank the honourable member for his most important questions and will refer them to the Minister for Mental Health and Substance Abuse in another place and bring back a response.

MINISTERIAL OFFICES

The Hon. R.I. LUCAS (15:17): I seek leave to make a brief explanation before asking the Leader of the Government a question on the subject of ministerial offices.

Leave granted.

The Hon. R.I. LUCAS: The government, in partial defence of its budget, has made the claim that it is cutting its cloth by a 15 per cent cut in ministerial office costs, and the Premier and Treasurer have often quoted and claimed a 15 per cent cut in ministerial office costs. The Under Treasurer has confirmed this supposed 15 per cent cut in ministerial office costs will not apply to the non-salary costs in ministerial offices, which in their initial estimate was some 30 per cent of total costs, but it more significantly also would not be applied to what is known as the departmental top-up payments for ministerial office costs.

In the case of minister Holloway's office, the budget papers claim total costs of $1.9 million this year. There is no cut this year, but next year, if it is 30 per cent non-salary costs, $600,000 would be exempt from the 15 per cent cut. Also, in 2008-09, on the most recent figures the Budget and Finance Committee has produced, his department was paying over a quarter of a million dollars a year in departmental top-up costs for staff and other resources in his office, and the Under Treasurer has confirmed that the 15 per cent cut will not apply to that quarter of a million dollars plus.

Some ministers, for example, as I am sure you would be aware, actually get departmental top-up payments of some $700,000 a year for seven or eight full-time equivalents, and mysteriously the 15 per cent cut will not be applied to the departmental top-up. My questions are:

1. Why did the minister decide not to apply the 15 per cent cut to the non-salaried costs in his ministerial office and also to the hundreds of thousands of dollars of ministerial office costs being paid for by his department and other departments?

2. Does the minister agree that this is just another example of Rann government spin?

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) (15:20): There is no spin at all. This government is responsible in its management, and ministers will be responsible in the way in which they run their offices, as they will be in relation to their departments.

The Hon. Mr Lucas talks about departmental top-ups. Really, what he is talking about is a longstanding practice that has existed ever since I have been around in politics—and that is a long time—in terms of having ministerial liaison officers located within ministers' offices to act as go-betweens in relation to correspondence (and other matters) between the department and ministers' offices.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, we know that is just one office that nominally has responsibility for other functions. These so-called departmental top-ups are just salaries for ministerial liaison officers, who are the people who prepare correspondence and also deal with the sort of FOI requests that people such as the Hon. Mr Lucas are continually making—and it is a big increase. I suppose we could easily reduce the number of officers involved, in which case the Hon. Mr Lucas and others would no doubt be complaining because they would not then be getting all the masses of information they are continually requesting in relation to FOIs and other matters.

We now live in an era when there is far more information available on the internet than there has been in any other era. However, in spite of that, member opposite, as part of their political tactics, make endless FOI requests, and that is the sort of work that ministerial liaison officers are involved in. Is the ex-leader of the opposition really suggesting that we not have those people and therefore have longer delays in relation to those services? The fact is that ministers will be leaner in their operations, as indeed will other areas of government.

MATTERS OF INTEREST

HOLIDAY EXPLORERS TRAVEL SERVICE

The Hon. J.S.L. DAWKINS (15:23): I have recently been made aware of a not-for-profit organisation known as Holiday Explorers Travel Service, which was established in 1988 and which provides the opportunity for intellectually disabled people to travel to a number of destinations. It also provides respite for their dedicated carers and families. Mr Alfred Eaton, a long-time northern suburbs volunteer of the organisation, which is better known as HX, provided me with the initial information on the work that goes into providing such a service. Mr Eaton gives freely of his time to accompany HX clients on holidays.

In addition to the information provided by Mr Eaton, I have had the opportunity to meet with the Executive Officer, Ms Lisa Albinus, who detailed the services that HX provides to the intellectually disabled people and their carers. These holidays range from local attractions such as the recent Royal Adelaide Show, where members of HX were able to enjoy a day at the show, visiting the pavilions, feeding the animals and enjoying the atmosphere, etc., to the more complex week-long tours to Alice Springs and Ayers Rock, via the Ghan. Also offered on the extensive list of holidays are 'Holidays of a Lifetime', which encompasses up to 10 overseas trips a year to Disneyland, either in Hong Kong or the United States. HX depends heavily on volunteers in the community, equating up to 25,000 hours a year assistance provided by these kind, caring people, who willingly offer their time to help such a great cause.

As part of the program, home pick-up services operate, easing the stress of having to organise one's own transport to a central point and helping to avoid any extra stress that may be placed upon those with an intellectual disability by moving out of their personal comfort zone. For a small annual fee of $10 members receive issues of *Holiday Time*, a magazine detailing holidays that are coming up over the coming months. This allows them to choose (with their carer's guidance) a holiday—be it a day trip or longer—that is appropriate for them.

Due to the success of HX, approximately 200 holidays are provided a year, allowing as many as 600 members of the community to partake in this relaxing and fun time away from their home environment and also to get the chance to meet and make long-lasting friendships with others and give themselves and their carers some respite.

The tourists pay for the direct cost of the holiday, usually lower than normal due to group discounts, and all other costs (including administration, coordination and the provision of two volunteer support staff) are paid for through fundraising, donations, government grants, grants

from non-government foundations and business sponsorships or partnership discounts. For those carers needing assistance with financial matters, a range of options is also available.

Holiday Explorers is paving the way for future organisations to help those with an intellectual disability to overcome obstacles that are not experienced by other members of our community. HX is the only organisation of its kind in Australia, and the fact that it is based in South Australia speaks volumes about the people of this state and their willingness to help those less fortunate than themselves to partake in community activities the same as the rest of the community. I commend the board members and staff on their continued efforts to ensure the ongoing success of HX and, of course, the volunteers who give up their own precious time to help others to lead a more fulfilling life.

In the time remaining I might just highlight some of the other activities that are available. There is a wide range, including: the Hofbrauhaus German concert in Hahndorf, the SteamRanger trains at Mount Barker, Harley Davidson joy rides, Arts Access SA's Club Cool music at the Governor Hindmarsh Hotel, the Melbourne Cup at the Morphettville Racecourse—and, sir, you might be pleased to be a guide there. Other activities include: Narnu Farm; the Victor Harbor Rock 'n' Roll Festival; of course, the Gawler Show and accompanying activities in the Barossa Valley; the Mildura Country Music Festival and a range of others. I commend Holiday Explorers for the work it does for the community.

HOMEOPATHY

The Hon. I.K. HUNTER (15:28): I rise today to speak about one of the so-called alternative therapies: homoeopathy. As Chair of the Social Development Committee's Inquiry into Bogus, Unregistered and Deregistered Health Practitioners I have a particular interest in this issue. The practice of homoeopathy was first developed by a German physician and chemist, Dr Samual Hahnemann, some 200 years ago, and is based on the theory of 'like cures like'. Homoeopathic remedies are created by diluting substances to an extreme degree.

The Australian Homoeopathic Association has admitted that if homoeopathic medicine is analysed a pharmacologist would say that it consists of water, ethanol and sugar. However, the association insists that these treatments stimulate the body's ability to fight infections, chronic illness, acute conditions and minor accidents. Homoeopaths claim to be able to assist with all manner of medical conditions including migraines, diarrhoea, influenza, asthma, sporting injuries, mumps, measles, toothaches, attention deficit hyperactivity disorder, dementia, depression, arthritis and burns, and some even claim that it helps AIDS. Many homoeopaths claim that they offer a valid alternative to vaccinations.

But how do scientists and medical doctors regard homoeopathy? *The Medical Journal of Australia* published on 19 April 2010 contains a report on homoeopathy by Professor Edzard Ernst, the UK's first professor of complementary medicine, based at the University of Exeter. Formerly a homoeopath and a clinical doctor, he has now built a reputation for successfully applying science to test the value of alternative therapies. Professor Ernst's report concluded that homoeopathic medicines have only a placebo effect and nothing more. Specifically, Professor Ernst found that the main assumptions of homeopathy are biologically implausible, and positive results were not able to be reproduced by other investigators.

Our own state president of the AMA, Dr Andrew Lavender, believes that there is no evidence that homeopathy works at all, and yet thousands of people are sucked into seeking these bogus treatments every year. Australian consumers spend over $2.3 billion a year on complementary medicines. The Australian Homeopathy Association estimates that 300,000 homeopathic consultations are made each year, and these figures are rising.

There are some academics, such as Adjunct Professor Ken Harvey of the School of Public Health at La Trobe University, who argue that, while there is indeed no scientific basis for homeopathy, there is perhaps no real harm in it either. If homeopaths can offer their clients a one hour consultation of good communication, empathy and placebo responses, can this not be classified as therapeutic and good for patients? Is there really any harm in homeopathy? The watery remedies are not themselves dangerous, as they contain little or no chemically active ingredients other than sugar. The harm lies in people using these remedies in place of conventional medications that are needed to treat or prevent serious disease.

One recent case highlights the potential dangers. Sydney baby, Gloria Thomas, died aged nine months after spending more than half of her life with eczema. The skin condition wore down her natural defences and left her severely malnourished and vulnerable to infections. Despite

taking Gloria to various health professionals, her parents discarded conventional medication and pursued homeopathic remedies instead. Doctors who testified at her parents' trial believe that Gloria's short life was filled with chronic pain. A dermatologist told the jury that he could have treated Gloria's severe eczema with aggressive treatment that would have given Gloria significant relief within 24 hours. Instead, baby Gloria passed away from complications from an infection. Last year, Gloria's parents were found guilty of manslaughter by gross criminal negligence.

This is not an isolated case. Isabella Denley of Kew in Victoria died due to untreated epilepsy in 2002. Instead of giving Isabella prescribed medications, her parents treated her epilepsy with homeopathic treatments. I think it is time we get real and face the truth about homeopathy. While there may be no harm in the actual watery treatments, do taxpayers really want to be subsidising watery treatments and their placebo responses?

Currently, homeopathy is available through both the public and private health systems. While there are no specific Medicare item numbers relating to homeopathy, doctors have been known to work the public system by billing homeopathy under a non-specific item number. On 12 March of this year, *The Australian* newspaper named Southern Highlands GP Michael Cleary as a doctor who bills homeopathy treatments through Medicare. In the private system, most insurance companies provide extras cover for homeopaths. The taxpayer then funds these visits through the $4 billion a year private health insurance rebate.

Many public health experts are now urging the federal government to follow the UK's lead, where the Parliamentary Committee for Science and Technology recently concluded that homeopathy was simply a placebo and should not be funded by the NHS. I echo those calls and ask minister Roxon to immediately review all taxpayer funding of homeopathy.

Time expired.

CLIMATE CHANGE

The Hon. M. PARNELL (15:33): I rise today to talk about climate change action. Governments have moved from talking about climate change as the greatest moral challenge of our time and an emergency to now stalling action, and they have done this in the blink of an eye. Federally, Tony Abbott has called climate change 'absolute crap', and Julia Gillard wanted to delay substantial action for a year. Thank goodness the Greens have forced reality and a sense of urgency to the debate in the federal parliament. All of this is happening in the context of continual data showing that the climate is changing and that our window for real action is rapidly closing.

Thank goodness there is also a power of alternative work being done, in particular on alternative energy. For example, the group Beyond Zero Emissions have recently launched their plan for Australia to shift to 100 per cent renewable energy as our energy future. This message has been backed up by German energy expert Dr Harry Lehmann, the head of the German EPA, who recently visited South Australia. For those not familiar with him, Harry Lehmann is the general director of the Federal Environmental Agency in Germany. He has over 25 years' experience in developing sustainable energy policy and programs in Germany, and since 2004 he has been the general director of the Federal Environmental Agency. He currently holds membership of the World Council for Renewable Energy and the Scientific Board of the Solar Institute at the Aachen Polytechnic.

Dr Lehmann is involved in sustainable energy policy and, in particular, towards 100 per cent renewables, with projects in Germany, Spain and Japan. Under Dr Lehmann's influence, Germany is now world leader in the field of sustainable energy. It is great that experts like Harry Lehmann have visited South Australia, but we are not learning from his lessons. However, the work that has been done by Dr Harry Lehmann and Beyond Zero Emissions shows that major shifts are not only possible but will also ultimately be beneficial for jobs and the resilience of our economy and our community.

Recently, premier Rann gave an address entitled 'Leadership in a carbon constrained economy' to the Committee for Economic Development of Australia. In the Premier's fairly typical style, he listed his government's actions, most of which were largely symbolic, such as the creation of a minister for climate change and the passage of a climate change bill that had no targets that actually meant anything.

One action that was notably missing from the Premier's speech was any reference to the mini wind farm trial that members might be familiar with. Those wind farms are now being removed. Members might be familiar with the ones on public buildings—including the State Administration

Centre—that did not work, were not connected and did not power one light globe in that government building. Most recently, the Salisbury wetlands wind farm has been removed as well.

The Premier's speech contained a few good things, not the least of which related to the report on the potential for wind power on Eyre Peninsula. Whilst that is an exciting prospect, launching a report is simply not good enough. Energy policy is critical but, until we get integrated government thinking, we will fail to meet the climate change challenge. What true integrated thinking recognises is that industry practice and urban form are fundamental.

If we take industry, the Roxby expansion for example, we understand that, despite Marius Kloppers' recent announcements about the need for a carbon price, BHP Billiton's current plans will ensure that our state's emissions will rise significantly, and that will be caused primarily by its plan to use coal-fired electricity for the basis of its expansion.

In relation to urban form, we need go no further than Mount Barker and Buckland Park and the carbon footprint that those developments will impose on us. It is also disappointing news that investors are fleeing this state for Victoria, where the government is genuine about helping the solar industry.

Time expired.

RANN GOVERNMENT

The Hon. R.I. LUCAS (15:38): I want to speak about the Rann government's spin, deception, hypocrisy and broken promises, but I only have five minutes. After the election, the Premier indicated that he was going to reconnect with the electorate, and he directed his ministers and MPs to doorknock and listen to the electorate in terms of their concerns.

A good Labor source advised me that, after the first community cabinet meeting in the southern suburbs, when minister O'Brien—who is, of course, well connected to his northern suburbs electorate, living in Springfield—was required to go out and do some doorknocking, he went off in the ministerial car with a senior staff member from his ministerial office and said that he was not going to do the doorknocking. He dropped off his staff member, left him there to do the doorknocking on his behalf and headed off, and then sent the car back to collect him. That is an example of a senior minister in the government (minister O'Brien) listening to the Premier in terms of reconnection!

Yesterday, I spoke briefly about the commitment in relation to the Labor Party always claiming that it fights for workers and their conditions, and highlighted the comments of minister Holloway in 2007. Let me highlight a brief selection of other members' comments in this chamber. The Hon. Mr Hunter talked about honesty in governments and about fighting for protection of basic conditions for workers back in 2007 and how Liberal governments could not be trusted in relation to those issues. In 2007, the Hon. Mr Finnigan said:

> The introduction of WorkChoices means that employees must rely more than ever before on their ability to negotiate with their employers in order to secure fair terms and conditions of employment. Of course, the fundamental weakness of WorkChoices is that it very much puts the bargaining power on an unequal level, so that the employee is at a disadvantage.

The Hon. Mr Wortley spoke on a number of occasions in 2007 and 2009. In 2009, he said:

> The Rudd Labor government was elected on the basis that WorkChoices should be dismantled. That government and its partner, the Rann Labor government, are determined to fulfil their mandates and will not be distracted…We will together set in place an industrial relations system that is based not on conflict and discord but on the facilitation of fair agreements that contribute to workplace productivity, and a system that will benefit us all.

He went on in another contribution to say:

> It is absolutely vital that Labor wins the endorsement of the people at the next election so that we can stop the current federal coalition government's ideological war on the Australian people. The attack on working people is not about creating a fair and more equitable system and a flexible workplace; it is about creating fear in the workplace and is about taking away the legitimate conditions and wages which working people and their families rely upon for a decent life.

Further on he states:

> Prior to being elected to parliament last March, I spent 22 years fighting for the rights of working people and their families. Over the years I negotiated with and on behalf of my members to improve their working conditions, along with representing members who suffered workplace injuries and who were unfairly dismissed.

Then he went on:

The believers and the founders of May Day died fighting for the rights of working people and their families—and for what? Today workers' job security has been taken from them, as have their freedom to negotiate and their freedom to claim their legitimate entitlements. Without job security, how can ordinary Australians pay their mortgage and invest in their future?

He concluded:

If Labor is successful in the polls, the working people of this state and this nation will have their rights restored.

There are many other examples, but my five minutes does not allow me to quote them. The absolute frauds on this Labor backbench and front bench have for years in this chamber talked about how they fought for the working conditions of employees, how it was unfair that working people could have their entitlements, their conditions, taken away from them. Yet in the recent past in their caucus, as I understand it, according to the media, they stood and applauded the Treasurer and Premier when they brought down the budget and ripped away the working conditions of employees, South Australian workers in the public sector of South Australia.

Apparently they stood and applauded, according to the spin doctors in the Rann office, when the Treasurer explained the budget to them. These are the frauds on the backbench and on the front bench. A word of caution to the Hon. Mr Hood and others: never again trust the word of Premier Rann or any member of the Rann Labor government when they indicate that they are there fighting for the conditions of ordinary workers in South Australia.

Time expired.

LE CORDON BLEU AUSTRALIA

The Hon. CARMEL ZOLLO (15:44): On Saturday 4 September it was my pleasure to represent the Minister for Employment, Training and Further Education in the other place, the Hon. Jack Snelling MP, on the occasion of the Le Cordon Bleu graduation gala dinner. This year's celebration was particularly special because it marked the 10th anniversary of Le Cordon Bleu Australia's first graduation.

I was honoured to help celebrate the achievements of the latest group of successful hospitality management students, who represented all management disciplines from the special Bachelor of Business awards through to the masters awards. The graduates hailed from more than 20 countries, a truly varied group, which illustrated the great opportunities South Australia and Le Cordon Bleu provide to young people across the world.

Le Cordon Bleu, which began in Paris in 1895, has grown to become the world's largest culinary, hospitality and tourism educational organisation, with some 30 schools in 15 countries teaching over 23,000 students a year. Le Cordon Bleu Australia has achieved outstanding success by offering world-leading courses, with a very strong focus on anticipating and meeting the needs of the hospitality sector. Evidence of this was the establishment of its own academic resource centre, the only creator of undergraduate and postgraduate courses in the global Le Cordon Bleu network. Le Cordon Bleu chose to establish its Australian academic base here in Adelaide, and the organisation currently supports more than 750 students across all its programs, and that is arguably the largest student group of any private provider of hospitality education in South Australia.

All programs, with the exception of the gastronomy program, incorporate an industry placement component to give students real workplace skills, and the gastronomy program includes a strong research element to provide a solid knowledge base. This means that the program is able to consistently turn out quality graduates who are ready to excel in the industry once they have completed their studies.

Alliances with other educational institutions such as Adelaide University, the University of South Australia and the Regency International Centre, among others, continue to ensure that Le Cordon Bleu's courses remain at the forefront of hospitality industry training. Each graduating student receives quality teaching and gains valuable experience which they will carry with them for the rest of their lives, and I am sure they also play their part in enriching our state with their culture, experience and ideas.

At different times in my parliamentary career I have been pleased to be involved at the policy level in various roles throughout the food and wine industries. In all my involvement I have had the opportunity to work with committed and passionate people who are innovators in their field and who to strive to deliver the very best products and services. I appreciate the importance of the

food, wine, hospitality and tourism industries, not just because they are major employers and economic drivers for our state but also because, above all, they deliver something that this state is renowned for: a wonderful lifestyle. Graduates from Le Cordon Bleu acquire an education and a set of skills which put them at the pinnacle of being able to deliver such experiences with passion and pride.

The state government is committed to quality, industry-relevant education and believes that training should be driven by the needs and the demands of industry. We know that this the best way to build a highly skilled workforce that will lead our economy to a prosperous future. I am certain that the chamber joins me in offering congratulations on the achievements of these students and wishing them well as they each go on to forge a new future, while representing our great state's educational ethos.

TORRENS HOUSE

The Hon. D.G.E. HOOD (15:47): I rise to indicate my support for the work done by the nurses and associated staff at Torrens House. Torrens House is a community residential unit located on South Terrace here in the city and is part of the Children, Youth and Women's Health Service. Torrens House offers a free service to families with infants aged up to 12 months who are accommodated for 3½ day stays from Tuesday mornings to Friday afternoons. The unit is not open at other times.

Families are admitted to Torrens House when they require assistance with a baby with more complicated feeding, settling and sleeping issues. I also understand that many babies with a cleft palate, in particular, are admitted to the service due to the additional needs that that condition can impose. One of my staff recently attended the service to resolve general feeding issues with her own child, and she speaks in the most glowing terms of the service—particularly the nursing staff—at Torrens House.

Torrens House, as I understand it, was the first facility of its type in Australia. It was opened on 24 August 1938 by Lady Dugan, wife of the then governor of South Australia. The Torrens House service was of such benefit to new mothers dealing with difficult parenting issues that other states soon followed. Tresillian Family Care and Karitane are the New South Wales equivalents, the Queen Elizabeth Centre and the O'Connell Family Centre operate in Victoria, the Ellen Barron Family Centre works in Queensland, and an equivalent service called the Ngala Family Resource Centre operates in Perth.

It is noteworthy that South Australia was a leader in the field of parenting care for new mothers in the past; however, it must be pointed out that we seem to have now fallen behind other states in providing this service because of what appears to be limited funding being provided to the service. One only has to go to the websites of the comparable interstate services to see images of brand-new buildings and equipment at those services. In contrast (and all the Torrens House staff really do an outstanding job), the facilities in the centre are now far beyond their use-by date.

Further, while all other centres around the country, to my understanding, operate on a five-day basis—that is, people can come and go within that five days (or what generally happens is the mothers and fathers, if they like, stay from Monday morning right through to Friday)—Torrens House has been scaled back to allow just three nights and it is the only one of its type in South Australia. That is, parents are admitted on Tuesday morning and are required to leave by midday Friday. This shortened stay is not sufficient in some cases, particularly for chronic children's sleep issues and a number of other issues.

