LEGISLATIVE COUNCIL

Wednesday 9 February 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:20 and read prayers.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (EXEMPTIONS AND APPROVALS) AMENDMENT BILL

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:20): I move:

That the sittings of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.P. WORTLEY (14:20): I bring up the 16th report of the committee.

Report received.

PAPERS

The following papers were laid on the table:

By the Minister for Regional Development (Hon. G.E. Gago)—

Department of Health Report—Outline Business Case—Barossa Health Service, Country Health SA

Health and Community Services Complaints Commissioner—
- Report, 2009-10
- Operational Review Findings Report
- Operational Review Findings Report—SA Health's Response

Health Performance Council—Public Health System's Performance—
- Report, 2008-10
- SA Health's Response

MADELEY, MR D.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:21): I seek leave to make a ministerial statement.

Leave granted.

The Hon. B.V. FINNIGAN: On 5 June 2004, an 18-year-old first-year apprentice, Mr Daniel Madeley, was operating a horizontal boring machine when his dustcoat became entangled on the rotating spindle of the borer. Mr Madeley suffered extensive injuries as a result of this incident and died shortly thereafter.

Mr Madeley was employed by the Engineering Employers Association Group Training Scheme and had been placed with Diemould Tooling Services Pty Ltd at their Edwardstown premises. SafeWork SA (then Workplace Services) investigated this matter under the Occupational Health, Safety and Welfare Act 1986.

In May 2006, SafeWork SA charged both the Engineering Employers Association Group Training Scheme and Diemould with offences under section 19(1) of the act. On 23 April 2009, Diemould pleaded guilty to one count of breaching section 19(1) of the act. On 26 June 2009, Diemould was convicted and fined $72,000.

Any workplace death is a tragedy and is to be regretted. As a previous member of the parliamentary committee on occupational safety, rehabilitation and compensation, I know how critical it is to safeguard the wellbeing of employees in South Australian workplaces. I recall that throughout the course of the committee's work, Mr Daniel Madeley's mother, Andrea Madeley, appeared before a committee inquiry about industrial deaths, and I wish to extend my sympathies to her.

In 2010, the State Coroner, Mr Mark Johns, conducted an inquest into the death of Mr Madeley. Today, Mr Johns has handed down the findings of his inquest. I will carefully read and

consider the findings of the Coroner, including his recommendations and suggestions, before making a response. I take seriously the need to avoid industrial deaths and I trust the Coroner's findings will be of assistance in this regard.

QUESTION TIME

OTAGO ROAD, WALLAROO

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking the minister representing the Minister for Urban Development and Planning a question about Otago Road, Wallaroo.

Leave granted.

The Hon. D.W. RIDGWAY: As a number of members would be aware, I had the very good fortune to spend a few days in Wallaroo last week, and I took the opportunity to meet with the Copper Coast council. The council had written to me, in particular, about the issue of Otago Road.

Otago Road is a beachfront drive at Wallaroo on the Yorke Peninsula. The shacks on this road used to be on crown lease. The owners of the seaward side properties negotiated at length with the state government in order to get freehold. The requirements were quite stringent. They limited building heights and said that nothing was to be built closer to the waterfront than had existed in 1994. They were put in the freeholding documents and subsequently into the development plan.

More than 10 years ago, a land management agreement was also initiated between the minister and the shack owners. One provision states that a shack or property owner there must replace any building or structure only with such building or structure either in the same location as the like improvements, buildings or structures already situated on the land. The intent was that the character of the road would be preserved.

Since the introduction of the South Australian Residential Development Code, it has come to light that development regulation 8A causes any ResCode compliant development to be compliant to the development plan. The one main contradiction between the plan's requirement for this zone and ResCode is that the plan dictated a character that 'maintains the single-storey, simple form of the existing shacks'. ResCode does not address the character of that area in any way.

Some people have got wind of this loophole and there is currently one application under ResCode with the Copper Coast council. It is for a two-storey house, and it is certainly non-compliant under the development plan. This would set a precedent for mass production-type residential developments along all Otago Road, which would certainly lose its holiday shack intended amenity.

Unfortunately, Tuesday is the deadline for the Copper Coast council to either approve or decline the application. The council has appealed to the former minister and to the department to exempt this particular shack zone from ResCode. However, it is yet to receive a response from the former minister, and the new minister has not been there for very long. I have also written yesterday, as a matter of urgency, to the new minister.

My question is: will the new minister urgently exempt that area from the residential code, and, if not, will the minister make assurance that no exemption to the land management agreement will be given for a development that does not fit in with the requirements of the development plan?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:27): I thank the honourable member for his question and will refer it to the Minister for Urban Development and Planning in another place and bring back a response.

HOME INSULATION SCHEME

The Hon. J.M.A. LENSINK (14:28): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about home insulation.

Leave granted.

The Hon. J.M.A. LENSINK: Yesterday, in response to my question about 12,000 homes in South Australia being installed with insulation by unlicensed people, the minister responded by stating:

Our OCBA licensing laws ensure installation contractors must meet requirements in respect to solvency. These include technical skills and experience, supervision of work and fitness and propriety to conduct a business, and a police clearance is required.

The minister then went on to state:

The law also helps to ensure that home installations are performed to an appropriate standard and that unfair practices are minimised. Licensed contractors are subject to legal sanctions and can face penalties of up to $20,000 if they are in breach, so that is quite a disincentive for people to breach those provisions.

The minister stated numerous times that there are some 61 installers who are under investigation. My questions are:

1. What specific details have been supplied to the minister between the dates July 2009 and February 2010 in relation to unlicensed operators?

2. Does the minister believe that 12,000 examples of breach of provisions is a sign that the current licensing and monitoring requirements are a disincentive to cowboy operators?

3. How were 61 dodgy installers able to engage in business over a period of at least six months, if not longer?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:30): In relation to the question relating to the 61 operators where we found problems relating to their practising outside the current regulatory provisions in relation to insulation installation, the honourable member asks why they were able to get through the safety net.

I have been advised that it was through the federal funding incentive that was paid directly from the federal government to these operators. It was simply providing anyone who was eligible for those federal allowances which met its criteria which meant they were eligible for those funds. Given that South Australia was the only state that had a regulation around this, the federal government obviously did not believe it was its responsibility to determine, nor probably could it determine, where those operators were operating, that is, exactly where their jobs were located.

So, the onus is actually on the operator (the company or the organisation) providing the insulation service; the onus is on any business to make sure that they operate within the laws of that jurisdiction in which they are operating. Clearly, in this case, they grabbed the money from the federal government and did not bother to check what the provisions were here in South Australia and were operating outside the current regulations.

I have already put clearly on the record the steps OCBA undertook to identify those specific operators and to pursue them in relation to making sure they did operate within our regulatory requirements and, where they were falling outside that, we are taking further action. The other issue is that there were a number of brand new companies that operated at that time. There were some organisations operating across borders that failed to update themselves with South Australia's legislation and began operations in this state.

Once they became aware, they certainly did fulfil the requirements in this state and they did so very quickly, and they had the qualifications necessary to be able to register here, so it was quite simple for them to meet the requirements. Some of the other operators were brand new operators that simply took advantage of that particular initiative. So, they did not previously exist. They opened up an operation and operated for a short period of time, and they no longer exist.

So, part of the problem has been that often these were very small operators; they no longer exist and existed for only a very short period of time and are therefore very difficult to follow up and prosecute. Nevertheless, OCBA has put an enormous amount of work into this and has done everything within its power to follow that up and ensure that all operators meet current requirements.

EATING DISORDER UNIT

The Hon. S.G. WADE (14:34): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question relating to eating disorders.

Leave granted.

The Hon. S.G. WADE: Today, a rally was held at the front of Parliament House, being the third rally against the government in three days. Today's rally was organised by people with eating

disorders and their supporters to protest the closure of Ward 4G at the Flinders Medical Centre. The decision was made without consultation with consumers or clinicians.

Eating disorders can be very severe. Anorexia nervosa has the highest mortality rate of any psychiatric disorder. Eating disorders are particularly a women's issue: 90 per cent of sufferers are women and 23 per cent of young Australian women are reported to have had disordered eating in the past 12 months. I ask the minister:

1. Why does this government continue to make decisions affecting women without consulting them?

2. When will the ALP left stand up for women in need, not just women who want to serve on government boards?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:35): I thank the honourable member for his question. This is a matter largely under the purview of the Minister for Health; however, having an interest in medical services—particularly services relating to women—I requested some information from the Minister for Health in relation to this question.

I have been advised that patients at the Flinders Medical Centre with eating disorders are currently in a ward—Ward 4G—with four other mental health beds. I actually visited this ward in my former role as minister for mental health, so I know the ward reasonably well. The eating disorder beds are in a ward with four other mental health beds that cater for a mix of patients with things like gambling problems, anxiety, and a wide range of general mental health issues—some of them quite severe, I have to say. I understand that the mixed ward environment is not the sort that is considered conducive to providing an optimal clinical and therapeutic recovery environment for eating disorders.

I have been advised that a project has commenced to develop a statewide model for the delivery of eating disorder services by SA Health here in South Australia. This is the first time that the development of a statewide model has been undertaken. SA Health has engaged an independent expert, Ms Deirdre Mulligan, to work with a local reference group consisting of clinicians, managers and stakeholders, including consumers and carers. I am advised that the first meeting of the group has already occurred.

The outcome of the project will be a statewide model for eating disorders, and it will be inclusive of all ages. It is likely that recommendations for bed-based and community-based services will be considered, not just acute services, and I think that is definitely a step in the right direction. It is anticipated that the project will be completed by early April 2011.

SA Health is committed to the provision of eating disorder services in South Australia, and there is no intention of reducing services to this consumer group. I emphasise that: there is no intention of reducing services to this consumer group. Services will continue to be provided for this group throughout the development of this statewide model, and Ward 4G will not be closed until the project is complete and the new service arrangements are in place. I will say that again, because obviously the honourable member opposite me does not 'get' this: Ward 4G will not be closed until the project is complete and new service arrangements are in place.

SA Health is very much attempting to improve the way it provides services to this particular group. The current arrangements are less than desirable. We believe we can do things better and we have put in place a plan to improve the way we provide services to those members of the community who are unfortunate enough to suffer from an eating disorder.

EATING DISORDER UNIT

The Hon. R.I. LUCAS (14:40): I have a supplementary question arising from the answer. What annual budget savings cost did SA Health or the health commission calculate would be achieved in a decision that was announced late last year in relation to the closure of Ward 4G?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:40): I have not been advised of those details. I am happy to refer those questions to the Minister for Health in another place and bring back a response.

WORKCOVER CORPORATION

The Hon. I.K. HUNTER (14:40): I direct my question to the Minister for Industrial Relations. Will the minister provide details on work being undertaken by WorkCover to adopt a new approach to employer payments with the aim of promoting better outcomes for injured workers?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:41): WorkCover provides for the rehabilitation and compensation of injured workers following a workplace injury, to help them to remain at work, or to return to work in the community as soon as possible. We all know that returning injured workers to work is very much the most important thing we can do in terms of rehabilitation.

It is important that the funds collected from employers to provide this service ensure a financially sustainable scheme, but it is also important that employers are confident that levies are allocated in a way that equitably reflects the risk of a claim for compensation for an injury sustained at work. Providing employers with a levy allocation approach that is closely linked to their level of risk can be an effective way of encouraging employers to focus on workplace safety and injury and claims management in their business, which ultimately lead to better outcomes for their workers.

I understand that, with the end of WorkCover's bonus/penalty scheme on 30 June 2010, many employers were concerned that the WorkCover levy system did not ideally reflect their actual level of risk. WorkCover is currently consulting on a new approach to employer payments intended to enhance the allocation approach and promote better outcomes for injured workers.

Late in 2010, a series of targeted workshops were held with employers, employer associations, unions, insurance companies and brokers to discuss two related approaches within a new employer payment system. These include an experience rating system for medium and large employers and a retro-paid loss system for large employers. Eleven workshops were held in total, with close to 150 people attending. The vast majority of those who attended showed a positive interest in further exploring how these new systems may work in South Australia. The feedback received during these workshops has helped WorkCover to prepare two discussion papers.

It should be noted that a number of issues that are not directly linked to the levy collection process have been raised within the preliminary consultation. These include: definition of a compensable secondary injury; unregistered employers and the relationship between principals and subcontractors; and contributory negligence and proportionate recovery from a third party.

Addressing these issues should contribute to improved outcomes for the scheme, employers and injured workers, and they are therefore incorporated in the discussion papers. WorkCover is seeking input from interested parties to refine what these new systems may include and the structure required to support them. I understand copies of the discussion papers are now available online from WorkCover's website. I encourage those members interested in the WorkCover scheme to give the papers their consideration.

WATER FLUORIDATION

The Hon. A. BRESSINGTON (14:43): I seek leave to make a brief explanation before asking the minister representing the Minister for Health another question about water fluoridation.

Leave granted.

The Hon. A. BRESSINGTON: On 7 January this year, the United States federal Department of Health and Human Services, in conjunction with the Environmental Protection Agency, issued a joint statement advising that they were recommending the level of fluoride in the United States' drinking water be lowered to a maximum 0.7 parts per million, down from the previous recommendation of 0.7 to 1.2 parts per million in its guidelines for water providers, similar to ours.

The revised recommendation, the first since fluoridation commenced in the United States nearly 50 years ago, followed scientific risk assessments performed by the Environmental Protection Agency that in part found over 40 per cent of American teens now show signs of dental fluorosis, a sign of excessive fluoride intake that can lead to severe pitting and staining of teeth. Those reviews, which were released on the same day, also confirmed earlier research showing that prolonged high intake of fluoride can increase the risk of skeletal fluorosis, leading to brittle bones, fractures and crippling bone abnormalities.

In announcing the revised recommended maximum of 0.7 parts per million, a spokesperson for the Department of Health and Human Services emphasised the Environmental Protection Agency's findings of other sources of fluoride intake, such as from dental products like toothpaste and mouthwashes; food, such as seafood, meat and processed food; and beverages constituted with fluoridated water, as well as tea, which is very high in fluoride.

It seems that the United States has finally complied with the World Health Organisation's recommendations in 1994 to determine the prevailing fluoride intake from all sources, including drinking water, food and the general environment. Unfortunately, that was a recommendation made by our own NHMRC in Australia in 1991, which has been ignored. My questions to the minister are:

1. Was the minister advised of the United States Department of Health and Human Services and EPA revising the recommended maximum fluoride down to 0.7 parts per million over one month ago?

2. Will the minister now reconsider his support for forced water fluoridation at one part per million, almost 43 per cent higher than that now recommended by the DHHS and the EPA in the United States?

3. Will the minister now ensure that the NHMRC recommendation made in 1991 for an audit into overall fluoride intake will be undertaken, and to review, perhaps, South Australia's fluoride dosing levels?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:46): I thank the member for her questions and will refer those to the Minister for Health in another place and bring back a response.

SONG OF AUSTRALIA

The Hon. R.P. WORTLEY (14:47): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the 2011 Australia Day commemoration service.

Leave granted.

The Hon. R.P. WORTLEY: Each year on Australia Day, the Adelaide Cemeteries Authority and a number of interested community organisations hold a memorial service at the grave of Carl Linger, the composer of the *Song of Australia*. They also pay tribute to Caroline Carleton, the poet who wrote the *Song of Australia* lyrics. I, and a number of other members here, have had the pleasure of attending this ceremony on a couple of occasions, and it is a very moving occasion. Will the minister inform the house about the recent memorial service which took place to recognise both the composer and the writer of the *Song of Australia*?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:48): It was a truly remarkable event, which paid tribute to a very unique part of our state's cultural heritage. On Wednesday 26 January this year, I had the privilege of representing the Premier at an Australia Day ceremony that resonated with a distinctly South Australian charm. The *Song of Australia*, which will be known to some of the older members here who attended school in South Australia four or five decades ago, was at one stage a strong contender for our national anthem. In fact, I have a couple of members on my staff who used to sing this song each day at their school and line up in front of the flag—and I can hear a few behind me saying yes, they did, as well.

The *Song of Australia* was conceived in 1858 as an anthem designed to help unite the then separate colonies and provinces of Australia into a national whole. The competition run by the Gawler Institute awarded the prize—

The Hon. J.S.L. Dawkins: Hear, hear!

The Hon. G.E. GAGO: Yes, the Gawler Institute has a long and proud history as well. The Gawler Institute awarded the prize to Carl Linger and Caroline Carleton, the composer and lyricist of *Song of Australia* respectively. Carl Linger is buried in the West Terrace cemetery and Caroline Carlton wrote the song—very stirring words—sitting in the cemetery. She actually composed it there; her husband managed the cemetery at the time.

A diverse group of people gathered at 9am on Australia Day, including the Adelaide German Band and the Adelaide Liedertafel (Australia's oldest male choir, which had just started at the time of the song's composition). We were given a brief history of the song and its writers and then heard a very beautiful rendition of the song by the band and the choir, with all joining in at the end, which was a lot of fun—not that I think my voice contributed much to it, but nevertheless we all got 10 out of 10 for trying.

Hearing the *Song of Australia* in this context gave cause for thought. When it was written 152 years ago, Australia was a very young country full of hope and optimism for the future and, even though it was a colony in its very earliest years, you can hear in both the music and the words of that song the full-blown romantic idealism of those times.

Although this was obviously a very different country from the Europe that the composers had left behind only a few years before, the music and words of the *Song of Australia* express a very profound love of what was their new land, and they were clearly celebrating the promises and the hope that it held for them and their family and community.

For Carl Linger, a refugee from the turbulent strife of Germany, it was a way of helping himself and his music credentials in his new home. For Caroline Carleton, obviously a very genteel woman who found herself living in a cemetery a very long way from her origins, the competition was a chance to show her considerable talent as a writer.

As Minister for the Status of Women, I would like to make a brief historical aside. After Mrs Carleton was announced as the competition winner, *The Advertiser* of 24 October 1859 published an anonymous and highly critical letter (nothing much has changed, has it Mr President?) about the poem, considering the poem to be way too feminine. In the writer's opinion, a national song must be**,** and I quote from that anonymous letter, 'bold, masculine and full of fire', something that a woman was not capable of composing. The fact that we were all gathered there at that fabulous memorial on that day clearly showed that the writer of 150-odd years ago was profoundly wrong.

GAMING MACHINES

The Hon. T.J. STEPHENS (14:53): I seek leave to make a brief explanation before asking the Minister for Gambling a question about proposed changes to pokie rules and their potential effect on sporting clubs in South Australia.

Leave granted.

The Hon. T.J. STEPHENS: In recent times there has been controversy in regard to the Gillard government accepting Independent MP Andrew Wilkie's desire to reform the pokies industry in Australia. The new minister would be aware that the notion of mandatory precommitment is particularly controversial and that sporting clubs and organisations, such as the South Australian National Football League, have recently registered their severe disapproval. These clubs and organisations fear the impact that reforms will have, and SANFL in particular has predicted job losses and indeed bankruptcy for some of its suburban clubs.

My question to the minister is: as the new gambling minister, does he support the Wilkie reforms, or does he support the idea of voluntary precommitment for each gambler, which will allow problem gamblers to limit their spending but not impact on industry and on recreational gamblers who do not have a gambling problem?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:54): I thank the Hon. Mr Stephens for his question and, as he has indicated, there has been a lot of discussion, at the commonwealth level in particular, regarding gaming machines.

There are those in the federal parliament—and of course one of them would be well known to us, our former colleague, now Senator Xenophon—who have a great interest in gaming machines and, in particular, are committed to minimising the harm they do, or putting in place measures they believe are required to minimise the harm that may occur to problem gamblers and their families.

As the honourable member indicated, precommitment is probably the biggest issue being considered or talked about. There are various methods or ways in which such a system could be introduced, but as I understand it the basic notion involved is that precommitment would mean that gamblers have to decide in advance of starting to play a gaming machine how much they are

prepared to lose, and potentially they would have only one card they would be able to use to do this, which they would use in any machine. It would be quite a different system to what is in place at the moment.

It is very important—and I am certainly committed as minister to ensuring—that problem gamblers are assisted and that whatever measures we can take to minimise the harm of problem gambling need to be considered. It is important that any measures we take are evidence based. We need to ensure that any decisions we make to introduce significant changes to the way gaming machines operate are based on evidence as to the change they will have in gambling behaviour.

That needs to be a balanced approach, because, while I do not see the attraction myself, gaming machines are something a lot of people in the community enjoy playing, and there is no doubt that there are employment and economic issues at stake in relation to the gaming machine industry. It is a complex issue that meets to be considered based on evidence and on the facts.

South Australia in particular is one of the few jurisdictions that exclusively continue to use coins. There is some suggestion that using coins is more effective than a card-based system, because it is real money and people cannot lose the money as quickly if they have a problem with gambling. That is the sort of thing that needs to be taken into account carefully and considered based on evidence and on what will be most effective.

I will seriously and thoughtfully consider what the commonwealth may propose. I understand there will be a ministerial council meeting bringing together the various relevant ministers, including those who oversee programs to assist problem gamblers. In some cases treasurers attend as well. I believe there will be a meeting of that ministerial council some time in February or March.

I will certainly carefully consider what the commonwealth has to put at that meeting, if indeed it puts a specific proposal, as to what it might mean for this state and in formulating the government's position. As I am sure members are aware, the commonwealth recently released an opinion from the Australian government solicitor indicating the heads of power under which the commonwealth parliament would have the power to legislate in relation to gaming machines in states.

It is definitely a live issue, and there are those within the federal government, the federal parliament in particular, who are very keen to progress some sort of change to the system that may involve precommitment or other significant changes to the system. South Australia will certainly carefully consider any proposition, taking into account those things I have mentioned—what will be the most effective, what is an evidence-based approach that will minimise the harm caused by problem gambling—and also be mindful of the employment and economic consequences of any change.

Ultimately we all want to see problem gambling minimised and that the harm done to families and people around a problem gambler—and we have all seen horrific examples of that—in such instances is minimised as much as possible.

GAMING MACHINES

The Hon. T.J. STEPHENS (14:59): I have a supplementary question. The minister touched on the federal states' rights issue. The federal government has sought an opinion that obviously suits them. Is the minister going to seek advice from our crown law as to the legitimacy of the advice that the federal people are waving around at us?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:00): Certainly I will consider all the information I need to in formulating or considering what position to put to cabinet in relation to South Australia's position. I did have a brief look when the Australian Government Solicitor's opinion was released when I was working out of the Attorney-General's office as parliamentary secretary. It was a matter of some interest to me. It obviously attracted a lot of media coverage, so I did have a quick look at the opinion, but I am not any sort of legal expert, so I imagine I would be seeking some sort of official advice from the Crown or the Solicitor-General as part of the information I will be considering.

AUSTRALIAN CONSUMER LAW

The Hon. CARMEL ZOLLO (15:00): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the new national consumer laws.

Leave granted.

The Hon. CARMEL ZOLLO: Last year, new national consumer laws were passed in South Australia. The Australian Consumer Law is the national law which applied in South Australia as of 1 January 2011. The ACL includes national product safety laws and sets out the responsibilities of commonwealth, state and territory governments and suppliers. The ACL aims to protect consumers from unsafe goods and unsafe product-related services. Will the minister tell the chamber how South Australian consumers are being informed of the new laws?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:01): I thank the honourable member for her important question. As I announced last week, South Australian shoppers are now protected by a new nation-wide consumer law designed to ensure that products are safe, contracts are fair and sales practices are sound. I am pleased to inform members that OCBA is undertaking radio and newspaper advertising here in South Australia as part of a broader program designed to educate and inform consumers. After all, a consumer who knows about their rights and is informed about those rights is much more likely to assert them and, of course, what this is all about is making sure that consumers do get a fair deal and that safe practices are ensured.

OCBA is working to teach both consumers and traders about the new protections that are now in place and also making them aware of the very tough new penalties for breaches of the law. As members may know, we now have a wide range of important new consumer protections in areas such as product safety, refunds and replacements, lay-bys, telemarketing and door-to-door sales through to unfair sales practices and unfair terms of contracts for a diverse range of products and services.

It is important to note that, should traders not abide by the new Australian Consumer Law, maximum penalties for breaches are up to $220,000 for individuals and $1.1 million for corporations. I would ask that all members help to ensure that South Australians are aware of the new laws. There are many ways to find this new information. That includes checking the information videos being made available on the OCBA website and visiting the new national Australian Consumer Law website for guidance on each of the major parts of the law. It is in plain language and there is also a subscriber service so that people can receive updates in an ongoing way. Consumers, of course, can also phone the government's consumer affairs office if they have questions or want to discuss a particular matter.

Consumers, of course, are not the only people who need to be aware of the new laws. It is important that traders are aware of their responsibilities. I am advised that OCBA has been working with South Australian traders since last year to raise awareness of key aspects of the new law and will continue to work with them to achieve maximum compliance. I hope that we can achieve a high level of awareness of the new consumer laws and the full cooperation of all traders in ensuring that they observe those new provisions.

DOMESTIC VIOLENCE

The Hon. T.A. FRANKS (15:05): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about domestic violence and the protection of pets.

Leave granted.