I would ask the government to consider this particular issue in the lead-up to the next budget. This budget is gone and it seems nothing has changed at this stage. A service like Torrens House needs to be continually funded, and funded appropriately. After all, a good start in life is a recipe for healthy children, healthy families and a healthy state. I call on this government in the next budget to increase funding for this important service, restore a full week of care for new mums who have babies with difficulties, as they do in other states, and provide the funding for long-overdue renovations to the facility and for the purchase of desperately needed new equipment.

I would like to also just re-emphasize my praise for the staff at the facility. I notice that I have a minute or two left so I will just tell a quick tale along the same lines. Many people would know that, when I had my own child a few years ago, we chose to go through the public health system at the Women's and Children's Hospital and it was an excellent experience. The nursing staff, the medical staff—all the staff—were just outstanding and it shows the commitment of the people that work in these areas. In our case, they worked beyond their knock-off times on many of

the days that my wife and daughter were in the hospital, and I cannot speak highly enough about them.

As a new father at that time, I appreciate the difficulties that parents can have when their children just will not sleep or will not feed properly, or whatever it is, and hence the value of a place like Torrens House. To fund it properly would be, in real terms, a drop in the bucket and it would make a massive difference to so many parents out there and indeed their children. I urge the government to put this as a significant priority in their agenda.

HOMELESSNESS

The Hon. R.P. WORTLEY (15:52): I rise today to update those present on a Rann government initiative which continues to be of particular interest to me: the work on homelessness by the South Australian Social Inclusion Unit. Founded in 2002 and headed by the visionary South Australian Monsignor David Cappo AO, the Social Inclusion Unit aims to go beyond the examination of poverty in isolation, as it were, and refocus debate on the need to ensure that all people have access to the basic essential elements of a decent life.

We all know that our Indigenous people, the homeless people, people with some physical or intellectual disabilities and others are marginalised and do not enjoy those basic elements of a decent life that we in this place certainly enjoy. For those members of our community, it is perhaps a bit like being outside the tent and looking in. Inside the shelter, it is warm and dry: there is food, light, conversation, mutual concerns and mutual aspirations. Those inside are valued.

Outside the tent, the watchers are subject to the vagaries of the weather, both physical and psychological. He could be cold and hungry, perhaps lately released from prison or suffering from mental illness. She could be lonely and in need of support, or perhaps a victim of family violence. Their child might be glad to go to school on a regular basis. I am pretty sure that they would all like to be inside the tent. So, what will draw them in? What are the basic elements of a decent life?

Well, they are more than the bare necessities—water, food and shelter, crucial though they are. A paramount part of a decent life has to be engagement—dignified engagement—with the community's social life, with its working life and with its support mechanisms that engagement brings in terms of health, education, housing, employment, and so on: dignified engagement that springs from a sense that one is of value and that one is valued, dignified engagement that brings people inside the tent.

It is beyond argument that our Indigenous people have experienced social exclusion for more than two centuries and that this exclusion continues. It is equally inarguable that the disabled members of our community have been similarly marginalised. We know, too, that young offenders continue to fall through the cracks, that some children are not engaged with school, that people who are substance-addicted are abandoned or imprisoned instead of being treated.

That is where the work of the Social Inclusion Unit is so necessary. Let us not forget that it was the policy of those opposite prior to the last election that the Social Inclusion Initiative should have been done away with. That would have been a very sad day, indeed, but I am proud to say that the common sense of the South Australian electors prevailed and this vital work goes on.

I want to talk today about that particular sector of our community, homeless people, with which the Social Inclusion Unit has had notable success. Speaking on the ABC 891 program last June, Monsignor Cappo commented:

> Well, there's a lot of good news on homelessness reform. I would give homelessness 8 out of 10 (on the report card) for the work that's going on, because homeless numbers are coming down and I think they're coming down more in South Australia than any other state.

This is good news, and it deserves to be noted and celebrated, because we know that on any given night more than 100,000 Australians are homeless—and almost half of those are under 25. Even more shockingly, 12,000 of these are children.

I congratulate the Social Inclusion Unit, its chair and its supporters, the private sector and the NGOs, as well as governments, on their progress towards alleviating this sorry state of affairs. I would like to add that part of the state's success in this area is due to the activities of Common Ground Australia Ltd, a partnership between the government and a group of business leaders, which looks at ways the business community can contribute to tackling homelessness.

Common Ground Australia is the leading exponent of a scheme founded in the United States in 1990 by one of our past thinkers in residence, Roseanne Haggerty, and has built

more than 500 apartments in five Australian states. The idea is to build a community that provides stable housing for a range of people—and I stress, a range of people—in combination with on-site access to services, including health, welfare and vocational support.

Common Ground South Australia is well up there with its interstate colleagues. Its Franklin Street apartment block is up and running. The Light Square development we have all been watching is taking shape and will soon provide some 30 units specifically for long-term accommodation for previously homeless people, while the balance of the units will be leased to students, artists and other low-income earners.

The pathway from homelessness to social inclusion can be lengthy and far from simple, but we are making progress through the initiatives that I have outlined today. I am pleased to draw this progress to the attention of members and wish all those involved well in their present and future endeavours.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE (END OF LIFE ARRANGEMENTS) AMENDMENT BILL

The Hon. M. PARNELL (15:58): Obtained leave and introduced a bill for an act to amend the Consent to Medical Treatment and Palliative Care Act 1995. Read a first time.

The Hon. M. PARNELL (15:58): I move:

That this bill be now read a second time.

It gives me very great pleasure to be introducing into this place today a new voluntary euthanasia bill entitled the Consent to Medical Treatment and Palliative Care (End of Life Arrangements) Amendment Bill 2010. In its most basic respects this bill is similar to the one that I introduced in 2008 which was narrowly defeated in this place at the end of last year. It is similar in format to that earlier bill, but some important changes have been made and I will explain these shortly.

The debate in Australia on dying with dignity or voluntary euthanasia, or whatever you want to call it, has progressed substantially since we last considered this issue in this place nearly a year ago. The matter is being debated in nearly every state parliament and hopefully the territories too will soon regain their right to debate and legislate for voluntary euthanasia. Bills have been introduced in Western Australia, Tasmania and Victoria, and I understand a bill will be introduced in New South Wales next week. So, there it is a great deal of momentum, both in the community and politically.

As well as the political developments in relation to voluntary euthanasia, what has also occurred—and I say inevitably—is that there has been a growing list of individual human cases that highlight how our current legal system is failing those who cry out for our compassion and our help. I do not propose to go through all of the cases that have reached me over the last 12 months, but I do want to mention one briefly, and that is a matter that was in the courts. It comes from Western Australia, and it is a case where the proprietor of a nursing home sought the guidance of the court as to whether they were allowed to let one of their terminally ill patients starve himself to death and refuse medication in order to hasten his death. The court agreed that this person had that right—that it was his right to refuse medical treatment, food and liquid.

But what a tragedy it is that a person should have to go to that length in order to end their life when their suffering has become intolerable. What a tragedy that someone should have to suffer a lingering and agonising death by starvation and dehydration, rather than a more humane option that would allow them to take some control over their final days, allow them to say goodbye to their families and allow them to depart this life with some dignity. There have been many other cases in South Australia and elsewhere where people have unnecessarily suffered because our legal system and our medical system have not allowed any intervention at their desperate request.

These cases highlight what is wrong with the current situation. The law is quite clear that we have the right to die if that is what we want. We can refuse medical treatment, we can refuse to take medicines and we can kill ourselves if that is what we want to do, but we cannot legally ask for the help of the medical profession to allow us to end our life, and that is the human tragedy this bill seeks to overcome.

Members would be aware that this is not a novel debate either in this parliament or elsewhere. I have talked about the bill I introduced in 2008, and I acknowledged at that time that I was standing on the shoulders of many who had gone before—of those more recently, certainly the

Hon. Bob Such has a bill in the House of Assembly, the Hon. Sandra Kanck has brought bills in here and there were many others before that.

What I am very pleased to be doing today is working in conjunction with the Hon. Steph Key, the member for Ashford in another place. She and I are working together to make sure that the bill I am presenting today and the one she presented recently to the House of Assembly are the best we can possibly make them, and they are at this stage identical bills. I have been very pleased to work with Steph to ensure that our bills have built on the models that have gone before. I think that having the same bill debated in both houses at the same time will ensure that we are all focused on what I think is the best model yet presented for voluntary euthanasia law reform.

I am hoping that Steph Key, as a member of the government in another place, will be able to exercise some influence over decisions about the timing of debate of private members' business in that chamber and that her bill will be assured a proper debate and a vote, just as this bill is certain to receive a proper debate and, ultimately, a vote in this chamber.

I also acknowledge Duncan McFetridge, the Liberal member for Morphett in another place, and also Geoff Brock, the Independent member for Frome, who joined Steph Key and me at a media conference recently to show that this issue has support right across the political spectrum. It is not a party-political issue and, as members know, we will have a conscience vote on this bill.

In terms of the changes that have been made since the previous bill I introduced, the starting point for me is that the framework is the same. It is an amendment to an existing piece of legislation that gives us rights to make decisions about our lives and our medical treatment; that is, the Consent to Medical Treatment and Palliative Care Act. I still think that that is the best model for voluntary euthanasia law reform, to place these rights—as I seek to legislate: the right to take some control over your final days—into an existing suite of laws that gives us rights in relation to our medical treatment and palliative care.

So, the framework is the same but some of the details have changed, and I will go through some of them. The most important aspect of the bill is the threshold question: who is eligible? Who is eligible to lodge a request for voluntary euthanasia? I will go through the words because they are important. The first thing to note is that it applies to adults and not to children. Whilst there are cases of people under age who are suffering terribly, as disappointing as that might be for some people, I am not proposing to go down that path. This is a bill that relates to adults.

The first type of person who qualifies is an adult person who is in the terminal phase of a terminal illness. That is probably one aspect that all voluntary euthanasia bills have in common; that is, if you like, the typical scenario of a person who is suffering from a condition: they are in their final days, there is no cure, they will not get better and, under this bill, they will be eligible to ask for assistance to end their life.

The second category is an adult person who is suffering from an illness, injury or other medical condition, other than a mental illness within the meaning of the Mental Health Act 2009, that irreversibly impairs the person's quality of life so that life has become intolerable to that person. That is very similar to the form of words used last time and it does set the bar very high. It needs to be an illness, injury or medical condition that irreversibly impairs the person's quality of life. We are not talking about any disease, condition or illness from which you might recover and where your quality of life will improve: it is a narrow field of qualification.

It is important to note, as well as what is in the eligibility criteria, what is not in there. What is not in there is a person who is simply old. Being old is not a qualification. A person who is simply tired of life is not a qualification. We could make an argument that it should perhaps be broader, but I am not making that argument here. These are narrow criteria that people need to fall within before they can lodge an active request for voluntary euthanasia.

The reference to mental illness is important because, as most of us know, mental illnesses can be treated, and can be treated successfully. Depression is the one that is most often raised; the fact of someone being depressed is not an eligibility criterion for voluntary euthanasia. That is not to say that people who are suffering from some of the awful cancers, the degenerative illnesses that cause so much suffering, will not be depressed—no doubt you would be if that was the lot that awaited you, a miserable and painful existence and then death from these conditions. However, if it is just because you are depressed that is not an eligibility criterion.

In relation to advanced requests—in other words, requests that you make ahead of time, if you like—the criteria have been narrowed somewhat from the previous bill. We are now looking

only at situations where a person suffers a permanent deprivation of consciousness. In other words, you can put in an advance request for voluntary euthanasia but the trigger is that very high bar—that is, permanent deprivation of consciousness. So, it is more limited than in the past and, again, it will not be what everyone wants. I think that many people reasonably want to be able to make advance requests for a broader range of conditions, but this bill has been limited. What that means is that the majority of requests for voluntary euthanasia will be active requests; they will be made at a time that a person is already eligible and at the time that they are ready to request and then receive voluntary euthanasia.

Other changes that have been made include consultation with the medical profession. We now have at least two doctors involved, at least one of whom must be a specialist in the condition that is suffered by the person. Previous bills did have second doctors; this bill makes it clear that both doctors must be consulted. The bill requires psychiatric assessment if either of the doctors believes that the person is not of sound mind or if they are acting under undue influence. I have retained in this bill the Voluntary Euthanasia Board, but we have changed some of its composition and operation to make sure that appropriate medical and legal expertise is always available. The bill contains some stricter obligations in relation to the witnessing of documents for voluntary euthanasia.

There is a 12-month residency requirement. So, this bill is aimed squarely at South Australians. I know that some people will be disappointed by that, that it is not either a shorter residency requirement or no residency requirement, and you can understand why people might be disappointed. You could have two people lying side by side in adjoining hospital beds, one of whom is entitled to our compassion because of their postcode and the other is not. Nevertheless, there has been talk in the community that we need only to be legislating for South Australia. People are saying that we do not want death tourism, so we have included a residency requirement of 12 months.

We have also included in this bill a prohibition on excessive charging. In other words, we are not looking at people creating unreasonable profits out of either the request for, or the administration of, voluntary euthanasia; we need it to be part of normal medical treatment and subject to normal medical charging. Some of the other changes that have been made include, for example, the removal of dentists from the definition of 'medical practitioner', which was in the existing act, it was not part of the bill. Whilst there was no conceivable circumstance where a dentist would have been the dominant medical practitioner in relation to voluntary euthanasia, in order to remove any doubt and to remove that however misguided ground of criticism, we have removed dentists from the application of these laws.

Penalties have been increased, including imprisonment for up to 20 years for people who make misleading statements or act improperly in a way that causes the death of a person outside the narrow constraints of the act. There are protections in the legislation, necessarily, for people who are involved in voluntary euthanasia, they need the protection of the law, but there is also protection for those who do not want to be involved in voluntary euthanasia.

The key element, and I have said this as often as I can when talking about this, is V for 'voluntary'. It is about voluntary euthanasia. I distinguish it from straight euthanasia, which is where you take your dog to the vet and ask for it to be put down as an act of compassion. The dog is not the one making the choice, you are. Voluntary euthanasia is all about the patient themselves making a choice about their life.

I do not propose to go through all of the arguments that are raised against voluntary euthanasia. We have had those in the debate last year, and we will probably have some more of them in the debate this year. What I will say is that I have listened, and I know that Steph Key has listened very carefully, to all of the arguments that have been raised. We have addressed those aspects that can be reasonably addressed and we have incorporated changes into this legislation, and I gave the example of the removal of dentists from the definition of 'medical practitioner' when it comes to voluntary euthanasia.

I know that some people will not be happy until enough hurdles are put in place to make the laws unworkable, and that is always the tension in law reform like this. We want safeguards. We want strong safeguards, but the safeguards need to have a purpose behind them, and the purpose needs to be the prevention of misuse or abuse. There is no point in putting hurdles in the way just because we can, just for the sake of hurdles. So, the focus in this bill is very much on safeguards.

In parliament, we focus on the detail, especially when we get to the committee stage of a bill. We focus clause by clause on the legislation, but what we need to do, especially at this stage of the debate, is focus on the bigger picture. We must not lose sight of the bigger picture. That bigger picture is that South Australians are suffering. They are suffering intolerably and, despite the best efforts of palliative care experts, medical experts, hospitals, nurses—you name it—their suffering cannot be alleviated. Every day, every month, every year that goes by without appropriate law reform guarantees that more people will die a horrible death, a more horrible death than they need to if we were a genuinely compassionate society.

We have to remember that most of us want to live, and most of us want to live as long as we can. Most of us, if we are suffering from some condition or disease, are going to fight as hard as we can to give ourselves the best quality of life and the best chance of prolonging our life. We do that for ourselves, for our family and for our friends. I have no doubt that, even with legislation such as this in place, palliative care will continue to be the overwhelming first and last choice for those who are dying. Voluntary euthanasia is not an attack on palliative care. Voluntary euthanasia is an option for those people for whom palliative care does not work. We know that there are some people—a minority for sure—for whom palliative care does not work, and it is those people we are reaching out to and helping with legislation such as this.

I would like to acknowledge and thank some of the people who have been involved in this debate recently. I am very excited that a range of people in the medical professions and people of faith are now coming out and saying that voluntary euthanasia law reform is an idea whose time has well and truly come. Recently, five groups got together to express their support for this legislation. South Australian Nurses Supporting Choices in Dying was one group. Another group was SA Doctors Supporting Choice for Voluntary Euthanasia, and I am very pleased to acknowledge the contribution of Emeritus Professor John Willoughby as a leader in that group.

There was also the group called Doctors for Australian Medical Association Neutrality on Voluntary Euthanasia, and I acknowledge the work of Dr Rosie Jones there. It is difficult for many medical practitioners to see that their representative body does not represent their views. So, an organised group calling for neutrality, I think, is the appropriate way to handle it. Just like we here have a conscience vote on voluntary euthanasia, so too should the medical profession and their peak bodies.

I would like to acknowledge the group Christians Supporting Choice for Voluntary Euthanasia and, in particular, the Reverend Dr Craig de Voss. I find it very comforting to know that the voice of people of faith is a broad one. In the past we have heard only from church leaders who have said that their faith is against voluntary euthanasia, but we are now finding that groups like Christians Supporting Choice for Voluntary Euthanasia are coming out and saying that their God of compassion does not require people to suffer unnecessarily.

We know from the opinion polls that have been conducted over many decades now that, whilst the majority of Australians and South Australians (81 per cent) support voluntary euthanasia law reform, a majority of people of faith also support voluntary euthanasia law reform. A majority of Catholics, a majority of Anglicans and a majority of Presbyterians support law reform.

Finally, I say to members of this Legislative Council that I do not take any member's vote for granted on this issue. I have spoken to some but not all members about this, and I appreciate that all members will need to go through the detail before deciding on a final position. For those who supported the bill last time, I hope that you can support the changes. I know that some members will be disappointed that the eligibility criteria are tougher and it might seem that some of the safeguards look a bit more like hurdles, but I still urge those who have supported the legislation in the past to continue to support it.

For those who have not supported voluntary euthanasia law reform in the past, I hope you will come to this bill with an open mind, and I ask you not just to think about what you might want for yourselves but also to think about what your constituents want. As I have said, the results of surveys conducted by professional pollsters, by newspapers—you name it—consistently show that a majority of the people we represent say they want law reform for voluntary euthanasia with appropriate safeguards.

The question for members who have not supported a voluntary euthanasia bill in the past is to ask yourselves whether, despite your own personal views, you are prepared to deny South Australians what they want, to deny South Australians their basic human right to live and to die in a dignified way. For those members who are new to this place, I urge you to go through the

detail of this bill, talk to people who have a long history with this issue (I have named some of the groups already), and to be prepared for a very healthy and wholesome debate in this place. It was an excellent debate last year, and I was disappointed the bill was not passed, but I would like to think that we will have an equally robust and genuine debate in parliament this time. Finally, I commend the bill to the council and seek leave to have inserted in *Hansard* a brief explanation of clauses in relation to this bill without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This measure will commence on the making of a proclamation by the Governor, or, should that not happen within 6 months of assent, it will commence on the 6 month anniversary of assent.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of Consent to Medical Treatment and

Palliative Care Act 1995

4—Amendment of long title

This clause amends the long title to reflect the fact that the scope of the Act is broadened by this measure.

5—Amendment of section 1—Short title

The short title of the Act is amended to reflect the changed scope of the Act.

6—Amendment of section 3—Objects

This clause inserts new paragraph (d) into section 3 of the Act, setting out the objects of the Act as amended by this measure.

7—Insertion of Part 2 Division A1

This clause inserts new Part 2 Division A1, consisting of new section 5A, which provides that Part 2 of the Act, dealing with medical treatment, does not apply to, or in relation to, medical treatment consisting of the administration of voluntary euthanasia to a person, and contains relocated section 18 of the current Act.

8—Amendment of section 14—Register

This clause makes a consequential amendment following the insertion of new Part 4 Division 2.

9—Repeal of section 18

This clause repeals section 18, as the provisions of that section are now to be found in new section 5A.

10—Substitution of Part 4

This clause substitutes Part 4 of the current Act (currently only a regulation making power) to insert a new Part 4 dealing with the end of life arrangements of certain people as follows:

Part 4—End of life arrangements

Division 1—Preliminary

18—Interpretation

This section defines key terms used in the Part.

19—Object and principles

This clause sets out the objects and principles of the Part.

20—Approval of interpreters

An interpreter of a particular language, in relation to interpreting and translating services required under the Part (for example, in relation to making a request for voluntary euthanasia), must ordinarily be a person accredited as a translator or interpreter (or both) in that language by the National Accreditation Authority for Translators and Interpreters Ltd. However, if such a person is not reasonably available, then the Minister may approve a person to act as the requisite interpreter in relation to a particular request.

Division 2—End of life arrangements other than voluntary euthanasia

21—Refusal of future medical treatment so as to bring about death

This section allows an adult person of sound mind to give an anticipatory direction that he or she refuses to consent to certain medical treatment, and further that he or she be allowed to die. The direction only enlivens if the person is incapable of making decisions about medical treatment when the question of administering the treatment arises. The section also makes procedural provisions in respect of such a direction.

22—False or misleading statements

It is an offence for a person to make a false or misleading statement in, or in relation to, a direction under new section 21. The maximum penalty for such an offence is, where a person has died as a consequence of the statement, 20 years imprisonment. In any other case, the maximum penalty is 10 years imprisonment.

Division 3—Voluntary euthanasia

Subdivision 1—Administration

23—Establishment of Board

24—Composition of Board

25—Terms and conditions of membership

26—Presiding member

27—Functions of Board

28—Board's procedures

29—Conflict of interest etc

These clauses establish the Voluntary Euthanasia Board of South Australia, and deal with matters related to the establishment etc of the Board. The Board has the function of advising the Minister and is to carry out any other functions assigned to it under the Act or by the Minister. Of particular note is the conferral of powers to conduct inquiries, and make declarations and orders, under section 41. However, the Board is not required to inquire into or approve each request for voluntary euthanasia, rather it only acts in relation to a particular request following an application for a declaration, or following an inquiry (whether the inquiry was a result of an application for a declaration or was conducted on the Board's own motion).

30—Other staff of Board

The Board will have such staff as it thinks necessary, and may make use of the services or staff of an administrative unit of the Public Service under an arrangement with the relevant Minister.

31—Annual report

The Board is required to prepare an annual report into its work in the preceding financial year. This report must be laid before both Houses of Parliament.

Subdivision 2—Register

32—Registrar of Board

This section establishes that there is to be a Registrar of the Board.

33—Register

This section requires the Registrar to keep a register that contains the specified information in relation to each request for voluntary euthanasia.

The section also sets out what must happen should the Registrar become aware of a revocation or purported revocation of a request for voluntary euthanasia.

34—Registrar may require information

This section enables the Registrar (for the purpose of preparing and administering the Register) to require a person to provide the Registrar with such information as the Registrar may require.

Subdivision 3—Voluntary euthanasia

35—Active requests

This section provides for the making of active requests for voluntary euthanasia.

Subsection (1) sets out who can make an active request.

Subsection (3) sets out matters that must be complied with in making a request, including the information that must be given to the person making the request, the medical examinations or consultations that must occur (there must be a minimum of 2 independent examinations, 1 of which must be conducted by a specialist in the relevant area of medicine) and a requirement that the applicant be resident of this State for 12 months prior to making a request or have made a current request under the law of another jurisdiction.

The section sets out a requirement that, if the request practitioner or specialist practitioner suspects that the person is not of sound mind, or their decision making ability is affected by their state of mind, or they are acting under duress, inducement or undue influence, the person must consult a psychiatrist and obtain a certificate as to specified matters prior to making their request.

The section further sets out procedural matters in respect of making a request where the person is not able to write, or is not fluent in English.

The section sets out requirements as to the form that a request must take, and the documents that must accompany it.

An active request has effect from the time that it is entered on the Register (that is to say the Board or the Registrar is not required to approve the request before it takes effect) and remains in force until it is revoked.

36—Advance requests

This section provides for the making of advance requests for voluntary euthanasia to be administered should the person who made the request suffer a permanent deprivation of consciousness.

The requirements in relation to making an advance request are largely the same as for active requests, with the difference being that, because a person need not be suffering an illness etc at the time of making the request, the second doctor is not a specialist, rather their role is to independently consider the person's soundness of mind, whether their decision making ability is affected by their state of mind, or whether they are acting under duress or inducement.

37—Request form etc to be forwarded to Registrar

This section requires the medical practitioner who accepts a request for voluntary euthanasia to forward the specified forms, documents and records to the Registrar. Failure to do so, without reasonable excuse, is an offence.

38—Variation of requests

This section provides that a request for voluntary euthanasia may be varied with the authority of the Board. However, a request cannot be varied if the proposed variation significantly changes the nature of the request.

39—Interaction between requests

A person's request for voluntary euthanasia revokes all earlier requests for voluntary euthanasia made by the person.

40—Revocation of requests

This section sets out how a request for voluntary euthanasia can be revoked. A person's request will be taken to be revoked should the person make any indication whatsoever that he or she wishes to revoke the request, whether or not the person is mentally competent at the time the indication is given.

The clause then sets out the responsibilities of medical practitioners and others to advise the Registrar upon the person becoming aware of a revocation. It is an offence carrying a maximum penalty of up to 20 years imprisonment for a medical practitioner or other person to refuse or fail, without reasonable excuse, to comply with a requirement under this section.

Subdivision 4—Board declarations and orders

41—Board declarations and orders

This section sets out the powers and functions of the Board insofar as they relate to the Board's ability to make declarations and orders.

The Board may, on the application of a person of a kind specified in subsection (1) but not otherwise, make declarations of the following kind under subsection (2):

(a) a declaration that a person who made a request is, or is not, a person to whom section 35 applies;

(b) in the case of an advance request—a declaration that a person who made a request is suffering from a permanent deprivation of consciousness;

(c) a declaration that a condition specified in the request has, or has not, been satisfied;

(d) a declaration that a requirement under this Act in relation to the making of the request has, or has not, been satisfied.

Medical practitioners who may administer voluntary euthanasia to a patient, and other persons specified in subsection (1), can seek a declaration so as to provide certainty in respect of actions they may take in relation to the administration of voluntary euthanasia.

The Board may also make the kinds of orders set out in subsection (7). Unlike the declarations, the Board can make these orders following inquiries undertaken on the Board's own motion, in addition to

inquiries arising out of an application for a declaration under the section. Failure to comply with an order under the section is an offence carrying a maximum penalty of up to 20 years imprisonment.

The section does not, however, require the Board to inquire into every request for voluntary euthanasia.

The section further sets out procedural matters in relation to the consideration of applications, including requiring matters to be heard as a matter of urgency, and not be open to the public.

42—Powers of Board in relation to witnesses etc

This section is a standard provision setting out the powers of the Board in relation to witnesses, including the power to require persons to appear before, and documents to be provided to, the Board.

Witnesses before the Board have the same protections as witnesses in proceedings before the Supreme Court.

43—Access to Board records

The persons specified in section 41(1) can inspect records of proceedings of the Board in respect of a declaration under section 41. Other people can only inspect the records if the Supreme Court authorises them to do so.

Subdivision 5—Appeal

44—Right of appeal to Supreme Court

This section sets out appeal rights to the Supreme Court in respect of declarations or orders under section 41. Only the persons specified in section 41(1) can institute such an appeal.

Subdivision 6—Administration of voluntary euthanasia

45—Administration of voluntary euthanasia

This section sets out when and how a medical practitioner may administer voluntary euthanasia. Subsection (1) provides a list of matters that must be satisfied before voluntary euthanasia can be administered to a person.

Subsection (2) sets out the methods by which voluntary euthanasia may be administered.

The provision also sets out procedural matters relating to the administration of voluntary euthanasia, including the handling by medical practitioners of drugs used, or intended for use, in the administration of voluntary euthanasia, and a requirement that the medical practitioner administering voluntary euthanasia examine the person to whom voluntary euthanasia has been administered to ensure the person has died.

46—Report to State Coroner

This section requires a medical practitioner who has administered voluntary euthanasia to a person to submit a report to the State Coroner, and sets out what the report must contain.

The State Coroner must forward a copy of the report to the Board.

Subdivision 7—Offences

47—Undue influence etc

It is an offence for a person to induce another to make a request for voluntary euthanasia by means of dishonesty or undue influence. The maximum penalty is up to 20 years imprisonment (where a person has died as a result of the inducement).

48—False or misleading statements

It is an offence for a person to make a false or misleading statement in relation to a request for voluntary euthanasia. The maximum penalty is up to 20 years imprisonment (where a person has died as a result of the statement).

49—Limitation of fees

This section prevents a medical practitioner or other person from receiving fees in relation to requests for, and administration of, voluntary euthanasia that exceed the reasonable costs they have incurred in relation to their actions.

Should a person be convicted of an offence against the section, a court can require them to account for any fees received in contravention of the section.

Division 4—Miscellaneous

50—Certain persons to forfeit interest in estate

This section provides that a person who commits an offence against new section 47 automatically forfeits any interest they may have in the estate of the person who was induced by them to make a request for voluntary euthanasia.

Similarly, a court has the discretion to order, on the application of the prosecution, that a person who commits an offence against new section 40(4) or 48 forfeit any interest they may have in the estate of the person who made a request for voluntary euthanasia as a result of their conduct.

51—Protection from liability

This clause confers immunity from civil or criminal liability on a person for an act or omission done or made in good faith, without negligence and in accordance with a direction under new section 21.

Similarly, persons involved in, or in relation to, a request for, or the administration of, voluntary euthanasia incur no liability of the kinds, and in the circumstances, set out in subsection (2).

The protections under the section extend to disciplinary or similar proceedings.

52—Imputation of conduct or state of mind of officer etc

This provision imputes the conduct and state of mind of an officer, employee or agent of a body corporate, or an employee or agent of a natural person, to the body corporate or person. This allows the body corporate or natural person to be held accountable for the actions of their employees etc to the extent that they were acting within their usual or ostensible authority.

However, there is a defence available to the body corporate or natural person if they prove that the alleged contravention did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature.

53—Liability of directors

This section extends the liability of a body corporate, in relation to a particular offence committed by the body corporate, to each of its directors (except where the principal offence did not result from failure on the director's part to take reasonable care to prevent the commission of the offence).

54—Cause of death

Subsection (1) is a restatement of current section 17(3).

This section provides that, where voluntary euthanasia is administered to a person, the cause of death will be taken to be the underlying illness, injury or medical condition, and not suicide or homicide.

55—Insurance

This section prevents an insurer who may be liable to make payment under a life insurance policy following the death of a person from refusing to make the payment simply because treatment was withdrawn etc in accordance with a direction under new section 21, or because voluntary euthanasia was administered to the person.

It is an offence for an insurer to ask a person to disclose whether they have made a request for voluntary euthanasia.

Moreover, an insurer must not, in any way, encourage or promote voluntary euthanasia as alternative to other treatment. A person convicted of an offence against this provision will be liable to up to 5 years imprisonment if they are a natural person, or a fine of $600,000 if they are a body corporate.

Finally, subsection (5) provides that the section applies despite any agreement to the contrary between an insurer and a person.

56—Person may decline to administer or assist the administration of voluntary euthanasia

This section makes it clear that a person who does not wish to take any part in relation to voluntary euthanasia can do so without suffering adverse consequences, whether to their employment or otherwise.

However, certain institutions need to advise prospective patients or residents before they enter the institution that they will refuse permission to administer voluntary euthanasia on the premises (and must give the patient the name of an institution that does permit voluntary euthanasia to be administered), This will assist the patient to choose whether or not to enter the institution.

57—Victimisation

This section is a standard victimisation provision preventing people who take part in a request for, or administration of, voluntary euthanasia in accordance with the Act from being victimised for doing so. What constitutes victimisation or detriment is set out in subsection (4).

58—Review of Part by Minister

This section requires the Minister to cause a review of the operation of new Part 4 to be conducted within 2 years of its commencement, and for the report to be laid before both Houses of Parliament.

Part 5—Miscellaneous

59—Confidentiality

This is a standard confidentiality provisions protecting the privacy of information gathered in the course of the administration of the Act.

60—Service

This section is a standard provision setting out how service of documents etc may be effected.

61—Regulations

This clause provides a regulation-making power for the Act (as amended by this measure) that is consistent with modern drafting practice.

Schedule 1—Active request form

This Schedule sets out requirements in respect of the contents of an active request form.

Schedule 2—Advance request form

This Schedule sets out requirements in respect of the contents of an advance request form.

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

CONTROLLED SUBSTANCES (SIMPLE CANNABIS OFFENCES) AMENDMENT BILL

The Hon. A. BRESSINGTON (16:24): Obtained leave and introduced a bill for an act to amend the Controlled Substances Act 1984. Read a first time.

The Hon. A. BRESSINGTON (16:24): I move:

That this bill be now read a second time.

I have previously spoken extensively in this place on the health effects of cannabis consumption, so I will not repeat myself today. Needless to say, the body evidence that cannabis harms continues to grow, with the link between cannabis use and mental health disorders and cannabis dependence and withdrawal now widely recognised. Despite this evidence, the Controlled Substances Act of 1984 continues to treat cannabis as a soft drug with users and, as I will argue, dealers able to possess large quantities, yet only face an expiation fee.

As some honourable members may be aware, cannabis is sold in varying quantities depending on the stage of the supply chain in which the transaction takes place. Those who grow cannabis for profit will typically sell to distributors in pounds, the price of which varies from $2,000 to $4,000 depending on the time of the year and the manner in which it is grown. Distributors will then typically separate each pound into 16 ounces, or 28.5 grams in the metric system, and on-sell each ounce to street dealers for between $280 and $350, depending on the usual market pressures of supply and demand. Street dealers then again separate each ounce into street deals, which South Australian police inform me vary in size from two grams to five grams but which average two grams, which they sell for $25.

This is the most efficient pyramid-selling scheme that has ever been developed. It is here that the problem with the existing scheme lies. By allowing a person to be in possession of up to 100 grams, the expiation notice scheme allows a street dealer to be in possession of up to 50 two-gram bag street deals. Despite the potential retail value of $1,250 a dealer would face only a $300 fine. So, that up to 100 grams for personal use is broken down into 50 individual two-gram bags, which are then on-sold for about $25 each. If anyone is carrying 50 two-gram bags, you would have to be suspicious of whether that would be for personal use or whether—

The Hon. B.V. Finnigan interjecting:

The Hon. A. BRESSINGTON: The Hon. Mr Finnigan has it. Can I have my bag back, please? I might add that this is not cannabis. This is a two-gram bag, and in this bag there would be about six to eight joints or 30 to 40 cones. They will be carrying 50 of those bags around on them, and that is for 'personal use'. I believe it is a little extreme.

The PRESIDENT: Please refrain from bringing exhibits A, B or C into the council. It is not a courthouse: it is Parliament House.

The Hon. A. BRESSINGTON: I apologise, Mr President; I have never done that before and I will certainly never do it again. So, this is regardless of how it is packed. A dealer can literally have 50 individual bags, street deals, demonstrating a clear intent to supply, but under the current law a police officer is powerless to arrest, let alone prosecute, and can do nothing more than issue a fine. While I know that ideology shaped the cannabis expiation notice scheme, I hope it was never the intention to decriminalise street dealing; however, by allowing possession of up to 100 grams that is the result, and street-level cannabis dealers can walk the streets with impunity.

That the current cannabis expiation notice scheme inadvertently captures dealers is supported by the result of a recent freedom of information request which revealed that in the last financial year over 5,211 expiation notices were issued for possession of less than 25 grams of cannabis but only 375 were issued for possession of more than 25 grams but less than 100 grams of cannabis. This shows what is already well-known; users typically buy cannabis in $25 street deals, which weigh as little as two grams, and rarely buy more than half an ounce for consumption. It is street dealers who buy in ounces who are in possession of more than 25 grams. Based on this, one has to question how many of the 375 people expiated for being in possession of over 25 grams were street dealers who escaped criminal conviction because of this flawed scheme.

To reduce cannabis consumption we need to get on top of street dealing. It is street dealers who push cannabis on our young people, but I repeat that, at present, the police are powerless to prosecute. By allowing 100 grams of cannabis South Australia stands alone nationally, with no other state or territory permitting more than half this amount. Many other states permit significantly less, with the Australian Capital Territory expiating 25 grams—as I am proposing—and New South Wales and Western Australia restricting their schemes to 15 grams and 10 grams, respectively. Western Australia is of significance to this debate as it is the latest to amend its relevant law: the Cannabis Control Act 2003.

The amending bill, the Cannabis Law Reform Bill 2009, introduced by the governing Liberal Party, was supported by the Labor opposition, which all but conceded recently, when the bill went to a vote, that its social experiment had failed. Importantly, Western Australia only ever expiated 30 grams, less than one-third of our current expiable amount and yet the Western Australian government considered it a failure and took it to the last election as such. It is to be commended for standing up to the pro-pot lobby which, in my opinion, has too great a sway with both the South Australian major parties, given its minority status.

I encourage members present to look to their Western Australian counterparts for guidance. By reducing the permissible amount to less than 25 grams (which is less than an ounce), my bill will bring South Australia into line with the rest of the nation and close the loophole that allows street dealers to be in possession of up to 50 street deals of cannabis and not face conviction. By increasing the expiation notice to $300, it will also serve as a financial disincentive to dealers, as the penalty will roughly be the equivalent of purchasing 25 grams of cannabis.

I remind members that the present law potentially allows a dealer to be in possession of $1,250 worth of street deals and face only a $300 fine. The bill requires a police officer issuing a cannabis expiation notice to also provide the offender with a pamphlet approved by the minister which outlines the health risks and criminal penalties related to cannabis consumption. The reason for the pamphlet is that we know that there are the diehards out there who refuse to acknowledge that there are any ill side effects to cannabis. It is all a beat-up.

Many people also believe that cannabis is legal. If we can put a pamphlet out there that can clear up both those myths, then we may be on our way. The time has come for our social experiment to come to an end. Just as this parliament recognised that allowing someone to grow 10 plants was open to abuse by criminals, it is now time we wake up and prevent street dealers from abusing the cannabis expiation notice scheme. I would just like to add that Sweden has the lowest level of cannabis consumption amongst school-aged and young people.

The reason that they have been so successful in controlling their drug use—I am not saying it does not exist, but it is very much lower than what we are experiencing in this country—is that this is exactly what they have done. They have targeted street dealing; they have gone for the demand reduction model rather than the harm minimisation model. It is not turning people into criminals: it is simply hitting them in the hip pocket where it hurts most, usually. I am not advocating that drug users be criminalised. I am just asking for a reasonable balance in possession and expiation fee increases.

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

BRITISH ATOMIC TESTING

The Hon. T.A. FRANKS (16:34): I move:

That this council—

1. Notes—

(a) that the British atomic tests in South Australia in the 1950s and 1960s caused significant health problems for those people affected and environmental problems in the areas of Emu Fields and Maralinga;

(b) that English courts have ruled that military personnel from all over the world were able to bring a personal injuries action against the United Kingdom Government in the UK courts;

(c) that a legal opinion commissioned by the Australian Aboriginal Legal Rights Movement from Cherie Booth QC confirmed that civilians are entitled to bring suit against the UK government;

(d) that this case will need extensive funding to commission expert witnesses, conduct investigations and collate information;

(e) that the success of these strong legal claims will help alleviate years of suffering for both Aboriginal and non-Aboriginal South Australians in addition to easing the burden of considerable medical costs associated with illness related to nuclear testing; and

(f) that Premier Rann acknowledged in 2009 in an ABC report that 'the British Government has an absolute responsibility to do the right thing by its and our service personnel and of course our Aboriginal people'.

2. Calls on the Premier, who has acknowledged that compensation should be paid, to contribute to the legal costs of the case being supported and launched by the Aboriginal Legal Rights Movement here in South Australia so that Aboriginal and non-Aboriginal South Australians can have the opportunity to seek redress for injuries suffered by them during the British atomic testing in South Australia.

This motion challenges the Premier in particular to put his money where his mouth was on Maralinga. The Greens have put forward this motion because there are significant personal health impacts and wider environmental issues that blight the people and the areas of Maralinga and Emu Fields as a result of a foreign government's atomic testing regime half a century ago.

Once we thought there was no legal recourse left on this matter. However, recent legal opinion from Cherie Booth QC (who is in fact the wife of former British prime minister Tony Blair) has confirmed that civilians are still entitled to bring suit against the United Kingdom government, as are citizens of Australia. However, any legal case is going to need substantial funding to commission the required expert witnesses, conduct investigations and collate the relevant medical and other information. A request has been put forward to both state and federal governments from the Aboriginal Legal Rights Movement, but at this stage that request has not been met favourably In 2009 the Premier, Mr Rann, stated:

> The British government has an absolute responsibility to do the right thing by its and our service personnel and, of course, our Aboriginal people.

So now it is time for the Premier to put his money where his mouth was and back this legal case so that these South Australians can finally obtain justice. The success of these strong legal claims will not only bring possible financial recompense to those who have been affected by the British atomic testing, but it will alleviate years of suffering and ease the considerable medical costs associated with the illnesses related to the nuclear testing; and, of course, go some way to repairing the damage that has been caused to generations who have suffered from their forefathers' deaths and illnesses as well.

Our motion calls on the Premier, who has acknowledged that there is a need for this compensation to be paid and for that compensation to be paid by a foreign government, to be supportive. We think it is a fair and just thing. I will remind members of the council, who may not be aware, that back when these British atomic tests were undertaken, some half a century ago, the Long Range Weapons Establishment in fact issued unfounded assurances that Aboriginal people would not be affected by the trials. However, we know that that is not the case.

We had a forum in this parliament some months ago which many members attended, notably the Hon. Stephen Wade (shadow attorney-general), Frances Bedford (member for Florey), Leesa Vlahos (member for Taylor) and Steve Marshall (member for Norwood), with sincere apologies from the Speaker of the House of Assembly. Many other members showed great interest in this issue, and I commend them for their interest. At that forum we actually heard stories of the families of those who have been affected by the impact of the nuclear testing undertaken, and I will just point to one particular story.

In 1953 the first of the two bombs code named 'Operation Totem' was exploded at Emu Field. At Wallatinna, to the north-east, the Anangu people experienced stomach pains,

vomiting, choking, coughing, diarrhoea, rashes, peeling skin, headaches, and sore and running eyes. Within days, old and frail members of the group started to die. Over the next year almost 20 people camping in the region had also died. The number may have in fact been higher; no official records were ever kept. One particular young boy, Yami Lester, was a boy whose family spoke at the parliamentary forum just recently. Many people may be familiar with his autobiography, in which he said:

> When I was a young boy living in the desert, the ground shook and a black mist came up from the south and covered our camp. The older people said they'd never seen anything like it before, and in the months that followed many people were sick and many died. I don't like to think about it now, but one of those people was my uncle, and he was very sick before he died. There were sores all over his body and they looked full of pus. The sun used to worry his eyes too, and he couldn't look up, so he'd wear a cloth under his hat and hang it in front of his face. Almost everyone at Wallatinna had something wrong with their eyes, and they still do. All those Wallatinna people have eye problems. I was one of those people, and later on I lost my sight and my life was changed for ever.

Yami is quite laconic in his words, where he says:

> If I had my eyes, I would probably still be a stockman. Because I haven't, I became a stirrer.

Good on people like Yami for becoming stirrers in our community and not being silenced! There has been a great deal of disability, disease and death as a result of these atomic tests, which we have already acknowledged through our work. We have commended the work done to clean up the Maralinga area, and I particularly commend those parliamentarians who have been involved in that work.

I look forward to our taking a further step in not only cleaning up the land but healing the people and their history here. I also look forward to the Premier acknowledging and supporting his words of 2009. I cannot understand why the poisoning of our state by radioactive fallout is not a priority of our senior state politicians, particularly following the Premier's comments. The litigation against the British government by the South Australian victims of the tests will considerably advance rectification of the long-term environmental safety of South Australia and its citizens, and it will go a long way to creating further reconciliation in this country. I commend the motion to the house.

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

CORONERS (RECOMMENDATIONS) AMENDMENT BILL

The Hon. S.G. WADE (16:41): Obtained leave and introduced a bill for an act to amend the Coroners Act 2003. Read a first time.

The Hon. S.G. WADE (14:42): I move:

> That this bill be now read a second time.