The Hon. T.A. FRANKS: By way of background, in 2006, the minister would be aware that under the auspices of the Office for Women in this state, and through the Women's Information Service, there was a phone survey conducted which found that 61 per cent of respondents who had experienced significant levels of domestic violence had delayed leaving that situation of domestic violence because of concerns for the care of pets.

Quite rightly, the government then made it clear that it was its intention to seek funding to ensure that there was some sort of protected pets program in South Australia. This protected pets program would ensure the care of animals on a long-term basis for those who found themselves in a situation where they had to leave a residence because of a domestic violence situation and were putting off doing so because they did not have anywhere to place their cat, their dog, their budgie or whatever.

We know, increasingly, that domestic violence and cruelty to animals have quite a strong link. There are other issues there of where pets are threatened and, horrifically, we have seen

some cases recently before the courts where pets have been inhumanely killed, and I am very pleased to see that those cases have been prosecuted and people have been called to account for those actions.

Could the minister please inform the chamber why, when in Queensland there is a protected pets program and in New South Wales in the last financial year we have seen the awarding to the RSPCA of $50,000 for a similar protected pets program, we do not have any ongoing facilities for people who are leaving domestic violence situations in South Australia to have a place to shelter their pets that is not ad hoc and not short term?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:07): I thank the honourable member for her most important question. It poses and incorporates a range of very interesting and quite serious issues that are quite complex. Indeed, domestic violence is a very complex offence, and there are strong links with domestic violence abuse, or the abusers, and things such as alcohol abuse, other substance abuse and also other acts of cruelty to pets, for instance, which have been fairly well established.

In terms of the issue of a protected pets program, here in South Australia one of the ways that we hope to deal with that issue is with our new domestic violence legislation, which is very much focused on being able to secure women and children in the family home and remove the perpetrator. We believe that legislation will take a lot of pressure off the problem of displaced pets when women have been abused and are forced, as is the current arrangement, to be removed from the family home and find a safe house somewhere.

A great deal of work has been done to reform that, and we have some excellent new legislation that is being developed operationally which should be rolled out reasonably soon. We believe that will address a number of those instances, but I am certainly happy to revisit that at a later date if there continue to be significant problems in that area.

In terms of the welfare protections, in my former role as minister for the environment, which included responsibility for welfare, I was responsible for reforming welfare legislation at the time which enabled those sorts of prosecutions to take place and for severe penalties, including imprisonment, to occur when extremely cruel acts were perpetrated against animals. So, I helped to contribute to a great deal of reforms at that time. I believe that matter should be reasonably well addressed with the current provisions. I am happy to monitor that and, as I said, if it is not satisfactory, I am prepared to have a look at that again at a later date.

APY LANDS

The Hon. J.M. GAZZOLA (15:11): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about the APY lands.

Leave granted.

The Hon. J.M. GAZZOLA: On 18 November 2009, the minister spoke about the development and distribution of a new educational resource called *Talk About Shopping*, which is available in English, Pitjantjatjara and Yankunytjatjara. The purpose of this resource is to provide information regarding consumer rights to achieve fair outcomes in the marketplace. I understand that this information is being distributed through a number of channels, including Service SA. Minister, will you outline to the council progress to date on the delivery of government services in the APY lands?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:11): On 29 November last year, Service SA commenced the delivery of additional services to the APY communities at Amata and Mimili. In 2008, the Council of Australian Governments (COAG) committed to six Closing the Gap targets to address Indigenous disadvantage across urban, rural and remote areas throughout Australia. As a result of that commitment, the commonwealth and state governments have been working together with the Amata and Mimili communities to raise the standard and range of services delivered to families, to be broadly consistent with those provided to other Australian communities of similar size, location and need.

Service SA spent several months, prior to the service commencing, working with PY Media, which is the delivery agent, training and preparing staff in the PY Ku centres to provide transactions, including driver's licences, motor vehicle registration and firearm licence renewals,

fines payments, birth, death and marriage certificates and general information. Service SA also assisted APY communities by installing telephones and EFTPOS machines and signage to enable the delivery of these services.

A new free call system, which includes a 1800 number and free access to phones at the Service SA centre, has also been established, which enables Anangu to obtain advice on state government services. People using this service are connected directly to the Port Augusta Service SA customer service centre, where dedicated staff are on hand to process requests. In addition to Service SA, other agencies provide a number of activities and projects on the APY lands.

The honourable member outlined in his question the release of a brochure by the Office of Consumer and Business Affairs and audio CD called *Talk About Shopping*, which deals with the issues of consumer and financial literacy for communities on the APY lands. The distribution of this information is undertaken by officers of Service SA, as well as the Department for Families and Communities and various service providers that regularly visit the lands.

The book and CD, *Talk About Shopping,* discuss consumer issues that face people on the lands in English, Pitjantjatjara and Yankunytjatjara, in a straightforward and very easy to understand manner. Ensuring convenient and accessible channels to distribute government information and services is of the utmost importance, and Service SA will continue to look at opportunities for further promotion of information and methods of delivery of services to other parts of the APY lands.

FLOOD MANAGEMENT

The Hon. J.S. LEE (15:14): I seek leave to make a brief explanation before asking the new Minister for Regional Development a question about flood-affected areas in the northern regions.

Leave granted.

The Hon. J.S. LEE: Regional communities and homesteads in South Australia's northern regions are cut off by floodwaters. The transport department's acting regional manager, Geoff Dodd, stated on 7 February that 'it could be weeks before some roads in the outback reopen after widespread flooding in the north of the state'. He added, 'Many cattle stations, including the Anna Creek station, are accessible only by helicopter, leaving workers stranded.'

On ABC radio, the President of the Local Government Association, Ms Felicity-ann Lewis, said that 'these floods have been overlooked due to the magnitude of the Queensland floods, and that's a serious concern to us as far as getting access to federal money' to rebuild northern infrastructure. My questions are:

1. As the new Minister for Regional Development, will the minister advise what plans the government has to rebuild road infrastructure for the northern regions?

2. *The Advertiser* reported on 5 February that Senator Penny Wong announced almost $1 billion in cuts to infrastructure for South Australia. How will the state government secure funding to rebuild regional roads affected by the northern floods?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:16): I thank the honourable member for her important question. Indeed, flooding is a very serious issue for many Australians at the moment and has consumed our attention and concerns for a number of weeks. South Australia has not escaped that, although we have been very fortunate, particularly when compared with many in Queensland and some in Victoria. Our floods have not been anywhere near as severe; nevertheless, there has been flooding in a number of areas, and our infrastructure, in particular, and a number of homes and properties have suffered damage from those floods.

Flood management does not come under the purview of regional development; in fact, a great deal of the responsibility rests with local government through the disaster funding arrangements it has. Councils are responsible for management plans at a local level, and they are required to put certain plans in place at that level. There is also a disaster fund with considerable funding available to it that communities are able to access, and they are doing so. Some of that has been announced recently.

The other area responsible for this comes under minister Conlon as Minister for Infrastructure. So in terms of damage to government roads and other infrastructure, he is the minister responsible. I am happy to pass those questions on to the relevant ministers and bring back a response.

LEVY, HON. J.A.W.

The Hon. P. HOLLOWAY (15:19): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Hon. Anne Levy and her recent Australia Day award.

Leave granted..

The Hon. P. HOLLOWAY: The Hon. Anne Levy, former president of the Legislative Council—the first woman, I believe, to hold that office—and also minister for local government and a colleague of mine, received an Officer of the Order of Australia award in the recent Australia Day honours. Will the Minister for the Status of Women inform the house about the recent Australia Day honours conferred on the Hon. Anne Levy, the former president of the Legislative Council?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:20): I thank the honourable member for his most important question. Indeed, on Australia Day this year, Anne Levy, a woman who has made an enormous contribution to South Australia in many areas, but particularly in the area of women, was appointed an Officer of the Order of Australia.

This recognition is a fitting honour for a woman who has been a passionate pioneer of social reform in this state, and it is a considerable privilege for me, as ministerial successor to Anne's very impressive legacy, to be able to speak today of her accomplishments. She is also a very good colleague of mine.

As a young woman, Anne had a very promising science career in the field of genetics at the University of Adelaide, in what was—and still is for that matter—a very male-dominated academic world in the 1960s and 1970s. She made a name for herself as a very bright and spirited scientist, and this groundbreaking spirit was obviously a precursor of things to come in her parliamentary career. Her election to the Legislative Council in 1975 was the start of a parliamentary career that saw so many firsts, particularly for women—and I mentioned one of them yesterday in one of my answers to questions about how well the Labor government is doing in its representation of women.

In 1986, she became the president of the Legislative Council, the first woman to be a presiding officer—

Members interjecting:

The Hon. G.E. GAGO: I will repeat that: the first woman to become a presiding officer of a house of parliament in Australia. She was a very good president, too, I understand. Obviously I was not a member of the house at that time, but all my colleagues who were members at that time, from all sides of the fence, have remarked on what a very impressive presiding member she was and how well she administered her responsibilities.

She also played a key role in the implementation of the Equal Opportunity Act in 1983 and in the early 1990s was Australia's first ever minister for the status of women. There was certainly nothing one-dimensional about Anne's stellar parliamentary career. She also oversaw the portfolio of the arts, which was a particular passion of hers and, I have to say, still is. You can still find Anne at many arts events. She is a very keen patron of the arts and is very supportive, particularly of new and emerging artists. She also oversaw the portfolios of consumer affairs—again a legacy that I have been able to enjoy and still enjoy—local government and state supply in the Bannon and Arnold governments.

By the time Anne retired in 1997, she had amassed an inspiring record as someone willing to tackle the hard issues. She was never afraid to take on the hard issues. She worked in the fields of decriminalisation of prostitution, voluntary euthanasia, family planning and abortion law reform, to mention some of the really hard policy areas that she was prepared to take on.

Outside of parliament, Anne has been an energetic and articulate participant in a vast range of organisations, many of which share her ideals. She has been a founding member of the Family Planning Association, patron of the Supporting Mothers Association SA, founding life

member of the National Foundation of Australian Women, an honorary life member of the Women's Electoral Lobby and founding member of Emily's List Australia. Ann Levy was also a member of the Council of the University of Adelaide 1975-76 and a patron of the Humanist Society and was 1986 Australian Humanist of the Year.

I have spoken of her long list of achievements in public life, which is, obviously, a very impressive record. A great honour has been bestowed on Anne, and she is a very worthy and deserving recipient of that award.

ANSWERS TO QUESTIONS

WATER FLUORIDATION

In reply to the **Hon. A. BRESSINGTON** (9 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Water has been advised that:

1. SA Water has not ceased sourcing fluorosilicic acid from Incitec Pivot. SA Water sources fluorosilicic acid, which is the liquid form of fluoride, from Incitec Pivot for plants such as the Morgan water treatment plant and the Happy Valley water treatment plant. The powder form of fluoride, sodium fluoride, which is used at locations such as the Mount Pleasant water treatment plant and Mount Gambier, is sourced from Orica.

2. SA Water does not have a comparative price of locally produced and internationally sourced fluorosilicic acid. All fluorosilicic acid purchased by SA Water is sourced locally through Incitec Pivot.

3. There are no concerns about the sodium fluoride provided by Shanghai MintChem Development Company as the product is required to conform to Standards AWWA B701—Sodium Fluoride and NSF/ANSI 60—Drinking Water Treatment Chemicals—Health Effects.

4. SA Water is presently contracted to Incitec Pivot for the supply of fluorosilicic acid and Orica for the supply of sodium fluoride. The requirement to supply Certificates of Analysis presently form part of the contractual requirements and will continue to do so for future contracts. Certificates of Analysis are supplied for each batch produced.

DESALINATION PLANT

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (9 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Water has been advised that:

1. The Adelaide Desalination Project (ADP) has been designed with a range of treatment barriers and controls to ensure the plant will produce safe drinking water.

Monitoring of water quality adjacent to the ADP intake has been undertaken as part of investigations for the plant. This monitoring has shown that E.coli is rarely detected, and on the rare occasion it is detected, the concentrations are very low.

To further ensure the plant produces safe drinking water, the ADP has many barriers to remove potentially harmful pathogens, including an ultra-filtration (membrane-based) pre-filtration system followed by 2 stages of reverse osmosis membranes. In addition, the ADP also incorporates 2 separate stages of chlorine disinfection. This is followed by further chlorine disinfection, after blending, at the Happy Valley Water Treatment Plant.

The risk of E.coli or other pathogens entering the drinking water system via the ADP is extremely low.

SA Health has assessed the ADP in accordance with the Framework for Drinking Water Quality Management which forms part of the Australian Drinking Water Guidelines and accepts that the microbiological quality of seawater at and around Port Stanvac is significantly better than that generally from natural watercourses.

SA Health has advised that it is comfortable with the arrangements and controls in place to ensure the ADP will produce safe drinking water for metropolitan Adelaide.

2. The Government is not considering moving either the ADP intake or the Christies Beach Waste Water Treatment Plant outfall.

DESALINATION PLANT

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (10 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Water has been advised that:

1. Water quality reports were prepared as part of the Environmental Impact Statement (EIS) for the Adelaide Desalination Project. These reports were publically released as part of the Major Development assessment process.

2. The Adelaide Desalination Project will have significant barriers and controls in place to manage any risk of faecal contamination. The State Government supports Australian Drinking Water Quality guidelines.

DESALINATION PLANT

In reply to the **Hon. M. PARNELL** (10 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Water has been advised that:

1 & 2. The desalination plant will provide security for Adelaide's drinking water supply in times of low inflows or water quality problems, and enable greater operational flexibility by providing an additional source from which to draw water. In order to meet Adelaide's increasing drinking water demand from growth, SA Water will continue to utilise its metropolitan water licence from the River Murray to supplement local reservoir supplies and will operate the desalination plant over a range of flow rates depending on seasonal conditions and operational requirements. The desalination plant will reduce the need to increase extractions from the River Murray in dry years, so reducing Adelaide's reliance on the River Murray and manage the river in a sustainable way.

3. The position that has been negotiated with the Commonwealth is consistent with the Water for Good Plan. Water for Good ensures there will be enough water in South Australia. Most importantly, it will enable us to diversify our supplies to reduce our reliance on the River Murray and other rain-dependant water sources. Desalination is one of the key elements of the South Australian Government's strategy to address water security.

4. The Commonwealth Government has committed to providing $228 million to increase the capacity of the desalination plant from 50 gigalitres to 100 gigalitres. The finalisation of the funding agreement with the Commonwealth was delayed by the federal election. The Minister for Water has had several conversations the Federal Water Minister, the Hon Tony Burke MP, regarding this. As soon as the funding agreement is finalised this information will become publicly available.

WATER FLUORIDATION

In reply to the **Hon. A. BRESSINGTON** (11 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Water has been advised that:

1. The National Health and Medical Research Council (NHMRC) endorsed the use of sodium fluoride for use as a drinking water treatment chemical in 1983 at the present levels designated.

The use of sodium fluoride for fluoridation is contained in the Australian Drinking Water Quality Guidelines, 2004 (NHMRC).

Fluoridation is administered by SA Water on behalf of the South Australian Department of Health. Fluoridation forms part of the State Government's Oral Health Policy.

MATTERS OF INTEREST

TOUR DOWN UNDER

The Hon. R.P. WORTLEY (15:25): I rise today to celebrate the truly South Australian event that was this year's Santos Tour Down Under. As we all know, South Australians enjoy an enviable lifestyle, free from the infrastructure, transport and other issues that presently make life more difficult in some other states. Our climate and our amenity are superb, our capital city very liveable and our regional areas highly varied. It is these attributes that provide us with so many opportunities for participation in our state's internationally recognised array of festivals, sporting and other public events.

Just recently, from 16-23 January, the city enjoyed the best Santos Tour Down Under yet. This event has taken off amazingly. It was on the 10th anniversary of the tour in 2008 that we joined the UCI Pro Tour Circuit, attracting more than half a million spectators and creating economic benefits in excess of $17 million. In 2009, the tour attracted 760,000 attendees, including more than 36,000 event specific visitors. The Mutual Community Challenge Tour attracted more than 7,000 participants.

Overall, the 2009 event generated a staggering $39 million for the South Australian economy. This was, of course, the year that cycling superstar, Lance Armstrong, came back, right here in Adelaide, which was a real coup for our state and, indeed, for Australia. Last year was even bigger. Economic impact and research studies indicate that there were 770,500 spectators, including nearly 40,000 event specific visitors from interstate and overseas and that the positive economic impact of the tour and related activities was $41.5 million.

It is a bit of a shame that all the opposition can worry about is how much it costs to get Lance to the state. Meanwhile, the Mutual Community Challenge Tour attracted a record 8,099 participants. Subsequently, the 2010 tour was named Australia's best tourism event at the inaugural Australian Events Awards in Sydney. And this year, 16-23 January saw the biggest cycling race in the southern hemisphere take place in fine style.

Now a premium tourist event in South Australia, the tour welcomed back numerous past visitors as well as new fans to watch the world's best riders compete both in the city and through our beautiful regional areas, including world-beaters like Lance, Tyler Farrer, Francesco Chicchi, sprint rivals Andre Greipel and Mark Cavendish and Australia's own Cameron Meyer and Michael Matthews, among six young fellow countrymen finishing in the top 20 in general classification.

The event had a special significance because the founder and chairman of the Lance Armstrong Foundation, champion cyclist and cancer survivor, made this year's Adelaide Tour his international farewell to professional cycling. The Lance Armstrong Foundation aims to give 28 million people with cancer around the world the resources and the support they need to fight cancer head on.

It was at the Royal Adelaide Hospital that the Lance Armstrong Foundation launched its Livestrong Global Cancer Campaign in 2009. Livestrong funds research, raises awareness and aims to end the stigma that can surround cancer. Lance said:

> I will never forget the reception we received in Adelaide when we kicked off the Livestrong campaign.

Awareness of cancer research has received a real boost from our Tour Down Under. This year's Mutual Community challenge tour encouraged participants, whether they embarked on the 35-kilometre ride from Macclesfield to Strathalbyn or the full 135 kilometres from Norwood to Ride for a Reason, to dedicate their ride for a cancer sufferer and raise funds for the Cancer Council in his or her honour. The Livestrong foundation's work will go on, despite the retirement of its founder from the international pro-cycling scene. The Tour Down Under will go from strength to strength.

Preliminary estimates indicate that this year's event will prove to have been even more successful than the previous years, both locally and internationally. The associated coverage of our city and regions in the European, Middle Eastern, Asian and North American media is invaluable. South Australia truly looks outward to the world, and the Tour Down Under is a prime example. Some may call our state the small cousin, but clearly we are punching well above our weight, and in my view that is worth celebrating.

GAWLER RACECOURSE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:31): I have a sad story to tell today, a tale of deceit, deception and betrayal. The setting of the story is right here in this chamber

and the date is 15 October 2009. It was on that day that the then minister for urban development (Hon. Paul Holloway) was asked a very direct and unequivocal question, as follows:

> Has the minister been lobbied in relation to the future of the Gawler racecourse by former Senator Nick Bolkus?

The answer was, to quote from *Hansard*:

> No, the Hon. Mr Bolkus has not lobbied me in relation to that matter.

The minister went on:

> People have already suggested that somehow there has been involvement of Mr Bolkus, and so on. Since this development plan came up I certainly have not spoken to Mr Bolkus at all in relation to this matter...during the period this matter has been proposed.

The opposition can now reveal that, on 2 September 2008—12 months prior to Mr Holloway saying no—Mr Holloway's office was considering an email sent by Mr Bolkus. The email said that Thoroughbred Racing wanted to meet Mr Holloway in relation to the Gawler racecourse. Of course Mr Bolkus is a lobbyist for TRSA. We have now learnt that that meeting happened on 3 September 2008.

How do we know about the email? Well, while most people were doing their Christmas shopping in December, down at the Supreme Court on 8 December Justice Kevin Duggan was presiding over a case involving the Gawler racecourse. We found the email reference in evidence before court. Two other documents show that the ministerial office was considering the matter on 2 September, and on the bottom right-hand corner is a note saying 'Gawler racecourse $6 million'. The minister's Outlook diary shows that in September a third meeting has also now come to light.

Supreme Court transcripts show the Wednesday meeting or meetings involved Mr Bolkus, described in evidence as 'a TRSA lobbyist' and Stephen Holmes, a director of the development advisory company Connor Holmes on behalf of TRSA. Yet, on 15 October 2009, Mr Holloway unequivocally denied in parliament that he had been lobbied over the controversial racecourse development by Nick Bolkus, who was a well-known lobbyist and an important part of the ALP fundraising machine. Let me read the question again:

> Has the minister been lobbied in relation to the future of the Gawler racecourse by former Senator Nick Bolkus?

I will reread the answer:

> No, the Hon. Mr Bolkus has not lobbied me in relation to that matter.

The state opposition has found more evidence that contradicts what the minister told this parliament. Mr Holloway told this council and, through this chamber, the people of South Australia that he could not remember who worked on preparing the ministerial development plan amendment to rezone the Gawler racecourse for a major shopping and commercial centre. He claimed in parliament he could not recall which consultant did the work, but we have learnt the truth. He had already met with Connor Holmes and corresponded with them and accepted their offer to do the work.

On 25 September 2008, Mr Holloway wrote and signed a letter to Stephen Holmes of Connor Holmes acknowledging that the TRSA had offered to fund and undertake investigations for the preparation of the ministerial DPA. Documents obtained by the opposition through the Supreme Court now prove that Connor Holmes did the work and the firm was paid by Thoroughbred Racing SA, which is the same entity that wanted the rezoning.

I simply cannot believe that a senior minister (as Mr Holloway was then) cannot remember meetings, letters and being lobbied. There are millions of public dollars at stake in this project, which will disastrously impact on Gawler's main street traders. The Gawler council, naturally, is opposed to such a crazy scheme. The traffic problems will be enormous and are still unresolved, and valuable open space, which could be used to expand the Gawler High School, will be sold.

Labor ministers have hidden behind the alibi that they forget the details. However, they should not forget their responsibility to this parliament and they should not mislead this chamber, and I believe the evidence is clear that Mr Holloway has done just that. There is a third point. Labor ministers must not forget their responsibility to the electorate: they have and we have found them out. Sadly, this evidence calls into question every answer the Hon. Paul Holloway gave as leader of the government in the upper house for the last nine years.

FOOD PRODUCTION

The Hon. I.K. HUNTER (15:35): Previously in this place I have spoken about consumers' rights and particularly their rights in relation to the food industry, product labelling and their right to know how their food is produced. I have spoken about how consumer demand will drive the market to respond to the desire for cruelty-free products.

Today, I am pleased to congratulate Coles Supermarkets on a series of recent announcements regarding food production reforms. Coles Supermarkets is owned by Wesfarmers Ltd boasting over 11 million customer transactions a week and employing more than 100,000 Australians. In recent years, Coles has recognised and acted on the growing concerns of their customers regarding the way our food is being produced. Customers have become more aware of animal welfare issues within the egg and pork industries, sustainability concerns regarding palm oil production and the use of added hormones and chemicals in our meat.

In response to animal welfare concerns regarding caged hens, Coles has now committed to phasing out Coles brand caged eggs by 2013. Coles has also reduced the shelf price of free-range eggs by up to 18 per cent in a bid to encourage customers to move away from caged eggs. This price reduction was initiated as a result of customer feedback indicating that 95 per cent of customers would switch to free-range eggs if the price were lower.

I note that, in August 2009, Woolworths announced that it was reducing the number of caged egg brands it sold to 11, cutting out one of its own lucrative home brand lines in the process and, while I celebrated this announcement in a similar speech given in this place on 14 October 2009, I now fear that Woolworths is at risk of being dramatically eclipsed by its major competitor in the area of ethical food retailing.

Last year, Coles worked closely with the RSPCA to establish its new pork welfare model, and the retailer has announced that it is working with Australian and international pork producers to phase out sow stalls by 2014. In addition, Coles' finest free-range brand pork is born and raised on RSPCA-approved farms where pigs are kept according to the RSPCA's welfare standards, which go way beyond those recommended by the model code of practice for the welfare of animals.

The pigs have space to explore and socialise in large straw-filled shelters and sows have freedom to wallow, build a nest and look after their piglets naturally. In another significant reform, Coles is the first major food retailer in Australia to refuse beef from farmers who use oestrogen boosters to speed muscle development in their cattle. Coles claims that researchers found hormone-free beef to be more tender and of higher quality than the beef injected with oestrogen.

Coles has also taken steps to address issues surrounding the production of palm oil. Palm oil is a key ingredient in many food products as well as a wide range of products such as soaps, detergents and biofuels. More than 80 per cent of the world's palm oil comes from Indonesia and Malaysia, where deforesting practices seriously threaten the orangutan population as well as other species. Coles has pledged to remove palm oil from its Coles brand products wherever possible and, for those products where there is not a suitable alternative, Coles has committed to using only certified sustainable palm oil in all Coles brand products in 2015.

Over the past five years, customer demand for free-range, organic, ethically-produced and sustainable produce has increased significantly and will increase further. Customers are using their purchasing power to send a clear message to food retailers and food producers, and it is just good business sense to cater to that growing demand. Those farmers and food businesses who do not respond to this consumer demand will find that they become less and less profitable. Smart food producers and businesses who do will reap the rewards. I congratulate Coles on its leadership in this area and for its approach to ethical and sustainable food production.