I am proud to table the Coroners (Recommendations) Bill 2010. Although the Coroner convenes as a court, the focus of the Coroner is on saving lives. Coronial inquests are held to help us prevent avoidable deaths. Today, I table a bill to support the Coroner in this mission of saving lives. The bill primarily seeks to amend the scope of recommendations that the Coroner is permitted to make in relation to an investigation.

In 2008, the Hon. Sandra Kanck introduced a bill in the Legislative Council to expand the Coroner's powers. The Hon. David Winderlich took over that bill when the Hon. Sandra Kanck retired from this chamber. The Liberal opposition supported that bill as it passed the Legislative Council. Although the bill was not considered by the House of Assembly, our support continues.

In the absence of those two honourable members, the Liberal opposition seeks to support what was a good idea and, in that context, I table this bill, which is identical to the bill originally moved by the Hon. Sandra Kanck and the Hon. David Winderlich. Under section 25(2) of the Coroners Act 2003, the Coroner is able to:

> ...add to its findings any recommendation that might, in the opinion of the court, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.

Under the current act, the Coroner investigates a death. He or she, in the process, may identify other matters which may lead to other deaths, but he or she must make recommendations only on the incident which is being investigated or on a matter similar to the matter being investigated.

This has the practical consequence, in the opposition's view, of lessons that could be learned from incidents may not be, and I will give some practical examples. On 16 June 2000, the Coroner delivered his findings on the death of a young Aboriginal man, a man by the name of

Carter. He died in his cell from a drug overdose, having been transferred from a youth training centre to an adult prison. Mr Carter was placed in a cell with shared toilets and handwashing facilities in the company of another Aboriginal person who had an infectious disease. This placement was made even though the prisoner's case management files included recommendations for single cell accommodation, stringent cleaning of his cell and discouragement of homosexual activity, sharing needles and tattoos and contact sports.

The Coroner could not make recommendations based on this information. The Coroner commented on the undesirability of the doubling-up of prisoners who had communicable diseases in the following terms:

> In this particular case I am unable to find that Mr Carter died as a result of this policy. I am, therefore, unable to make a recommendation pursuant to section 25(2) of the Coroners Act on this topic.

The recommendations of the Coroner, as I said, must directly relate to the event which is the subject of the inquest. This limitation was again highlighted by the then State Coroner (Mr Wayne Chivell) in 2004 in the inquest into the death of a Mr Lindsay. In that case, submissions were made to the Coroner that the family of the deceased were reluctant to sign statements prepared for them by the police, because those statements did not contain the allegations that the family members were making about the police and the scene of the death. The family was also reluctant to co-operate with police because of the treatment they had received at the scene.

The Coroner noted these facts but, under the act, did not have the power to pursue this issue or make recommendations about it. The Coroner commented that:

> This is the type of issue which has given rise to recommendations, for example, in the Royal Commission into Aboriginal Deaths in Custody, that the Coroner should have the power to make recommendations about issues which are incidental to a death rather than directly causally relevant to it. In several states of Australia coroners now have that power. That power does not exist in South Australia and, in my opinion, it would inappropriate for me to exercise my power to force an officer to answer questions about issues that are irrelevant to my enquiry.

In 2008, in the case of Saraf & Ors and Anor v Johns, the Supreme Court held that:

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

That case related to the death of a Mrs Wells, an elderly resident of a nursing home. A resident doctor signed a death certificate for the lady and she was cremated before a post-mortem examination could be made, which had the effect of inhibiting a later coronial inquest. The State Coroner recommended that the Cremation Act be amended to disqualify a doctor from certifying a death in a nursing home where that doctor had a financial or proprietorial interest.

The Supreme Court found that this recommendation exceeded the Coroner's powers under section 25(2). Following this event, the Coroner again raised his concerns as to the narrow scope in which he is permitted to make recommendations. In his 2007-08 annual report he stated:

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

In moving this bill I recognise the advocacy of Mr Chris Charles, a highly respected solicitor with the Aboriginal Legal Rights Movement of South Australia. Mr Charles has written a document on the South Australian Coroners Act 2003 and the Consequences for Prison Reform of Partial Implementation of the Royal Commission into Aboriginal Deaths in Custody. I also recognise my leader, Isobel Redmond, and her support for this reform.

All other jurisdictions allow their coroners to make recommendations on any matter related to the death and often highlight the administration of justice and public health and safety as relevant considerations. This bill seeks to bring us into line with all other Australian jurisdictions. The bill aims to allow the Coroner to make recommendations about broader issues which relate to a death but which may not have directly caused the death.

Under subsection (2)(a) the court may add to its findings any recommendation that, in the opinion of the court, might prevent or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the inquest. This bill adds subsection (b), which provides that the court may add to its findings any recommendation that, in the opinion of the court, is appropriate in the circumstances even if the recommendation relates to a matter that was not material to the event the subject of the inquest.

South Australian coroners have been requesting these powers for over a decade. All other Australian coroners have these powers. The opposition considers that this issue should be

addressed. In 2009, in response to what I might call the Kanck-Winderlich bill—an identical bill to this one—the Hon. Bernard Finnigan, on behalf of the government, argued that the bill would significantly increase the complexity of an inquest and the time and resources necessary to conduct it. I would put it to the government that we are already undertaking the cost of the coronial inquest. It is a waste of that expenditure to ignore relevant factors identified by it.

The bill also empowers the Coroner to compel a minister to prepare a supplementary report addressing concerns raised in a Coroner's report. The supplementary report would be required to be tabled in both houses of parliament within three months. The compulsion is not for the government to act on the recommendations, but to provide a response.

The introduction of this bill would also see the time frame for responses reduced. Currently, responses to coronial reports must be within six months: the bill would make it three months. This is not a matter dealt with under the coroners acts of all jurisdictions but, of the four jurisdictions' statutes which provide a reporting time frame, only South Australia provides a six-month time frame; the other three provide for a three-month time frame.

This bill seeks to adopt that time frame, not in the sense that we need to have national uniformity, but if the bureaucracies of the other three jurisdictions can manage to provide a response within three months then we have the same confidence in the South Australian bureaucracy. After all, early response to a coronial recommendation supports early action: early action may well save lives. We believe that the introduction of this bill would support systems improvements to save lives and reduce injury, and we also believe that it supports enhanced parliamentary accountability.

In conclusion, in response to calls from coroners past and present and members of the community, particularly members of the Aboriginal community and Mr Chris Charles, and in continuation of the work of my former colleagues, I am pleased to table this bill today.

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

DEVELOPMENT (ADVISORY COMMITTEE ADVICE) AMENDMENT BILL

The Hon. M. PARNELL (16:52): Obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

The Hon. M. PARNELL (16:53): I move:

That this bill be now read a second time.

This is a bill to bring some transparency and accountability into the planning system in South Australia. In my brief contribution I will be using two acronyms, which I will explain at the outset for those who are not familiar with the planning system. The first is DPAC, which is the Development Policy Advisory Committee. It is a statutory body set up under the Development Act to advise the minister, and I will go into the functions of DPAC a little later.

The second acronym is DPA, or development plan amendment, and that is also commonly referred to as a rezoning, although that is not the only function of a DPA, but it is the main one. This is the process whereby planning rules are changed, such as zoning, and these are the rules that determine what development can or cannot be undertaken on certain areas of land. A classic example is the rezoning of farmland from rural to residential. This is a process that is proceeding apace, especially since the adoption of the 30-year plan and its urban fringe growth targets.

The link between these two acronyms is that DPAC gives advice to the minister on DPAs, especially those DPAs that have been instigated by the minister, but also some of those that are instigated by local councils. Some of the recent ministerial DPAs that have been the subject of DPAC advice include the Cheltenham Racecourse rezoning, the Mount Barker rezoning, the Gawler Racecourse and the Gawler East rezoning.

My bill is very simple. It provides that the planning minister, having received advice from DPAC in relation to a DPA, must publish that advice. Members would be aware that the DPAC hearing on the Mount Barker urban sprawl DPA has now been going for 15 hours and is still unfinished. I have attended all the meetings so far, and one of the most common complaints expressed by residents, and others, is just how disrespectful the process is. It is disrespectful in that those who put in submissions never get to see how their submissions were treated or reflected in the final advice given to the minister by DPAC.

Those who write submissions have no way of knowing whether DPAC took them seriously or whether DPAC dismissed their concerns out of hand. All they know is the final gazetted approval of the DPA. In fact, most people do not even know that unless they read the *Government Gazette,* because nobody is obliged to actually tell them what was the final outcome of the process. In my view, it is disrespectful and discourteous to those who go to the trouble of engaging in the public consultation process, and I think it needs to be fixed.

When the minister finally makes a decision on a DPA, those who made their submission in good faith have no way of knowing whether the final decision made by the minister was consistent with the DPAC advice or whether it was against that advice. In short, the Development Policy Advisory Committee is a black hole into which submissions disappear. But it is not just community members who are calling for the change that I am introducing today; so, too, are local councils. In fact, as recently as this morning, I have been speaking with local council planners who tell me that they have called for the publication of DPAC's advice to the minister and that they, too, have been refused.

I think this is an outrageous situation when you consider that local councils often spend hundreds of hours and thousands of dollars of taxpayers' money putting together comprehensive submissions on behalf of their communities, only to find that they fall into that same black hole. On 14 September this year, I asked the minister a question without notice. My question was:

> Will the minister release the DPAC advice on the Mount Barker urban growth DPA as requested by the community?

In his answer, the minister said that the role of DPAC under the act is:

> Their role is 'to consider the submissions made on ministerial development plans and to advise the minister.' He—

meaning me—

> would well know the history and that DPAC and its predecessors have been in operation for decades, and he would know that it has always been the tradition that those reports are not made public.

We have to question the value of that tradition. So, the starting point is: what does the act currently say? In relation to the secrecy, or otherwise, of DPAC's advice, the act is silent. Section 9 of the Development Act lists the functions of the Development Policy Advisory Committee. Paragraph (a) provides:

> to advise the minister on any matter relating to planning or development that should, in the opinion of the Advisory Committee, be brought to the minister's attention;...

Paragraph (c) provides:

> to advise the minister (on its own initiative or at the request of the minister) on—

There is a list of things, including subparagraph (iv) 'Proposals to amend development plans'. The act gives the Development Policy Advisory Committee functions, including advising the minister, but nowhere in this legislation does it say that that advice should be kept secret. It does not say anything about whether or not the advice should be published. It is silent and, in that silence, a tradition of secrecy has evolved.

The minister has on a number of occasions dismissed the concerns of the community about this process. Again, on 14 September, the minister said:

> ...but it is a side issue; it is not really the core of the issue. At the end of the day I will have to make the decision on the final form of the development plan, and I will be fully accountable, as I should be, for the final form of the development plan amendment. It is DPAC's role to consider the submissions that are made, but it has to consider them of course in the context of the planning strategy for the state, which now incorporates the 30-Year Plan for Greater Adelaide.

I agree that the buck does stop with the minister, but is he fully accountable? No, he is not, because we no idea on what basis he makes his decisions. Was the minister simply doing the bidding of private property developers? Did the minister even take any of the submissions into account? Was the minister's decision supported by any of the evidence?

If we take, for example, the Mount Barker situation, so far every verbal submission—over 15 hours—has opposed the proposal, and almost every one of the hundreds of written submissions has opposed the rezoning as well. The only submissions in support are from developers or the small number of property owners who stand to make a killing out of the rezoning.

The mechanics of my bill are quite simple. The bill provides that the advice from DPAC should be published. With the way it is worded in the bill there are two operative clauses, clause 3 and clause 4. Clause 3 relates to development plan amendments by a council, and clause 4 relates to amendments by the minister. The operative provision is very short. It reads:

> The minister must, within two working days of receiving advice of the advisory committee—
>
> (a) publish the advice on a website determined by the minister and make the advice available for inspection, and
>
> (b) inform by notice in writing each person who made written representations that the advice is available.

There are two approaches I could have taken. One is to make the Development Policy Advisory Committee itself responsible for publication, and the other is the one I have adopted in the bill, and that is to make it the minister's job. There are arguments for both approaches. In some ways it may be better for the Development Policy Advisory Committee (DPAC) to do it itself, because that would show that it was truly independent, but I have gone for the approach of putting the obligation on the minister, who already has a suitable website and already knows the identities of those who have made submissions, and because the administration of this provision would be relatively simple and very inexpensive.

One of the arguments that have been offered continuously by the minister against the approach taken in this bill is in relation to frank and fearless advice. The minister says that, if DPAC advice was always published, it would be less frank and fearless than if DPAC knew publication was imminent, and it would somehow phrase its advice differently. I do not accept that proposition, but I agree that there should be some opportunities for DPAC to provide confidential advice to the minister, especially when it is exercising its power to advise the minister of its own volition and not because it is subject to any statutory duty to do so.

For that reason, in this bill I have limited the obligations on the minister to publish the advice only in relation to those statutory processes where the DPAC calls for public submissions. In those situations the advice should be published. That is what people have been calling for over the last 16 years, and that is what this bill brings about. In relation to the type of advice that DPAC gives the minister, it goes without saying that we generally do not know what that is, because it has largely been kept secret. However, I have a copy of one DPAC advice obtained under freedom of information, and that was in relation to the Cheltenham Park racecourse development plan amendment. This advice was given about two years ago.

In relation to the Cheltenham Park racecourse DPA, there were 793 submissions from the general public, there were 37 oral submissions delivered over two nights, and at least 170 people attended the first of the public hearings. Having now obtained a copy of DPAC's advice, it is clear to me that the DPAC did support that rezoning, and in fact I am prepared to say that I am not aware of any situation where the DPAC has ever rejected a ministerial DPA. I am not saying it has never happened, but I am not aware of it. The chair of the DPAC was asked at Mount Barker whether he was aware. He indicated that, maybe, in the dim and distant past it might have happened, but he could not identify it—and would not—because the DPAC has taken the approach for the last 16 years that its advice is secret.

I should say that even if the Development Policy Advisory Committee were to advise against a particular DPA there is nothing to stop the minister going ahead anyway and approving it, because at present the buck does ultimately stop with the minister, and he is under no obligation to accept any advice he has been given, whether from his department, DPAC or anyone else. What the community is demanding, and what this bill provides, is that decisions be more transparent and not be made behind closed doors with secret reports. So, this bill obliges the minister to release the report, the advice, within two days of receiving it.

Finally, I want to acknowledge the support received so far from Isobel Redmond, the Leader of the Opposition in another place, who was reported in the Mount Barker *Courier* of last week. I will read a couple of sentences from the article, headed 'Libs would back report's release', as follows:

> The leader of the state opposition would back legislative changes to force the independent body investigating a growth plan for Mount Barker and Nairne to release its final report and recommendations. Isobel Redmond, whose seat of Heysen adjoins the Mount Barker region, said she would 'absolutely support changes to the system' that currently keeps the Development Policy Advisory Committee's (DPAC) advice under wraps.

The article further quotes her as saying:

> It just beggars belief that they (the government) say 'we are not going to make this public'.

She is further quoted as saying:

> My own personal view is the more open the process, the better.

I agree wholeheartedly with Isobel Redmond. To be completely transparent—because that is what I am calling on the government to do—I note that the article also says:

> Ms Redmond has stopped short of committing to supporting Greens MLC Mark Parnell's planned bill to change the Development Act to force the report's release. 'It's a matter for the party room and it hasn't been considered yet in the party room', she told *The Courier*.

Well, she has not because I have only just introduced the bill today; however, it seems that what I propose is exactly what the Leader of the Opposition says in *The Courier* that she supports.

So I urge opposition members to listen to their leader and look on this bill favourably. I also call on crossbench members to support it. It has been the focus of just about every submission in the 15 hours that we have heard at Mount Barker, the five hours we heard over Cheltenham Park, and the five hours we heard at Gawler East. The community wants these reports made public. I also urge members of the government to support this bill. Here is a chance to replace a tradition of secrecy with a practice of openness. I commend the bill to the council.

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

CHILDREN'S PROTECTION (REPORTING OF SUSPECTED CRIMINAL OFFENCE) AMENDMENT BILL

The Hon. A. BRESSINGTON (17:08): Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993. Read a first time.

The Hon. A. BRESSINGTON (17:08): I move:

> That this bill be now read a second time.

This bill is simple in both its intent and its drafting, so I shall be brief. The bill seeks to insert in the Children's Protection Act 1993 the requirement for the Chief Executive of Families SA to report to the Commissioner of Police any case in which it is reasonably suspected a criminal offence has been committed against a child.

While in many instances this does now occur, there are numerous examples—some historical and some very recent—which demonstrate that, despite Families SA having knowledge or evidence of offences—in some cases, sexual offences—occurring against a child, they have not referred the matter to the appropriate authority for further investigation and charges, if warranted.

It is Families SA's role to protect children and in its capacity they will often be the first authority to discover this type of offending. However, by denying the police this information and not reporting their suspicions, Families SA usurp the police's role, which, of course, is to prosecute the offender.

Many honourable members will be aware of the case of Mr John Ternezis and his daughter who, at the age of 13, ran away from home and subsequently came under the control of the minister via a youth court order. Despite the state having effective control, Mr Ternezis's daughter, at the age of 14, ended up living with three adult men who were supplying her with drugs, resulting in a serious drug habit. She then got pregnant by one of them, who was believed to have been 33 at the time, and had a baby. This all occurred while Katrina was under the supervision of the minister and with the department's knowledge. This is not the one and only case of this kind of example. That is why Mr Ternezis's barrister has advised me on the necessity of drafting this bill and also on what was needed to be included this bill, because he has represented a number of parents under the same circumstances.

It is this knowledge that is the key to the debate. On numerous occasions, Mr Ternezis reported his daughter's living arrangements and sexual activity with the adult men, and Katrina herself apparently disclosed this to Families SA workers. Yet, having spent years going through all the documentation generated by Families SA during this period in his daughter's life, Mr Ternezis can find no evidence that Families SA made any attempt to report the matter to the police, and they also saw no harm in her living with these men. This is despite a clear offence being committed against the Criminal Law Consolidation Act 1935. Under our law, they had every right not to refer the matter to the police, but I ask members present whether they believe such a right should actually exist.

A more recent, yet similar, example can be found in the case that I raised yesterday in my question to the Attorney-General. Again, this case featured a young girl who had run away from home and was living with an adult male. Despite being provided with Facebook postings and other evidence giving rise to a reasonable suspicion that this girl was having sexual relations with the man, Families SA saw no priority in intervening, let alone referring the matter to police. This young girl, also in her Facebook postings, admitted that she was being provided with drugs and alcohol by this person whom she had chosen to reside with.

Nearly every professional who comes in contact with children is required by law to notify Families SA through the child abuse report line of any case in which they reasonably suspect that a child is being abused or neglected. We make notifications mandatory to assist Families SA to execute their role to protect children in need. This bill essentially extends the mandatory reporting requirement to Families SA itself. It is not its role to prosecute offenders so it is only reasonable that, where Families SA investigations reveal an offence may have been committed against a child, it may be required to refer the matter to the police. Families SA workers are officers of the state and, as such, should respect the law and assist those with the responsibility for enforcing it to do their job. Failure to do so is a failure to discharge their official duty, and if this bill passes it will definitely be so.

The proposed wording of the new section mirrors section 14(2) of the Queensland Child Protection Act, in many ways a superior act to ours, except that the bill before the council has a wider threshold of 'reasonable suspicion' instead of Queensland's 'reasonable belief'. I see no reason why the requirement for the chief executive needs to be based on anything more than a reasonable suspicion that a criminal offence has been committed against a child.

As I have stated, it is the police's role to conduct further investigations and determine the validity of the suspicion and whether charges should be laid. This will also work in the reverse, where false allegations of sexual abuse have been made against a parent, which happens quite often. This will put the matter in the hands of the police and an investigation can then be undertaken, and innocent people will not have to walk around with the stigma of being labelled as a child sex offender or paedophile without ever having an investigation done or any court proceedings gone into.

Those members present who were elected in 2002 or earlier will recall the lengthy debate on the Children's Protection (Miscellaneous) Amendment Bill 2005 or, as it was known prior to the committee stage to this place, the Children's Protection (Keeping Them Safe) Amendment Bill 2005. The council saw fit to move some 20 amendments to the government's bill, one of which was a requirement for the chief executive to cause an assessment or investigation of the circumstances of a child if there was a reasonable suspicion that a child was at risk; that is, it went from 'may' to 'must'.

In speaking to the Hon. Kate Reynolds' amendment, the Hon. Robert Lawson, whose expertise is dearly missed in this place, expressed his delight in the opposition's support, and stated that, 'where reasonable suspicion exists, it is only reasonable for the chief executive to be compelled to act'. The government, however, saw it differently and fought the amendment to a deadlock committee, where a compromise on the wording, but not the obligation, was eventually reached. This council stood firm in its belief that there is no room for discretion when a reasonable belief exists that a child is at risk. In introducing this bill, I am again asking this council to remove the discretion to not report criminal matters to the police. Those who offend against our children must always be pursued by the law. I commend the bill to honourable members.

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

WATER FLUORIDATION

The Hon. A. BRESSINGTON (17:17): I move:

That this council—

Urges the Minister for Health, the Hon. John Hill MP and the Principal Water Quality Adviser for the Department for Health, Dr David Cunliffe, to attend the public meeting being held in Mount Gambier on 9 October 2010 on the issue of water fluoridation.

I will make it clear right at the onset of this that this is a long speech, not because I want to be a pain to anybody, but simply because I believe that this issue of fluoridation is one of the most important issues that we could possibly be debating at this point in the parliament. It has come

about mainly because of the protests of the people in Mount Gambier who do not want their Blue Lake fluoridated and their water supply contaminated with a poisonous substance.

It has also come about because I believe that people should have a choice about whether or not they consume fluoride, and, quite frankly, if people believe that fluoride is beneficial for their teeth, then they can quite easily go to a chemist and buy a pharmaceutical grade tablet, dissolve it in their water and take it. They can use toothpaste, they can use mouthwashes, and that is absolutely their choice.

Right off the mark, I would like to congratulate the group known as Choice Mount Gambier for its persistence and diligence in this matter. It is my understanding that it has tried to get the ear of the minister for almost three years now. I have had two petitions taken around, with a total of 10,400 signatures between both those petitions of people objecting to having fluoride in their water. More than that, I do not believe that we fully appreciate what we have been doing to our water supply for about 50 years now.

We have also seen groups in Queensland, New South Wales, Victoria and now Mount Gambier running huge protests about fluoridation expansion in those states. I think it was Anna Bligh who, prior to her being elected as premier, signed a declaration stating that she did not support fluoride, and then in 2008 introduced legislation to introduce fluoridation to Townsville. There was a huge outcry about that.

As I said on *Today Tonight* earlier this week, I believe governments around this country now are going to suffer ramifications if they do not look at the evidence. What I am going to present to the council today is not my opinion: it is based on over 80 published peer reviewed studies of the harms of fluoride. These studies have been systematically ignored by governments for the last 50 years, some of the studies dating back to the 1950s. So, this is not a new concern; it is just something that has gone quiet because people have basically forgotten about it because they are drinking this water every day.

In January of this year, on ABC radio, Dr Cunliffe, Director of Water Quality for South Australian Health, made the commitment to the people of Mount Gambier that a public meeting would be held before fluoridation went online in that town. To date no meeting has occurred and fluoride is only weeks away, I believe, from being added to the water supply. The group of people known as Choice Mount Gambier, led by Mr Alex Young, have lobbied for about three years against plans to fluoridate their town's supply. They have alerted the community to the dangers of fluoride and have established a network of very well respected professionals internationally on this topic.

The people of Mount Gambier owe this group a debt of gratitude because without them they would not have known what they were going to be exposed to. I personally acknowledge Mr Alex Young and the group of community-minded people of Choice, and I congratulate them on their efforts and commitment to this most important issue.

The issue of water fluoridation is perhaps a more emotive one than it needs to be. Rather than emotion, we would be far better off acknowledging the epidemiology, toxicology and medical papers to further this debate in a rational manner. We should really ask the question as to why public debate is such a negative thing when it comes to fluoridation because, after all, the argument used to fluoridate water supplies of constituents goes against the very grain of pharmacology and also eliminates the choice that should be the God-given right of us all.

The recent Nobel Prize Laureate in Medicine and Physiology, Dr Arvid Carlsson, who received his prize for his work on the brain, was one of the leading opponents of fluoridation in Sweden and part of the panel that recommended that the Swedish government reject that practice, which it did in 1971. He stated publicly:

> I am convinced that water fluoridation, in the not too distant future, will be consigned to medical history. Water fluoridation goes against leading principles of pharmacotherapy, which is progressing from a stereotype medication of the type 'One tablet three times a day, please' to a much more individualised therapy as regards both dosage and the selection of drugs. The addition of drugs to the drinking water means exactly the opposite of an individualised therapy.

The simple explanation of this statement is that sodium fluoride is not added to our water to improve water quality: it is added to prevent tooth decay, which means that it is being used in a medicinal manner. It is impossible to measure the dose that any one person will receive and the frequency of that dose. It is impossible to monitor any adverse reactions to the substance, and it is impossible to adjust the dose according to individual needs.

Given that the Hon. Gail Gago spoke last sitting week on this topic, I am wondering whether she, as a healthcare professional, can think of any other form of treatment for any physical condition that would allow for mass medication in the way in which fluoride is being used currently in this state and in this country. Surely, the basis for providing any form of treatment for any condition is, first, diagnosis of that condition and then working on dosage for that individual person.

We have people ingesting a substance for tooth decay who may never suffer from that condition, and we have not considered the long-term consequences of providing treatment for a non-existent condition to these people. Dr Paul Connett, who has a BA Honours in Natural Sciences from Cambridge University and a PhD in Chemistry from Dartmouth College in the United States, and who has since 1993 been teaching in the Chemistry Department at St Lawrence University in New York and is currently tenured as a full professor, said in a paper co-written by Dr Hardy Limeback, Director of Dental Health Research in Canada:

> Fluoridation is unethical because individuals are not being asked for their informed consent prior to medication. This is a standard practice for all medication and one of the key reasons why most of Western Europe has ruled against fluoridation and as one doctor has stated: 'No physician in his right senses would prescribe for a person he has never met, whose medical history he does not know, a substance which is intended to create bodily change, with the advice: 'Take as much as you like, but you will take it for the rest of your life because some children suffer from tooth decay. It is a preposterous notion.'

Dr Connett also states that:

> According to the Agency for Toxic Substances and Disease Registry (1993), and other researchers such as Junco and Donadio 1972, Marier and Rose 1977 and Johnson 1979, certain subsets of the population may be particularly vulnerable to fluoride's toxic effects; these include: the elderly, diabetics, and people with poor kidney function. Can we in all good conscience force these people to ingest fluoride through their water supply on a daily basis for their entire lives?

There are also 14 Nobel Prize winners who object to fluoridation, and these are:

- Dr Arvid Carlsson, Nobel Prize in Medicine for work on the brain.
- Dr Giulio Natta, Nobel Prize in Chemistry; Chemical Engineer; Director of Industrial Chemistry Research Centre, Polytechnic Institute of Milan, Italy.
- Dr Joshua Lederberg, Nobel Prize in Medicine; World Health Organisation's Advisory Health Research Council; received the United States National Medal of Science in 1989; former Chairman of the Cancer Panel of the National Academy of Science.
- Sir Cyril Norman Hinshelwood, Nobel Prize in Chemistry, the University of Oxford.
- Nikolay Nikolayevich Semyonov, Nobel Prize in Chemistry 1956; District Director of the Institute of Chemical Physics, Moscow; Professor at Leningrad Polytechnic Institute and of Moscow State University; member of the USSR Academy of Science; Chemical Society of England and Royal Society of England.
- Hugo Theorell MD, Nobel Prize in Medicine; Director of Biochemistry Department, Nobel Medical Institute; President of the Swedish Medical Association; Stated Hazards of Fluoridation in a report to the Swedish Royal Medical Board.
- Walter Rudolf Hess, doctor MD.
- Dr Phil, Nobel Prize in Medicine; Professor of Physiology and former Director of Physiological Institute, University of Zurich.
- Sir Robert Robinson, Nobel Prize in Chemistry; Director of Shell Chemical Company; Professor of Chemistry, Oxford University.
- James B. Sumner, Nobel Prize in Chemistry; former director of Enzyme Chemistry, Department of Biochemistry and Nutrition, Cornwall University.
- Professor Atturi Virtanen, Nobel Prize in Chemistry; Director of Biochemical Institute Helsinki; President of the Finnish State Academy and Sciences and Art.
- Adolf F.J. Butenandt, Nobel Prize Winner in Chemistry; Director of the Max Planck Institute of Biochemistry; Professor of Physiology Chemistry, Munich University.
- Corneille Jean Francois Heymans, Nobel Prize winner in Medicine; Professor of Pharmacology, Pharmacodynamics and Toxicology; Director of Heymans Institute of Pharmacology and Therapeutics.

- William P. Murphy, Nobel Prize in Medicine; Lecturer in Medicine; Emeritus Harvard Medical School; Consultant in Haematology, Peter Bent Brigham Hospital in Boston.
- Hans von Euler-Chelpin, Nobel Prize winner in Chemistry; Stockholm University, President Chemical Society; Director, Institute for Research in Organic Chemistry.

The reason I mention them is because we say that there are no people of any credentials who oppose fluoridation. We also have a petition that has been signed by 3,147 professionals calling for an end to water fluoridation. I have a copy of the first 505 signatures, if members would care for a copy, to allow them to see the calibre of these signatories. I have randomly chosen some to show that these are highly qualified health professionals who have all concluded that artificial fluoridation should end immediately. They have come to that conclusion because of the research that is available.

They include Alan Abrams, member of the International Academy of Oral Medicine and Toxicology; Maria Acosta, Secretary to Quebec's Academy of Biological Dentistry, Montreal, Canada; Peter Alteri, Water Superintendant, Cortland, New York; American Academy of Environmental Medicine, Wichita, United States of America; Stephen S. Baer, past president International Academy of Oral Medicine and Toxicology, Sedona, USA; James Beck, Professor Emeritus of Medical Biophysics, University of Calgary, Canada; Douglas A. Balog, author of Law Review article on the illegality of artificial fluoridation, Palm Bay, United States; Rosalie Bertell, Regent of the Board, International Physicians for Humanitarian Medicine, Geneva, Switzerland, and retired president International Institute of Concern for Public Health, Toronto, Canada; and, last but not least, Dr Doug Everingham, former health minister of the Whitlam government of Australia.

Please note that the last signatory, Dr Doug Everingham, personally wrote to our Minister for Health, the Hon. John Hill, on 16 August 2010, stating that he believed there was enough evidence of concern not to continue with fluoridation. I will read his letter a bit further on. Those 3,147 professionals signed a formal petition calling for an end to fluoridation, and the preamble of the petition is as follows:

> We, the undersigned professionals, come from a variety of disciplines but all have an abiding interest in ensuring that government public health and environmental policies be determined honestly, with full attention paid to the latest scientific research and to ethical principles. Eight recent events make action to end water fluoridation urgent.
>
> 1. The publication in 2006 of a 500-page review of fluoride's toxicology by a distinguished panel appointed by the National Research Council (part of the US National Academy of Sciences). The US Environmental Protection Agency (EPA) requested this review to determine if a new drinking water standard is required. Contrary to news media coverage, the NRC report went far beyond concluding that the maximum contaminant level goal of 4 parts per million (4 ppm) is unsafe and should be lowered. The panel identified many research studies in which animals or humans drinking water close to, or even lower than, the 1 ppm level used for fluoridation showed numerous adverse health effects.

That is, I believe, the dosage that we are using in South Australia: one part per million. The statement continues:

> These [adverse reactions] included: bone fractures, decreased thyroid function, impaired glucose tolerance (pre-diabetes), brain cell damage, lowered IQ [in children], kidney damage, arthritic-like conditions, symptoms characteristic of Alzheimer's disease and cancer. Considering the substantial variation in individual water intake, and the wide range of human sensitivity to any toxic substance, fluoridation at 1 ppm provides no margin of safety to protect against these adverse health effects.
>
> 2. The evidence provided by the US Centers for Disease Control and Prevention (CDC) in 2005 that 32% of American children have dental fluorosis—an abnormal discoloration and mottling of the enamel. This irreversible and sometimes disfiguring condition is caused by fluoride. Children are now being overdosed with fluoride, even in non-fluoridated areas, from water, swallowed toothpaste, foods and beverages processed with fluoridated water, and other sources. Fluoridated water is the easiest source to eliminate.
>
> 3. The American Dental Association's policy change, in November 2006, recommending that only the following types of water be used for preparing infant formula during the first 12 months of life: 'purified, distilled, deionized, demineralized, or produced through reverse osmosis.' This new policy, which was implemented to prevent the ingestion of too much fluoride by babies and to lower the risk of dental fluorosis, clearly excludes the use of fluoridated tap water. The burden of following this recommendation, especially for low income families, is reason alone for fluoridation to be halted immediately. Formula made with fluoridated water contains 250 times more fluoride than the average 0.004 ppm concentration found in human breast milk in non-fluoridated areas.

That is from an NRC report in 2006. The petition continues:

> The CDC's concession, in 1999 and 2001, that the predominant benefit of fluoride in reducing tooth decay is TOPICAL and not SYSTEMIC. To the extent fluoride works to reduce tooth decay, it works from the outside of the

tooth, not from inside the body. It makes no sense to drink it and expose the rest of the body to the long-term risks of fluoride ingestion when fluoridated toothpaste is readily available.

Fluoride's topical mechanism probably explains the fact that, since the 1980s, there have been many research reports indicating little difference in tooth decay between fluoridated and non-fluoridated communities. (Leverett, 1982; Colquhoun, 1984, 1985 and 1987; Diesendorf, 1986; Gray, 1987; Brunelle and Carlos, 1990; Spencer 1996; deLiefde, 1998; Locker, 1999; Armfield and Spencer, 2004; and Pizzo, 2007). Poverty is the clearest factor associated with tooth decay, not lack of ingested fluoride. According to the World Health Organisation, dental health in 12 year olds in non-fluoridated industrialised countries is as good, if not better, than those in fluoridated countries.

5. In 2000, the publication of the UK government sponsored 'York Review' found that NONE of the studies purporting to demonstrate the effectiveness of fluoridation to reduce tooth decay were of grade A status...(McDonagh et al, 2000).

That means that none were double-blind randomly selected case and control. The petition continues:

6. The publication in May 2006 of a peer-reviewed, case-controlled study from Harvard University found a 5-7 fold increase in osteosarcoma (a frequently fatal bone cancer) in young men associated with exposure to fluoridated water during their 6th, 7th and 8th years (Bassin et al, 2006). This study was surrounded by scandal as Elise Bassin's PhD thesis adviser, Professor Chester Douglass, was accused by the watchdog Environmental Working Group of attempting to suppress these findings for several years. While this study does not prove a relationship between fluoridation and osteosarcoma beyond any doubt, the weight of evidence and the importance of the risk call for serious consideration.

7. The admission by federal agencies in response to questions from a Congressional subcommittee in 1999-2000, that the industrial grade waste products used to fluoridate over 90% of America's drinking water supplies (fluorosilicate compounds) have never been subjected to toxicological testing nor received FDA approval for human ingestion.

This is, by the way, the same substance that we use to fluoridate our water. The petition continues:

8. The publication in 2004 of 'The Fluoride Deception' by Christopher Bryson. This meticulously researched book showed that industrial interests, concerned about liabilities from fluoride pollution and health effects on workers, played a significant role in the early promotion of fluoridation. Bryson also details the harassment of scientists who expressed concerns about the safety and/or efficacy of fluoridation.

We call upon members of Congress (and legislators in other fluoridated countries) to sponsor the new Congressional (or Parliamentary) Hearing on Fluoridation so that those in government agencies who continue to support the procedure, particularly the Oral Health Division..., be compelled to provide the scientific basis for their ongoing promotion of fluoridation. They must be cross-examined under oath if the public is ever to fully learn the truth about this outdated and harmful practice.

We call upon all medical and dental professionals, members of water departments, local officials, public health organisations, environmental groups and the media to examine for themselves the new documentation that fluoridated water is ineffective and poses serious health risks. It is no longer acceptable to simply rely on endorsements from agencies that continue to ignore the large body of scientific evidence on this matter—especially the extensive citations in the NRC (2006) report discussed above.

The untold millions of dollars that are now spent on equipment, chemicals, monitoring and promotion of fluoridation could be much better invested in nutrition education and targeted dental care to children from low income families. The vast majority of enlightened nations have done this. It is time for the United States and the few remaining fluoridating countries to recognise that fluoridation is outdated, has serious risks that far outweigh any minor benefits, violate sound medical ethics and denies freedom of choice. Fluoridation must be ended now.

If in fact we are going to force individuals to consume a toxic substance in the name of public health, then surely we have a responsibility to warn those who may be vulnerable to allow them the opportunity to seek alternative water supplies or, better still, I would think that a government that is forcing mass medication should accept the responsibility for providing either an alternative water source or providing the equipment available to extract the substance from the water. This would be an expensive exercise for government, given that the only method of removing fluoride from water is by reverse osmosis.

Why is it, we have to ask, that public health officials, unelected by the people, refuse to have a public debate on this issue, when it is by their decree that individuals are robbed of their right to refuse to ingest a toxic substance being used for a medical treatment? Again, Dr Paul Connett and Dr Hardy Limeback offer an explanation, and I quote:

In light of proponents of fluoridation refusal to debate this issue, Dr Edward Groth, a Senior Scientist at Consumers Union, observed that 'the political profluoridation stance has evolved into a dogmatic, authoritarian, essentially antiscientific posture, one that discourages open debate of scientific issues'.

He goes on to say:

When it comes to controversy surrounding toxic chemicals, invested interest traditionally do their very best to discount animal studies and quibble with epidemiological findings. In the past, political pressures have led government agencies to drag their feet on regulating asbestos, benzene, DDT, PCBs, tetraethyl lead, tobacco and dioxins. With fluoridation we have had a fifty year delay. Unfortunately, because government officials have put so much of their credibility on the line defending fluoridation, and because of the huge liabilities waiting in the wings if they admit that fluoridation has caused any increase in hip fractures, arthritis, bone cancer, brain disorders or thyroid problems, it will be very difficult for them to speak honestly and openly about the issue. But they must, not only to protect millions of people from unnecessary harm but to protect the notion that, at its core, public health policy must be based on sound science and not political expediency. They have a tool with which to do this: it's called the Precautionary Principle. In other words, if in doubt leave it out.

This is what most European countries have done, and their children's teeth have not suffered, while their public's trust has been strengthened. It is like a question from a Kafka play. Just how much doubt is needed in just one of the health concerns identified to override the benefit which, when qualified in the largest survey ever conducted in the United States, amounts to less than one tooth surface out of 128 in a child's mouth. For those who call for further studies, I say fine: take the fluoride of the water first and then conduct all the studies you want. This folly must end without further delay.

I do not want to hear that these comments have been made by an anti-fluoride professional who has not looked at all the evidence, because these comments were co-written by Dr Hardy Limeback, the Head of Preventative Dentistry at the University of Toronto in Canada, a professor with a PhD in biochemistry and a practising dentist who has done years of funded research in tooth formation, bone and fluoride. He was one of the 12 scientists who served on the National Academy of Science panel that issued the 2006 report, 'Fluoride in drinking water: a scientific review of the EPA standards'.

It was this research that changed Dr Limeback's view on fluoridation. As a dentist for many years, he accepted what he had been taught in the school of dentistry, until he became involved in the research on fluoride. He has stated publicly that he could no longer maintain what he had been trained to believe. We have health department officials who use the emotive issue of preventing tooth decay in children, even though that outcome is not a proven outcome among the dental profession pertaining to the ingestion of fluoride. Certainly many dental researchers and practitioners agree that any benefit that may be gained from fluoride is from topical application and not systemic ingestion. Again, Dr Paul Connett and Dr Limeback state:

While pro fluoridation officials continue to promote fluoridation with undiminished fervor, they cannot defend the practice in open public debate—even when challenged to do so by organizations such as the Association for Science in the Public Interest, the American College of Toxicology, or the US Environmental Protection Agency.

According to Dr. Michael Easley, a prominent lobbyist for fluoridation in the US:

Debates give the illusion that a scientific controversy exists when no credible people support the fluorophobics' view.

In other words, 14 Nobel Laureates and 3,147 professionals, as well as 95 per cent of governments around the world, have all got it wrong. Quite an arrogant view. These are some statements about why some countries have rejected fluoride:

Austria:

Toxic fluorides have never been added to the public water supplies in Austria.

Belgium:

This water treatment has never been of use in Belgium and will never be (we hope so) into the future. The main reason for that is the fundamental position of the drinking water sector that it is not its task to deliver medicinal treatment to people. This is the sole responsibility of health services. (Chr. Legros, Directeur, Belgaqua, Brussels, Belgium, February 28, 2000).

China:

Fluoridation is banned: 'not allowed'. Naturally high fluoride levels in water are a serious problem in China—

I have to add that that is calcium fluoride, not the sodium fluoride that we add to our water supply. China's statement continues:

Bartram said there were many other 'silent threats,' including excessive fluoride in the water supply in China, India and the Rift Valley in Africa. In China alone, 30 million people suffer crippling skeletal fluorosis. The Chinese government now considers any water supply containing over 1 ppm fluoride a risk for skeletal fluorosis…In China, the World Health Organization has estimated that [due to previous artificial fluoridation] 2.7 million people have the crippling form of skeletal fluorosis.

I wonder if we can expect in the future to be covering the potential healthcare costs posed by this particular substance in our water. The statements continue:

Czech Republic:

Since 1993, drinking water has not been treated with fluoride in public water supplies throughout the Czech Republic. Although fluoridation of drinking water has not actually been proscribed it is not under consideration because this form of supplementation is considered:

- uneconomical (only 0.54% of water suitable for drinking is used as such...
- unecological (environmental load by a foreign substance)
- unethical ('forced medication')
- toxicologically and physiologically debateable (fluoridation represents an untargeted form of supplementation which disregards actual individual intake and requirements and may lead to excessive health-threatening intake in certain population groups; [and] complication of fluor in water into non biological active forms of fluor.

Denmark:

We are pleased to inform you that according to the Danish Ministry of Environment and Energy, toxic fluorides have never been added to the public water supplies. Consequently, no Danish city has ever been fluoridated.

It is also essential to know that less than five per cent of the world's countries actually fluoridate their water supply, Australia being one of only five countries that do that now. The statements continue:

Finland:

We do not favor or recommend fluoridation of drinking water. There are better ways of providing the fluoride our teeth need...Artificial fluoridation of drinking water supplies has been practiced in Finland only in one town, Kuopio, situated in eastern Finland and with a population of about 80,000 people (1.6% of the Finnish population). Fluoridation started in 1959 and finished in 1992 as a result of the resistance of local population. The most usual grounds for the resistance presented in this context were an individual's right to drinking water without additional chemicals used for the medication of limited population groups. A concept of 'force-feeding' was also mentioned. Drinking water fluoridation is not prohibited in Finland but no municipalities have turned out to be willing to practice it. Water suppliers, naturally, have always been against dosing of fluoride chemicals into water.

France:

Fluoride chemicals are not included in the list of chemicals for drinking water treatment. This is due to ethical as well as medical considerations.

Germany:

Generally, in Germany fluoridation of treating water is forbidden—

Forbidden, Mr President—

The relevant German law allows exceptions to the fluoridation ban on application. The argumentation of the Federal Ministry of Health against a general permission of fluoridation of drinking water is the problematic nature of compuls[ory] medication.

Hungary stopped fluoridation for technical reasons in the 1960s, however, despite technological advances, Hungary has chosen, because of evidence, to remain unfluoridated. In India, naturally high levels of fluorides in groundwater have affected at least tens of millions with skeletal fluorosis, often resulting in crippling skeletal fluorosis. The Indian government has been working to remove the fluoride from drinking water sources to alleviate this crisis. In India, 17 of its 32 states have been identified as 'endemic' areas, with an estimated 66 million people at risk from crippling skeletal fluorosis and 6 million people seriously affected. They have ended water fluoridation in India.

Israel recently suspended mandatory fluoridation until the issue is re-examined from all aspects: medical, environmental, ethical and legal. An Israeli Parliament representative stated:

From our experience in Israel and the world, when the fluoride issue is studied from all aspects it is rejected.