SPORTS PARTICIPATION

The Hon. T.J. STEPHENS (15:39): Recent statistics released by the Australian Bureau of Statistics reveal that South Australia has the worst rate of participation in sport in the country. Publications show that involvement in sport and recreation in South Australia has decreased from 66 per cent in 2005-06 to 62 per cent in 2009-10. This is disappointing news given that, under the Rann government's strategic plan, one of the government targets is to increase participation so that it exceeds the national average by 2014. This recent figure is almost 2 per cent lower than the national average. Whilst not sounding like much, it is equivalent to just under 25,000 participants. Unfortunately, it seems that the government is a long way from reaching its target in three years' time.

At the top end of the chain, you have states such as Western Australia and Victoria with participation rates of 65 per cent. Getting to the top of the list should be our goal. It should be noted that the territories have significantly higher participation rates than the states. The ACT and the NT having rates of 78 per cent and 71 per cent respectively. All states should aim to reach these levels. It is a great shame that we lag behind the pack in this area, just as we do in many other areas under this government, a government which currently seems distracted and focused on the spoils of government instead of key issues facing our state.

The state Liberals have long been calling for new and improved facilities and better funding for grassroots sport to help lift participation rates. Fresh, new facilities can encourage and inspire participation in sport. A Liberal government will work with local government to maintain lighting at ovals, courts and other sporting grounds where required. While providing for the safety of children and others participating and spectating, it gives those involved in community sport the opportunity to play matches under lights, sometimes only available to those playing professionally. A local football match under lights on a Friday or Saturday night has the added effect of encouraging fans to engage in what is generally a rare event at a community oval.

The Liberals will also address what I like to call 'barriers to participation', which include motivation, accessibility, affordability and time limitations. Lack of motivation to participate in sport can be entrenched by constant inactivity. Put simply, the less we do, the less we want to do. This cycle of inactivity can be a chief factor in weight gain, which is reaching concerning levels in our society. One in five Australians (children and adults) are obese. A future Liberal government will aim to break the cycle of inactivity by encouraging inactive people to engage in low impact activities, such as lawn bowls, to get the ball rolling, so to speak, in terms of their fitness and health.

The Hon. R.L. Brokenshire: What about croquet?

The Hon. T.J. STEPHENS: That's something that you would play, Brokey, I suspect. In many cases it is the first step which is the hardest, but after it is taken it is surprising how easy the next steps come. Accessibility is a problem for many people who are keen to get involved in local sport. Many competitions include teams from right across the metropolitan area which can lead to significant travel times in some cases. Affordability of participating in sport can be a big problem to members of society, particularly to parents. Not only is it registration fees and player subs but also the cost of equipment which can easily be too much for the family budget.

With two children who have played sport at school and clubs over many years, I empathise with families on this issue. It is understandable as to why sport becomes the first thing to drop off the list when money is tight. We need to make it easier for people and parents to participate in sport regardless of their economic situation. The Rann government should be lobbying the federal government for assistance to ease the burden of these costs, possibly through a rebate system. After all, as we have flagged in the past, the impacts of youth participation in sport are immeasurable. There must be a focus on working with local government to help ease costs. A lot of the time, councils have a direct role in sporting clubs and facilities and can play a part in reducing these expenses.

Finally, finding the time to engage in sport and recreational activities can be difficult. Not only does work or school take up most of a person's day and week but many people are often too tired to get involved outside of this. The state Liberals want to see more active workplaces and ensure that schools remain active through certain programs. In schools we want to make sure that sufficient time is being allocated outside of recess and lunch for physical activity, guarantee that there are enough physical education professionals in schools and ensure that schools have adequate resources and equipment to put this into action.

At workplaces, we want to see more activity during work hours through programs which get people out of their chairs and away from their desks (obviously not to the detriment of productivity). Programs such as the Corporate Cup, encouraging people to walk or cycle to work, to use the stairs instead of the lift, even the small things can have an impact. For too long this government has focused on its Adelaide Oval vision, which will not do anything for grassroots sport. As I have mentioned, the Rann government has a long way to go to reach its participation target and the new Minister for Recreation, Sport and Racing has some very difficult times ahead.

PUBLIC HEALTH FORUM

The Hon. A. BRESSINGTON (15:44): I thought I would use this opportunity today to re-invite members and the *Hansard* reading public to the public health forum being held next Monday

in the Balcony Room at 10am, at which Dr Paul Connett will be speaking about the known scientific harms of fluoride. A graduate of Cambridge University and holding a PhD in chemistry from Dartmouth College, Dr Connett, prior to retirement, taught at the St Lawrence University.

Since retirement, Dr Connett has turned his attention to the research literature on fluoride and quickly came to form the view that the evidence supposedly supporting the efficacy and safety of water fluoridation is deficient, if not flawed. In that time, Dr Connett established the Fluoride Action Network (a non-profit organisation dedicated to educating the public on fluoride), of which he is the Director, and its associated website fluoridealert.org, a leading source of science-based evidence of the harms of fluoride. He has given presentations at conferences around the world, met with governments and members of parliament and has made submissions and given evidence to committee hearings.

Dr Connett's submission to the recent Environmental Protection Agency's Inquiry into National Primary Drinking Water Regulation for Fluoride which, as members will recall from my question today, recommended lowering the level of fluoride added to United States' water supplies to 0.7 parts per million, is available on his website, along with many others.

Dr Connett has also recently launched a book he co-authored, entitled *The Case Against Fluoride: How hazardous waste ended up in our drinking water and the bad science and powerful politics that keeps it there*. I would encourage all members to read that book. Dr Connett is by far one of the most respected voices on the science of water fluoridation, and his presentation next Monday will, no doubt, be crucial to everyone's understanding of the fluoride debate.

I am pleased that several members of parliament have already registered their attendance. Unfortunately, neither the Minister for Health, John Hill MP nor any of his advisers are amongst those who have responded. This will obviously be an opportunity for any members in this place to put questions to Dr Connett in relation to the concerns or doubts they have and get a scientific response, and I think it is an opportunity everybody should take advantage of.

CHINESE NEW YEAR

The Hon. J.S. LEE (15:47): I rise today to speak about the Chinese New Year celebrations in Adelaide. Chinese New Year is the longest and most important festival in the Chinese lunar calendar among Chinese families and communities.

There are 12 animal signs associated with the Chinese New year. This year, we welcome the Year of the Rabbit, and today marks the 7th day of the Year of the Rabbit. Around this time of the year, some people have the tendency to call their friends interesting names, according to their Chinese horoscope. I suspect, 'Hello, Tiger' or 'Dragon' will be welcomed, but calling your mates pig, rat or snake should probably be avoided.

Now, let me get back on track with my speech. Due to a vibrant Chinese community living in South Australia, we continue to enjoy many wonderful Chinese New year events, over 15 days, around this time of the year. We are incredibly fortunate to be living in a multicultural society in South Australia, where we share and embrace different cultures and traditions. I believe traditions are an important part of family and community life. How wonderful it is to see the Chinese New Year traditions well integrated and celebrated in South Australia.

I express my appreciation and pay tribute to a number of Chinese community organisations for keeping Chinese cultures and traditions alive to enrich the wonderful diversity of our state. First, I congratulate the Chinatown Association of South Australia for organising its eighth successful Lunar New Year Multicultural Street Party on Saturday 5 February.

The free family and community event in Chinatown was well organised, colourfully decorated by red lanterns, with community leaders wearing auspicious traditional Chinese costumes. Thousands of people turned up in Chinatown, including members of parliament from the government and opposition. People were most excited about the sound of firecrackers and watching the two golden and red Chinese lions dancing happily around Chinatown.

Today, I also congratulate another organisation, namely the Overseas Chinese Association, for hosting a Chinese New Year celebration dinner at T-Chow on Sunday night. The Overseas Chinese Association is one of the largest Chinese membership organisations, which has served the South Australian community well for over 30 years. The organisation provides many support services for Chinese migrants, students and senior citizens. It was great to see the Leader of the Opposition and many honourable members from this house, including the Hon. David

Ridgway, the Hon. Stephen Wade, the Hon. Terry Stephens and the Hon. John Dawkins, who attended the function with me. I thank them for their wonderful support to the Chinese community.

I am aware that there are many other organisations who are still to hold their Chinese New Year events this year. For example, the Australian-Chinese Medical Association, the Malaysian Club of South Australia, and the combined effort of the whole Chinese community for the 'Chinese Cultures Festival of Spring' performance at the Adelaide Festival Centre, to be held on Monday 14 February. I thank all of them for their commitment and wonderful contributions to serve South Australia.

So, in conclusion, what does the Year of the Rabbit mean to us? According to Chinese astrology, the Rabbit brings a year in which you can catch your breath—and don't we need all that—and calm your nerves. It is a time for collaboration and negotiation. One should never try to force issues, because if you do, you will ultimately fail. To gain the greatest benefits from this time, focus on home, family, security, diplomacy, and relationships with women and children.

So, with those words of wisdom, I would like to wish honourable members and everyone here a happy Chinese New Year. May you enjoy good health and prosperity and let us all make the best of 2011.

Honourable members: Hear, hear!

The ACTING PRESIDENT (Hon. R.P. Wortley): While on the subject of rabbits, the Hon. Mr Brokenshire.

DAYLIGHT SAVING

The Hon. R.L. BROKENSHIRE (15:51): Sir, I believe that you just inferred that you are a rabbit, acting as a president. Is that what you were saying, sir? What I want to speak on today is a serious matter and it is to do with daylight saving. Whilst I acknowledge and accept that a lot of people, particularly in Adelaide, really enjoy daylight saving, the fact is that daylight saving affects both city and country people.

I acknowledge at the outset that both the Liberal and Labor parties support the concept of daylight saving, so as an Independent crossbench party, we do not have any influence on the fact that daylight saving is here for the foreseeable future at least. The point I raise in the house today (which I think a lot of my Liberal colleagues at least in this house would agree with) is that the extension of daylight saving is a real burden on country people. If you have a look at the—

The Hon. J.S.L. Dawkins: It used to be four months, not six.

The Hon. R.L. BROKENSHIRE: That's right. As the Hon. John Dawkins said, it used to be four months, not six, and I think this is where it has really got out of kilter. On the West Coast in particular, Family First is especially concerned about children travelling to school, considering the time they have to get up in the morning and their coming home from school in the afternoon when it is incredibly hot, and the fact that they do not have air-conditioned buses in a lot of school buses yet.

The extension of daylight saving not only affects the children who are so important but it has quite an impact on farming generally. If you take this year as an example, with harvest, a lot of the time farmers could not begin harvesting until 1 or 2 o'clock in the afternoon. If you have a breakdown, most of the service providers have knocked off at 5:30. Farmers then have to pay a call-out fee, or, in fact, are not able to get assistance until the next day. Obviously, at 5:30, we are just starting to reach the hottest part of the day which is when machinery is working at full capacity.

At the moment, it is virtually six o'clock in the morning—and it is only 9 February—before we see sunrise, and by the time this extended daylight saving finishes, it is nearly quarter to seven before you get proper daylight. That is an incredible burden on farmers and country people who have distances to travel, but particularly for those who are involved in intensive animal husbandry. The fact is that they are having to work in the dark, so to speak, until nearly quarter to seven in the morning. I just think that this has been done without enough consideration for all South Australians.

I acknowledge the fact that, for some people who can afford both the time off and the money to go to the Fringe and other festivals, it is good that daylight saving is extended, but I am disappointed to see that the government has not even debated the impost that it has on country people. There are a lot of community organisations that have made representation of their concerns not only to our party but also, I am sure, to other colleagues in this council and in another place, yet they do not seem to be listened to.

I cannot see the wisdom of continuing with these extended daylight saving hours. I believe that four months of daylight saving is a fair and reasonable compromise, and I will continue to call for the government—and, as we head towards the next election, the opposition—to revisit this extension of daylight saving in the interests of all South Australians.

They should be here to govern for all South Australians, from Mount Gambier through the Nullabor Plain and to the West Australian and Northern Territory borders, and not be focused on just the majority of people who happen to live in Adelaide and who often only work (and good for them) an eight-hour day, who have the time to enjoy daylight saving without the impost it puts on, and ramifications it holds for, our rural community.

SELECT COMMITTEE ON MATTERS RELATED TO THE GENERAL ELECTION OF 20 MARCH 2010

The Hon. J.A. DARLEY (15:56): I move:

That it be an instruction to the Select Committee on Matters Related to the General Election of 20 March 2010 that its terms of reference be amended by inserting new paragraphs IA and AII as follows:

IA. To inquire into and report on matters related to the November 2010 local government elections, viz.:

(a) the security and scrutiny for postal voting;

(b) the cost effectiveness of the postal voting system and alternatives to it;

(c) the effectiveness of elector registration processes for non-resident electors;

(d) factors influencing voter turnout;

(e) possible provision for mayoral candidates to contest council positions;

(f) the length of council election terms; and

(g) any other relevant matters.

AII. That the report in relation to the state general election be tabled prior to the report on the November 2010 local government elections.

One of the reasons that prompted me to move this motion relates to my own personal experience with the most recent local government elections. In the lead-up to the 2010 local government elections I contacted the Electoral Commission to advise them that neither my wife nor I had received our ballot papers in the post. I was advised that I would need to complete a Re-issue of Voting Material form in order to receive additional ballot papers. That form was faxed back to the Electoral Commission on the same day it was received, and I was told that ballot papers would be posted to me within a couple of days.

Five days later I contacted the Electoral Commission again to advise that I still had not received the ballot papers. On the same day a message was left with my office advising that the voting material had not been reissued as the Electoral Commission had already received signed and completed voting papers from my wife and myself. I subsequently contacted the Electoral Commission again to query this, as neither my wife nor I had received ballot papers, let alone completed and returned them to the Electoral Commission.

During that conversation I was advised that the signatures on the returned ballot papers had been cross-referenced with those signatures held on file by the Electoral Commission and that they did not match. Following this I spoke to the Electoral Commissioner, Ms Kay Mousley, who indicated that every signature on returned ballot papers was cross-referenced with signatures held on file. I was also advised that no action would be taken in relation to my particular matter because it was an isolated incident out of a million voters.

I asked the commissioner if I could personally sight the ballot papers that had been returned to the Electoral Commission, but that request was denied. This prompted me to ask the commissioner whether a similar request from the police would also be denied. The commissioner indicated that no such request had been made.

I subsequently wrote to the commissioner and urged her to reconsider her decision not to investigate this matter or refer it to the government investigation unit. I also queried how my particular situation could arise if indeed the Electoral Commission cross-references signatures as previously indicated. Additionally, I wrote to the police commissioner in order to alert him of this situation. I advised the commissioner that a complaint had been lodged with the Norwood police and requested feedback as to how the matter would progress.

Following these events, a decision was made to refer the matter to the government investigation unit and an investigation was initiated. As I understand it, that investigation is still ongoing. This particular instance involved the Burnside council, which was already the subject of a $1 million investigation. I would have thought that any suggestion of deliberately falsifying ballot papers would have been of major concern to the commissioner much earlier.

It is my understanding that a number of other individuals also came forward and complained that they had not received their ballot papers. I think this example clearly demonstrates the need for an inquiry into the manner in which local government elections are conducted in this state. The inquiry would also provide an opportunity to closely examine other aspects of how local government elections are conducted, including their cost-effectiveness and voter turnout.

The amendments to the terms of reference that I am proposing in relation to local government elections are complementary to the current inquiry of the select committee on matters related to the general election of 20 March 2010. I would urge all honourable members to support the motion.

The Hon. S.G. WADE (16:01): I rise to speak on behalf of the Liberal Party very briefly. As the Hon. Mr Darley has indicated, he has raised publicly concerns with the security of the electoral process in relation to the 2010 local government elections. He did so publicly in the media last year and, of course, gave notice of this motion last year as well.

A range of issues have been raised by Liberal members. The concerns that the Hon. John Darley has raised have been added to by a number of Liberal members in discussions within our party room. We certainly share the concerns that the Hon. John Darley has that the electoral process in relation to local government be protected and that part of that effort by this council should be to ask the select committee in relation to the 2010 state election to take an additional reference in relation to the 2010 local government elections.

Both in relation to the state government elections and in relation to local government elections, the integrity of the electoral system is the foundation of democracy. Just as the Labor Party's immoral behaviour in the last state election undermined the moral authority of the Rann Labor government, likewise the flaws in the local government election process have served to undermine people's confidence in the local government processes.

The Liberal Party supports the extension of the terms of reference proposed by the motion. I agree with the Hon. John Darley in saying that they are complementary to that of the original reference to the committee, and I would commend the member for including in his terms of reference a range of issues that covers most of the issues that have been raised in the Liberal Party in terms of the election. I hope that the 'Any other relevant matters' might well give any other members of the public who have concerns about the process an opportunity to air them.

The fact that we have had two electoral related references come before this house in the one year raises the issue of how best this house can handle electoral matters going forward. I note that the commonwealth parliament has a standing committee that deals with electoral matters. I understand that the Victorian parliament might well have a standing committee on electoral matters, but it may well be an issue for the council to consider in the future whether we need a standing committee on electoral matters or whether one of our current committees might take that as a particular focus within their activities.

In relation to this particular proposal, which is quite limited, this will remain a select committee and have merely one additional reference. We believe that that is an appropriate course of action and we support it, and we particularly appreciate part AII of the motion, which invites or requests the committee to deal with the state government election matters before it goes on to the local government matters. As chair of that committee I indicate that a report on the state electoral matters is not far away, and we would likewise intend to deal with the local government reference, if it is given to us, in a similarly expeditious manner.

Debate adjourned on motion of Hon. P. Holloway.

MARRIAGE EQUALITY BILL

The Hon. T.A. FRANKS (16:05): Obtained leave and introduced a bill for an act to provide for marriage between adults of the same sex. Read a first time.

The Hon. T.A. FRANKS (16:07): I move:

That this bill be now read a second time.

I rise today to put before this place a bill for marriage equality for South Australian adult consenting couples of the same sex. As we would be aware, the Marriage Act is a federal act in Australia, and it is not typical that we discuss matters related to marriage in this place in terms of the legislation and protections and rights to our citizens in South Australia specifically. However, we do so because of the situation that has presented itself before us at a federal level.

I am proud to stand here as a Greens member moving this bill. I am just as proud to be fully in support of the federal bill that Greens senator, Sarah Hanson-Young, has moved for marriage equality in the federal parliament to beat us to the punch, should that occur. Senator Sarah Hanson-Young has worked on this issue tirelessly for many years, but she is certainly not alone in that. Of course we saw in the federal parliament the issue of same-sex marriage first canvassed under prime minister John Howard.

We saw rushed moves through that federal parliament to ban same-sex marriages as couples began to marry overseas and come back to Australia and sought to have that status recognised here in this country. At the time, then Senator Natasha Stott-Despoja of the Democrats first moved a bill to establish marriage equality for same-sex couples in this country. That bill was never debated before the federal parliament, but I am pleased to see that Sarah Hanson-Young has continued that work.

We have also seen thousands of people in the streets supporting the concept of marriage equality in legislation in South Australia. In fact, last year was earmarked as the Year for Marriage Equality. We saw many thousands of people on the streets in Sydney, Melbourne, Hobart and Adelaide, and we certainly saw them in force at the ALP state conference late last year. I am pleased to note that at that ALP state conference we also saw a motion from the Labor Party, with its internal party structures in support of same-sex marriage, so I hope that that would see some sea change within that party.

We also know that those rallies and that that particular motion of the state ALP party here in South Australia reflect community attitudes. Community attitudes on this issue have been changing. Increasingly, they have been changing in support of acceptance of same-sex marriage. That is in Australia, of course, and we see that over 60 per cent of Australians in fact do believe that same-sex consenting adults should be able to marry each other if that is what they wish, but also around the world we have seen attitudes to this changing because couples were marrying overseas and sought to have that relationship recognised.

We are often told by the nay-sayers and the scaremongers on this issue of same-sex marriage equality that the sky might fall in and that the state will grind to a halt should we accept such a thing. I would note that the Netherlands has had same-sex marriage since 2001; in Belgium, since 2003; in Canada, since 2003-05; in Spain, 2005; South Africa, 2006; Norway, 2009; Sweden, 2009; Mexico City and Mexico, since last year, 2010; and Portugal, Iceland and Argentina also since 2010.

In California, it was the law between 2007 and 2008 before it was repealed. Iowa, Vermont and Washington have had this law since 2009, and New Hampshire in the US, since 2010. The sky has not fallen in any of these places. They have continued to function; they have continued to be just as prosperous or to have such a lack of prosperity as they did before or after this bill was introduced. However, they have given citizens who wish to marry each other and are of the same sex the ability to do so, and so I think they are brighter places.

There are places where same-sex marriages are recognised but not performed. These include: Israel, which has had that recognition since 2006; Rhode Island in the United States, since 2007; New York since 2008; and Mexico since 2010. California had that recognition for the year 2007-08; Maryland in the US since 2010; and, most notably, Tasmania since 2010. I am proud to say that that was also a Greens-instigated bill that now recognises marriages that are conducted in other jurisdictions by same-sex couples to be marriages in Tasmania. In Finland, Slovenia and many other places around the world, we are seeing the march towards equality, also. We are seeing same-sex couples being recognised in the laws.

Same-sex partners will not have legal equality under the Marriage Act until it is amended to make sure that they have the same recognition as opposite-sex couples. Until this happens, they will face practical legal problems because they are not able to marry. In the absence of a marriage certificate, they can have problems proving their legal entitlements. This can be a problem in medical emergencies and where a partner has a decision-making role for the other. I would draw

members' attention to a story of one particular person who had married her partner overseas. This is Julianne Clark's story:

> I married my partner of the same-sex overseas in 2006. But the moment I stepped back onto Australian soil, my marriage was not recognised. My partner was hospitalised in 2007 and I was informed I had no more rights than a friend, hence I was only allowed in during visiting hours.

That might seem trifling to some people, but when a loved one is sick and when they are your wife or husband, of course you want to be able to visit them at whatever hours, and hospital policies (as we know) change the rules for those who are in a marriage. That right should have been afforded to that particular couple in that case. It is a tragedy that it was not.

There is no substitute for marriage. I often hear people say, 'Why can't people have civil unions? Surely that should be good enough.' Beth Robinson, the US activist, has summed it up best: 'Nobody writes songs about civil unions.' When you want to introduce your partner or your son-in-law or daughter-in-law, you do not say, 'Here is my civil union partner.' It does not quite have the same ring to it. You do not dream, when you are a child, of growing up one day and 'civil unioning' the one that you find to be your one true love. I have not ever seen in the fairytale books the idea of the prince and the princess 'civil unioning' and living happily ever after.

Studies in Britain and the US have shown that, where there are alternative forms of relationship recognition—and these are often called things like civil unions, civil partnerships, registered relationships, domestic partnerships—they are no substitute for marriage equality. They do not have the same level of recognition as marriage, are misunderstood and considered the gay option, perhaps, or dismissed as second-best.

This means the legal rights of those couples in those unions are sometimes not respected. In the absence of marriage equality, other schemes for recognising same-sex relationships effectively label these relationships as lesser or different, and they reinforce the second-class status marriage equality is just designed to overcome. We know that we have a sad history in this country of discrimination against those people who are same-sex attracted.

I am very proud that, in South Australia, we were, in fact, leaders in the decriminalisation of homosexuality—I was going to say homosexual activity, which is what they used to term it as—but homosexuality. I am very proud of that history that we have here in South Australia, and I would be just as proud to see us lead the way in seeing marriage equality here in South Australia as well.

I think that there are a few furphies out there that get raised around the equal love and marriage equality debate. The first is that same-sex couples already have enough rights. We have seen a lot at the federal level where the Labor government, to its credit, has come a long way in a very short time just recently in recognising same-sex couples, whether that be through our welfare system with superannuation and with entitlements and so on, and I welcome that, but I say it has not gone far enough.

Same-sex de facto couples have trouble proving these rights when challenged, and the rights of partners in civil unions or in de facto relationships are often not widely understood or respected. Only marriage equality will provide same-sex couples with their full legal equality and full recognition of their spousal rights.

We also hear the furphy that marriage will be demeaned. There is no evidence that heterosexual marriages suffer or that marriage is held in lower esteem in countries where those same-sex couples have been allowed to marry. I would also point to Elizabeth Taylor's many, many marriages or Britney Spears' very short marriage, and note that they have not demeaned the institution of marriage.

The same argument used to be made against interracial couples being allowed to marry and, of course, I do not think that anyone would contend in this day and age that interracial couples should not be allowed to marry, and certainly those couples do not demean marriage.

We also hear that it will be a slippery slope, that it will open the gate for human and animal marriages, or human and inanimate object marriages. I have had some correspondence on this recently where I have been asked why I am standing up for homosexual couples when I am not standing up for incest, or I am not standing up for the rights of people to marry their pets, or a whole range of quite abhorrent suggestions. I would say to those people that it simply proves their homophobia. I think that that sort of argument demeans the institution of marriage.