On 21 June 2006, the labor, welfare and health Knesset (Israeli Parliament) committee called on the Ministry of Health to freeze the extension of fluoridation of drinking water in Israel and to study the issue in depth in order to determine whether to continue with the project or to cancel it completely. Conclusions are to be expected within a year. Until then, municipalities and Mekorot (Israeli national water company) are not required to build new fluoride installations. Committee

chairman MK (member of Knesset) Moshe Sharoni and MKs Ran Cohen and David Tal claimed during the investigation that the potential damage to public health and environment from fluoridation may be greater than the benefits from decreased dental cavities.

Japan rejected fluoridation as it '...may cause health problems...' The 0.8-1.5 mg regulated level is for calcium fluoride, which is naturally occurring fluoride, not the hazardous waste by-product which is added with artificial water fluoridation. The statements continue:

Luxembourg:

Fluoride has never been added to the public water supplies in Luxembourg. In our views, the drinking water isn't the suitable way for medicinal treatment and that people needing an addition of fluoride can decide by their own to use the most appropriate way, like the intake of fluoride tablets, to cover their [daily] needs.

Netherlands:

From the end of the 1960s until the beginning of the 1970s drinking water in various places in the Netherlands was fluoridated to prevent caries. However, in its judgment of 22 June 1973 in case No. 10683 (Budding and co. v the City of Amsterdam) the Supreme Court (Hoge Road) ruled there was no legal basis for fluoridation. After that judgement, amendment to the Water Supply Act was prepared to provide a legal basis for fluoridation. During the process it became clear that there was not enough support from Parlement [sic] for this amendment and the proposal was withdrawn.'

Northern Ireland:

The water supply in Northern Ireland has never been artificially fluoridated except in 2 small localities where fluoride was added to the water for about 30 years up to last year. Fluoridation ceased at these locations for operational reasons. At this time, there are no plans to commence fluoridation of water supplies in Northern Ireland.

That is due to the latest research. The statements continue:

Norway:

In Norway we had a rather intense discussion on this subject some 20 years ago, and the conclusion was that drinking water should not be fluoridated.

In November 2004, after months of consultation, Scotland—which had been unfluoridated—rejected plans to add fluoride to the nation's water. The statements continue:

Sweden:

Drinking water fluoridation is not allowed in Sweden...New scientific documentation or changes in dental health situation that could alter the conclusions of the Commission have not been shown.'

In April 2003, the City Parliament of Basel, Switzerland, voted 73 to 23 to stop Basel's 41-year water fluoridation program. Basel was the only city in Switzerland to fluoridate its water, and the only city in continental western Europe, outside of a few areas in Spain. It would seem that South Australia and, in fact, Australia are way behind the times.

Getting back to the qualifications of Dr Hardy Limeback: when the paper I quoted from earlier was to be presented in Ireland, people in Ireland were quite concerned, because at that time Dr Hardy Limeback was known to be an avid supporter of fluoridation, and he was, as I said, until he undertook independent research and came to the conclusion that this should not go ahead.

So we have the same attitude and approach right here in South Australia: no public debate. This is why the people of Mount Gambier are so angry. It is not because they are 'fluorophobics'. It is because they have researched fluoridation and they want answers to the many questions they have, and they want these faceless health officials to debate with professionals to allow them to hear both sides of the story.

I would be shocked to learn that honourable members in this place would agree with mass fluoridation if they actually knew what sodium fluoride is and where it comes from. You see, sodium fluoride is not a pharmaceutical grade, used in dental clinics as a topical application. No; it is a waste product of the aluminium and phosphate fertiliser industry and is a highly toxic and corrosive substance. It is obtained by spraying water mist over the fumes that are spewed out of the chimney stacks of these industries in order to prevent these pollutants from entering the air. This is not done, by the way, to prevent air pollution or because these aluminium smelters choose to be good corporate citizens.

It is done as a way of disposing of this substance that is cheaper than paying to clean up the practices of these industries, and also because there is no other way to dispose of it, because of environmental concerns. This substance is known as fluorisilicic acid, and if anyone cares to

take the time to look up any research as to the potency and toxicity status of this substance, it is all available on the public record. I have a newspaper article here from the ABC News, dated 23 February 2010. It states:

> The Environment Protection Authority says fluoride from Alcoa's aluminium smelter at Portland is making kangaroos sick.

In fact, hundreds of kangaroos had to be put down because they were suffering from fluoride toxicity. Hundreds of kangaroos had to be shot, because they were crippled, merely from grazing on the lands within the vicinity of an aluminium smelter. They were diagnosed with skeletal fluorosis and it was attributed directly to ingesting fluorisilicic acid, the same fluorisilicic acid that we are dumping into our water supply. I will conclude my remarks after the dinner break.

[Sitting suspended from 17:59 to 19:47]

The Hon. A. BRESSINGTON: First of all, I want to thank all members for their patience and tolerance. At our last sitting, I asked a question of the Minister for Health about water fluoridation, and the Hon. Gail Gago decided, as a past healthcare professional, to partly answer the question as the minister representing the Minister for Health in this chamber. Minister Gago then kindly provided me with a copy of the most up-to-date research on fluoride. I am always more than willing to acknowledge my own limitations and lack of expertise—

The Hon. G.E. Gago interjecting:

The Hon. A. BRESSINGTON: You did when you gave it to me.

The Hon. G.E. Gago: I didn't say that it was the most up-to-date research.

The Hon. A. BRESSINGTON: Yes, you did.

The Hon. G.E. Gago: No, I did not. I did not say that. It's 2006; it's quite old.

The PRESIDENT: Order! Let's get on with the show.

The Hon. A. BRESSINGTON: Do you want to have a he said/she said in the middle of the debate or what? That's exactly what you said.

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order! Let's get on with it.

The Hon. A. BRESSINGTON: Whatever; okay?

The Hon. G.E. Gago: Be careful with the truth.

The Hon. A. BRESSINGTON: You be careful with the truth. What are you accusing me of?

The PRESIDENT: Perhaps we ought to get on with it.

The Hon. A. BRESSINGTON: Do you want to have a go?

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order! The minister will come to order.

The Hon. A. BRESSINGTON: So, up-to-date research or research—

The Hon. G.E. Gago interjecting:

The Hon. A. BRESSINGTON: Or whatever. As I said, I am always more than willing to acknowledge my limitations and expertise. I passed this research to contacts I have in the dental profession who are far more qualified to comment on the quality of this research but who fear retribution if they are seen to oppose fluoridation. The response to this research is as follows:

> The report is very biased and had a heavy influence from Colgate and ARCPOH.

No evidence was accepted from people opposed to fluoridation. The report followed similar reports in 1991 and 1999, and no research was conducted at all. The report was compiled by a contracted company which does a meta analysis of selected papers. They rejected a controversial study by Dr Elise Bassin that linked exposure to fluoridated water in primary schools to a fivefold increase in bone cancer in teenage boys.

This Harvard study was rejected on the basis of a letter from Harvard professor Chester Douglas stating that he had further studies he would be publishing that would disprove Bassin. In 2008, Douglas retired from the university without publishing any data. He does, however, continue to work as Editor of the *Colgate Newsletter of America*. The NHMRC report was heavily influenced by a report the previous year done by Adelaide University and ARCPOH. The report is flawed because:

1. It ignores the delay in tooth eruption from fluoridation, which distorts the decay data to appear that fluoridation reduces decay, which it does not.

2. It ignores any effects of exposure to the other chemicals in the mix such as arsenic (one part per million) and three parts per million of other heavy metals.

3. It ignores the bioaccumulation of fluoride in bones and the pineal gland. Only 50 per cent of fluoride is excreted.

4. It ignores the work of Dr J. Luke (1999-2000), showing post-mortem that fluoride accumulation in the pineal gland in the brain affects regulation of serotonin and melatonin and, in turn, is responsible for the onset of early puberty in young girls.

5. The report was written with a strong bias in favour of fluoridation and did not consider an opposing hypothesis.

6. NHMRC Dental is heavily influenced by Colgate funded professors such as Professors Spencer, Morgan and Slade. We would use the term 'commercially compromised'.

7. The issue of lead leaching into the water by the fluoridation chemicals was also ignored.

On 14 September 1999, Dr Phyllis Mullenix PhD made this statement:

It was 1982 when fluoride was first brought to my attention as a substance in need of investigation. At that time, I was in the Departments of Psychiatry at Boston's Children's Hospital and Neuropathology at the Harvard Medical School. My studies focused on detection procedures for neurotoxicity, and they typically considered a variety of environmental and therapeutic agents, i.e., radiation, lead, amphetamine, phenytoin, nitrous oxide. Dr John Hein, then Director of Forsyth's Dental Infirmary for Children in Boston, was interested in neurotoxicity studies and invited me to continue this research at Forsyth and to apply to substances used in dentistry. Fluoride was prominent on his list.

Five years elapsed before our investigations of fluoride began. The delay was due to time spent on technological improvements, specifically development of a computer pattern recognition system for the objective quantification of behaviour in an animal model. In early June of 1986, the Forsyth Dental Center was noted for this achievement in the *Wall Street Journal* and the *Boston Herald*, and applications of our research grew. The new technology enabled us to study the clinically recognized neurotoxicity associated with the treatment for childhood leukaemia. Simultaneously, we started investigations of fluoride, the 'safe and effective' treatment for dental caries.

Initially, the fluoride study sparked little interest, and in fact we were quite anxious to move on to something academically more exciting. Using an animal model developed for the study of dental fluorosis, we expected rats drinking fluoride-treated water would behave the same as matching controls. They did not. The scientific literature led us to believe that rats would easily tolerate 175ppm fluoride in their drinking water. They did not. Reports in the literature indicated that fluoride would not cross the blood brain barrier. But it did. Prenatal exposure to fluoride was not supposed to permanently alter behavioral outcome. It did. Like walking into quicksand, our confidence that brain function was impervious to fluoride was sinking.

Our 1995 paper in Neurotoxicology and Teratology was the first laboratory study to demonstrate in vivo that central nervous system (CNS) function was vulnerable to fluoride, that the effects on behaviour depended on the age at exposure in the fluoride accumulated in brain tissues. The behavioral changes common to weanling and adult exposures were different from those after prenatal exposure. Whereas prenatal exposure dispersed many behaviors as seen in drug-induced hyperactivity, weanling and adult exposures led to behavior-specific changes more related to cognitive deficits. Brain histology was not examined in this study, but we suggested that the effects on behavior were consistent with interrupted hippocampal development (a brain region generally linked with memory).

Establishing a threshold dose for effects on the central nervous system, in rats or humans, was not the intent of this initial investigation. Yet, one fact relevant to human exposure emerged quite clear. When rats consumed 75 to 125 parts per million and humans five to 10 parts per million fluoride in their respective drinking waters, the result was equivalent ranges of plasma fluoride levels. This range is observed with some treatments for osteoporosis, and it is exceeded 10 times over, one hour after children receive topical applications of some dental fluoride gels. Thus, humans are being exposed to levels of fluoride we know alters behavior in rats.

We concluded that the rat study flagged potential for motor dysfunction, IQ deficits and/or learning disabilities in humans. Confident as we were, the data were only one piece of the puzzle, the overall picture was still emerging. Soon thereafter we learned of two epidemiological studies (Fluoride, 1995-1996) from China showing IQ deficits in children over-exposed to fluoride via drinking water or soot from burning coal. A recent review (International Clinical Psychopharmacology, 1994) listed case reports of central nervous system effects in humans

excessively exposed to fluoride, information that spans almost 60 years. A common theme appeared in the reported effects: impaired memory and concentration, lethargy, headache, depression and confusion. The same theme was echoed in once classified reports about workers from the Manhattan Project. In all, our rat data seem to fit a consistent picture.

Information linking fluoride and central nervous system dysfunction continues in 1998.

1) A recent study in brain research demonstrated that chronic exposure to fluoride in drinking water of rats compromised neuronal (hippocampal) and cerebrovascular integrity (blood brain barrier) and increased aluminium concentrations in [the] brain...

2) Masters and Coplan have reported (International Journal of Environmental Studies, in press) that silicofluorides in fluoridated drinking water increased levels of lead in children's blood, a risk factor that predicts higher crime rates, ADD and learning disabilities.

3) Luke at the International Society for Fluoride Research...meeting in August reported that fluoride accumulated in the human pineal gland, as much or more so than in bones and teeth, and the pineal gland's melatonin biosynthesis pathway is affected by fluoride.

4) Also at the International Society for Fluoride Research...I reported that the fluorinated steroid (dexamethasone) disrupts behavior in rats to a greater degree than does the non-fluorinated steroid (prednisolone). This finding matched results just completed in a study of children receiving steroids as a part of their treatment for childhood leukaemia. Dexamethasone, compared to prednisolone, further reduced IQ, specifically impairing reading comprehension, arithmetic calculation and short-term working memory.

Exposure to fluoride goes well beyond that in our drinking water, toothpastes and mouth rinses. Fluoridation of water dictates that it is in food and processed beverages. Pesticides such as cryolite also increase fluoride content of foods. The trend toward fluorinating pharmaceuticals increases fluoride exposure via medication. Fluoride, in various compounds, plays a heavy role in occupational exposures and for people living in close proximity to industry, [such as] aluminium, steel, brick, glass, petroleum, etc. With exposure so common, we can no longer afford to ignore potential central nervous system consequences of fluoride.

Dr Phyllis Mullenix, PhD, is a pharmacologist and toxicologist by training. She graduated from the Truman State University in zoology, magna cum laude. Her post-doctoral training was as a research fellow in environmental medicine, Johns Hopkins School of Hygiene and Public Health, Baltimore. She is presently a Research Associate in Psychiatry at the Children's Hospital Medical Centre in Boston and was head of the Toxicology Department at the Forsyth Dental Centre, a world-renowned dental research institution affiliated with the Harvard Medical School. Dr Mullenix has considerable teaching experience; she has had numerous academic appointments and professional positions, as well as many awards, honours and published scientific research articles in her name.

I also have a letter from the National Federation of Federal Employees, Local 2050. This is a union of the EPA, I believe. It has written to Mr Green as part of the Citizens for Safe Drinking Water Campaign as follows:

Dear Mr Green:

I am pleased to report that our union, Local 2050, National Federation of Federal Employees, has voted to co-sponsor the California citizens' petition to prohibit fluoridation of which your organisation is the sponsor. Our union represents, and is comprised of, the scientists, lawyers, engineers and other professionals at the headquarters of the US Environmental Protection Agency here in Washington, DC.

A vote of the membership was taken at a meeting during which Professor Paul Connett and Dr Robert Carton made presentations, respectively, on the recent toxicological and epidemiological evidence developed on fluoride and past actions (and their bases) of Local 2050 with respect to fluoride in drinking water. The membership vote was unanimous in favour of co-sponsorship.

It is our hope that our co-sponsorship will have a beneficial effect on the health and welfare of all Californians by helping to keep their drinking water free of a chemical substance for which there is substantial evidence of adverse health effects and, contrary to public perception, virtually no evidence of significant benefits.

These judgments are based, in part, on animal studies of the toxicity of fluoride coupled with human epidemiology studies which corroborate them, and the studies of rates of decayed, missing and filled teeth in the United States (fluoridated and non-fluoridated communities) versus non-fluoridated European countries.

Our members' review of the body of evidence over the last 11 years, including animal and human epidemiology studies, indicates a causal link between fluoride/fluoridation and cancer, genetic damage, neurological impairment and bone pathology. Of particular concern are recent epidemiology studies linking fluoride exposure to lower IQ in children.

As professionals who are charged with assessing the safety of drinking water, we conclude that the health and welfare of the public is not served by the addition of this substance to the public water supply.

Yours sincerely,

William J. Hirzy, PhD, Senior Vice-President

I also have here a Summary Statement on Water Fluoridation, dated 9 September 1997, by Dr Albert Burgstahler, Professor of Chemistry, at the University of Kansas. It states:

In 1931 the highly toxic nature of inorganic fluorides came into special prominence with the discovery that relatively small concentrations of fluoride ion in drinking water are responsible for the unsightly endemic dental defect known as mottled enamel. Previously, the devastating effect of volcanic and industrial fluoride emissions on livestock and vegetation had been recognised and were of increasing concern. Moreover, the acute toxicity of fluoride in decigram amounts to humans was well-documented, but the chronic, cumulative toxicity of milligram levels of intake still awaited investigation. Mottled enamel or dental fluorosis, which results from fluoride interference with enamel-forming cells prior to tooth eruption, is one of the first visible signs of chronic fluoride poisoning.

Surveys of selected communities by the US Public Health Service during the 1930s appeared to indicate less tooth decay (dental caries) among children in areas where dental fluorosis was found. It was recognised at the time that such lower caries rates might be due, at least in part, to other components in the drinking water beside fluoride, and, in fact, later work showed that this was indeed the case. Nevertheless, the proposal was made to increase the fluoride content of ordinary low fluoride water supplies to a level of about one part of fluoride ion per million parts of water as an effective way to reduce dental caries by 40 to 70 per cent without causing significant dental fluorosis or other toxic effects. Subsequent findings, however, have shown that this goal has not been achieved. Dental fluorosis in fluoridated communities is more extensive and more severe than predicted, and the anti-caries effect of fluoridation has been found to be negligible or, at best, only marginal.

Originally a 10 per cent incidence of barely visible, unobjectionable dental fluorosis was expected for artificial fluoridation. Current surveys, however, reveal that, owing to unanticipated increases in fluoride intake, the incidence is at least 20 to 30 per cent, with many cases that are clearly disfiguring and objectionable. Fluorosed teeth have an abnormal chalky appearance, often with unsightly, irregular, bilateral modelling, which in adulthood can acquire permanent yellow or even brown stains. Although reputedly more resistant to caries, such teeth often develop cavities and, when they do, they are usually more difficult to repair because they can be excessively brittle and fail to hold fillings tightly.

Dental fluorosis, however, is only one of the many toxic effects of fluoride in drinking water. Competent laboratory studies also reveal significant damage by one part per million fluoridated water, to mammalian enzymes, chromosomes, cell growth and mineral metabolism. In human populations cancer death rates among persons aged 45 and older, and the relative number of Down Syndrome babies born to younger mothers, have been found to be higher in fluoridated than in non-fluoridated areas. Likewise the incidence of costly and often fatal hip fractures of women aged 65 years and older has been shown to be significantly greater in fluoridated than in non-fluoridated communities. Moreover, in agreement with laboratory findings in male rats, osteosarcoma—fatal bone cancer—has been found to be as much as six times more frequent amongst males under age 20 in fluoridated communities than in non-fluoridated ones.

On a more general level, easily demonstrated, reversible, non-dental toxic effects from one part per million fluoride in drinking water have also been identified and verified. The symptoms are the same as those first recognised in aluminium foundry workers by the distinguished Danish pioneer, fluoride researcher Kaj Roholm. Because the symptoms are so common, they are easily mistaken as being due to other causes. They include: headache, excessive thirst, muscular weakness, extreme tiredness, involuntary muscle spasms, gastric distress, colitis, low back and joint pain and stiffness, urinary tract irritation, skin eruptions, mouth sores and visual disturbances involving the retina.

Persons in poor health, and those who have (or a tendency toward) allergy, asthma, kidney disease, diabetes, gastric ulcer, low thyroid function and deficient nutrition are especially susceptible to toxic effects of fluoride in drinking water. In addition, low intake of calcium, magnesium and vitamin C, as well as the presence of fluoride in beverages (especially tea), food, air, drugs, tobacco, toothpaste and mouth rinses can also precipitate or contribute to such intoxication.

When the illness is caused by fluoride in drinking water, and is not too far advanced, the symptoms promptly disappear or subside without medication simply by substitution of distilled or other low fluoride water for all drinking and cooking, and avoidance of high fluoride foods, such as mechanically deboned meat, skin of chicken, bony ocean fish, tea and gelatine manufactured with fluoridated water. Unfortunately, because of vigorous denial by health authorities, inflexibly committed to the promotion of fluoridation, such illness is not usually recognised either by the general public or by the medical profession as being possibly fluoride related. Yet, even the Physicians' Desk Reference (45th edition, 1991, page 2173) warns of such toxic reactions to prescription supplements for babies and children. In hypersensitive individuals fluorides occasionally cause skin eruptions, such as atopic dermatitis, eczema or urticaria. Gastric distress, headache and weakness have also been reported. These hypersensitivity reactions usually disappear promptly after discontinuation of fluoride.

With respect to the dental benefit issue, in contrast to favourable findings from small-scale studies of preselected, often poorly matched groups, large-scale and whole population surveys of unselected groups have shown that there is virtually no difference in tooth decay rates of children in fluoridated and non-fluoridated areas. Such results have been observed not only in the United States but also in Australia, Canada and New Zealand. Equally important, and probably largely because of improved dental nutrition and hygiene, caries rates have been declining in most developed countries by about the same amount in nonfluoridated areas as in fluoridated areas. Furthermore, dental costs are not significantly lower in fluoridated communities, nor are there fewer dentists practising or needed in fluoridated communities than in nonfluoridated ones.

In fact healthy, decay-resistant teeth are consistently produced without fluoride through adequate dental nutrition and proper oral hygiene. Generous intake of known tooth-building minerals and nutrients during the critical

early years of tooth formation and growth, substitution of fresh foods and whole-grain flour products for refined ones, vigorous restriction of refined carbohydrate and sugar consumption, and thorough daily cleaning teeth, especially before retiring, have repeatedly been shown to provide safe and effective protection against dental decay.

It should also be noted that, despite claims to the contrary, the mechanical safety of fluoridation continues to pose serious problems. Officially acknowledged overfeed malfunctions responsible for episodes of mass poisonings and even fatalities have occurred in Alaska, Maryland, Michigan, Connecticut and elsewhere. Clearly, fluoridation procedures are not always fail safe.

In many parts of the world, especially on the European continent, fluoridation of drinking water has been rejected or abandoned, largely for reasons such as those outlined here. Although fluoridation is still being promoted by health authorities in major English-speaking countries, there is increasing concern amongst the international scientific community, as well as the general public, over steadily mounting adverse evidence against the supposed safety and effectiveness of fluoridation.

While this motion is not on the efficacy or ethics involved in the fluoridation of water supplies but on whether individuals have the right to choose whether or not they will ingest a potentially hazardous substance, it would be remiss of me not to include the results of research from many highly respected health professionals who have, in fact, undertaken research that is sadly missing in the justification for fluoridation. I put it to members of this chamber that those who have been mentioned in this speech today hold far more qualifications than anyone currently involved in this issue in South Australia, and that includes the minister, the ministerial advisers and, in fact, anyone in this or the other chamber.

With the hundreds of research papers published—research papers on the harms of fluoridation—one can expect that well-informed members of the public would have grave concerns if they were told that their water supply was going to have sodium fluoride added to it, and where public consultation on this issue was so atrocious that it has been described by a number of professionals as deceitful.

One has to wonder why anyone who is a mere politician would endorse such a public health policy without a total revision of all the scientific and medical research that has been done to show that there is a potential for serious health ramifications. We are not scientists and we are not researchers; it would be unforgivable—indeed, criminally negligent—for us to pretend that we are deliberating on such an important decision thoroughly if all the research has not been properly reviewed, tested and challenged. If that were done I am certain that, as a responsible health minister, there would be a call for properly controlled scientific studies to be immediately undertaken.

This brings me back to Dr Doug Everingham, former health minister in the Whitlam government. As I stated earlier, he wrote to the Hon. John Hill and the then acting health minister, the Hon. Patrick Conlon, on 16 August 2010, and he had this to say:

As a family doctor some 55 years ago I accepted the assurance of the (largely anglophone countries') health professional authorities that water fluoridation is safe. Some patients brought to my attention through works by Waldbott, former allergy section head of the United States AMA, documenting hypersensitivity to fluoride, Steyn documenting increased incidence of endemic hyperthyroidism with regional fluoride concentration, and Professor Sir Arthur Amies, dean of dentistry in Melbourne, documenting with Dr P.R.N. Sutton epidemiological statistics exposing the failure of fluoridation promoters to correct survey faults.

US federal authorities were less than cautious in assessing the commercial value of finding that fluoride waste products from aluminium and phosphate industries became a valued commodity rather than a source of agricultural and other legal compensation claims. Improvements in dental caries control were often lacking in double blind surveys, or improperly attributed to water fluoridation while other measures (regional affluence, improving diet, dental hygiene, and topical fluoride in dental practices and toothpaste) were more significant, and swallowed fluoride ineffective.

There is more objective investigation of incidents of bone and joint problems, intellectual and other cumulative ill effects of fluoridation in mainland Europe than in fluoridating countries. There is a reluctance to include critical research and researchers in official investigations; for example in the delay in Harvard's releasing Bassin's findings of young males' osteosarcoma incidence.

However, official recognition of hazards is improving. Fluoridated water is not recommended for reconstituting infant milk products or for renal dialysis. There is a growing argument for lowering the tolerated level of natural fluoride in water supplies, often set at around four times the 'optimum' recommended level. There is still no official recommended minimum daily total fluoride intake required to prevent fluorosis—perfect sets of teeth are found among fluoride-'deficient' communities, and no 'optimally' fluoridated community is free of massive decay cases requiring general anaesthetic dental clearances.

In my view there is a case for ceasing fluoridation of water supplies pending surveys of fluoride intake in particular demographic groups, statistically sound review of unduly discredited equivocal findings of fluoridation related incidence of adverse conditions including dental fluorosis.

I am hopeful that it will not be too difficult for our minister to pick up a telephone and call a former minister of health of the Labor Party and avail him of the information that has led him to change his mind on fluoridation. In my mind, this would be the very least that could be done.

Dental fluorosis is not just discolouring of the teeth and it is not merely a cosmetic problem. When teeth are pitted, discoloured and rotting from the inside out, it is a sign fluoride toxicity. This is a fact that the entire dental fraternity agrees with.

Another fact is that if the teeth are weak, then the skeletal structure will be weakened, and we will not know the full extent of this for some years, when these children who have grown up on fluoridated water will more than likely be crippled with arthritis, weak bones and numerous fractures. In China, where fluoridation is now banned because of the effects of overexposure, the World Health Organization has estimated that 2.7 million people have the crippling form of skeletal fluorosis.

Another prominent researcher, Dr A.K. Susheela, who also appeared on the *Today Tonight* show some two weeks ago urging—

The Hon. R.P. Wortley: That is her qualification, appearing on Channel 7?

The Hon. A. BRESSINGTON: No: her qualifications make her prominent, and I will read them out for you now, one by one, so that you get the picture.

The PRESIDENT: Order!

The Hon. A. BRESSINGTON: You want to be clear on your facts before you interrupt. Dr Susheela states:

> There are 20 nations in the world with health problems due to excess fluoride ingestion through water and food. India, Africa, China, certain parts of Thailand, Japan, New Zealand, Australia, Israel, Pakistan, Syria, Turkey are severely affected. However, the problem exist in U.K., U.S.A., Canada to a lesser extent possibly due to better nutrition, calcium and Vitamin C in diet which can nullify the toxic manifestations to some extent. But 'Water Fluoridation' is a guaranteed danger to health.
>
> The major problem is that, very often, skeletal fluorosis and non-skeletal fluorosis are misdiagnosed and treated wrongly as clinicians do not fully understand the manifestations due to fluoride poisoning/toxicity. These are not described adequately in Medical/Dental text books.
>
> Dental fluorosis, is quite evident from the discoloration of the teeth from white, yellow, brown to black spots or streaks horizontally aligned in the enamel surface, away from the gums.
>
> Even dentists, quite a large number, do not fully understand fluoride action on teeth. We have problems in India, as dentists promote fluoride among patients who have dental fluorosis and the patients end up with severe, non-skeletal manifestations. Intense scientific debates have helped the government to amend our Drugs and Cosmetic Act of 1945 during June 1992 to bring in stipulations in the manufacture of fluoridated toothpaste. We would like to get the fluoridated toothpaste out of our country, but due to vested interests among those concerned it is not an easy task.

I could, but I will not, read out—and repeat myself—what Dr Susheela has found the effects of fluoride to be, but because of the Hon. Russell Wortley's ignorance, I will actually read out her qualifications.

Dr A.K. Susheela has a PhD, and has spent more than 20 years doing scientific research in the field of fluoride toxicity and fluorosis. She is a full professor of anatomy (histocytochemistry) and chief of the Fluoride and Fluorosis Research Laboratories at the All India Institute of Medical Sciences, New Delhi. She has held faculty positions at the same institute since 1969. She has a PhD from India with postdoctoral training under Lord Walton, neurologist, of the UK and Dr D. Milhorut of the Muscle Institute, New York, United States of America.

She was a visiting professor at the Allan Hancock Fraternity at the University of Southern California from 1974 to 1976. She is a fellow of the Indian Academy of Sciences and the National Academy of Medical Sciences. She has won the prestigious Ran Baxy Research Foundation Award for outstanding research in medical sciences. She has been involved in teaching medical students of all levels and carrying out research and guiding research in the field of muscle disease and fluorosis for more than 20 years.

Her field of interest for the last 20 years has been fluoride and health hazards. Numerous funding organisations have called upon her during that time to evaluate projects for funding in the field of biomedical research. She has been a member of several national committees since the early 1970s, where issues related to fluoride are debated and discussed, and convened an international conference on fluoride and fluorosis research in India in 1983. She edited a book,

Fluoride Toxicity, during 1985, and has been invited to speak on her experience in the field of fluoride research at various scientific meetings held in Japan, Denmark, Switzerland, Kenya, United States of America and Hungary. She has guided six PhD theses on the subject of fluoride and health hazards, and has more than 80 scientific publications in leading western and Indian journals. So she is certainly no slouch on this issue.

Some will respond to what has been delivered here today with the answer that as long as fluoride is delivered in low levels it is quite safe; but we do not know what a safe level of fluoride is. It is present in many foods as a preservative; it is in many medications; it is in our water supply; and it is part of the pesticides used to spray our crops, so we have no way of knowing just how much we are ingesting. We do know now that sodium fluoride is accumulative and that only 50 per cent is excreted daily through the kidneys and the rest is absorbed into our bones, soft muscle tissue and our brain.

We will also be told that fluoride occurs naturally in our water. What we are not told is that it is calcium fluoride that is found in water, not sodium fluoride, which is a very different chemical and is not naturally occurring. It is a toxic by-product of the aluminium and pesticide industries. Dr Robert Mick was one of the original scientists who promoted fluoridation, until he did his own animal research on sodium fluoride in the late 1940s; he abruptly changed his mind after authorities ordered him to cover up his test results. He refused and proceeded to do some more research on those very authorities.

Dr Mick's studies prompted him to confidently present this challenge: $20,000 to the first individual who could provide one copy of any controlled experiment with any of the United States public health service recommended fluorides in water at the United States public health service recommended parts per million which shows that poisonous fluorides are safe and will cause no future body harm. Dr Mick's $20,000 offer has been valid since the 1950s but, as per a 1991 radio interview, Dr Mick said that nobody had yet presented even one to him in the hope of collecting the reward. His address is 916 Stone Road, Laurel Springs, New Jersey. He is still prepared to put his money where his mouth is, with no takers.

Dr Feingold headed an organisation that cares for hyperactive children, which has found, incidentally, that fluoride causes a severe adverse reaction upon the nervous system of hyperactive children. Coincidentally, so-called attention deficit order (or ADD) is a common misdiagnosis for hyperactive or overly enthusiastic children for which Ritalin is commonly prescribed. Thus, when a hyperactive child has an adverse reaction to fluoride, they are commonly put on destructive Ritalin or fluoridated Prozac as a cure. Dr Feingold says:

> The debate should not be the merits of fluoridation of the water supply, which is a public health problem, but rather the ethical aspects of universal fluoridation, which creates an untenable situation for those individuals who are intolerant to fluorides. Do we have the moral right to create a situation from which the intolerant individual has no escape? The answer thus becomes very simple. Each individual should be granted the option to choose fluoride prophylaxis depending upon his need and tolerance. You may have my permission to state my position and quote me as against universal fluoridation of water supply.

Dr C.G. Dobbs, Professor of Microbiology, University of North Wales, Associate at the Royal College of Science, formerly of Kings College, University of London, has this to say when talking about water fluoridation:

> It is of doubtful legality; it offends deep convictions concerning doctoring without consent; it is against the medical tradition of care for the individual; against the function of a public water supply; against sane economics, against the considered opinion of eminent nutritionists, biochemists, physiologists, pharmacologists, allergists, toxicologists; above all, it is against natural caution and common sense.

I am hoping that, with the information I have presented here today, which is minute compared with what I have not presented, we can say that the people of Mount Gambier and, in fact, every South Australian, has the right to question the safety and efficacy of water fluoridation.

I can also say that the people of Mount Gambier deserve an explanation of the science used to advocate the fluoridation and that they should expect that the minister and his senior adviser, Dr Cunliffe, would be more than happy to promote their reasons for fluoridation and be challenged by professionals well versed in this area for those very reasons. On that note, I commend the motion to the house.

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

ANGASTON AND LYNDOCH LONG TERM DRY AREAS

Order of the Day, Private Business, No. 1: Hon. R.P. Wortley, to move:

That Regulations under the Liquor Licensing Act 1997 concerning Long Term Dry Areas—Angaston and Lyndoch, made on 14 January 2010 and laid on the table of this council on 11 May 2010, be disallowed.

The Hon. I.K. HUNTER (20:28): On behalf of the Hon. R.P. Wortley, I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

UPPER SOUTH-EAST STATUTORY EASEMENTS

Order of the Day, Private Business, No. 2: Hon. R.P. Wortley, to move:

That regulations under the Upper South East Dryland Salinity and Flood Management Act 2002 concerning statutory easements, made on 21 January 2010 and laid on the table of this council on 11 May 2010, be disallowed

The Hon. I.K. HUNTER (20:28): On behalf of the Hon. R.P. Wortley, I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS ACT GENERAL REGULATIONS

Order of the Day, Private Business, No. 3: Hon. R.P. Wortley, to move:

That the general regulations under the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981, made on 4 February 2010 and laid on the table of this council on 11 May 2010, be disallowed.

The Hon. I.K. HUNTER (20:28): On behalf of the Hon. R.P. Wortley, I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

MANDATORY ALCOHOL INTERLOCK CONDITIONS

Notice of Motion/Order of the Day, Private Business, No. 17: Hon. R.P. Wortley to move:

That regulations under the Motor Vehicles Act 1959 concerning mandatory alcohol interlock conditions, made on 10 December 2009 and laid on the table of this council on 11 May 2010, be disallowed.

The Hon. I.K. HUNTER (20:30): On behalf of the Hon. R.P. Wortley, I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

HUMAN RIGHTS, BURMA

Adjourned debate on motion of Hon. T.A. Franks:

That this council—

1. notes the 5 March 2010 report of the United Nations (UN) Special Rapporteur on the situation of human rights in Myanmar documents 'a pattern of gross and systematic violation of human rights which has been in place for many years and still continues';

2. notes the Special Rapporteur states these violations 'may entail categories of crimes against humanity or war crimes under the terms of the statute of the International Criminal Court' and recommends that 'UN institutions may consider the possibility to establish a commission of inquiry with a specific fact finding mandate to address the question of international crimes';

3. notes on 9 March 2010 the Burmese regime announced the election laws for the forthcoming election based on the 2008 constitution that excludes political activists who have been arrested, Buddhist monks and nuns and public servants from standing for election, prevents the National League for Democracy (NLD) headed by Aung San Suu Kyi, and winners of the country's last election, from registering if Aung San Suu Kyi remains a party member, and annuls the results of the 1990 election which saw the NLD win more than 80 per cent of the vote; and

4. welcomes the Australian government's indication that it would support investigating possible options for a United Nations commission of inquiry, and—

   (a) articulates its support for human rights and democracy in Burma;

   (b) calls for the release of each of the 2,100 political prisoners in Burma;

   (c) condemns the 2008 constitution as anti-democratic; and

   (d) supports the call for all governments to refuse to accept the results of the Burmese elections scheduled to be held later this year unless all political prisoners are

unconditionally released and a new democratic constitution is introduced that would permit the full participation of all political parties and individuals and would respect the will of the Burmese people.

to which the Hon. S. G. Wade has moved to amend by leaving out all words after 'That this council' and inserting the following:

1. notes that the 10 March 2010 report of the United Nations Special Rapporteur on the situation of human rights in Myanmar documents 'a pattern of gross and systematic violation of human rights which has been in place for many years and still continues';

2. notes that the Special Rapporteur states 'the possibility exists that some of these human rights violations may entail categories of crimes against humanity or war crimes under the terms of the Statute of the International Criminal Court' and recommends that 'UN institutions may consider the possibility to establish a commission of inquiry with a specific fact finding mandate to address the question of international crimes';

3. notes that on 9 March 2010 the Burmese regime announced the election laws for the forthcoming election based on the 2008 constitution that excludes persons serving prison terms and public servants from standing for election, may prevent the National League for Democracy (NLD) headed by Aung San Suu Kyi, and winners of the country's last election, from registering if Aung San Suu Kyi remains a party member, and annuls the results of the 1990 election which saw the NLD win more than 80 per cent of the vote;

4. notes that on 10 March 2010 the United States of America (US) Assistant Secretary of State, Mr Kurt Campbell, said that the election laws were 'disappointing and regrettable' and the US State Department spokesperson, Dr Philip Crowley, said 'given the tenor of the election laws that they put forward, there's no hope that this election will be credible'; and

5. welcomes the government's statement on 15 March 2010 to the UN Human Rights Council expressing its support for 'investigating possible options for the establishment of a United Nations commission of inquiry' and the statement of the US acknowledging the significance of the Special Rapporteur's recommendations to create a commission of inquiry which 'underscores the seriousness of the human rights problems in the country and the pressing need for the international community to find an effective way to address challenges there.

(Continued from 15 September 2010.)

The Hon. I.K. HUNTER (20:31): I indicate that Labor members will be supporting the amendment moved by the Hon. Mr Wade.

Amendment carried; motion as amended carried.

SOCIAL DEVELOPMENT COMMITTEE: DENTAL SERVICES FOR OLDER SOUTH AUSTRALIANS

Adjourned debate on motion of Hon. I.K. Hunter:

That the report of the committee, on an Inquiry into Dental Services for Older South Australians, be noted.

(Continued from 30 June 2010.)

Motion carried.

STATUTES AMENDMENT AND REPEAL (AUSTRALIAN CONSUMER LAW) BILL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (20:34): Obtained leave and introduced a bill for an act to amend the Fair Trading Act 1987 to make provision for the application of the Australian Consumer Law as a law of South Australia; to amend the Statutes Amendment and Repeal (Fair Trading) Act 2009; and to repeal the Fair Trading (Telemarketing) Amendment Act 2009, the Manufacturers Warranties Act 1974 and the Trade Standards Act 1979. Read a first time.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (20:35): I move:

That this bill be now read a second time.

This bill, the Statutes Amendment and Repeal (Australian Consumer Law) Bill 2010, gives effect to one of the most significant national reforms of Australia's consumer protection laws. In passing this bill, South Australia will join with other states and territories in providing consumers the benefit of nationally consistent consumer protection laws. The bill itself will apply the Australian Consumer

Law as a law of South Australia and make changes to existing South Australian legislation to give effect to this new regime.

On 15 August 2008, the Ministerial Council on Consumer Affairs agreed that all jurisdictions would adopt a new nationally consistent Australian Consumer Law to replace the consumer protection provisions of the Trade Practices Act 1974 of the commonwealth (the TPA) and the fair trading laws now operating in each jurisdiction.

On 2 October 2008, COAG agreed that the final form of the consumer policy framework would comprise a single national consumer law based on the TPA and draw on the best practice in state and territory consumer laws, including a provision regulating unfair contract terms and a national product safety system.

COAG's objective in agreeing to establish an Australian Consumer Law is to remove overlapping and inconsistent regulation between jurisdictions in respect of fair trading and trade practices controls. It is anticipated that the reforms will improve business efficiency, reduce red tape and improve consumer confidence.

The Australian Consumer Law is underpinned by the Australian Consumer Law Intergovernmental Agreement (ACLIGA) which was signed by the Premier in July 2009. This agreement establishes the framework for all signatories to the ACLIGA to implement and administer the new law.

Consistent with the ACLIGA, the commonwealth has passed two laws giving effect to the Australian Consumer Law: the Trade Practices Amendment (Australian Consumer Law) Act (No. 1) 2010, (the first ACL act); and the Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010, (the second ACL act). Copies of both of these acts are available from the commonwealth Treasury website.

The first ACL act, passed by the commonwealth on 17 March 2010, amends commonwealth law to set up a framework for full commencement of the Australian Consumer Law on 1 January 2011. The second ACL act, passed by the commonwealth on 24 June 2010, is the primary mechanism that implements the Australian Consumer Law. This act renames the TPA as the Competition and Consumer Act 2010 and inserts the full text of the Australian Consumer Law into a schedule of the Competition and Consumer Act. It is this schedule that will be applied as the law of South Australia, thereby implementing the Australian Consumer Law in this jurisdiction.

In passing this bill, South Australia will be taking a further step towards a key aspect of COAG's national business and regulatory reform agenda to create a seamless national economy. South Australia will also be delivering on the commitment under the ACL IGA by implementing the Australian Consumer Law on 1 January 2011. The core provisions of the Australian Consumer Law are based on existing provisions of the TPA, these laws prohibiting such things as misleading and deceptive conduct, unconscionable conduct, unsolicited supplies and pyramid schemes, already existing in more or less the same form in state/territory fair trading laws, including the South Australian Fair Trading Act 1987 (FTA).

With the introduction of the Australian Consumer Law, all of the inconsistencies that have developed over time between the commonwealth and state and territory laws will be removed. The Australian Consumer Law also adds significant new consumer protections, including provisions drawn from best practice provisions in existing state and territory consumer protection and fair trading laws.

A new unfair contract terms law will strengthen protection against unfair terms in standard form contracts. The new regime is designed to protect consumers where they cannot effectively bargain and are offered contracts on a 'take it or leave it' basis. Under the unfair contract terms provision, if a court determines that a term in a standard form consumer contract is unfair, then the term is not binding on the consumer. To minimise the impact of these reforms on business, the regime ensures that, in cases where the contract can still operate without the unfair term, the contract will continue to operate.

South Australia has for many years had laws that provide a 10-day cooling off period for consumers to purchase goods from door-to-door traders. Last year, the Rann government also passed the Fair Trading (Telemarketing) Amendment Bill 2009 to extend the same controls over telemarketing. This bill will repeal that act, because the Australian Consumer Law will introduce a nationally harmonised regime to assist consumers who purchase from both door-to-door traders

and telemarketers. These new harmonised door-to-door and telemarketing controls will provide all consumers with a 10-day cooling off period to protect against predatory marketing practices.

One significant difference from the existing South Australian door-to-door regime is that the Australian Consumer Law will further limit allowable weekday/evening door-to-door visiting hours by two hours per day during weekdays. Currently, door-to-door traders may, to the annoyance of many consumers, visit homes between 9am and 8pm. The new Australian Consumer Law regime will ensure that door-to-door traders may only make house calls without prior arrangement between 9am and 6pm, so it is a two hour difference.

The limits on door-to-door trading on Saturdays outside the hours of 9am and 5pm and the prohibition on Sundays and public holidays will remain the same. Telemarketing calling hours will continue to be separately regulated under the Do Not Call Register Act 2006 of the commonwealth and will be allowed between 9am and 8pm on weekdays, with the same limits on Saturdays, Sundays and public holidays as the door-to-door controls.

The Australian Consumer Law includes a harmonised product safety regime for consumers and services related to the supply, installation or maintenance of consumer goods. The new regime will take the place of the existing South Australian Trade Standards Act 1979, which will be repealed by the bill. Under the new product safety regime, state and territory ministers will retain the ability to issue interim product safety bans, compulsory recall notices and public warning statements. However, to ensure national coordination consistency, only the commonwealth minister will have the power to issue permanent bans, make safety and information standards and conduct voluntary recalls.