We have also heard that marriage is unchanging. Marriage laws once used to prohibit divorce. They made wives the property of their husbands and they banned interracial unions. This,

of course, has quite rightly changed to ensure greater equality. Marriage equality for same-sex partners will actually make marriage more relevant to a society increasingly accepting of homosexuality.

Same-sex relationships, we are told, are very short lived but, in countries that allow same-sex marriages, divorce rates are the same for opposite and same-sex couples—no better and no worse—and certainly those are words that we hear a lot with regards to marriage. Large-scale studies of same-sex couples show that their relationships are of just the same quality and the same duration as other couples. As I say, no better and no worse, and certainly just as diverse.

We also hear that there is a problem with religion and marriage, because marriage is seen to be a religious institution. I would point to the fact that in Australian law there has always been a clear distinction between civil and religious marriages, and today two-thirds of Australian marriages are performed by civil celebrants and not in churches. This distinction is why the law allows marriages between people of different faiths or of no faith, it is why the law allows divorce, although some Christian teachings condemn it, and why polygamy and child betrothal is not allowed, even though they are common in the Old Testament.

Denominations such as the Quakers and individual celebrants of other faiths already marry same-sex couples. In fact, I was most touched by one of the 27,000 submissions to this bill in the federal parliament from an ACT-based church, which had two members of its congregation who were dearly loved and who wanted to marry. That church contended that its freedom of religion was being violated because it was unable to marry those two members of its congregation and that it would dearly love to. Anyone who has been to any of the marriage equality rallies here in South Australia would know that we have quite a few similar cases within the Uniting Church and other churches in this state.

Why would same-sex couples want to marry? I point out that this is not going to force any same-sex couples who do not want to marry to marry. So, when the argument is put to me, 'I know a same-sex couple and they don't want to get married', they do not have to and nobody is going to make them, but for those who want to it should be an option that is open to them. They will decide to marry for all the same reasons that other couples marry, perhaps not for a Green Card, but we will see—not that that applies here in Australia—but for a Visa, for legal security, to publicly celebrate their commitment, to provide greater legal protections for their children or simply because they are in love.

Marriage remains the most important way that we celebrate love and commitment in our society. Terms such as 'husband' and 'wife' are universally recognised as connoting love, commitment and a shared life together. When same-sex partners are told that they cannot share in such an important and universal institution, they are effectively being told that their love and commitment is of a different and lesser quality. This is not true. Same-sex partners love each other and make sacrifices for each other in the same way that all partners do and it is time for our laws in South Australia, and Australia, to acknowledge this.

Globally, where same-sex marriages have been allowed, the statistics that I read out of other countries that have so far enabled same-sex marriages show they are growing very quickly and, in fact, I am sure that they will be joined by some more soon. Economically, we have seen some really significant issues emerge where marriage, according to the *Economist* magazine, remains an economic bulwark. Single people are actually economically vulnerable and much more likely to fall into the arms of the welfare state. For those readers of Ayn Rand, you perhaps might like to refer to that argument in support of marriage equality. Furthermore, those who are not married call sooner upon public support when they need care. Married people, the statistics show, are not only happier, they are often healthier.

It has been estimated that if 55 per cent of Australian same-sex couples who wish to marry spent the national average on their wedding, that would be $7 billion injected into the Australian economy. I would point out that the *Sunday Mail* raised this issue quite early on in the piece. Should South Australia lead the way in this that would be quite a chunk of that $7 billion coming towards South Australia's economy. Not that I think that is the main reason to do this, but it certainly would not hurt. Many private institutions and corporations, such as the Commonwealth Bank, the ANZ, Westpac, St George, IBM, Qantas, ING and Seek have all come out in support of same-sex marriage and certainly support their employees who are in same-sex relationships.

At this point I would note that, as I mentioned before, we have a marriage bill before us which would normally be a consideration of the federal parliament, but given the blockages

presented at the federal level we are in fact not only seeing marriage equality bills presented in South Australia, but we are seeing them in Tasmania, we will see them in New South Wales and we are seeing them in Victoria. These have all, of course, had some input by the Greens but also other members. I note that I am on record as being joined as a co-sponsor of this bill by the Hon. Ian Hunter of the Labor Party. I also note that, in Western Australia, we are seeing moves by the National Party towards marriage equality, although at a civil union level to start with.

We have seen people come out on this issue from all sides of politics—the Greens, of course, Liberals, Labor, the Nationals and Independents. The reason for this is that it is not a party political issue; clearly, it is a deeply personal issue for many, many people. I think the logic of it actually transcends our party politics, and I certainly hope that is the case when we are considering the issue in this debate.

The reason we are seeing the issue raised at a state level is largely due to some formal opinion, provided to the Tasmanian Greens initially, on the constitutionality of this move, from Professor George Williams, a constitutional law expert from the University of New South Wales. I am happy to circulate this legal advice to members. In summary, at a federal level we have seen moves to discriminate against a certain category of people, being consenting adult couples of the same sex, by preventing them from being able to marry, and that, in fact, has opened up the door for states to legislate in this area to address that discrimination, and I hope we take up that baton.

Another person who I think would be cheering us on (and I would draw the particular attention of Labor members of the parliament to this but, as I have said, this is an across-party issue) is Bill Hayden, who writes in support of marriage equality, as follows:

> Yes, homosexual love is now tolerated by the law, but not marriage. There is a 'relationship certificate' available for them in Victoria, Tasmania and the ACT, the short end of the leash, civil partnerships. These offer some protections but do not pass muster as real equality for gays which requires the provision of marriage rights.
>
> If an Australian same-sex couple go, say, to Canada they can get a marriage certificate which is universally recognised and understood as symbolising the solemn commitment between two people.
>
> The Labor Party had the chance to do something meaningful on this at its last national conference but squibbed it. Has it lost the belly fire for the big challenges of major progressive reform and the enshrinement of basic liberties for which I have so long admired it?
>
> It is not as if Labor is uncaring. In 2008 it did remove discrimination against same-sex couples in some 85 laws. But it is the big one, full recognition of gay people's marriage rights, which will really establish the depth of Labor's commitment to the principle of people's entitlement to be different but still fully valued law-abiding members of our society.

That is Bill Hayden AC, former governor-general and, of course, as we know, former leader of the federal Labor Party. I would hope that, as the Labor Party gears up for its next national conference, this issue will be fully and firmly on the table. I dearly hope that it follows the lead of the South Australian Labor Party in moving towards acceptance of marriage equality but, more than simply accepting it in theory, I hope it would be working hard to make it a reality.

As I have mentioned, I look forward to working with the Hon. Ian Hunter on this bill, but I would also welcome any other members of this chamber or the other place supporting us in raising this incredibly important issue and getting it to the forefront. People have waited long enough for equality.

When I was listening to the Social Development Committee the other day, one of the most poignant statements I heard was that, where discrimination continues to exist, it is all very well to say that we have a problem with homophobic bullying in our schools or in other places in our society but, if we as a legislature are endorsing a difference and lacking in that acceptance of the diversity and not ascribing equal rights to all of the members of our community, we are perpetuating that bullying and that homophobia by simply not doing enough to stop it.

Showing leadership at the top levels will, of course, be the way that we can address that discrimination. I would like to sum up with some personal reflections on how I think marriage is more important than a civil union. As I have said before, you certainly do not dream of growing up one day and 'civil unioning' your long-awaited partner. Should I have a child who were gay, I hope that one day, if that child fell in love and wanted to marry, I would be able to call somebody my son-in-law or my daughter-in-law, certainly not my son or daughter's civil union partner.

I believe marriage is not just about the two people who make that commitment to each other; it is also about creating family, and family, of course, is the basic building block of our society and a strong community. When you deny people the right to be sisters and brothers, mothers and

fathers, then you deny far more than simply two people who love each other being able to make that commitment in public. With that, I commend the bill to the house.

The Hon. T.A. FRANKS (16:30): I move:

That standing orders be so far suspended as to enable the bill to pass through its remaining stages without delay.

Motion carried.

The Hon. I.K. HUNTER (16:30): Today I will offer this chamber the second reading speech I had planned to give on moving my bill, which of course I can no longer do. I congratulate the Hon. Tammy Franks on moving her bill, which is, unsurprisingly, identical to the one I had drafted. It is no secret: we had them drafted as a joint enterprise.

I will begin my contribution to the second reading of the Marriage Equality Bill 2011 by reviewing Australian and overseas marriage legislation. I then propose to canvass the issue of civil unions, and will follow that with some points in the public debate. I will then address marriage as a modern construct, and why people such as myself would like to join the marriage club.

Rising to speak early on in this debate, as I am, means that I will not be able to respond at a later stage of the second reading process to any arguments that might be led in opposition to the bill, so I propose to second-guess those arguments, outline some of them that are already in the public domain and show how senseless they are and how essentially they are a very thin veil for continued discrimination and bigotry. Finally, I will touch on the debate ongoing in my own great party. I will not address the constitutional issues surrounding this debate, as I believe the Hon. Tammy Franks has already touched on them.

First, an overview of the Australian legislation: the Marriage Act 1961 is the act of the Parliament of Australia which covers legal marriage in Australia. Marriage is a commonwealth power under section 51(xxi) of the Australian Constitution, but prior to 1961 states and territories administered marriage law. In the early 2000s, marriage equality gained momentum around the world, with many of the countries Australia considers our peers legalising same-sex unions in some form or another. In 2001, the Netherlands legalised same-sex marriage, Canada followed in 2003, the United Kingdom passed its Civil Partnership Act in 2004 and in that same year the first legal same-sex marriages took place in the United States of America.

Perhaps somewhat spooked by this tide of reform, the Howard government took steps to redefine marriage in the Marriage Amendment Bill 2004 as a union exclusively between a male and a female. More uncharitably perhaps, Howard was trying to obtain some political gain by seeking to wedge the Labor opposition. On 27 May 2004, the then federal attorney-general Philip Ruddock introduced the Marriage Amendment Bill to incorporate the common law definition of marriage into the Marriage Act 1961 and the Family Law Act.

The amendment specified that marriage meant the union of a man and a woman to the exclusion of all others, voluntarily entered into for life. Certain unions are not marriages: a union solemnised in a foreign country between(a) a man and another man or (b) a woman and another woman must not be recognised as a marriage in Australia.

In June 2004, the bill passed the House of Representatives, and on 12 August 2004 the Senate passed the amendment by 38 votes to six. The bill subsequently received royal assent, becoming the Marriage Amendment Act 2004. At that time, representatives from the Howard government said that the legislation was an historic milestone for Australian values. Then National Party senator Ron Boswell was quoted as saying that there was no stronger bond than that between a man and a woman in marriage. 'Most Australians recognise that marriage is a sacred union,' he said, 'the most basic building block of society and the foundation of the family.' Meanwhile, many states and territories were agitating for a progressive change to same-sex relationship recognition, in stark contrast to the then federal government's amendments.

I would like to provide some information on same-sex civil union legislation in the Australian Capital Territory, for the conflict between the territory and the commonwealth—in particular, the extraordinary measures taken to stop same-sex unions by the Howard government—highlights the complex and passionate nature of this debate. The Civil Unions Bill 2006 was passed in the Australian Capital Territory Legislative Assembly on 11 May 2006. The ACT was the first jurisdiction in Australia to pass such legislation, which provided equal legal recognition for marriage under territory law. Members will no doubt recall the legislation created

discord between the ACT and the commonwealth government. At the time, the prime minister, John Howard, stated that:

> The legislation, by its own admission, did not attempt to equate civil unions with marriage, and we don't find that acceptable. Our view is very simple, and that is that the founding fathers in their wisdom give constitutional authority in relation to these matters to the commonwealth. We legislated in a bipartisan fashion to define marriage, and we're not prepared to accept something which is a plain attempt to equate civil unions with marriage, and we don't agree with that.

Senator Nick Minchin was quoted as saying: 'It is clear that the intent and purpose of that act is to equate a civil union to a marriage. In that sense, we regarded it as repugnant.'

Following the laws enacted on 9 June 2006, then federal attorney-general Philip Ruddock announced the commonwealth would move to overrule it, and so, on 13 June 2006, the federal Executive Council instructed the Governor-General of Australia to disallow the act. In December 2006, the Australian Capital Territory government introduced, and ultimately passed, the Civil Partnerships Bill 2006, replacing the term ‘civil union' with ‘civil partnership'. The bill was blocked once again by the commonwealth government in February 2007.

In 2007, the new federal Rudd government acknowledged its preference for a system of state-based relationship registers, such as those that existed in Victoria and Tasmania. Then attorney-general Robert McClelland said that 'the ceremonial aspects of the ACT model were inappropriate'. The ACT legislative assembly eventually passed the Civil Partnerships Amendment Bill 2009. The Rudd federal government had threatened to quash this legislation after it was passed, but backed down from this once concerns regarding ceremonial aspects were resolved.

In August 2009, the Greens introduced a same-sex marriage bill in the federal parliament. The bill was reviewed by the Senate Legal and Constitutional Affairs Committee, and the committee received a record 25,000 submissions, significantly more than any other Senate inquiry. The inquiry confirmed that there is enormous community interest in this issue, but ultimately recommended that the Greens bill not pass.

I want to recognise the significant reforms introduced by the Rudd government that allowed same-sex couples the same federal rights as cohabiting opposite-sex couples enjoy. The Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008, which received assent on 4 December 2008, and the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008, which received assent on 9 December 2008, provided significant gains for same-sex couples in areas such as joint social security and veterans' entitlements, employment entitlements, superannuation, workers compensation, joint access to the Medicare safety net, hospital visitation, immigration, inheritance rights and the ability to file a joint tax return—oh, great joy that that is— and gain the same tax rebates as married couples enjoy.

Same-sex couples celebrate and appreciate these significant reforms, but they were overdue and sorely needed. They do not come anywhere near satisfying our calls for marriage equality. If I could briefly turn to an overview of the international situation. It is estimated that 250 million people currently live in areas that recognise same-sex marriage. Same-sex marriage is legal in Argentina, Belgium, Canada, Iceland, the Netherlands, Norway, Portugal, South Africa, Spain and Sweden. Same-sex marriage is also performed in Mexico City and six American states. Slovenia and Finland have announced that they are likely to legalise same-sex marriage in the near future.

Other jurisdictions recognise same-sex marriages, but do not perform them. These include Aruba, Curacao, Israel, Mexico, Saint Maarten and four American states. On 1 October 1989, Denmark became the first country in the world to legally recognise same-sex unions. Currently, same-sex civil union is performed in 18 countries around the world, including many of the countries that we like to compare ourselves with, such as New Zealand, the United Kingdom, France, Ireland and Germany.

In the Australian states, civil unions in various forms exist in the ACT, Tasmania and Victoria. However, the federal government only recognises these state and territory civil unions for the purposes of federal entitlements. In Western Australia, the Northern Territory and Queensland there is no registration system, while New South Wales offers same-sex couples a domestic partnership registry.

In September 2010, Tasmania became the first Australian state to recognise same-sex marriages performed overseas and, as members would no doubt be aware, the current situation

here in South Australia is that since June 2007 cohabiting same-sex couples in South Australia have been able to register their relationship through a Domestic Partnership Agreement document. The *Statutes Amendments Domestic Partners Act 2006* amended 97 state Acts, dispensing with the term 'de facto' and instead categorising couples as 'domestic partners'.

This change in legislation means that any two people living together as a couple, whether they be a heterosexual couple or a same-sex couple, are now covered by the same laws. Same-sex couples can also make a written agreement called a Domestic Partnership Agreement, which legally clarifies their living arrangements. To be sure, this is significant progress but it is not quite the same thing as standing before your family and friends, publicly declaring your love.

No-one I know gets particularly emotionally excited by a proposal to get civilly unionised or 'Let's go and get registered.' It does not have the same ring about it. There are some problems with civil unions. With passionate rhetoric on both sides of this argument, civil unions have been suggested by some as a perfect compromise, but I do not agree. If Australia legalises same-sex civil unions instead of legalising same-sex marriage, the federal government would simply be reinforcing the second-class status of homosexuals in this country.

What would be gained from this? Australia already has an existing two-tiered relationship system. I firmly believe that there is nothing like marriage except marriage. A civil union is not the same as marriage. If it was, it would be called 'marriage'. Most of us would agree that the word 'marriage' matters. Marriage is more than a piece of paper. It is more than a positive affirmation. The word 'marriage' gives full social and legal inclusion to a couple.

Studies overseas have found that the terms 'civil union' or 'domestic partnerships' just do not convey the same emotional and cultural meaning. A 2008 study of New Jersey's civil union legislation found that civil unions just create a muddled middle ground that satisfies no-one. The study found that same-sex couples in civil unions were left feeling not quite married and not quite single.

International studies, including the UK Citizens Advice Bureau of 2007, the 2009 report of the Vermont Commission on Family Recognition and Protection and a 2009 New Jersey Civil Union Review Commission have confirmed that civil unions require constant haggling with authorities, some litigation and constant explanations by same-sex couples. Civil unions commonly lead to the mis-categorisation of a couple's status, and they often create awkward and inappropriate conversations in doctors' offices, airports, workplaces and schools.

But when you are married, everyone knows what this means. You don't need to carry around documents or call your lawyers to enforce your rights. I believe that we in Australia can learn from these overseas models and can choose not to repeat the same mistakes. Courts across the western world have declared that civil unions do not provide equality for same-sex couples.

There is a global trend towards full legal and social equality, with many jurisdictions such as Denmark, the United Kingdom and American states such as Vermont already taking steps to abolish same-sex unions in favour of same-sex marriage. The debate is not just about making sure that same-sex couples have adequate legal protection. The debate has gone further than that. Community views and expectations have changed with the times, and now the majority of Australians support marriage equality.

National polls on marriage equality began in 2004, when the Howard government amended the Marriage Act. It is interesting to chart the tide of public support for same-sex marriage through these polls. In 2000 when Australians were asked by Newspoll if they agreed or disagreed that same-sex couples should be able to marry, only 38 per cent of respondents supported marriage equality, with 44 per cent against and 18 per cent undecided.

Yet in 2007, a Galaxy poll found that 57 per cent of Australians supported same-sex marriage, with 37 per cent against and only 6 per cent undecided. If we look at the latest national opinion polls, it is clear that community views on marriage equality continue to grow and gain support. A Galaxy opinion poll conducted in June 2009 showed that 60 per cent of Australians support same-sex marriage, with 36 per cent opposed. Two other previous polls provide similar results. The October 2010 Galaxy poll of 1,050 voters found that 62 per cent of Australians agreed with same-sex marriage, 33 per cent disagreed and 5 per cent remain undecided.

On 16 November 2010, the essential report by polling and lobbying firm EMC found that 53 per cent they interviewed were in favour, 36 per cent disagreed and 11 per cent remain undecided. The most recent poll available was the Herald Nielsen poll released on Monday

22 November 2010. That poll shows that 57 per cent of Australians support the legalisation of same-sex marriage and 37 per cent oppose it.

If we broke down the October 2010 Galaxy survey results into age groups, there is an obvious generational difference of opinion. Polls reveal that 80 per cent of those aged under 24 years and 72 per cent of Australians with young children support same-sex marriage. Perhaps the reason for this overwhelming support by young parents is best reflected in the comments made by federal Labor Senator Mark Habib in *The Australian* on 6 November, as follows:

> If I was a parent of a gay son or daughter, I don't know how I could tell them they didn't have the same rights that I do.

Perhaps not surprisingly the only demographic in which support for marriage equality is not higher than opposition is amongst Australians aged over 50 years. This group is split at 46 per cent in support and 46 per cent against, and 8 per cent undecided. And, whilst some may argue that this is an issue only of interest in urban cityscapes, the polls have revealed that 59 per cent of rural and regional dwellers also support marriage equality.

The Galaxy poll revealed that 78 per cent of Australians also supported a conscience vote on this issue in parliament. It also asked respondents their voting preference. It found that 81 per cent of Greens voters, 74 per cent of Labor voters and 48 per cent of coalition voters support same-sex marriage. The poll revealed that more coalition voters support same-sex marriage than oppose it. It is interesting to note that, when Canada first legalised same-sex marriages in 2003, public support for marriage equality there was just 48 per cent. Today in Australia 62 per cent of the population supports same-sex marriage, yet we still cannot get governments to act on this issue.

I note also that the business community has also given its opinion. While community support in the broader population for marriage equality continues to grow, key Australian business leaders have also publicly supported this position. In November 2010, the CEO of the Australian Industry Group, Heather Ridout, endorsed marriage equality, joining other economic commentators such as Chris Berg from the Institute of Public Affairs.

It is clear that Australians have a variety of views and definitions of marriage. To some Australians marriage is a spiritual covenant. To others it is a legal entity. Some view marriage as a source of social status, or some still view it as an institution that is oppressive and promotes gender inequality. These are all different views of marriage, and I am not here today to change anyone's beliefs. I say that anyone can continue to hold on to their beliefs about the married state. However, I ask that they do not require me to live by their views.

For me marriage is a public declaration of love and commitment that is an extremely powerful cultural institution. Homosexuals want to marry for the same reason everyone else does it: because they love someone. There is a public declaration of that love that is enshrined in the marriage ceremony. Wedding ceremonies are typically public; they are an important ritual that defines a very clear line in the sand in the life of a relationship. Australians pride themselves as a people with a strong commitment to a fair go for all. Yet, some Australians when confronted with what that really means—a fair go for all, for everyone in all circumstances—back away from this commitment. In Australia gay and lesbian couples have the same responsibilities as heterosexual couples and must abide by the law and pay their taxes: they are just not granted the same rights as heterosexual couples.

Marriage law in Australia has effectively resulted in a two-tier system: one for heterosexual couples and one for everyone else. We have learnt throughout history that different means inferior: separate is not equal. The notion that separate is not equal was raised in the landmark 1967 US Supreme Court case Loving v the State of Virginia. Richard Loving and Mildred Jeter were an interracial couple, married in Washington DC in 1958, who were arrested on their return to Virginia because of the state laws prohibiting interracial marriages. Mr and Mrs Loving were gaoled and released only after promising not to reside in the state of Virginia for 25 years.

After unsuccessfully challenging the ruling in the Virginia courts, the Lovings took the case all the way to the US Supreme Court. On 12 June 1967, the US Supreme Court ruled unanimously that the freedom to marry has long been recognised as one of the vital personal rights essential to the orderly pursuit of happiness by free men (no mention of women!) and that marriage is a basic civil right.

I would like to share with members a statement issued by Mrs Loving in June 2007 on the 40th anniversary of the Supreme Court verdict. Mrs Loving reflected:

> My generation was bitterly divided over something that should have been so clear and right...The majority believed...that it was God's plan to keep people apart, and that government should discriminate against people in love. But I have lived long enough now to see big changes. The older generation's fears and prejudices have given way, and today's young people realize that if someone loves someone, they have a right to marry.
>
> Surrounded as I am now by wonderful children and grandchildren, not a day goes by that I don't think of Richard and our love, our right to marry, and how much it meant to me to have the freedom to marry the person precious to me, even if others thought he was the 'wrong kind of person' for me to marry.
>
> I believe all Americans, no matter their race, no matter their sex, no matter their sexual orientation, should have that same freedom to marry. Government has no business imposing some people's religious belief over others especially if it denies people's civil rights. I am still not a political person, but I am proud that Richard's and my name is on a court case that can help reinforce the love, the commitment, the fairness and the family that so many people black or white, young or old, gay or straight, seek in life. I support the freedom to marry for all. That is what Loving v State of Virginia, and loving, are all about.

Opposition to interracial marriage once caused significant debate within the community, just as same-sex marriage does now. I have no doubt that opposition to same-sex marriage will continue to lessen, just as opposition to interracial marriage has dramatically lessened over time.

The 1967 'separate is not equal' ruling is directly referenced in a 2004 Massachusetts Supreme Court ruling on same-sex marriage. The court ruled that same-sex couples are entitled to marriage, and the judges declared:

> The history of our nation has demonstrated that separate is seldom, if ever, equal. The bill that will allow for civil unions, but falls short of marriage, will result in an 'unconstitutional, inferior and discriminatory status for same-sex couples.'

Loving v State of Virginia was also referenced by Judge Vaughn Walker in a recent federal constitutional challenge to California's Proposition 8. Proposition 8 was a 2008 ballot initiative that sought to amend the Californian constitution to prohibit the recognition of same-sex marriages.

Judge Walker ultimately found Proposition 8 unconstitutional, noting in his final verdict that California's domestic partnership laws do not satisfy California's obligation to provide gays and lesbians the right to marry for two reasons: firstly, domestic partnerships do not provide the same social meaning as marriage and, secondly, domestic partnerships were created 'specifically so that California could offer same-sex couples rights and benefits while explicitly withholding marriage from same-sex couples'. Just as it is in America, same-sex marriage in Australia is a matter of equality for all Australian citizens.

I would like now to go to some of the arguments that have been put up by those who oppose marriage equality. Firstly, there are some Australians who believe same-sex marriage will damage an institution steeped in tradition and an institution that, in their view, has always been between a man and a woman. In response, I would say that marriage as an institution has never been static. It has changed a great deal throughout history.

Centuries ago, polygamous marriages were commonplace. Levirate marriages, where a widow was required to marry her dead husband's brother and carry on her traditional duties, were once common. Men were allowed to marry girls as young as 12. Historically women were denied their legal rights and treated as property during a marriage transaction.

Couples of mixed race were once forbidden to marry, interfaith coupling was prohibited and children of interfaith marriages were considered illegitimate. In Australia, marriages between people of Aboriginal heritage were restricted, and divorce was once scandalous and improper. In her December 2009 article in the *Australian Review of Public Affairs*, Jane Edwards of the University of South Australia wrote:

> However much conservatives insist that marriage is divinely ordained, it is an institution profoundly moulded by secular events. The changing position of women, the nature of the labour market, child care provision, educational and welfare policy, the state of the economy and other structural factors...shape [the institution of] marriage.

Edwards goes on to state that modern marriage is changing with society, as it should. Change is essential for marriage to survive. A contemporary marriage does not lock couples into a rigid institution as it once did, with strict gender divisions and expectations. That matrimonial template would have held little attraction for many same-sex couples, just as it has become increasingly unpalatable to many straight couples.

While marriage has traditionally been viewed through the prism of a religious context, marriage is, in fact, a legal construct and legalities are always up for debate and modification. When the Law Council of Australia appeared before the Federal Senate Legal and Constitutional Affairs Committee inquiry into marriage equality it confirmed that:

> Legal reform of this nature is not unique; it is the natural progression of rights development as it accords with changes in social practice.

Another argument against same-sex marriage is that marriage is for procreation. This is a particularly weak argument because it ignores the fact that civil marriage is granted automatically to childless couples, sterile couples, couples who marry too late in life to have children and couples who adopt other people's children. In Australian law there is no direct link between marriage and raising children. If it were otherwise, there would be a legal requirement placed on married persons to procreate. Clearly, this is absurd.

In any case, a significant number of same-sex couples are parents. Gay couples successfully give birth to children, adopt children and care for step-children and foster children. While some critics of marriage equality argue that same-sex couples should not be allowed to marry because children should, ideally, be brought up in the care of two parents (a male and a female), Australian and overseas research have consistently shown that children in the care of two parents of the same sex are not disadvantaged. I refer to research conducted by the Australian Psychological Society in 2007, which found:

> Parenting practices and children's outcomes in families parented by lesbian and gay parents are likely to be at least as favourable as those in families of heterosexual parents, despite the reality that considerable legal discrimination and inequity remain significant challenges for these families.

Marriage is not solely about procreation. It is firstly about love and commitment. Another argument often used by those against marriage equality is the belief that same-sex marriage will lead to an increase in divorce rates. A belief exists that same-sex matrimony will weaken heterosexuals' attachment to marriage and that it will intensify the modern Western world's divorce culture.

International studies have in fact found that the opposite is true. For example, there is no obvious differences in rates of heterosexual marriage in the first five European countries that recognised same-sex relationships: Denmark, Norway, Sweden, Iceland and the Netherlands. A 1995 study found that marriage equality has actually reinforced the institution of marriage. The survey revealed that since the introduction of same-sex marriages, marriage rates have increased by as much as 30 per cent and divorces are steadily decreasing.

More recent data from 2006 suggests that heterosexual marriage rates within these Scandinavian countries are, if anything, on the increase. There has also been a significant reduction in suicide and a reduction in the spread of sexually transmitted infections. I am not suggesting a direct causal connection between these positive outcomes, but it does somewhat deflate that particular argument against same-sex marriage. Sensible reflection would suggest that the action of a few gay men and lesbians getting married is unlikely to lead to a mass exodus of straight people getting married, in fact it may actually reinforce the status of the institution in the eyes of the younger generations.

Another line of criticism is that same-sex relationships are inherently unstable: the belief that same-sex relationships are not committed and lack monogamy. Critics of same-sex relationships often cite a 2003 Dutch study that deliberately selected subjects who were not monogamous, but they use this research to validate their prejudices. This Dutch study is often misused by those who oppose marriage equality and homosexuals. In fact, there is a substantial body of peer-reviewed research which indicates that many same-sex attracted people form committed relationships that are long term. A full list of those studies can be found on the Australian Marriage Equality website. I will not bore the council with a long recitation of them here.

Another argument against same-sex marriage is the 'slippery slope' argument. There are some critics of marriage equality who believe that it will lead to a range of socially unacceptable relationships being legitimised. They believe that same-sex marriage will be the start of a slippery slope that will lead to marriages that involve incest, paedophilia, polygamy and even marriages between adults and—yes, as the Hon. Tammy Franks referred—animals and objects.

To compare same-sex relationships to these other types of abusive and illegal relationships is utterly offensive. Australian law dictates that marriage take place between two consenting adults: animals and objects are not able to, and will never be able to, give consent to

marriage. A sensible person, on a moment's reflection, will reject these silly and hysterical arguments.

There is another argument that I will address today, and that is marriage should be abolished entirely. Not all of those who oppose marriage equality do so because they oppose homosexuality or oppose change or think of marriage as a sacred institution. Some believe that marriage is an antiquated institution that imposes gender stereotypes and often disadvantages women. Who would want to sign up for that? Why not get rid of it altogether?

To these people I say that marriage equality is about enhancing choice, not limiting it. Many heterosexual couples legitimately choose not to get married, and many same-sex couples will also choose not to marry, even if this were a legal option available to them in this country. But marriage remains an important and valued recognition of a relationship between two people and it serves an important social and personal purpose. In a modern democratic Australia, the choice to marry should be available to every adult Australian, regardless of their partner's gender.

So, perhaps the most common reasons people object to same-sex marriage are those based on personal religious beliefs. Today, in Australia, it is often conservative Christian beliefs most quoted in opposition but, of course, they are not alone. I would argue that, first and foremost, Australia is a secular society. Section 116 of the Australian Constitution proclaims:

> The commonwealth shall not make law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the commonwealth.

Australia enjoys freedom of religion and freedom from religion. Therefore, arguments based on religion have no place in this debate about minority human rights. Former Labor government minister, Alannah MacTiernan, wrote in the *West Australian*:

> There are religious traditions that oppose divorce, abortion and the use of contraceptive devices. We haven't let them determine the law of our civil society. We have taken a pragmatic, secular approach that recognises the choices most of the community want available to them.

It is also important to note that there are many people from traditionally conservative faiths—Jews, Muslims and Christians alike—who support marriage equality. I have great respect for local Christian leaders such as United Church reverends Leanne Jenski and Susan Wickham, who continue to speak out in support of same-sex marriage. Leanne and Susan reflect a growing number of people of faith who are committed to human rights for all Australians.

I would also like to take this opportunity to share with members some reflections on this issue by Mr Saqib Ali, the first Muslim delegate for the Maryland House of Delegates in the United States. A committed Democrat and a committed Muslim, Mr Ali was schooled in Saudi Arabia, where homosexuality is prohibited and punishable under Islamic law, yet Mr Ali has come out and publicly declared his support for same-sex marriage. Mr Ali told a Maryland newspaper that his support for gay marriage is not a reflection of his faith or Islamic tradition; rather, it is a decision he made as a politician representing all of his constituents—constituents with and without faith backgrounds. Mr Ali explained:

> If I tried to enforce religion by law—as in a theocracy—I would be doing a disservice to both my constituents and to my religion.

Mr Ali believes:

> ...gay marriage doesn't affect my marriage; it doesn't affect anybody else's marriage, he said. It doesn't harm us in any way.

Although he knows his stance is controversial, Mr Ali hopes religious critics will come to share his point of view to promote marriage equality.

It is important for members to note that, under this legislation being discussed today, faith communities will not be forced to conduct a same-sex marriage if the congregation is strongly opposed. This is a debate only about civil marriage in a country where church and state are separate. I draw members' attention to page 5 of the bill, division 3.9(a), which provides, 'Ministers of religion not bound to solemnise same-sex marriage...' Nothing in this paragraph (a) imposes an obligation on an authorised celebrant, being a minister of religion, to solemnise any same-sex marriage. I am not aware of any church overseas that has been forced to marry same-sex couples. In Australia, marriage celebrants are not forced to marry anyone against their will.

I feel it is important to also recognise that there are many Australians of faith who support marriage equality because they recognise the importance of separation of church and state and are

committed to human rights for all citizens. I adhere most vehemently to a belief that each of us has our own moral compass that guides our life and by which we make our decisions in life. I am not trying to persuade members to change their personal beliefs with regard to same-sex marriage and I am not trying to persuade that they should go out and have one. However, I ask all members to question whether they really have the right to impose their morality on someone else, particularly if that view is not held by the majority of citizens.

Those very same reasons for opposing same-sex marriage that I have highlighted here today could be seen by some as arguments for the continued discrimination of homosexuals. Sadly, I believe that homophobia lies at the heart of this debate. In a recent opinion piece published on *ABC Online*, Jeff Sparrow highlighted the prejudice that exists in this debate. He writes:

> Marriage has always been about symbolism more than procreation, about the kind of unions that society declares appropriate and valid. The first gay wedding would provide semiotic proof about the successful marginalisation of homophobia; correspondingly, the stubborn refusal of the major parties to accept a simple and uncomplicated reform illustrates how stubbornly prejudice still persists.

Former governor-general of Australia, Dr Bill Hayden—and I will also quote him—has addressed the issue, and offered the following response:

> Where the issue of homosexuality has been concerned, so much outstanding human talent, even genius has been wantonly sacrificed over so much time on the grotty altar of personal prejudice and community ignorance and petulance.
>
> We have now had more than a couple of decades' experience of living with legally sanctioned homosexual practices—

such as reading and writing; they are the practices that I engage in every day. The article continues:

> The sky has not splintered apart, and our community has not degenerated into a Sodom and Gomorrah, as had been gloomily predicted earlier by fervid opponents of homosexual rights. In fact, we have generally found gays to be good neighbours and friends, helpful and respected workmates, people whose presence is most frequently welcome as desirable fellow citizens.

Now is the time to ensure all Australian citizens have equal rights under the law. As Judge Walker ruled in the Californian High Court challenge on Proposition 8:

> A private moral view that same-sex couples are inferior to opposite-sex couples is not a proper basis for legislation.

I turn briefly now, before concluding, to the debate ongoing within my own great party. It is important to acknowledge that same-sex marriage is an issue that creates fervent debate on both sides of the argument. Even within my own party, there are significant differences of opinion. Reflecting the debate taking place in the broader community is also the ongoing debate within the ALP on whether we, as a party, should formally endorse same-sex marriage. And, just as is in the broader community, there are passionate views on both sides.

The past 12 months have seen numerous senior members of the Labor Party publically declare their support for marriage equality, including Queensland Premier and ALP National President, Anna Bligh, then Tasmanian premier David Bartlett, former Keating minister Graham Richardson, Senator Mark Arbib, Senator Doug Cameron and the Australian Workers Unions' Paul Howes and Bill Ludwig, just to name a few of them. Anna Bligh said of marriage equality:

> If people love each other and they build lives together and they want that recognised, I think that's perfectly reasonable.

Current ALP national secretary, Karl Bitar, has stated that it would be wrong to shut down debate on the subject and called for a conscience vote on the issue. While the current Labor Party platform does not support same-sex marriage at the moment, like Graham Richardson, I am certain that marriage equality is inevitable. With motions of support passed in the South Australian, Tasmanian, Victorian and national territory state Labor conferences, I am hopeful that the national Labor Party platform will soon reflect this position.

I was particularly pleased that Senator Penny Wong recently led the debate on this issue at the South Australian Labor convention. Penny has been unfairly criticised by some people for not speaking out in favour of marriage equality in public. As a senior member of cabinet, Penny does not have the luxury of speaking on issues outside her portfolio, as those critics should know.

I was delighted when Penny took the opportunity to speak on this issue recently at the State convention, the appropriate venue for her to enter this debate, an internal party forum,

declaring what most of us already knew, that she fully supports marriage equality. I would like to share with the chamber a small part of Penny's speech:

> I came to this country in the 1970s and, like many, I know what it is like to be the subject of prejudice. My personal politics have been cast by the experience of discrimination and a deep belief in the principle of fairness. I will be advocating for our party to support equality in relation to marriage for same-sex couples. I do so because I have a deeply held commitment to equality as many in this room do too. It is a principle in which our party believes, and a principle on which our party has delivered.
>
> I have worked with the trade union movement and I have had the privilege of representing working people and I chose to give expression to these beliefs by joining the Australian Labor Party. In the ALP, I saw the capacity to turn principle into action. I was not interested in simply criticising. I was not interested in simply talking about change. I wanted to be part of delivering it. Our party has a proud history of delivering change. It has a proud history of giving effect to the principle of equality.
>
> Labor governments were responsible for abolishing the White Australia Policy, introducing the first land rights legislation, the introduction of the Racial Discrimination Act, enacting the Sex Discrimination Act, recognising native title through the Mabo legislation, repealing the ban on gays and lesbians serving in the armed forces and the Disability Discrimination Act. It took a Labor government to recognise same-sex relationships and remove discrimination in more than 80 commonwealth laws.

She said:

> It took a Labor government to eliminate the discrimination against gays and lesbians and their children in areas such as social security, workers compensation, superannuation, child support and Medicare. Same-sex couples and their children are recognised as a family for the purposes of the Medicare safety net.

She went on:

> There has been some commentary which has confused my position of not commenting publicly on this issue with my position on the actual issue itself. I have the privilege and honour of not only being a member of our party, but an elected member of the federal parliament and of the federal Labor cabinet. I have had the opportunity to advocate for equality at the highest level of our party and within our party's processes as I do today. And I will do so again at the next national conference.
>
> Talking about change is not the same as delivering it, and delivering change is not the same thing as seeking headlines. There are some, including in the Greens political party, who would have Australians believe that the only test of one's commitment to equality is how loudly you criticise and how much you shout. Commitment to equality is also present when you deliver change as part of a party of government. Commitment to equality is also present when you advocate inside your party for change, and commitment to equality is also there when you seek to persuade and not only to condemn. And the commitment to equality does not recede because so many of us respect the principles of solidarity, the same principles which have helped Labor governments deliver so much change over so many years.

'Much has been done but much more is needed', Penny Wong finished.

Federal minister Wong's remarks echo my own views. Labor governments have been champions of equality in legislation. We have achieved so much, but we do ourselves no good at all if we say to the community that there is one step towards equality that we will not take. The ALP will address this issue again soon. That internal ALP debate is set to be discussed at the national conference in December later this year.

The current ALP policy in this matter is a nonsense. It is the typical sort of policy that results from compromise when there are two conflicting points of view that no-one wants to push to a confrontation. It is slightly less offensive than the previous policy, which mandated the position that marriage can only exist between a man and a woman, a belief not shared by at least half the Labor Party. However, in the way of these things, the policy goes on to commit the party to upholding the current Howard government's Marriage Act.

This policy is a house of cards that cannot stand long. I did not support the old policy and I do not support the current one either. Thankfully I am not a cabinet minister; I do not have to refrain, because of cabinet solidarity, from commenting outside my portfolio and I am not required to declare support for policies that I think are odious. Certainly, as a Labor MP I accept that the principles of caucus solidarity has kept me, in this instance, from moving this bill. I accept the wisdom of my colleagues in this instance. Caucus can, if this bill comes to a vote before the December national conference, require me to vote on it in a certain way, but there is nothing to prevent me from speaking my mind on this matter, for the current ALP policy on marriage is morally bankrupt.

I do not have to look too hard into the history of the great Australian Labor Party to find a directly comparable policy debate. Indeed, minister Wong referred to it in her speech to the state convention: the White Australia policy. The White Australia policy is a shameful blot on the ALP's

soul. For the first half of the ALP's history, it was an article of faith for the party to restrict migration and citizenship to people declared 'white skinned'. It was an exclusivist policy, holding that only a certain class of people may have the rights of migration and citizenship. It explicitly excluded others.

While the old men of the Labor Party held onto this core policy the world and society changed around them. A new breed of ALP members, led by people who would themselves become Labor luminaries such as Don Dunstan and Gough Whitlam, began to demand change. Eventually, at an ALP national conference in 1965, they achieved the goal of overturning that discriminatory policy that was based on bigotry.

History has judged those progressive activists as right, just as I am confident that history will judge those advocating today for marriage equality to be right. This bill is just the start of that debate. I invite honourable members to join in and, when they do so, consider which side of history they wish to be on. I invite them to join me and the Hon. Tammy Franks on the side of the angels.

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

GRAIN INDUSTRY

The Hon. R.L. BROKENSHIRE (17:15): I move:

I. That a select committee of the Legislative Council be appointed to inquire into and report upon elements of the grain industry in South Australia and in particular:

(a) The capacity of the market to ensure a vigorous and competitive marketplace for grain growers;

(b) Grain classification and standards and whether internationally approved grain testing options, e.g. falling number machines, should be available to growers on request;

(c) Service delivery, including human resources, operating hours and storage capacity of grain receival points;

(d) Export and shipping arrangements, including port access and associated costs;

(e) Grain quality management, including receivals and outturn;

(f) Open and transparent information on all grains, including stock disclosures;

(g) Adequacy of road and transport infrastructure for the grain industry; and

(h) Any other relevant matter.

II. That Standing Order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

Today I move that a select committee of the parliament investigate the grain industry in South Australia. I know that some honourable members argue that select committees may solve nothing and that they would prefer meetings behind closed doors and carefully timed press releases to make it look like something is being done.

However, select committees do actually give the community an opportunity to have public hearings and hear testimony from witnesses on important issues to the public, and they allow the parliament to democratically look at all the issues, warts and all, and ensure that we can recommend the best possible outcomes to the parliament and then request and demand that government implement those recommendations.

I believe that this is a select committee that is very important to the future of one of the most significant growing agricultural industries in this state, namely, the grain industry. It is not about attacking government, it is not about attacking anyone in the parliament, and frankly, it is also not necessarily about attacking Viterra either. It is about looking holistically at all the issues and ramifications that occurred with a near-record harvest here in the state for the 2010-11 harvest.

I saw many constituents and their families who were absolutely frustrated about processes with the 2010-11 harvest. They want this inquiry, and there is nothing more appropriate than public hearings and evidence from witnesses on the social and economic impact of the conduct of the harvest and issues within the industry generally. I declare my interest—conflict of interest, if you want to look at it that way—as I do when I am speaking in this chamber as a farmer. My family also grows grain, and I was well aware personally of some of the frustrations that occurred in trying to get that grain to the silos.

I acknowledge the work of the shadow minister for agriculture, food and fisheries and member for Hammond, Mr Adrian Pederick MP, who has moved a concurrent motion to this one in

the other place. I appreciate the Liberal Party's indication that it will support this select committee, because its local members, in particular across the grain-growing regions, would be very upset about the 2010-11 harvest and believe it is well due that we have an inquiry into the industry.

I will be sending information to the rest of my colleagues, asking them to carefully analyse over the next couple of weeks the reasons why I am moving this select committee, and I hope that they will also join me in supporting a select committee into the grain industry. Just briefly, I want to put a few things on the public record. The bottom line is that grains are, of course, a major contributor to gross regional product.

I note that the South Australian Centre for Economic Studies states that for 2009-10 farm gross state product was about $2.6 billion, which I know is much less than usual, given the droughts, and certainly this year, with grain alone we expect to exceed $2 billion in grain farming contributions to the gross state product, with overall agriculture being much higher. In fact, gross state product for 2009-10, according to the Centre for Economic Studies, was $80 billion.

Grain handling is managed not only by Viterra. There are other companies and organisations into grain marketing, handling and receival, but clearly Viterra is the largest, owning most of the infrastructure in this state since it bought it from ABB Grain in May 2009. That is why, clearly, quite a lot of the focus will need to be on Viterra.

There were so many issues and, having been involved in watching and working with the grain industry for some time, when you get a record harvest clearly there will be some pressures in receivals and management, one would have thought that, given PIRSA's indicators much earlier than when the grain season started about a potential record harvest, Viterra and other companies would have started to make some very good planning to ensure that, as best they could, the farmers got through the silos as quickly as possible and also had state-of-the-art technology to help them manage with the assessment of grain. That is one big thing that has really fallen down.

Without pre-empting too much, as if this gets up we will need to be clear minded on the evidence, I believe that perhaps the lack of commitment to serious infrastructure spend has had an incredibly detrimental effect on many farmers. Farmers complain to me regularly about the lack of falling number machines, which measure how active the enzymes are in the grain in breaking starch into sugars and ultimately sprouting grain. With the wet season, there was quite a lot of shot grain, but visual assessment, which was used in a lot of receival facilities, had a lot more risk attached for the farmers in how that grain was graded.

In fact, it is clear from evidence given to me by a number of farmers that some of the visual assessment saw significant downgrades on wheat in particular, which, had it gone through the falling number machines, would have possibly gone hard or APW (Australian premium wheat) or ASW (Australian standard wheat) that went down to general purpose feed or even feed. In fact, there were farmers who were so furious about the way their grain was being graded that they had to spend a lot of additional money travelling to silos where there were falling number machines. Interestingly, when they the got a falling number machine assessment, their grain was actually graded up.

This year in particular, when you consider that the difference between hard wheat and feed wheat was at least $100 a tonne, that is a huge difference. It could be something like $3,000 a semi-load difference to the bottom line for a farmer. In talking to one of the Cowell silo committee members, who is a farmer on the West Coast, and listening to reports that he gave to *Country Hour* on the ABC, some farmers allege that they may have lost as much as half a million dollars simply by the grading techniques used when they took that grain into the silos.

Given that we have all been through seven years of drought, the last thing you want when you get the one in 10-year harvest is to have this sort of situation occurring where you are looking forward to a bumper harvest when not only was the yield good but the price was brilliant compared with what it has been in recent years. Given the droughts in the northern hemisphere, those farmers were looking for really good returns to start to reduce debt and upgrade machinery. It is totally unsatisfactory if they ended up losing that sort of money.

I know from my own farm, whilst there was some variance in paddock with the grain, given that there were crab holes and things where you got excessive wet and there were some screenings there, when I looked at those grades in the field bins before they went to the silos visually there did not appear to be very much difference in them, yet you took one semi-load to the silo and it would be ASW and the next semi-load right alongside the field bin taken from exactly the same area was downgraded. Admittedly, I had the opportunity of sending our grain through a silo

where there was a falling number machine, so you can imagine what happened when there were visual assessments.

There are issues around training, the lack of training and general infrastructure. At Tailem Bend, for example, they are still building bunkers. It was hard enough trying to get the grain off as it was this year, let alone the silos telling you on the Friday that they would take no more ASW, as an example, until the Tuesday, and the only period of good weather the farmers had to reap that grain happened to be from the Friday to the Tuesday. Where do you store it? In comes another rain and downgrades again. Given how significant the grain industry is to South Australia, if Viterra and others are serious about a long-term future here, then there needs to be some serious spending on infrastructure, and again we will find that out if this select committee is approved.

I put on the public record that Viterra has now said, due to pressure by the farmers, that they will have an inquiry themselves and that is admirable of them, but I believe that the best inquiry is an independent inquiry by a cross-section of colleagues in this chamber who can actually have a proper select committee that is totally independent from any company. The AAP reported that minister O'Brien said:

> The company gave me an assurance it would conduct a thorough analysis of the issues including proper consultation with stakeholders.

He went on to say:

> It was agreed that an expert independent member be appointed, someone with the respect and support of growers.

Regarding Viterra's review, I will say four things. I welcome it. It can run parallel and I look forward to them sharing their findings with the select committee. I have the utmost respect for Rob Kerin. However, I am not convinced that, because they have appointed a former premier and agriculture minister, we should leave all of the inquiry to Viterra.

Viterra's review will not be public, as I understand it. It will certainly not be as transparent as a select committee, and it will ultimately be within Viterra's powers to act upon their inquiry. There is only a chance of a state government review after that inquiry and for me that will be too late for this harvest. In fairness to the minister, the minister did say that, if he was not satisfied with Viterra's inquiry, he would then look at a parliamentary committee to investigate.

My concern (over and above the transparency and the absolute independence and democracy of having a select committee here in the Legislative Council or in the House of Assembly, wherever it may finally be approved) is that we need to move quickly on this because we need to learn from the mistakes of the last season and ensure that those can be rectified before the next season. We are only nine months away from harvest; probably, on the West Coast, and in parts around Port Pirie and the like, we are only eight months away from harvest, so this needs to happen quickly.

I note that minister O'Brien—someone whom I personally get on well with and respect—has said that one reason that he did not want to have a select committee at the moment was the cost. It will not be that costly. We have a structure here, we have staff here, we have the expertise here to conduct the select committee, but even if that is a cost (and let us say that it does cost a few hundred thousand dollars) it is in the state's best interest to address these issues when you are talking about hundreds of millions and billions of dollars' worth of income to the state.

Because of the time, at this point I will not go through the terms of reference. I have been through them before, so members know what those terms of reference are. The current issue is of enormous concern. I went to Tailem Bend last Thursday afternoon and 140 farmers attended, some from as far away as the West Coast. There have been meetings on the West Coast. There are a lot of issues. I think it is also timely to have a select committee just to see how we are going, given that the single desk was removed a couple of years ago. Importantly, I think a select committee of the parliament is the best way to give farmers the confidence to know that there will be a fully transparent and thorough inquiry. It is important for our state, it is important nationally and it is important when it comes to food security.