Other Australian Consumer Law protections include: a national consumer guarantees law, which replaces the existing state and territory and commonwealth implied warranty regimes; a requirement that lay-by sales agreements be in writing and can be terminated at any time by the consumer; a prohibition on false or misleading testimonials; a provision clarifying that a consumer is not liable to pay for unsolicited services; a requirement for specified consumer contracts to be expressed in plain language and legible; a statutory right to an itemised bill or receipt for goods or services supplied above a certain value; a prohibition on multiple pricing to ensure that consumers no longer have to deal with the confusion created when more than one price for a product is displayed.

The Australian Consumer Law will greatly assist consumer affair regulators in taking a national approach to enforcement, while consumer affairs regulators in the states and territories and the commonwealth will each have the capacity to take action against those who breach the Australian Consumer Law. Regulators will work together to take coordinated and effective action to stamp out unfair practices and enforce a new product safety regime on a national basis.

To ensure consistency in enforcement approaches, the Australian Consumer Law provides a number of standard enforcement tools, penalties and consumer remedies, of which all jurisdictions may take advantage. These include disqualification orders, substantiation notices and public warning powers. Regulators may also, where appropriate, seek injunctions, damages, compensation orders and orders seeking redress on behalf of consumers who are not party to enforcement proceedings. Breaches of Australian Consumer Law provisions are subject to a range of both civil and criminal penalties, with maximum penalties of up to $220,000 for individuals and $1.1 million for corporations. These penalties are consistent with the existing TPA and are significantly higher than the existing penalties in the FTA, thereby providing for greater protection to consumers in South Australia.

While the Australian Consumer Law contains harmonised enforcement provisions, it does not contain any standardised powers of investigation. Given that each jurisdiction will continue to be responsible for the enforcement of the Australian Consumer Law, it has therefore been necessary for South Australia to retain its existing FTA investigation powers. The bill also incorporates into the FTA the product safety enforcement powers that exist in the Trade Standards Act 1979, which is to be replaced by the Australian Consumer Law product safety regime.

The bill will also include an embargo notice power in the FTA, which is based on the commonwealth Australia Consumer Law enforcement provisions. This bill will allow an authorised officer from the Office of Business and Consumer Affairs to prevent a trader from moving or dealing with goods that are subject to an embargo order. The power itself is limited in that it may only be used if the authorised officer would otherwise be able to seize the item, but is prevented from doing so due to the difficulty in physically removing or storing the item.

The bill also puts in place transitional arrangements and repeals a number of provisions that have been made redundant through the application of the Australian Consumer Law, or cannot be retained because they would operate inconsistently with the Australian Consumer Law. For example, the bill repeals the FTA substantiation of claims power because a similar power will be available under the Australian Consumer Law. Also, it is necessary to repeal the Manufacturers Warranty Act 1974, given the protections in that act will now be reflected in the new Australian Consumer Law guarantees regime.

A number of amendments that were made to the FTA under the Statutes Amendment and Repeal (Fair Trading) Act 2009, the 2009 act, have not yet been commenced. The majority of those uncommenced provisions were made in an effort to harmonise provisions of the FTA with the TPA, given the development of the Australian Consumer Law. Most of these amendments have now been rendered unnecessary and so will now be repealed. One key aspect of the 2009 act, relating to the regulation of recreational services is, however, still required and will be enacted through this bill. The 2009 act repealed the Recreational Services (Limitation of Liability) Act 2003 and replaced it with reforms that allow suppliers of recreational services to modify, exclude or restrict the rights of consumers under the FTA if the consumer (or representative) signs a contractual waiver of liability.

The bill will have the effect of ensuring, as desired by the recreational services industry, that this regime will be retained in the transition to the Australian Consumer Law. Because the amendment in the 2009 act had the effect of altering the effect of an implied warranties regime in the FTA, and as such a regime will now be replaced by the Australian Consumer Law consumer guarantees provisions, the bill makes minor amendments to the recreational services provision to ensure that it operates effectively in the context of the new law.

The introduction of this bill and the implementation of the Australian Consumer Law in South Australia and across the national represents a significant achievement for both business and consumers. For business, the Australian Consumer Law is a step towards a seamless national economy which reduces regulatory complexity and allows for greater efficiences. For consumers, this single national law will provide a consistent set of rights wherever goods or services are purchased in Australia. I commend the bill to members and seek leave to insert the explanation of clauses into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Fair Trading Act 1987*

4—Amendment of long title

It is proposed to amend the long title of the Act to reflect the fact that the Australian Consumer Law is to be applied as a law of the State. The application of the Australian Consumer Law in each of the participating jurisdictions will result in a nationally consistent law providing for consumer protection.

5—Substitution of section 3

Current section 3 is to be repealed and a new section 3 (Interpretation) is to be substituted containing a number of definitions of words and phrases relating to the application of the Australian Consumer Law as a law of the State, as well as other definitions, or interpretive provisions, required generally for the purposes of the *Fair Trading Act 1987* (the *principal Act*).

6—Insertion of section 4A

New section 4A is to be inserted. New section 4A (Extraterritorial application) provides that the principal Act is intended to have extraterritorial application insofar as the legislative powers of the State permit.

7—Substitution of Parts 3 and 4

Currently, Part 3 regulates door-to-door trading, and Part 4 prohibits mock auctions. These Parts are to be repealed and a new Part providing for the application of the Australian Consumer Law as a law of the State is to be substituted. The Australian Consumer Law includes provisions substantially the same as those currently provided for in the Parts that are to be repealed.

Part 3—Australian Consumer Law

Division 1—Application of Australian Consumer Law

13—Australian Consumer Law text

The Australian Consumer Law text consists of—

- Schedule 2 of the *Competition and Consumer Act 2010* of the Commonwealth; and
- the regulations under section 139G of that Act.

14—Application of Australian Consumer Law

Subject to new sections 15, 16 and 17, the Australian Consumer Law text, as in force from time to time—

- applies as a law of this jurisdiction; and
- as so applying may be referred to as the *Australian Consumer Law (SA)* (the *ACL (SA)*); and
- as so applying is a part of the *Fair Trading Act 1987*.

15—Future modifications of Australian Consumer Law text

A modification made by a Commonwealth law to the Australian Consumer Law text after this new section commences does not apply under new section 14 if the modification is declared by proclamation to be excluded from the operation of that section.

16—Meaning of generic terms used in Australian Consumer Law

In the ACL (SA)—

court—

- in respect of proceedings under section 218 of the ACL (SA)—means the Magistrates Court; and
- in respect of any other proceedings—means the court of this State having appropriate jurisdiction in relation to the proceedings;

regulator means the Commissioner.

17—Interpretation of Australian Consumer Law

The *Acts Interpretation Act 1901* of the Commonwealth applies as a law of this jurisdiction to the ACL (SA) as if—

- the statutory provisions in the ACL (SA) were a Commonwealth Act; and
- the regulations in the ACL (SA) or instruments mentioned under that Law were regulations or instruments under a Commonwealth Act.

The *Acts Interpretation Act 1915* of this State does not apply to—

- the ACL (SA); or
- any instrument under the ACL (SA).

18—Application of Australian Consumer Law

The ACL (SA) applies to and in relation to—

- persons carrying on business within this jurisdiction; or
- bodies corporate incorporated or registered under the law of this jurisdiction; or
- persons ordinarily resident in this jurisdiction; or
- persons otherwise connected with this jurisdiction,

and (subject to the preceding statements) extends to conduct, and other acts, matters and things, occurring or existing outside or partly outside this jurisdiction (whether within or outside Australia).

Division 2—References to Australian Consumer Law

19—References to Australian Consumer Law

Except so far as the contrary intention appears, a reference in any instrument to the Australian Consumer Law is a reference to the Australian Consumer Law of any or all of the participating jurisdictions.

20—References to Australian Consumer Laws of other jurisdictions

If a law of a participating jurisdiction other than South Australia provides that the Australian Consumer Law text as in force for the time being applies as a law of that jurisdiction, the Australian

Consumer Law of that jurisdiction is the Australian Consumer Law text, applying as a law of that jurisdiction.

Division 3—Application of Australian Consumer Law to Crown

21—Division does not apply to Commonwealth

This section provides that the terms *participating jurisdiction* and *other jurisdiction*, when used in Division 3, do not include the Commonwealth.

22—Application law of this jurisdiction

To the extent that the legislative power of Parliament permits it to do so, the application law of South Australia binds the Crown in right of this State and of each other jurisdiction, so far as the Crown carries on a business.

23—Application law of other jurisdictions

The application law of each participating jurisdiction (other than South Australia) binds the Crown in right of this State, so far as the Crown carries on a business. If, because of this Part, a provision of the law of another participating jurisdiction binds the Crown in right of South Australia, the Crown in the right of South Australia is subject to the provision despite prerogative rights and privileges.

24—Activities that are not business

This new section specifies certain activities that do not amount to carrying on a business for the purposes of new section 23:

(a) imposing or collecting taxes, levies or fees for authorisations;

(b) granting, refusing to grant, revoking, suspending or varying authorisations (whether or not they are subject to conditions);

(c) transactions involving—

(i) only persons who are all acting for the Crown in the same right (and none of whom is an authority of a State); or

(ii) only persons who are all acting for the same authority of a State; or

(iii) only the Crown in right of a State and 1 or more non-commercial authorities of that State; or

(iv) only non-commercial authorities of the same State;

(d) the acquisition of primary products by a government body under legislation, unless the acquisition occurs because the body chooses to acquire the products or the body has not exercised a discretion that it has under the legislation that would allow it not to acquire the products.

It also includes definitions of a number of terms used in the section.

25—Crown not liable to pecuniary penalty or prosecution

Nothing in the application law of this State makes the Crown in any capacity liable to a pecuniary penalty or to be prosecuted for an offence. Further, nothing in the application law of a participating jurisdiction makes the Crown in right of this State liable to a pecuniary penalty or to be prosecuted for an offence. This protection does not extend to authorities.

Division 4—Miscellaneous

26—Conferral of functions and powers on certain bodies

The authorities and officers of the Commonwealth referred to in the ACL (SA) have the functions and powers conferred or expressed to be conferred on them under that law. Those authorities and officers also have power to do all things necessary or convenient to be done in connection with the performance of the functions and exercise of the powers conferred or expressed to be conferred on them under the ACL (SA).

27—No doubling-up of liabilities

Where an act or omission is an offence against both the ACL (SA) and an application law of another participating jurisdiction, and the offender has been punished for the offence under the application law of the other jurisdiction, the offender is not liable to be punished for the offence against the ACL (SA).

If a person has been ordered to pay a pecuniary penalty under the application law of another participating jurisdiction, the person is not liable to a pecuniary penalty under the ACL (SA) in respect of the same conduct.

28—Certain proceedings prevented in certain circumstances

If a person expiates an alleged offence against the ACL (SA), proceedings cannot be started or continued against the person under section 224 of the ACL (SA) in relation to an alleged contravention of a provision of the ACL (SA) in respect of the same conduct.

28A—Minister may require information

Under this new section, the Minister may require a person, by written notice, to provide within a specified period information that is reasonably necessary for the purpose of determining whether—

(a) a provision of Part 3-3 of the ACL (SA) is being or has been complied with; or

(b) the Minister should impose or revoke an interim ban on consumer goods, or product related services, of a particular kind; or

(c) the Minister should issue a recall notice for consumer goods of a particular kind; or

(d) the Minister should publish a safety warning notice about consumer goods and product related services.

A person who refuses or fails to comply with a reasonable requirement of the Minister, or who knowingly makes a statement that is false or misleading in a material particular in an answer given or information provided in response to a notice, is liable to a maximum penalty of $20,000.

A person is not required to provide information under this section if the provision of the information would result in or tend towards self-incrimination.

28B—Minister to publish certain notices in Gazette

If the Minister publishes a written notice on the Internet in accordance with a requirement of the ACL (SA), the Minister must, as soon as reasonably practicable after the publication, publish the notice in the Gazette.

28C—Cost of testing

This new section provides for the recovery of certain costs connected with the examination, analysis or testing of consumer goods or product related services conducted under the principal Act. Such costs may be recoverable where the Minister imposes an interim ban or issues a recall notice, or where the goods or services are found not to comply with an applicable safety standard. Such costs may also be recoverable if a person provides materially inaccurate information in relation to consumer goods or product related services and an examination, analysis or test carried out for the purpose of testing the accuracy of the information.

8—Amendment of heading to Part 5

Part 5 of the principal Act is to become Part 4.

9—Amendment of section 34—Correction of errors

This clause removes subsection (8) of section 34, which provides a definition of *Magistrates Court* for the purposes of the section. The definition is no longer required because the term is defined in section 3 for the purposes of the whole Act.

10—Repeal of Part 6

This clause repeals Part 6. The Part is no longer required because the matters it deals with are the subject of provisions under the ACL (SA).

11—Substitution of heading to Part 7

Part 7 of the principal Act is to become Part 5 and is to be headed 'Additional consumer protection provisions'.

12—Substitution of section 42

This clause repeals section 42, which is no longer required because its subject matter is dealt with by the ACL (SA), and substitutes a new section dealing with the limitation of liability in connection with the provision of recreational services.

42—Recreational services

Section 42 provides that a term of a contract for the supply of recreational services may exclude, restrict or modify a guarantee that would otherwise have been implied in the contract under section 60 or 61 of the Australian Consumer Law.

This provision operates subject to the following requirements being met:

- the exclusion, restriction or modification contained in the term is limited to excluding, restricting or modifying the liability of the supplier for any personal injury suffered by the consumer or some other person for whom or on whose behalf the consumer is acquiring the services (ie, a *third party consumer*);
- the term contains the prescribed particulars and is in the prescribed form;
- the term is brought to the attention of the consumer and any third party consumer prior to the supply of the services;
- the consumer agrees to the term in the prescribed manner;

- a statement containing any other information prescribed by regulation is made available to the consumer and any third party consumer in accordance with prescribed requirements.

The provision does not operate to exclude, restrict or modify the liability of the supplier for damages for any significant personal injury suffered by the consumer or a third party consumer if it is established (by applying the general principles set out in section 34 of the *Civil Liability Act 1936*, which relate to causation) that the reckless conduct of the supplier caused the injury.

Under proposed subsection (4), a term of a contract that purports to indemnify a person who supplies recreational services in relation to any liability that may not be excluded, restricted or modified under the section is void. This provision does not apply in relation to a contract of insurance.

A person's conduct is reckless if the person engages in the conduct even though the person is aware, or should reasonably have been aware, of a significant risk that his or her conduct could result in injury to another.

Personal injury is defined to include mental or nervous shock and death.

Recreational services are services that consist of participation in—

- a sporting activity or a similar leisure-time pursuit; or
- any other activity that—
  - involves a significant degree of physical exertion or physical risk; or
  - is undertaken for the purposes of recreation, enjoyment or leisure.

Significant means not nominal, trivial or minor.

13—Repeal of heading to Part 8

14—Repeal of heading to Part 8A

The provisions of Parts 8 and 8A are to be incorporated into Part 5 (Additional consumer protection provisions). These clauses therefore remove the headings to those Parts.

15—Amendment of heading to Part 9

The heading to Part 9 of the principal Act, which deals with third-party trading schemes, is amended by this clause so that it becomes Part 6.

16—Repeal of Part 10

This clause repeals Part 10 of the principal Act. Part 10 sets out a number of consumer protection provisions of the *Trade Practices Act* of the Commonwealth and thereby applies those provisions as laws of South Australia. The Part is to be repealed because the matters it deals with are the subject of provisions under the ACL (SA).

17—Amendment of heading to Part 11

Part 11 of the principal Act, which deals with enforcement, is to become Part 7.

18—Amendment of section 76—Conduct of legal proceedings on behalf of consumers

Section 76 provides that the Commissioner for Consumer Affairs may institute, defend or assume the conduct of legal proceedings on behalf of a consumer for the purpose of enforcing or protecting the consumer's rights under the principal Act or a related Act. As amended by this clause, the section will not apply in relation to the rights of consumers under the ACL (SA).

19—Amendment of section 78—Entry and inspection

Subsection (1) of section 78, which sets out the powers of authorised officers in relation to entry and inspection, is revised by this clause so that it incorporates powers of standards officers under the *Trade Standards Act 1979*. The *Trade Standards Act 1979* is to be repealed as it deals with matters that are to be regulated by the ACL (SA), and the functions of standards officers under the *Trade Standards Act 1979* are to be carried out by authorised officers under the principal Act. It is therefore necessary for authorised officers to have the powers of standards officers set out under section 15 of the *Trade Standards Act 1979*.

20—Insertion of sections 78B and 78C

This clause inserts two new sections.

78B—Dealing with goods bought or seized

Section 78B deals with matters consequential on the examination, analysis or testing of goods seized or purchased by authorised officers.

78C—Embargo notices

This section authorises the issuing of an embargo notice if an officer is authorised to seize a record, device or other thing that cannot readily be physically removed or stored. An embargo notice is a notice forbidding the use, movement, sale, leasing, transfer, deletion of

information from or other dealing with the record, device or other thing, or any part of it, without the written consent of an authorised officer. The sections sets out requirements in relation to the content and service of embargo notices. A person who knowingly does something that is forbidden by an embargo notice, or instructs another person to do something that the first person knows is forbidden by an embargo notice, is liable to a maximum penalty of $10,000.

21—Amendment of section 79—Assurances

Section 79 of the principal Act provides for the acceptance by the Commissioner of assurances given by traders in connection with matters in relation to which the Commissioner has powers under the Act (or a related Act). The Act includes an offence of acting contrary to an assurance. Section 79 as amended by this clause will not apply in relation to the Commissioner's powers or functions under the ACL (SA). This is because the Commissioner will have the power under section 218 of the ACL (SA) to accept undertakings in connection with matters in relation to which the regulator has a power or function under that Law.

22—Insertion of section 82A

This clause inserts a new section.

82A—Application of Division

Section 82A provides that Division 3 of Part 7 (formerly Part 11) does not apply in relation to conduct that constitutes or would constitute a contravention of a provision of the ACL (SA). The Division deals with civil remedies for contravention of the principal Act.

23—Amendment of section 83—Injunctions

The amendment made by this clause is consequential on the repeal of Part 10 of the principal Act. Section 83(2) includes an exception for section 57. That exception is deleted by this clause because section 57 is within the repealed Part.

24—Repeal of section 84

Section 84 is to be repealed because it deals with actions for damages in respect of contraventions of Part 10, which is to be repealed.

25—Amendment of section 85—Orders for compensation

The amendments made by this clause to section 85 are also consequential on the repeal of section 57.

26—Insertion of section 86A

This clause inserts a new section.

86A—Application of Division

Section 86A provides that Division 4 of Part 7 (formerly Part 11) does not apply in relation to conduct that constitutes or would constitute a contravention of a provision of the ACL (SA). The provisions of the Division are not required to operate in relation to the ACL (SA) and will therefore apply only in relation to offences under the principal Act other than the ACL (SA).

27—Amendment of section 91—Evidentiary provisions

The amendments made by this clause to section 91 are consequential. The clause repeals two subsections that relate only to Part 3 of the Act. Part 3 is repealed by clause 5.

28—Amendment of section 91A—Public warning statements

This clause amends section 91A, which authorises the Minister or the Commissioner to issue public statements identifying and giving warnings about certain goods, services or business practices, so that a statement may not be made about the conduct of a person if a public warning notice could be issued under section 223 of the ACL (SA) relating to the same conduct.

29—Amendment of section 97—Regulations

Under the regulation making power as amended by this section, the regulations may—

- be of general or limited application;
- confer powers or impose duties in connection with the regulations on the Minister, the Commissioner or an authorised officer;
- exempt a specified person or class of persons, or a specified transaction or class of transactions, from compliance with the principal Act or a specified provision of the principal Act, either absolutely or on conditions or subject to limitations;
- make different provision according to the classes of persons, or the matters or circumstances, to which the regulations are expressed to apply;
- prescribe codes of practice to be complied with by traders;

- incorporate, adopt, apply or make prescriptions by reference to, with or without modifications, any document formulated or published by any body or authority as in force at a particular time or from time to time;
- make provisions of a saving or transitional nature—
  - consequent on the amendment of the principal Act by a relevant Act; or
  - relevant to the interaction between the principal Act and a relevant Commonwealth Act;
- fix expiation fees, not exceeding $1,200, for alleged offences against the principal Act or the regulations;
- impose penalties not exceeding $2,500 for contravention of, or failure to comply with, a regulation.

30—Transitional provision

The transitional provision provides that an assurance accepted by the Commissioner under section 79 of the *Fair Trading Act 1987* before the amendment of that section will be taken to be an undertaking for the purposes of section 218 of the ACL (SA) accepted by the Commissioner in connection with the relevant matter.

Part 3—Amendment of *Statutes Amendment and Repeal (Fair Trading) Act 2009*

31—Variation of section 11—Amendment of section 3—Interpretation

32—Repeal of section 34

33—Repeal of section 36

These clauses repeal three sections of the *Statutes Amendment and Repeal (Fair Trading) Act 2009* that have not yet come into operation. The sections make amendments to the *Fair Trading Act 1987* that are redundant because of the proposed repeal of Part 10 of that Act.

Part 4—Repeal of *Fair Trading (Telemarketing) Amendment Act 2009*

34—Repeal of *Fair Trading (Telemarketing) Amendment Act 2009*

The *Fair Trading (Telemarketing) Amendment Act 2009* is repealed by this clause because the amendments made by that Act to the *Fair Trading Act 1987* are redundant.

Part 5—Repeal of *Manufacturers Warranties Act 1974*

35—Repeal of *Manufacturers Warranties Act 1974*

This clause repeals the *Manufacturers Warranties Act 1974*.

Part 6—Repeal of *Trade Standards Act 1979*

36—Repeal of *Trade Standards Act 1979*

This clause repeals the *Trade Standards Act 1979*. Certain provisions of the repealed Act relating to the powers of investigators are to be reenacted in the *Fair Trading Act 1987*.

Debate adjourned on motion of Hon. T.J. Stephens.

APPROPRIATION BILL

The House of Assembly requested that the Minister for Mineral Resources Development (Hon. P. Holloway) and the Minister for State/Local Government Relations (Hon. G.E. Gago), members of the Legislative Council, attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (20:52): I move:

That the Minister for Mineral Resources Development (Hon. P. Holloway) and the Minister for State/Local Government Relations (Hon. G.E. Gago) attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill, if they think fit.

Motion carried.

At 20:53 the council adjourned until Thursday 30 September 2010 at 14:15.