I ask all members to have a close look at the material that I will be sending them. As I said, this is not a witch-hunt on the government or Viterra. It is about having a look at all the problems that have occurred and ensuring that, in the future, farmers get the best opportunity to get their crops into the silos as rapidly as they can and to look at options to expand opportunities for farmers in their marketing, to look at ports and other infrastructure (road and rail) and to ensure that farmers

can get the best possible price for each tonne of grain so that they can then assist their families, their community and the state economy. I commend the motion to the house.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

MOUNT BARKER DEVELOPMENT PLAN AMENDMENT

The Hon. J.M.A. LENSINK (17:30): I move:

That this council condemns the Labor government's mismanagement of the Mount Barker development plan amendment.

I move this motion, which was proposed by the local member, the member for Kavel, Mr Mark Goldsworthy, and I do so having had the benefit of being a member of the Environment, Resources and Development Committee and having an interest, clearly, as the Liberal spokesperson on the environment.

As honourable members would be aware, we have had two hearings of the ERD Committee, one of which took place on 27 January, at which we heard witnesses, including the Mount Barker council, which I shall hereafter refer to as 'the council' or 'local council', and local community groups, and we had a further final meeting on 4 February at which Planning SA was invited to give evidence.

At the outset, I commend all of the witnesses who appeared on the matter before the committee for their very thorough and professional presentations to put us in the best position to make a decision. None of the non-government witnesses expressed the opinion that they opposed development per se. I think what has transpired with this DPA process is that there are some fundamental problems with the planning system when you have a government that has already made up its mind about a particular proposal.

I am sure that other members who will speak on this matter will address what they see as particular deficiencies in the planning system, and I will leave that for another day. It is my personal view that Planning SA was given the invidious role of negotiating through issues when the land had already been identified as a particular growth area and that therefore it did not have a choice about whether it undertook that. That particular site was chosen: the southern side of Mount Barker. The government was determined that that would be the area that it would use to provide for urban growth and therefore that issue was non-negotiable from the start.

This is also reflected, I think, in the anxieties of a number of people who have contacted my office and the office of the Hon. David Ridgway, and presumably other members as well, who have said, 'We have gone to countless public meetings, we have written letters'—and they have been individual letters that they have individually researched—'and we thought that our voices would be heard; we thought that something might change as a result of us participating in this particular process and, lo and behold it is a done deal.'

I think that that in itself highlights a huge concern that people in this state have: that it doesn't really matter whether you go through all of that effort. I have a document which was provided to us at the ERD which was developed by the District Council of Mount Barker. It is a very well researched document. I think it is close to 100 pages, and it details all the particular matters that the council has concerns with. I am not going to go through that in detail; I am sure that it is available in the public domain, but I will touch on the major issues that it has raised.

The issues of immediate concern for the council include a ring road which would collect up all of those residential allotments and feed that onto the main road, which is the South Eastern Freeway. There is also the issue of the sewerage system, which at present is a community effluent disposal system in which the council has invested significant amounts of money in upgrading and which has a capacity that will not cater for the new allotments through this DPA.

There are stormwater issues. The Mount Barker Creek flows through the town and is a tributary into Lake Alexandrina via the Bremer River. There are public transport issues. Mount Barker is currently serviced by a bus system, and the only way that public transport can be expanded is through additional buses rather than having access to a train or a tram system, as other developments in this state do have. There is the issue of the South-Eastern freeway, which is already a hazard and which will become increasingly congested as traffic increases, with individuals driving their own cars, as well as being on public buses.

There are employment issues, in that the council is concerned that a number of people will be travelling by car. The council would like to see further employment in the town so that people

are not so car dependent, and there is the matter of bushfire, being that Mount Barker, as part of the Adelaide Hills, is at higher risk than other parts of the state, and so on.

There is also the issue of food security and rezoning of prime agricultural land, which my colleague on the committee, Mr Ivan Venning, has raised, and a number of liberal members have also raised this issue. There are concerns that agricultural land is being rezoned, essentially for houses, and what that means for food security for Australia and the rest of the globe into the future.

I think it is fair to say that there were different perspectives between Planning SA and the council. The question arose whether a master plan or structure plan should have been done. That is a question for planners, but I do understand where the council is coming from, in that it is in the invidious position of having to make an assessment about applications. The council told us that two applications were currently before it and that, if the council were to approve them, it would squash out the ring-road that needs to go through to connect all those different areas to take them on to the freeway.

The problem with that (and this is being seen in other decisions by other local councils around the state) is that, if the council approves those applications, the infrastructure that has been placed in that particular application is there for ever and may well lead to further development not being done in a particularly cohesive manner; therefore, those infrastructure issues will not be able to be addressed in the most efficient manner. However, if the council refuses the application, it can be taken to court, and that is very costly for taxpayers. I think that is a very, very keen issue in all of this debate and something for which I have complete sympathy.

I would like to refer to a couple of matters that were provided in evidence to our committee. Mr Andrew Stuart, who is the CEO of the council, in providing evidence on 27 January, said in relation to the freeway issue:

> People underestimate the necessity of the South-Eastern Freeway to function properly to service Mount Barker, and that is why another exit and entrance to Mount Barker is essential. That needs to be delivered now; in fact, DTEI has indicated that those needs are there now. But the South-Eastern Freeway, if we get another access onto it, only fixes one part of the problem; the next part of the problem is the tunnels. Safety and behaviour are current issues that you are probably all well aware of, for which many strategies need to be developed at the moment...
>
> Those problems could be minimised to some extent if all these people—some 20,000 perhaps over the next 20 years, maybe sooner we would submit—could find employment within Mount Barker. There is no employment plan. So, people are going to commute to Adelaide. There should be an employment plan.

I think those comments back some of the issues that were raised. I do wonder whether this particular proposal was pushed forward too quickly. In the evidence provided by Mr Hanlon of Planning SA, in relation to whether there should have been a master plan or a structure plan, he said:

> The fact is, you would have liked to have done all of this from day one and that this is now the future. We said right from the start that, unfortunately we do have to do some of these things in retrospect in Mount Barker.

So, those are some preliminary remarks. I will make some more at the end of this debate in coming weeks and months, but I just outline that those are some of the significant concerns that were raised, and I think it is very disappointing that we had a government that was hell-bent on pushing this development through and was not prepared to accept that there should be amendments to this particular development plan, that it really should be rubbed out and started again, with proper consultation with all the parties who will be affected.

I think, for the people of Mount Barker, it is going to be an ongoing issue of anxiety to make sure that the character of that town is maintained into the future. I would again commend the Mount Barker council and the community groups for not merely rolling over. I think it is disappointing that the then minister described them as having their head in the sand. I do not think that is an appropriate way to refer to a community, and I just wish that they had listened to what they had to say.

Debate adjourned on motion of Hon. Carmel Zollo.

MARINE PARKS

The Hon. J.M.A. LENSINK (17:41): I move:

> That this council calls on the Minister for Environment and Conservation to place an immediate moratorium on the imposition of the draft sanctuary zones contained within the Marine Parks' outer boundaries for South Australia.

This issue of marine parks has had a long gestation and I risk having repeated myself in previous debates and forums, where I went through the background to the marine parks issue, which began in the mid-1990s, when the former Liberal government was in office, and a document called 'Our Season Coasts: A Maritime and Estuary Strategy for South Australia' was released, with a comprehensive guide to marine protected areas being published in April 2000.

The 2002 Liberal election policy indicated our desire to complete the work by 2006 and the state had a long-standing obligation to establish a system of marine parks within the state's waters, flowing from the commonwealth's international obligations to the convention on biological diversity.

So it was in the Rann government's second term that it passed a Marine Parks Bill, which had to be amended by Liberals and Greens to ensure that all interests would be properly consulted. The 19 park outer boundaries were proclaimed on 29 January 2009. They were then amended, and the next process is the one that is the subject of this particular motion, which is the zones and management plans, and another process which is taking place is the displaced effort regulations.

I would have to say that some of my colleagues have expressed concerns about the size of the outer boundaries and said that people would be locked out of fishing and so forth. I have never shared those concerns because I believe that it is the sanctuary zones and management plans which are the critical issues which will determine what activities will take place and what will be excluded from those particular parks.

I think it is important in this debate that just about everybody that I have spoken to, including those who oppose these particular sanctuary zones, believe in marine parks and sanctuary zones, and are concerned about ensuring that we have environmental conservation of our marine habitats and biodiversity.

However, the process of the establishment of these sanctuary zones—or draft sanctuary zones, I think the government is calling them—has just been absolutely appalling. They were released in November last year. There is a process for each local park which is through the Marine Parks Local Advisory Groups (MPLAGs) and they consist largely of people who are local community representatives. It is my understanding that each of those MPLAGs did not have any input into those draft sanctuary zones and it is also my understanding that they have not been provided with the information as to why the government has chosen those particular zones, which has very grave concerns for transparency.

I also note that the minister has stated that arbitrary percentages—that is, percentages of each of the 19 parks to be set aside for sanctuary zones—would not be chosen, but this is contradicted by the department's documentation, which states that one of the zoning guidelines is that sanctuary zones should cover about 20 to 25 per cent of each marine park.

It is my belief that each marine park and each of its zones should be guided by good scientific evidence. I understand that there is a lack of that at this time, and that is very unfortunate. That work needs to be undertaken posthaste. I do not have a particular fixed view about what percentage of each marine park should be within a sanctuary zone; I think that depends on what environment exists in each park, and I will refer to some scientific references later that talk about some of the international evidence regarding marine parks.

I think the reaction from communities, which are all in regional areas—none of them is in the metropolitan area, which is, I think, a typical strategy of this government; it is quite happy to impose things on regional communities—is that they feel betrayed. A number of people provided input into what their fishing spots were and so forth and ,lo and behold, some of those areas are right the middle of a sanctuary zone.

What the government thinks it is doing with this process is beyond me, if it wants to have community support for marine parks. I think these coastal regional communities are very cynical at the moment. They do not trust the government at all. They were prepared to accept the outer boundaries on the basis that the sanctuary zones would not be designed to deliberately harm them.

I think we also need to be aware that we live in a liberal democracy in Australia, and governments cannot just take away people's rights without giving them a valid reason. I think that is the basis of what is at fault with this particular process. Marine parks will not work unless the process is transparent and the community supports them and is actively involved in the process. Further, the marine parks management program has been cut by $1.5 million in the out years of the current budget, so one wonders who will police these sanctuary zones.

In estimates, the minister referred to the fact that one method to enforce marine parks may be through Fishwatch, which, I understand, is a bumper sticker with a telephone number that people can call. Individuals themselves are not able to take action if they see something going on that they think should not be taking place; presumably, they would call someone who is an authorised officer and report it to them. However, if they are cynical about marine parks I suspect they are less likely to be involved in that process.

In relation to the technical information about why the zones have been chosen, I am quite happy to tell the world that I have lodged a freedom of information application for each of them. If I do not receive that information I will be very disappointed, because I think it is key to the process and goes to the heart of transparency regarding the zoning. People have complained that the maps on the marine parks' website are very difficult to follow and do not provide clear definitions or GPS data as to where each zone starts and finishes.

I think the government needs talk to regional communities directly about how these proposals will affect them. Can I just say that I foreshadowed that exactly this scenario would take place when I sought to amend the Marine Park's Amendment Bill last year in this place because I had a suspicion that we just could not trust this government to do the right thing by communities.

People have said to us at public meetings that boating will become more dangerous because there will be restrictions to launching sites. This will force people in smaller boats to travel further offshore to fish or to other sites. Charter boat operators are already flagging that boating will be more risky because, for those in smaller boats who may get into trouble, the charter boats are the frontline vessels used in case of emergency, and some of those, particularly on Kangaroo Island, will be relocating interstate if the sanctuary zones are implemented as they have been published.

I have referred to the lack of resources for policing, which again goes to the lack of transparency, and I think that these proposals do not acknowledge that significant damage occurs to the marine environment from coastal development and pollution, yet these issues remain unaddressed. I understand that our fisheries are at least reasonably well managed, and some of the best managed in the world, through mechanisms such as bags, size limits and restrictions on seasons, and commercial fishers are subject to strict controls through PIRSA fisheries.

Again, I have sought information from the government. I have formally asked for a briefing to be provided to members of parliament by PIRSA fisheries so that we can be told how to interpret their fish stock reports, because they claim that some of those have been misinterpreted for the purpose of advancing the cause of marine parks, and if that is the case, then we would like that information, please.

I am not going to quote all of them, but I have some letters from people who have written to the minister and cc'd myself, and some of this stuff is in the public domain on websites that have been established following the release of the sanctuary zones. This letter is from somebody who has an interest at Hardwicke Bay. He says:

> One important issue is how little was known about the marine park and how ineffective the communication channels have been into a transient community such as the one at Hardwicke Bay. Of some 300-350 property owners, this small community is made up of some permanent residents, but mostly holidaymakers who come and go, but don't at any one time meet in any structured way.

He says:

> One common thread, however, is that virtually all the community are fishing the bay. My observations in 14 years of fishing and enjoying many other aspects of life on Southern Yorke Peninsula are these:
>
> The bay is in much better condition than any of the metropolitan beaches, with extensive seagrass beds widely distributed in a top condition. Catch rates vary considerably across the species available, and everyone I know observes bag and size limits religiously and therefore self-regulate and fish in a sustainable and responsible manner…The majority of local fishermen have small boats and tinnies, some rowing without a motor, and do not have safe access to offshore waters….I do not have any objection to the spirit and intent of identifying marine parks and sanctuary zones, in fact I think it is a good thing—we have national parks and animal sanctuaries on land, so why not on strategic seas and coastal areas to protect vulnerable and sensitive areas and species? At the meeting recently, I must say that that is not a view held by some longstanding members of the Hardwicke Bay community. However, I strongly believe that the proposed 'no-fishing' areas in Hardwicke Bay could be better thought through to provide safe and sustainable fishing grounds for those who want to use the bay recreationally.

Another letter, which has been published on a website, states:

> I am a 59-year-old recreational fisherman with no commercial interests in the industry. I am an active participant on local internet fishing forums and I oppose the implementation process for the new sanctuary zones...I

understand the need and totally agree that we should have marine parks in South Australia and no-take zones within those parks. I believe that this is also the majority view of those on the forums and all those with whom I have discussed the matter. My opposition is based entirely around the process that has been used by DENR to establish marine parks and zoning. I believe that this flawed process has alienated many recreational fishers in SA and created much of the current opposition and mistrust.

He goes on further to make a number of points. There are letters from the Sellicks Area Residents Association and people who are familiar with Kangaroo Island and Yorke Peninsula, Fleurieu Marine Park Local Area Group proposal and one from Port Lincoln, and many, many others and they all echo much of the same sentiment.

Can I just say, too, that there has been some discussion on talkback radio and in the newspapers, and I resent the implication that is has been members of parliament who have been whipping up some of the angst in the communities. This issue was so well highlighted to me when I visited Kangaroo Island, Fleurieu Peninsula, Port Lincoln more recently, and other areas where people are absolutely gobsmacked about the proposals. No whipping up of sentiment occurred. These people came along to meetings all revved up and very angry and feeling betrayed, as I have said.

I think that that is spin on behalf of this government and spin to say that these sanctuary zones are not a government proposal but a starting point. If they are in the government proposal and have been published by government, then whose are they?

I will complete my remarks by referring to a couple of reports, one being from *Nature*—a very prestigious magazine and publisher. There is an article that has been published by Daniel Cressey, a one-pager, headed 'Plans for marine protection highlight science gap', with the subheading 'Researchers are scrambling to understand how best to deploy conservation zones'. It refers to some research that has been published by Tundi Agardy, an environmental consultant based in Massachusetts.

She has published a paper in *Marine Policy*, in which she identifies five possible shortcomings in marine protected areas. These are: first, that they are too small to be effective; secondly, that they may simply drive fishing into other areas; and, thirdly, they create an illusion of protection when none is actually occurring. Many are poorly planned or managed and can fail all too easily because of environmental degradation of waters just outside the area.

The article also states that sometimes the marine protected area, which has a purpose of protecting a particular species, has missed a sizable proportion of the species' core range. Her study showed that MPAs can benefit fisheries in adjacent waters but that the degree of the effect depends heavily on the size of the area and the quality of its management. There is a conclusion that each MPA needs a unique design, depending on its goals.

The conclusion is that conservationists should approach the design and siting of an MPA as a bit of an experiment, which comes back to the point that the environment department does not know where everything is. There are further reports referring to the fact that there needs to be shared responsibility between government and users rather than just a top down approach.

There is a lot of research; I am currently trawling—excuse the pun—through a great deal of reports and published material which talk about marine parks. There is quite a lot of it in the research domain. However, marine parks are still a relatively new phenomenon, so trying to find a consensus as to how effective they are is quite difficult.

I think that more work needs to be done in this particular area, but I cannot see how the way the government has gone about this process and completely ticked off regional communities, rather than genuinely consulting with them, will even benefit the cause of conservation per se, because it makes people cynical. They become disengaged, they have no trust, and they are less willing to participate in a process which, quite frankly, depends on them to be involved if it is ever going to be effective. With those remarks, I commend the motion to the council.

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

[Sitting suspended from 17:59 to 19:49]

WEIGHT DISORDER UNIT

The Hon. T.A. FRANKS (19:49): I move:

That this council—

1. Notes the Labor government's December 2010 announcement of intent to transfer eating disorder beds from the Weight Disorder Unit, otherwise known as Ward 4G, at Flinders Medical Centre to other general medical and psychiatric facilities, being the Margaret Tobin Centre and the Boylan Ward at the Women's and Children's Hospital;

2. Notes the grave concerns expressed by eating disorders consumers, carers and advocacy groups that this move will significantly lower the quality and accessibility of care options for those suffering and recovering from eating disorders in South Australia;

3. Welcomes the Minister for Health's assurance that this move will now not proceed until after the latest review of Ward 4G is completed; and

4. Urges the minister to work towards an outcome that utilises this opportunity to ensure that future care for those suffering from eating disorders adopts a statewide approach for a continuum of care that is world class, holistic and accessible to both adult and adolescent sufferers.

As members would be aware, this motion—

An honourable member interjecting:

The Hon. T.A. FRANKS: I am sure you will be, because there was a rally outside this place today, and that would certainly not be the first time that members in this place had heard of the debate regarding the government's late 2010—not actually an announcement—decision to close effectively Ward 4G, the Weight Disorder Unit, at the Flinders Medical Centre and shift the disordered eating consumers currently in that ward, if they were under 18, to the Women's and Children's Hospital in the Boylan Ward, and, if they were over 18, into the Margaret Tobin Centre.

Both these options for the under 18s and over 18s have been met with much concern from consumers, carers, advocates and professionals in this field of eating disorders and, quite rightly, the government has now actually acknowledged that perhaps it was an ill-considered move. I will not call it an announcement because, as I say, it was actually first raised with me by an ABC journalist who had discovered it from those concerned. I certainly do not remember it being much heralded in any government announcements prior to that time in December.

Disordered eating, particularly disordered eating such as anorexia nervosa and bulimia nervosa where people in fact restrict or control their eating to such an extent that they lose enormous amounts of weight (an illness that in fact can and often does lead to death), is an area that we have seen emerging for some decades now, but it is still an area that we do not know all that much about.

As is reflected in the celebrity cases that we know, we have typically seen sufferers who are young women, and increasingly we have also seen that there is a trend to younger and younger groups not only being diagnosed with disordered eating of a life-threatening nature but also having severe body dysmorphia and body image and self-esteem issues. We see children as young as six and seven in the schoolyards dieting, and although it is not only the girls, of course it is predominantly the females in our society who are affected by this issue. However, increasingly we have seen men and boys also suffer from a range of eating disorders, although I would note that, typically, boys and men with body dysmorphia often have issues with lack of bulk, so those issues are not quite as life-threatening, although there are cases, of course, where men and boys do suffer in that way.

As I mentioned before, we were joined on the steps of Parliament House today by some amazing young people who have suffered from anorexia or bulimia who shared their stories with us. It was incredibly courageous and most touching. I note that there were many members in this place today who were on those steps, the Hon. Stephen Wade being one of them, and I acknowledge that he raised this issue earlier today in question time. There were also members from the other place—the members for Morialta, Heysen, Fisher, Morphett and Adelaide—and, of course, the Hon. Ann Bressington and I were also there today. I commend those members for showing an interest, and I urge you all to keep a watching brief on this issue.

The absolute horror with which many in the sector have greeted this decision is because potentially, particularly for those under 18, it diverts them to a care that historically has proven to be inadequate for their illness. For those who are over 18, this decision puts them into a psychiatric centre where (as we heard in the stories today from those who had actually been put in with other patients, as you would call them, with psychiatric illnesses) vulnerable people who are very slight and have a particular type of mental illness are subject to and vulnerable to forms of abuse, including sexual and physical abuse.

Certainly in regard to the trauma that some of those consumers who had survived eating disorders shared with us, they say that they carry some of those mental scars to this day, which were an additional burden that did not help the recovery from their illness. In this state, we have heard a lot of talk from the youth minister, for example, that we are going to have some body image forums coming up this year. I welcome that in many ways, but I actually think that perhaps the cart has been put before the horse there. We should see a government responding with greater seriousness, and with greater vision and foresight, to this incredibly life-threatening condition.

While there is incredibly commendable work done in Ward 4G in South Australia and it has had a history of working in partnerships with great professionals—and there is great expertise there—it is actually not the best that we could offer people in this state who are suffering from eating disorders, particularly those of quite a life-threatening nature. In fact, there are much better models around the world, and in our own country, that we could be looking to, and they certainly do not include this budget cost-cutting measure of shifting people off to the Margaret Tobin Centre and to the Women's and Children's Hospital.

Just to give the government a chance to think outside the square on this one, I have put on the table that perhaps the Blackwood Hospital site could be used as some sort of recovery and treatment centre. Now, it might not be the perfect solution, but it would certainly at least be something that would be progressing from what we have as a current standard of care at this stage.

I point to places like the Butterfly Foundation in Victoria and the various models around the world. Many South Australian parents, in fact, find themselves travelling overseas or interstate to seek care for their loved ones because what we offer here could, in fact, be of a much greater quality and actually provide a much better program than we currently have.

I welcome minister Hill's recognition of the fact that it was a bit of a folly to undertake this decision. I look on the idea of another review with cynicism because I note that this area has been reviewed and reviewed and reviewed. I think it is time to stop reviewing and start actually acting in this area.

In the last few decades, as I say, this issue has emerged and there is now a lot of new information on the table and a lot of increased understanding about better ways of treating this particular illness, and it is quite a unique illness. It is not purely a psychiatric illness, it is not purely a physical illness, and certainly most sufferers have particular needs that, I think, need a particular solution.

So, I look forward to the government taking this commitment for a better solution to this issue seriously. I welcome with some cynicism, as I said, the fact that it has said that it will not progress the announcement to shift or close Ward 4G until we have a better solution at hand. I would remind the government that they are the ones in the role. They are the ones with the luxury of a public servant and they are the ones who have the ability at their fingertips to improve the lives of South Australians. So, this is a great opportunity for this refreshed, reconnected Labor government to do something that the South Australian people could applaud.

The Hon. R.L. Brokenshire: Reconnected and refreshed?

The Hon. T.A. FRANKS: So-called reconnected and refreshed. I will remain less cynical on that and I hope to be proven wrong in my cynicism. I would like to see some announcement in coming months from minister Hill that will, in fact, see South Australia become a world leader in the area of these eating disorders. With that, I commend the motion to the chamber and look forward to further debate.

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

CHILDREN'S PROTECTION (LAWFUL SURRENDER OF NEWBORN CHILD) AMENDMENT BILL

The Hon. A. BRESSINGTON (19:59): 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 (19:59): I move:

That this bill be now read a second time.

The Children's Protection (Lawful Surrender of Newborn Child) Amendment Bill 2011 seeks to establish in South Australia a means by which women and young girls can safely, anonymously

and legally relinquish their newborn babies, also known as a baby safe haven scheme. While this would be an Australian first, many countries, including Germany, Switzerland, Japan, Portugal and every state in America, have some form of baby safe haven legislation in place, although the models differ significantly. Most allow women to anonymously relinquish their newborn babies in hospitals or to emergency services personnel, receive medical attention and walk away, knowing that the baby will be well looked after.

It is my understanding that the first baby safe haven was established in the American state of Texas in 1998, following a spate of 13 babies being abandoned. By 2003, 41 additional states had introduced a baby safe haven law and, as I said, all American states, regardless of whether they are nominally Democrat or Republic, have followed suit. In that time, well over 1,000 babies have been safely surrendered in the United States.

The key to understanding the bill that I propose today is its objects or, more specifically, how it gives effect to its objects, which are neatly expressed in proposed section 9B, the first of which is to encourage the lawful surrender, rather than the abandonment, of a newborn baby, defined to mean a baby less than 60 days old. As is detailed in section 9C, the bill enables this through three means.

Firstly, a woman will be able to surrender the baby into the physical custody of a medical practitioner or nurse in either a clinic or hospital. It is important to note that such prescribed persons are covered for any civil liability for their actions in good faith when receiving a surrendered child and then placing the child under the guardianship of the minister. It will require informing those prescribed persons of their responsibilities under this bill, and that would, obviously, be a government responsibility.

Secondly, hospitals selected by the minister and prescribed in regulation will be required to install specifically designed baby hatches in which a mother, without entering the hospital, can place her child, knowing that when she closes the hatch an alarm will sound alerting medical staff. Such hatches are in use internationally. It is rather unfortunate that another term for that is a 'baby chute', which conjures up the idea of a laundry chute, or something. It is basically a door in the wall with a humidicrib behind that. The door is opened, the baby is put in and 10 seconds after the door is closed an alarm goes off to alert medical staff that there is a baby in the crib.

Thirdly, the bill enables the minister to prescribe in the regulations such other places or persons deemed appropriate. While I have not specifically nominated this as an option in the bill, but rather left it to the minister to consider, this provision is intended to allow the minister to cover ambulance paramedics, who could travel to the mother and collect the child whilst ensuring that both mother and child receive the medical attention they may require. Several American states have this as part of their baby safe haven scheme.

Babies surrendered under the bill are automatically placed under the guardianship of the minister and registered under the Births, Deaths and Marriages Registration Act 1996, if not already done. Additionally, where appropriate, the woman is to be encouraged to provide information that may be of relevance to the current or future health of the child and to seek medical treatment or other support services for herself, anonymously or otherwise.

In all cases, the woman is able to surrender her unharmed baby safely, anonymously and lawfully, knowing that it will be well looked after. They will have committed no crime and no attempt will be made to contact them. While it is one of the more controversial elements of the bill, my research shows that anonymity is paramount to the use, and hence success, of baby safe haven schemes.

Unfortunately the research base on child abandonment in general is small, with many questions yet to be asked, let alone answered. Even less is known about the women who discard their newborns. The reality is that in most cases, particularly where the child has died, women rarely come forward and hence are never found.

The mainly anecdotal evidence that does exist unsurprisingly shows that these women are often young, disconnected from stable support systems such as family, in denial of their pregnancy or unwilling to seek out support services or simply do not know that they are pregnant. It is suggested that the combination of denial and isolation results in the women not seeking prenatal care or making plans for the birth or care of the baby.

Through the little research available, it is possible to come to understand how women who use this service internationally are feeling. It is evident that they are desperate and afraid; they do

not want people to know about their baby, or they do not know about the baby themselves and they are in shock; they just want someone to take it, keep it safe and make sure it gets a good home. However, at present, such women here in South Australia have nowhere to turn. This absence of options results in babies being abandoned, usually by young women and, if not found in time, tragically, they die.

While I will not dwell on the tragic details, as examples, members may recall the well-publicised 2008 case of the baby that died due to exposure to the elements after being left in a suburban driveway, or the 2007 case of the full-term baby boy left in the bathroom of an Adelaide TAFE who also died. Thankfully, not all end in tragedy, as the 2003 South Australian case of baby Joshua demonstrates. After he was left on a random doorstep and the mother not coming forward, *The Advertiser* reported a year later that baby Joshua had been adopted into a loving family home.

It is impossible to know accurately how many babies each year are abandoned here in South Australia or nationally. Data collection is limited, as I have said, with no department routinely reporting on child abandonment. Some proponents of baby safe havens estimate, on media reports, that between New South Wales, Victoria and South Australia 12 babies are abandoned each year, with many tragically dying. However, it is likely to be significantly higher than this, as this figure relies upon those cases in which the child is, firstly, found following abandonment and, secondly, the case then being covered by the media.

We also know from the Australian Institute of Health and Welfare that a significant number of marginalised women each year (it was about 40 in South Australia in 2009) do not access any prenatal service and hence their pregnancies go unreported. This of course raises the possibility that many more babies are born and abandoned without authorities ever knowing. Additionally, this figure ignores children who die through infanticide.

That said, the number of babies abandoned is, thankfully, few in number. However, as I will argue, just because babies are not abandoned here on a daily basis does not mean that we should not be addressing this most serious social problem, for each baby lost in the absence of a baby safe haven scheme is a life that could have been saved.

The second object of the bill is to facilitate and prompt adoption of surrendered newborns. As baby Joshua's case demonstrates, this is the best option for a child anonymously surrendered and where the parents make no attempt to reclaim their parental rights. However, as has been raised in this place on numerous occasions, particularly by the Hon. Dennis Hood, adoption in South Australia of South Australian children is currently nearly non-existent, except for the few examples of step-parents adopting their stepchildren.

The explanations for this are varied, but it is not an exaggeration to say that Families SA is not all that supportive of what might be called traditional adoption. I have no doubt that, in the absence of a baby safe haven law, if baby Joshua had not been abandoned anonymously, and even if the mother or father or extended family had no desire to reclaim him, that child would have been placed under the guardianship of the minister until the age of 18 and had to endure all of the drama that goes with that particular circumstance.

As members will see in clause 9D(1), as soon as the minister takes guardianship of the newborn baby, steps must be taken to enable that child to be adopted. Preference is also given in this section to adoption by the child's extended family if they are known to the minister and it is safe to do so. This is in accordance with my policy position of retaining the child with the family whenever and wherever possible.

However, for a period of six weeks or greater, this second objective is overridden by the third and final objective of the bill, which of course is to return a surrendered baby to either its mother or father where in the infant's best interest. Recognising that some children under similar international schemes have later been reclaimed by their mother, or indeed father, the bill will provide a window in which the biological parents may come forward and no other enduring guardianship or adoption may then take place.

This is particularly important, as the mother may have been affected by depression, anxiety or panic at the time of the birth. In fact, a number of short-term issues may have been present at the time, especially for those young mothers or couples who are still in their teens.

While both are given a right to reclaim, the bill requires the mother and/or father to make an application, in accordance with proposed section 9E. This section provides for paternity testing, if deemed necessary, and gives the minister full powers under the Child Protection Act 1993 to

ascertain the baby's safety, if returned. Additionally, if it is determined that a child may be reclaimed by either parent, a period of supervision for three months, in accordance with section 51 of the act, is mandated before the parent can resume full guardianship. Of course, if it is reasonably suspected by the minister that it is not safe for a child to be returned to either parent, the minister may refuse the parent's application. The applying parent is then able to have this determination reviewed in the Youth Court.

While no Australian state or territory has introduced legislation similar to what I propose today, I am by no means the only voice calling for the establishment of baby safe havens. Indeed, many community organisations and church groups, both here in South Australia and interstate, have given baby safe havens their support. Others offer their support more reluctantly, an example being the President of Reproductive Choice Australia and ethicist, Dr Leslie Cannold, who was quoted in *The Independent Weekly* last year as saying, 'The idea is too little too late, but better than nothing for women in a desperate situation.'

A very vocal proponent of baby safe havens can be found in the Labor Party, in Senator Helen Polly, who has for years advocated the necessity of providing desperate women with an alternative to abandoning their babies. Senator Polly has spoken passionately on numerous occasions in the Senate and has organised petitions to the Tasmanian House of Assembly and the Senate, and instigated a Facebook cause entitled 'Support "Safe Havens" for abandoned babies' which as of this morning had 5,364 members.

The New South Wales Liberal Party, which looks as though it may soon form government, has also given its support to the establishment of baby safe havens should it win the next election. Following the tragic case in which a newborn girl was discovered deceased after being abandoned by her mother in a shoebox in Sydney, the shadow minister for community services and women, the Hon. Pru Goward, said:

> I've never in my lifetime known children being abandoned or murdered in such great numbers as we have at the moment.

She committed the Liberal Party to supporting baby safe havens. Other members of the New South Wales legislature have also thrown their support behind baby safe havens.

As recently as December last year, the Victorian government, following the conviction of former water polo champion Keli Lane for the murder of two-day-old Tegan Lane, also expressed support for the concept of baby safe havens, with the community services minister, Mary Wooldridge, expressing her intent to raise their establishment at this month's meeting of the Coalition of Australian Governments. The current President of the Australian Medical Association, Dr Andrew Pesce, has also thrown his support behind baby safe havens. He said:

> It's obviously very important that we as a community do everything we can to assist mothers and obviously their babies, who are in such a degree of distress that they're thinking of abandoning their baby...and to help some desperate women out of desperate situations for the benefit of them and their babies.

I contacted the office of the South Australian President of the Australian Medical Association, Dr Andrew Lavender, who reaffirmed Dr Pesce's statements.

Last year, I sent copies of the draft bill to those who I thought might be interested. I found this process most beneficial, and I would like to thank all those who sent through their feedback—perhaps that is a practice the Labor Party might like to adopt. While some simply expressed their support, others have clearly closely examined the bill and identified minor drafting errors as well as more significant issues. Again, I thank those who participated. One positive suggestion was that there be a review after three years to ascertain the implementation and effectiveness of the bill.

This was obviously taken on board, and section 9H of the bill now requires the Social Development Committee to inquire into the bill's operation. As part of my consultation on the draft bill, I also provided a copy to the Law Society of South Australia, requesting that its feedback be provided in confidence until the bill was introduced. I am now more than happy to provide this feedback to members upon request.

Overall, their feedback was supportive, particularly of the bill's intent to address and hopefully prevent the types of tragic cases referred to earlier. However, the Law Society did express concern that the anonymous surrender of a baby under the bill would, in effect, deny that baby the right to know information about his or her biological parents. The Law Society rightly contrasted this with the Adoption Act 1998 under which this right to information is recognised.

In responding to the Law Society I acknowledged its concern but stated that I saw no way of addressing it without compromising the ability of women to access the service anonymously, something I fear would act as a deterrent to the use of this service. This is supported by my research which, as I stated earlier, suggests anonymity, particularly as the time of surrender of the newborn is crucial to the success of the baby safe havens.

However, its feedback did lead to the insertion of section 9F(c) which requires the minister to take reasonable steps to ensure that any information provided by the surrendering mother that is relevant to the health of the child is made available to that child if it is in their best interests. This is to be read in conjunction with section 9C(2)(b)(i) which encourages women accessing the service to provide information that may be of relevance to the health of the child, which I would argue includes details of both mother and father but not necessarily.

Additionally, the minister, under this section, could produce a pamphlet and questionnaire similar to that used in the American state of Illinois as part of their baby safe haven law which is provided to the mother when surrendering and can be completed then or later and sent in anonymously. While this does not fully address the Law Society's concerns, it is the best compromise that parliamentary counsel and I could conjure between the need to retain the mother's anonymity and the child's right to know their biological parents.

While highly unlikely, another consequence of allowing anonymity when surrendering a child is the possibility that a person not related to a baby, like a babysitter or an extended family member may, for whatever reason, abandon a child under their care by leaving it at the baby safe haven. Again, while this is highly unlikely, I have faith that the police investigating the abduction or missing person report would make contact with either SA Health or the Minister for Families and Communities office to ascertain whether that child has been surrendered. There is also nothing to prevent the guidelines associated with the bill requiring the South Australian police being notified of a surrendered child.

One obvious criticism of baby safe haven laws is that by allowing a woman to act independently of the father in surrendering their baby, the father's rights are essentially ignored. I have expressed in this place on numerous occasions my support of father's rights, and my position has not changed. Like the child's right to know their biological identity, however, I see no way of achieving the intent of the bill, specifically the reduction and, hopefully, prevention of baby abandonment leading to that child's death and preventing a woman acting independently of the father.

I have, however, sought to ensure that the bill will, while retaining its key elements, recognise the father's rights, particularly the right to reclaim the child if he so wishes. Both mother and father are given priority in their right to reclaim the child, provided it is safe to do so. This, of course, will not be applicable in situations where the father is not made aware of the surrender or even the pregnancy. This is, indeed, regrettable but I see no way of addressing this while achieving the bill's intent. I am, of course, more than open to suggestions from other members in this place.

In introducing the bill today I do not suggest that if it were to pass that not a single child would be abandoned in the street or a public toilet, as has occurred in the past. There will still be those who, despite the existence of baby safe havens, will not, for whatever reason, see it as an option. Additionally, it is clear from my research that awareness in the general population of the existence of such schemes does lead to an increase in their use, and hence a decrease in the number of children being abandoned. This is the experience, particularly in some US states.

Unless the minister here heavily promotes the existence of this law it will no doubt take several years to establish itself in the public psyche. This has, unfortunately, been the inexperience in some states in America where initial uptake has been slow, resulting in the effectiveness of these schemes coming under question. To try and encourage awareness, the bill requires prescribed hospitals to adequately sign hatches that they have installed and requires the minister take steps to make pregnancy service providers aware of baby safe haven law.

I also do not suggest that baby safe havens have been beyond criticism. There are those, particularly in the United States, who flatly oppose baby safe havens on the ground that it encourages the abdication of parental responsibility. At an emotional level I can understand this argument. I cannot imagine ever being so desperate as to consider abandoning one of my children, nor would I want to encourage it; however, clearly some women, without encouragement, do become so desperate.

When you consider the alternative of babies dying of exposure in a driveway or dumpster, then I am satisfied that, rather than encouraging irresponsible behaviour, this bill instead encourages parents to take the responsible action of relinquishing their baby to people who can provide proper medical and other care for the infant, instead of unsafely abandoning the baby.

Ultimately, the drawbacks, compromises and mixed results do not detract from the necessity of establishing these schemes when we have babies being abandoned in the street. In answer to the rhetorical question asked by the former chief executive of the United States-based non-government organisation, the National Council for Adoption, 'Just how many babies do these laws have to rescue from death in a dumpster in order be worthwhile?' my answer of course is: only one.

In closing, I would like to quote Tory Shepherd in her unusually supportive opinion piece on baby safe havens of 30 November last year:

> At first it sounds crazy. But do a bit of research, think it through, and before too long it sounds…not so crazy.

Ms Shepherd then goes on to conclude that baby safe havens seem like a 'reasonable option of last resort', adding that 'the logic that hospitals should offer an anonymous haven for unwanted babies seems sound'.

It is my hope that members in this place, like Tory Shepherd—who, as members would be aware, has been no friend of mine in the past—will do a little research, think it through, and conclude that baby safe havens are indeed a logical solution to what is a tragic and entirely preventable problem. Baby safe havens are by no means a solution to the complex causes of babies being abandoned, but they are a necessity for when they are. I commend to bill to the house.

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

KANGAROO ISLAND LOCAL GOVERNMENT LAND

Orders of the Day, Private Business, No. 11: Hon. R.P. Wortley to move:

That by-law No.3 of the District Council of Kangaroo Island concerning local government land, made on 13 August 2010 and laid on the table of this council on 14 September 2010, be disallowed.

The Hon. R.P. WORTLEY (20:24): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

KANGAROO ISLAND BOAT FACILITIES

Orders of the Day, Private Business, No. 14: Hon. R.P. Wortley to move:

That by-law No. 8 of the District Council of Kangaroo Island concerning boat facilities, made on 13 August 2010 and laid on the table of this council on 14 September, be disallowed.

The Hon. R.P. WORTLEY (20:25): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

KANGAROO ISLAND FORESHORES

Orders of the Day, Private Business, No. 15: Hon. R.P. Wortley to move:

That by-law No. 9 of the District Council of Kangaroo Island concerning foreshores, made on 13 August 2010 and laid on the table of this council on 14 September 2010, be disallowed.

The Hon. R.P. WORTLEY (20:26): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

WILLUNGA BASIN PROTECTION BILL

Adjourned debate on second reading.

(Continued from 25 November 2010.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (20:27): I rise on behalf of the opposition to speak to the Willunga Basin Protection Bill that was introduced by the Hon. Robert Brokenshire. It is almost two years since the Hon. Robert Brokenshire first introduced this bill. I put on the record on 13 May 2009, I think, a detailed contribution in relation to the opposition's support for the bill at that time. I note that my colleague, the Hon. Michelle Lensink, made some contribution last year and indicated that we would be supporting this bill again.

It is interesting to note that the government chose not to support the bill prior to the last election. Notwithstanding the fact that the government had the member for Mawson, Leon Bignell, wanting to try to secure or save that particular seat, we were surprised that it did not see fit to sit down and negotiate with the Hon. Robert Brokenshire. I think goodwill was expressed in this chamber from both the opposition and the minor parties that—

The Hon. B.V. Finnigan: We won anyway, you might notice.

The Hon. D.W. RIDGWAY: The Hon. Bernard Finnigan, the Leader of the Government, interjects that he won. I think that some very sneaky and underhanded tactics were used down in that electorate. I note that today it was reported that Leon Bignell mentioned in caucus on Monday that they were starting to really smell out there in elector or voter land and that they were in real trouble in the south.

The Hon. B.V. Finnigan: It wasn't reported; it was nonsense set up with parliamentary privilege.

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: He didn't deny it; people haven't denied it.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: The only 'source' you would have is tomato sauce on your pie, Mr Lucas.

The Hon. D.W. RIDGWAY: The government did not support the bill, and it said that it was committed to council—I assume that is the local council—to help find other mechanisms to achieve a similar outcome. We pursued the minister through estimates and asked how discussions between the department and council were coming along. As late as October last year, he was still unable to confirm that a working group had been set up. There still have not been any commitments from the government about providing an alternative protection for the Willunga Basin, or least investigating one, although today I did hear that the Premier was tweeting about the Willunga Basin and the Barossa Valley, which, I think, is timely, given what our sources (which are of the highest quality) tell us about some of the things Mr Bignell said in caucus and that they are very concerned about hanging on to the seat of Mawson at the next election.

Of course, we have the significant issue of Seaford Heights, which has arisen since the last time I spoke on this bill. It is another interesting issue that Mr Leon Bignell, the local member, has become the champion of saving the community from this dreadful development, yet it was sold on a tender process to the successful tenderer prior to the last election. I am not quite sure where Mr Leon Bignell was during the last election campaign, but it seems as though he may have just been keeping his head down and keeping quiet because he did not particularly want the local residents to realise what the government was up to.

I am informed that one of the reasons the DPA was rejected by the council was a failure to consider Seaford Heights in conjunction and as part of the Willunga Basin. I drive past that particular site quite often and I think it does have some importance in the context of a gateway to—

The Hon. B.V. Finnigan: It's been that way for years.

The Hon. D.W. RIDGWAY: The Hon. Bernard Finnigan interjects it has been that way for years. If Leon Bignell had any pull, you would change the zoning in your government. You are in charge now. You always harp back; the more things change, the more they stay the same.

The PRESIDENT: The Leader of the Opposition should not be misled and respond to interjections.

The Hon. D.W. RIDGWAY: I have not been misled, Mr President, but thank you for your guidance. Within a day and half, the Hon. Bernard Finnigan is exactly the same as the Hon. Paul Holloway, blaming something on a government that was in government, sadly, almost a decade ago. They have had nine years; it is a bit rich to blame governments of 10 years ago. We did not

put it up for sale or for tender; that was your government. It was your government that sold out the people of the Willunga Basin.

It is interesting to note that, when you sit down and talk with some of the people down there, such as the McLaren Vale Grape, Wine and Tourism Association, they are quite concerned about how the government intends to protect the character of this area. There is a whole range of issues yet to be canvassed in relation to the Hon. Robert Brokenshire's bill. We do not see it as being a perfect solution at all, but it is a step in the right direction, and I think we need to look at what the government has done in Mount Barker, where a rezoning has taken place.

The council wanted 400 hectares. It was quite happy to have that at this stage, and I suspect, over time, would have been prepared to look at a bigger area, but no, the government saw fit and has earmarked some 1,300 hectares for rezoning. So you can see some real inconsistencies. This was an electorate that the government was desperate to hang on to. Of course, in the Mount Barker area, we have two extremely well qualified, well-respected and loved members—Isobel Redmond and Mark Goldsworthy. So, clearly some of these decisions were made with a political bias.

It is interesting to note that, when you sit down and talk with the McLaren Vale Grape, Wine and Tourism Association and some of the other experts—I had the opportunity to sit down with Philip White recently, a renowned wine writer, to talk about the importance of certain pieces of land in the Willunga Basin—clearly some areas are much better for producing wine, and high-quality wine, than others, and some areas perhaps should not have been used for vineyard production.

I think that this bill does, in some way, address the issues that have been raised by the association and by Philip White and other interested parties, where perhaps it might be time to look at the basin as a whole and work out the areas which are best suited for viticultural production and which will produce the finest wines and the less suitable areas which were perhaps planted up when the industry was going through a rapid expansion phase. Maybe there needs to be some assessment of whether there is a long-term future in having viticulture or perhaps some other type of horticultural production in those areas.

People talk about the Tour Down Under. If you look at the Tour de France, you will often see the cyclists going through the countryside and they will come to a little village that has perhaps three and four-storey dwellings. That is something that the government has not addressed at all. It has talked about TODS and infill in some areas in the city, but maybe the discussion needs to be around having some very small but much denser population in this area. I think the Hon. Robert Brokenshire's bill sets out a framework for having a very broad-based, all encompassing group of people to develop a better plan for the area.

In my contribution before the election, I indicated that we saw this as a step in the right direction not only for the Willunga Basin but for the Barossa Valley, and possibly even some of the other important agricultural and horticultural areas in the state, where we really need to work in partnership with the people who live and breathe the activities in those communities to come up with a plan that protects those important areas, so that they can be not only economically viable but also provide some tourism amenities and some certainty for both business and private investment.

Certainly, we have seen that the Napa Valley has a reasonably well-structured management plan and legislative framework that allows the Napa Valley to retain its character and yet provide some certainty for investment for not only horticultural and viticultural pursuits but also for commercial pursuits.

It was a little interesting, just as an aside; I have just rechecked the 30-year plan. The 30-Year Plan for Greater Adelaide talks about 560,000 extra people living in Adelaide. Of that, there will be about 80,000 in the southern Adelaide region, which of course is from Mitcham down to Willunga and 36,500 of those are on transport corridors and in TODs, so we are looking at about 40,000 people which really, over that area, it is not very many, and not very many in comparison to the 140,000 and 180,000 in some of the areas to the north.

Yet, during the election campaign, out of nowhere, the government announced a half a billion dollar duplication of the Southern Expressway. That flies in the face of the 30-year plan, because why would you spend half a billion dollars on an expressway if you do not plan to have further development or further population growth? We were somewhat confused that the government, while wanting only another, perhaps, 40,000 people in the southern area, was prepared to spend half a billion dollars extending the Southern Expressway.

Incidentally, when the Premier announced it, he was unable to explain how it was to be funded. When the Minister for Transport was asked how it would be funded, he was unable to explain it and said that Kevin was the 'money man' and eventually treasurer Foley turned up at another press conference and said it was in the unallocated capital in the forward estimates, which I am reliably informed is code for 'We actually don't have any idea how we're going to fund it, but we thought we'd better make the announcement to try and save Leon Bignell's skin.'

The Mayor of Onkaparinga has also stated concern that there is no indication for long-term plans that would include parking for rail; we have the extension of the rail line to Seaford. While this is not directly related to Willunga, it is on the edge of the Willunga Basin, and there is this view that you take the rail line down there and then suddenly it is much easier to live in the Willunga Basin, McLaren Vale, Willunga and other small communities and then commute to a railway station. So, again, the government's plans do put a lot more pressure on this area.

It does indicate that the government really does not have a plan. The Hon. Robert Brokenshire has indicated with his Willunga Basin Protection Bill that he wants to be part of a solution and the opposition certainly wants to be part of a solution. I hope that in about three years or slightly more than that we may be on the other side of the chamber where we can actually have some hands-on work to help protect the Willunga Basin, the Barossa Valley and any other areas that are important.

As members would know, I was a farmer and involved in the farming community before I came into this place and I have always respected the high value, high rainfall parts of South Australia. They are important. This year we have had a very good season but South Australia is often described as the driest state in the driest continent and we seem to be having an unprecedented growth spurt in some of the high rainfall, high quality areas. I think there are a lot of areas in South Australia relatively close to Adelaide that are not particularly high quality land; similar rainfall but not high quality land.

If the government decides to support this bill—although given that it has not done so in the past I suspect it is unlikely it will tonight, but I suspect it will pass the Legislative Council—I do hope that new minister Rau is prepared to consider what the Hon. Robert Brokenshire is trying to achieve with it. I think there should be almost a ranking of the quality of land in the high rainfall areas so that the better value land should not necessarily be ruled out for development forever but maybe a larger number of hoops or some higher hurdles have to be jumped through or over to get that across the line and to get that to market for development or for change of land use.

The Hon. Iain Evans, the member for Davenport, has often spoken to me about the Hills Face Zone and the issues of being unable to change land use within that zone. He knows orchardists who have pear orchards and would like to change, because they still want to farm, but because it is a change of land use they are finding it almost impossible to do so. I think people need to be flexible.

The opposition thinks that the broad-based committee that the Hon. Robert Brokenshire is proposing may be a little bit cumbersome and a little bit unwieldy, but I think that what we need to aim for is a real partnership between the community, local government and the state government to make sure we protect those areas, look after them, treasure them and allow economic development at the same time, whether for tourism facilities or horticultural development. Alternatively, as the Wine and Grape Association has said to me, there may be areas in the Willunga Basin that may have been planted to grapes when things were booming, but it may not be the best possible use for that land, so perhaps it is time to sit down in a rational way and look at ways of tweaking that land use for the best outcome for the region.

With those few words I indicate the opposition is again happy to support the Hon. Robert Brokenshire's bill and we do hope that this time the government does not just pay lip service to it and the Premier's tweets that we have seen today are actually more than just tweets; that he actually puts his money where his mouth is and comes to the table—or new minister Rau comes to the table—and brings about some sensible reform that sees some protection of areas such as the Willunga Basin, some of the Adelaide Hills and, of course, the Barossa Valley.

The Hon. R.P. WORTLEY (20:43): I would like to acknowledge the Hon. Robert Brokenshire's attempt to again introduce the Willunga Basin Protection Bill 2010. As indicated by the honourable member, this was raised in the council over 12 months ago. I think it was actually February 2009. This time around the intent of the bill has not changed. The intent of the bill is to

circumvent the existing legislative framework for development approvals and add layers of bureaucracy and red tape to the process.

The Development Act 1993 provides the state's legislative framework to manage land use and development matters. The planning strategy provides a spatial land use direction to guide future growth to accommodate people, housing and jobs, while the development plan, which must demonstrate compliance with the planning strategy, provides the policy framework for assessing applications for development.

When this debate occurred in the council last year, one of the key recommendations of the planning and development review was under way, namely, the preparation of the 30-Year Plan for Greater Adelaide. This council is well aware that the government formally released this plan in February this year following a long and intensive public consultation process. The planning strategy is a comprehensive and forward-looking plan not seen in decades that will position this state to respond to pivotal changes in the economic, demographic and social landscape.

The strategy clearly recognised the importance of the Willunga Basin as a prime food and wine producing region, tourist destination, key regional employment area and coastal settlement that supports affordable housing and choice in the region as well as containing areas of environmental importance. The strategy contains a number of specific policies to support this, including:

- using measures, including planning controls, to protect important primary production areas such as the Willunga Basin;
- the urban boundary guiding the extent of urban development in the region;
- protection of the hills face zone and open space system; and
- that Bowering Hill be reserved for agriculture, viticulture, tourism, tourist accommodation or biodiversity related uses.

These policies are reflected in the Onkaparinga council development plan as statutory planning policy and can be strengthened through the council's section 30 review.

Any adjustments to the planning strategy and subsequent changes to the development plan are each subject to statutory public consultation process. This provides the community with the opportunity to provide formal comment on strategic or policy proposals prior to any decision being made.

Furthermore, the Willunga Basin Sub-Group of the Government Planning and Coordination Committee has been established. The committee consists of chief executives of various state government departments, the local member of parliament (Mr Leon Bignell) and the mayor of the City of Onkaparinga (an ex Liberal member in the southern suburbs). I also note that Mr Tim Horton, the Commissioner for Integrated Design, will also be a member of the Willunga Basin Sub-Group.

The task of the Government Planning and Coordination Committee Willunga Basin Sub-Group will be to investigate the best ways to protect the Willunga Basin in line with the policies enunciated in the planning strategy. Using existing structures and systems is a much better approach than introducing new statutory committees, unnecessary referrals, and a new bureaucracy that would inevitably increase red tape and increase costs to the community.

The protection of the Willunga Basin and its key environmental areas such as the Aldinga scrub reserve has been in place for many years. The current policy applying to this region is therefore a longstanding one that recognises the value of the areas and the aspects that contribute to this.

The proposed Willunga Basin Protection Bill is designed to transfer statutory planning and development functions from the minister and council to the Willunga Basin protection committee. It would do this by providing the committee with the responsibility of determining the land use strategy and policy applying to Willunga Basin through developing the Willunga Basin plan and provide it with the power of direction over all development applications in the region. The new committee would only have very limited expertise in planning matters, with only one member required to have such experience.

The introduction of the proposed Willunga Basin protection committee would introduce a new layer of bureaucracy. It would slow development assessment processes in the region, with all

development proposals requiring referral to the committee. Further, the introduction of the basin plan would duplicate the planning strategy and development plan and create some confusion as to the relationship of these, particularly if there are inconsistencies.

The bill as it currently stands contains some technical issues in its relationship with the Development Act 1993. In particular, section 33(1) of the Development Act 1993 cites the various matters that a development application must be assessed against, including the development plan. In the bill's present form there is no call-up in the Development Act 1993 or development plan to give Willunga Basin plan statutory effect.

I therefore recommend that the bill not be supported based on the following reasons:

- The current legislative framework under the Development Act 1993 provides consistent and transparent processes for land use matters across the region and state.
- The bill proposes to shift the responsibility for planning matters in the region from elected representatives (for instance, the Minister for Urban Development and Planning and local government) that are accountable to the community to an appointed committee that is not accountable to anyone.
- The introduction of the proposed Willunga Basin Protection Bill would introduce a new layer of bureaucracy. It would slow development assessment processes in the region, with all development proposals requiring referral to the committee.
- It could potentially set an unmanageable precedent for other regions.
- The planning strategy for Greater Adelaide clearly recognises the importance of the Willunga Basin, as I have outlined earlier. There are better mechanisms to ensure that all factors are considered when planning for the Willunga Basin's future, including using the existing Government Planning and Coordination Committee to ensure that a whole of government approach is used to confirm the future of the basin.

The Hon. R.L. BROKENSHIRE (20:50): I thank all members for their contributions, not only today but previously when this bill was put up, and for discussions I have had with colleagues in opposition, in government and on the cross benches. Given the time of night, and the fact that the bill has been debated quite extensively in the media, the local community and the parliament before, I will not use too much more time.

However, I ask members for their indulgence in summing up and making some comment with respect to the government position and where I see the government, to a significant extent, continuing to hoodwink the state as a whole when it comes to the protection of the Willunga Basin and other regions, such as the Barossa Valley and Mount Barker and, particularly as a southerner myself, what I see as some pretty ordinary politics by the government for a significant period of time with a community in the south which has, by and large, for some time now supported Labor at the polling booth.

The government opposed this because of local people, who have lots of expertise. We have people with expertise in conservation, the use of natural and other resources, conservation of land, landscapes, buildings, heritage places, social and socioeconomic issues, urban and regional planning, tourism, water security, industry, economics and agriculture, and within that committee we have a number of people the minister can still put on in their own right as a government.

This is not groundbreaking. I acknowledge that some members are saying that they would like to have seen some fine tuning of amendments but the principle of the bill they support, and I thank them for that. I think the reason the government does not like my bill is that it does, I admit, put a lot of the big picture decision-making—and I stress 'big picture'—for the future of the Willunga Basin back into the hands and control of people, and this government does not like that.

Over the last eight years we have seen a government that has walked away with arrogance from community calls for protection and for their voice to be listened to. That is the crux of what the government is unhappy about with this bill. I resent the fact that the government believes that people who would be nominated on this, including the mayor or a representative from the council who, when this was last discussed with the City of Onkaparinga, endorsed and supported this bill and the principles related to it, are not informed.

I commend the Hon. Mark Parnell in particular, and the Greens were fired up in Mount Barker, along with others. The Liberal Party was up there as well. We were stretched with

resources on how much we could push forward the protection of a range of areas—Willunga Basin, Barossa Valley and Mount Barker. I know the Leader of the Opposition was up there at several meetings with the Greens.

Look at what happened there because we did not have any protection or a voice from the people: we were not only railroaded but absolutely railroaded in the so-called democratic standing committee of the parliament. Interestingly, there was no recognition of what the people were calling for there. It is getting late. It is at the eleventh hour when it comes to protecting the Willunga Basin and, frankly, this government has had nine years to protect the basin and it has not. The truth is that it has failed. I want to put on the public record where it has failed.

The former government, of which members know I was a part, started to work towards protection of the basin. Some of the land directly—

Members interjecting:

The Hon. R.L. BROKENSHIRE: I know they are getting upset and nervy now and starting to interject because they do not like the truth. They do not like the truth.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.L. BROKENSHIRE: But, sir, the protection of the Willunga Basin started under the former government, and I will tell members when it started. It started in 1993 with a memorandum of understanding, which should have continued through this government; and, clearly, now legislation had to be put in place, but that was broken. The Paxtons, as a family, purchased land directly to the north-east of the Seaford Heights development that was rezoned under the former government to stop it from becoming housing, and there was no planning and no sweetheart deals with developers done.

Members interjecting:

The Hon. R.L. BROKENSHIRE: Sir, I know that they are getting anxious and upset, but there were no sweetheart deals done with developers then, and the community was listened to.

Members interjecting:

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

The Hon. R.L. BROKENSHIRE: And the really important reason we need to support this bill now is that we have got to put an end to sweetheart deals with selected developers (some of them huge donors, as we have just seen come out) to the tune of millions—$4 million, nearly $5 million in donations to the government at the last election. We have got to stop that, and that is why local people should have a say and some input.

I just want to finish with a couple of other interesting points, because a whistleblower from then minister Holloway's office—and I thank that whistleblower because, clearly, they had a passion and genuine concern about what was going on with respect to the non-transparent commitment to the protection of the Willunga Basin.

I received a piece of documentation from that whistleblower, and what the government actually asked the department through minister Holloway's office was, 'Tell us every reason we can have to oppose this bill.' They did not actually say, 'Can the department have a look at this bill? Tell us what's good about the bill, tell us what's bad about the bill, and maybe we should look at some amendments.' But, if indeed the government genuinely supports the protection of our food bowl and our future agricultural security, one would have thought that a democratic government would have said to the department, 'Tell us the pros for the Brokenshire bill; tell us the negatives for the Brokenshire bill', but, no.

What the Labor government did was to say to the department, 'Tell the minister's office—so that the minister can come in and oppose the bill—every reason why he should oppose it', and they struggled to give reasons. So, they came up with things like, 'Oh, well, this committee would have the power to make a decision on someone in McLaren Vale putting up a tool shed.' I mean, what an arrant nonsense that is. That is not what this is about at all. That is with the powers of the council and it will remain with the powers of the council. This is about the big picture.

I will just say this as well, because this is my passion. This government has not been focused on sustainable agriculture and now, with the work of many of my colleagues in this

chamber and in the other house and with the community, it is panicking. So, what do we see? We see the Premier forced only yesterday into a cabinet reshuffle because of the infighting and the hatred now that we see between the left and the right.

What happens? Well, the Premier comes out yesterday and says that the Deputy Premier is going to have this food marketing portfolio. Now, where is the resourcing for it? Where was the request for that? Where was the strategic direction for that? The answer is: no funding, no request, and no strategic direction. The reason the Premier did this is because he is starting to get bitten in the polls when it comes to issues around food security because the media are now picking up on this.

Then, today (and I gave notice to the government two weeks ago that I wanted to put this bill up for a vote and get on with it and see really whether the government is genuine), I am out there on the tractor early this morning, listening to the ABC, and there is a twitter from the Premier—

The Hon. R.I. Lucas: A tweet.

The Hon. R.L. BROKENSHIRE: —a tweet from the Premier saying that he is now considering legislation, not guaranteeing it, because he sees the importance of protecting the Willunga Basin and the Barossa Valley, and he does not want to see concrete slabs all over our prime agricultural land. Well, where was the Premier a couple of weeks ago with the Mount Barker issue in the parliament here?

If he was genuine about that, he would look at the productivity opportunities in the Mount Barker area; they are equal to the ones in McLaren Vale and Willunga. Do you know what the difference is? The difference is that the electorate of Light encroaches onto the Barossa Valley. They are worried that when the redistribution occurs, in the Barossa Valley part, it will perhaps tighten up that seat of Light and they are thinking that the people of Gawler are getting pretty upset about the fact that all this encroachment is occurring. So, it is a marginal seat. Then in regard to the McLaren Vale/Willunga Basin, the Premier thinks, 'Marginal seat. Not sure where the redistribution is going to go. Lots of lobbying from lots of groups. I'd better do something.'

I say here tonight at 9pm on 9 February that if the Premier really wants to do something, he should push this quickly through the lower house if it gets approved here tonight. Make some amendments; show some initiative. If the government wants to make some amendments, if I can get my colleagues to support this bill tonight—because the government has again tried to find excuses—it will be down in the lower house tomorrow and the Premier can implement some amendments and this bill can be passed and we can have protection of the Willunga Basin.

I challenge the Premier, in the few weeks where he could get this bill through if it is passed here tonight, to put a moratorium on any further development in and around the Willunga Basin. Put a moratorium there tomorrow because the Premier can go to Executive Council and he can get it signed off tomorrow, if they are genuine. That is the thing that rips me apart and annoys me: our community is being misled by this government and I want to highlight why because it is time the community knew what is going on. Not very long ago when the former leader was there—

The Hon. R.P. Wortley interjecting:

The ACTING PRESIDENT : Order! The Hon. Mr Wortley has had his opportunity.

The Hon. R.L. BROKENSHIRE: —and I want to remind my colleagues of this, the former leader, the Hon. Paul Holloway, said, 'We don't need this because we've got the Greater Adelaide plan.' This was the first excuse for not supporting this bill. Well, I am sorry, government, but a lot of people do not like the Greater Adelaide plan because it does not protect your very best agricultural land from urban sprawl. Then the pressure builds, and things are happening so, all of a sudden, now they are saying, 'Well, maybe the Greater Adelaide plan doesn't protect, so maybe we'll consider legislation.'

There was another thing, because the pressure was also building—and I thank the South Australian community and they know who they are, all those people who put in that effort to support this concept in this bill. They said, 'Oh, we'll set up a committee and we will get this think tank and we will play around for a couple more years and then we might look at legislation.' So that comes into the mix. Now we hear that a private member may be introducing a bill similar to this, anyway, but then that might sit parallel to a government bill (if the government actually introduces a bill) or it might drop off—we are not sure.

Frankly, the community is sick of the 'mights'. They have lost their trust. They want the politics out of it. I said to the government, 'If you don't like this bill because it's got my name on the top of it, put in your own bill right now and I'll pull my bill and I'll back and support your bill.' But where is their bill?

I just want to finish on about three key points. Yes, this does give power to the people—and it is time we started to get some power back to the people—but it has checks and balances in it as well and that is what it is about. It does integrate with the overall planning and development act where required, and the parliamentary counsel gave me solid advice on that. It would not have been drafted this way had it not been for that advice.

The other point is that it is modelled on the Napa Valley, and what has happened in the Napa Valley is not brand-new. I was over there looking at recycled water in 1998, from memory, and that is when I first got this idea. Now the government is talking about the Napa Valley. The Napa Valley has been protecting that region for 35 years, I think, or at least 30 and they have just extended it now for another 20. It does also take in, sadly, at the moment where the fires are in Perth in the Swan Valley.

I just need to finish with these key points. While we are debating this right now, the government has instructed the City of Onkaparinga and Planning SA to accelerate subdivisional development approval for extensive housing within the area that this bill would put back to control, between Aldinga and Sellicks. I want to say to the house that, in all the forward planning, none of that was supposed to be considered for development for 28 years, and now they are accelerating that. Also, at the same time with the Seaford Heights development, I wrote to the former minister saying that if we are legally locked into the number 1 section of that development, then make sure you put a big buffer there but please rezone the balance.

I have not got a response back from the minister yet. Guess what, sir? Not only have they accelerated the approval for part 1 of the Seaford Heights development, they have also accelerated and are ensuring that approval goes through for 2 and 3. So, they are not listening to the community and they are deliberately accelerating subdivision in the area so that, when they do either have to support this bill, or they come in with their own bill, they will have done the dirty deed and permanently damaged the basin. I have two more points. The Willunga Basin does not fit with the Barossa Valley.

This legislation can be mirrored into other important areas like the Barossa Valley, and there may be overarching policy opportunities that are common for Mount Barker, the Fleurieu Peninsula and all the intensive food production areas such as the Willunga Basin and the Barossa Valley. We have done studies on this, including the Napa Valley, where you have got the Napa Valley and the Sonoma Valley. The Sonoma Valley is actually different in the way it is protected from the Napa Valley, because they are not like for like, and the same has to apply with the Willunga Basin.

This bill has had a lot of effort put into it. The community is screaming out for an opportunity to protect. I appeal to my colleagues here tonight to support the passing of this bill, then put pressure on the government to amend it, pass it or bring in their own legislation. We will all have the opportunity in this house to let the people in the south and the South Australian community know that there is a bill passed by the Legislative Council, that we are not going to hoodwink the South Australian community and that the pressure has to come back onto the government.

You cannot just tweet and Twitter your way through life. You cannot tweet and Twitter your way through government. You have actually got to be open, honest and accountable with the people. I thought that was the pledge in 2002. Well, let us see some openness, some accountability and some honesty, and let us see this bill passed by the government so that we get to protect an area before we have nowhere for food production in the future. I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: I will ask the question on clause 1, but I refer to the remuneration that the member is proposing. Clause 7 provides that a member of the committee is entitled to remuneration, allowances and expenses determined by the Governor. What level of

remuneration is the member thinking is appropriate for this committee, and what type of expenses? We will face a very parlous state of state finances when there is a change of government, so we need to be mindful of how much these things are going to cost.

The Hon. R.L. BROKENSHIRE: I thank the honourable leader of the opposition for his question; it is a fair and reasonable question. The advice that I was given in the drafting of that is that it would be minimal, but it would cover their sitting fees and any travelling expenses that are required. It is very similar to other committees that are up with the government.

It will not be a slush fund remuneration like some of the situations we have seen with this government, where people get $30,000 or $40,000 to chair a committee that hardly ever meets and, surprisingly, is often chaired by a former member of parliament, most of the time, but not always, from the government. It will not be anything like that, I can reassure you. It is just the basic coverage. It is no different to the money that is now covered for people on advisory committees for water allocation plans, and the like. It is a standard government approved basic remuneration.

The Hon. D.W. RIDGWAY: So, the member is confident that the people that he is suggesting have been nominated: one from the City of Onkaparinga, one with relevant experience in urban planning and development nominated by the minister, two from the McLaren Vale Wine, Grape and Tourism Authority—

The CHAIR: Order! I think you have jumped to clause 9.

The Hon. D.W. RIDGWAY: I am just asking a range of questions at clause 1.

The CHAIR: I intended to put clauses 1 to 6, but if you have more questions on them then you had better ask them.

The Hon. D.W. RIDGWAY: I am interested in the member's response that it will be a minimal contribution, because I expect that somebody with relevant expertise and experience in urban planning and development nominated by the minister will not want to be a volunteer. To get good quality expertise you may well have to pay more than just sitting fees, unless they are somebody nominated by the minister who is just a puppet for the minister. So, I am wondering how the member is considering having a minimal financial contribution to the committee, yet having a robust independent committee as well. How do you see that happening?

The Hon. R.L. BROKENSHIRE: My answer to that, first of all, is that a lot of these people are actually dedicated, passionate people with expertise who have already put a lot of effort into trying to protect the Willunga Basin and other areas within the state, such as the Southern Community Coalition, which is the head peak group of the environmental organisations within the area. They do not look at remuneration for themselves for this, they look at outcomes and results.

The fact of the matter is that when you look at someone nominated by the minister as a representative—the government spends a lot of money on Thinkers in Residence—it has the opportunity to bring in expertise that it is already funding. As part of the time that the Thinkers in Residence are here the government could bring somebody like that in because it has budgets for it. In fact, to give you another example, there was a lady that I understand the government was going to bring over from the US, I cannot remember the name of the lady now, but it became a little contentious—

Honourable members: Laura Lee.

The Hon. R.L. BROKENSHIRE: Laura Lee, that's the lady. There was plenty of money for Laura Lee. The fact of the matter is that there was not a lot of scrutiny around that appointment, other than the media, and then it was dropped and she did not come. The way this is set up there is a genuine opportunity for the government to bring some expertise into this through the other funding that it has capacity for. The people with expertise and passion, who I have spoken to, only want basic covering of their costs, and there are opportunities for the government to bring these other people in. If Laura Lee had the expertise—I think she was going to redevelop the River Torrens precinct, or something, from memory—there is plenty of money there in other accounts. The government has the opportunity, through the minister, to put those experts on.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. J.S.L. DAWKINS: In regard to the Willunga Basin Protection Committee, I note that under clause 4(h) the member has suggested that a person nominated by the Southern Adelaide Economic Development Board be part of the committee.

I understand it is an active board and has been in the southern suburbs for some time, but my understanding is that it has been more to do with the urban areas of the south rather than the agricultural areas. Did the member at all consider substituting or adding to that economic representation by having on the committee a representative from the Regional Development Australia board for the Adelaide Hills, Fleurieu and Kangaroo Island?

The Hon. R.L. BROKENSHIRE: I thank the honourable member for his points. It is possible, if this is passed, that that is something I could pursue in the other house with the member that would have responsibility for carrying the bill. The Southern Adelaide Economic Development Board is a little unique; it does have a good track record and it is not defunct like a lot of the business enterprise centres that have been pulled in the realignment of the review last year or the year before.

To give you an example, I think one of the key representatives on the Southern Adelaide Economic Development Board at the moment is Mr Norm Doole, who is a viticulturalist and an active leader in the Willunga Basin proper. I think you will find there are people like Pip Forrester who have been very successful on that type of board, with a focus on food and food production. She formerly had the Salopian Inn and is key in all of the food development down there.

I take the member's point. I would be happy to raise it as an amendment in consideration, if someone wants to put it up in the other house. However, after a lot of deliberation, I think that the Southern Adelaide Economic Development Board does have the credentials to have a real focus on that Willunga Basin. It is an interface between the urban economic opportunities for the south and the rural economic opportunities for the south.

The Hon. J.S.L. DAWKINS: I thank the member for that explanation. I would request, however, if the bill is passed through this council, when he seeks a sponsor for it in the lower house, that he does raise the possibility of including a representative from the Regional Development Australia board, given that those boards now have financial connections and other connections to all three tiers of government, so that they would have a contribution from local, state and federal governments in those RDA boards. I would suggest that the honourable member take up that possibility with whoever he gets to sponsor the bill in the lower house.

The Hon. R.L. BROKENSHIRE: I am happy to take that into consideration and discuss it, if it is passed here tonight, with the carrier of the bill in the House of Assembly.

Clause passed.

Clauses 5 to 11 passed.

Clause 12.

The Hon. D.W. RIDGWAY: Clause 12 relates to the staff of the committee. It provides:

(1) There will be such staff of the committee as the committee thinks necessary for the proper performance of its functions.

(2) A member of the staff of the committee is not a member of the Public Service, but the committee may employ a person who is on leave from employment in the Public Service or with an instrumentality or agency of the Crown.

(3) The committee may, with the approval of the minister administering an administrative unit of the Public Service, make use of the services, facilities or officers of that unit.

What staff does the member think will be required for this committee to meet, to function and to act as the secretariat for the committee? Flowing on from that, where does the member envisage the committee will be based? Where will the staff be located? Will it be of that magnitude? If the staff are to be accommodated somewhere then where are we going to see the budget line?

The Hon. B.V. Finnigan: What colour socks will they wear?

The Hon. D.W. RIDGWAY: Well, they may not wear socks, Mr Finnigan. I am just interested to know what resources will need to be allocated to provide the staff, accommodation, office equipment, motor vehicles, etc., if the member thinks that will be necessary.

The Hon. R.L. BROKENSHIRE: Clearly, the committee cannot do the work it needs to do unless it does have some support in the form of admin staff. I would expect, just from discussions I

have had, that you would need to have probably two dedicated officers assisting in administration, meeting agendas, getting minutes out and all those sorts of things.

Of course, we do have the Office for the Southern Suburbs, which is already funded, and that office is given specific projects. Whether or not you support the Office for the Southern Suburbs, there is funding there. That office has been given projects and opportunities for things such as arts development in the past, which is one example. This is a very important responsibility, and it would be easy for the government. Of course, it is up to the minister of the day, who obviously has the final sign-off. That is what governments and ministers are about, that is, the final nitty-gritty of how many support staff you can have.

I believe they would be able to utilise the structure of the Office for the Southern Suburbs and even second the people there if they wanted to do so; it would not be the first time that would have be done. As far as meeting places go, I have not thought a lot about it, but there are examples of places where they could have their secretariat: it could be at the Office for the Southern Suburbs; it could be at the goodwill of the Onkaparinga council, which has facilities at Willunga; and there is also the tourism and wine tourism great development at McLaren Vale, where their office is located.

The Hon. D.W. RIDGWAY: I understand what you are saying; that is, you see the best way to achieve this would be to relocate the Office for the Southern Suburbs from its CBD location, with its, I think, 1½ staff members, and have it located out on the ground, delivering a service to the communities in the southern regions.

The Hon. R.L. BROKENSHIRE: If you are going to have an Office for the Southern Suburbs, I would have thought that you would have the office in the southern suburbs—the same as if you had one in the northern suburbs, Port Augusta, Whyalla, or wherever it is. There are plenty of government opportunities for that. I do not think that will be a real issue. If the worst case scenario occurred, it would not be hard for these people, some of whom work in Adelaide anyway, to come to the Office of the Southern Suburbs in the CBD. I am sure they can work out those finer points if it gets to that situation. If you are really committed to an Office for the Southern Suburbs with a focus on the southern suburbs, you probably should have the people resident in their working time in the southern suburbs.

The Hon. J.M. GAZZOLA: Still on the staff of the committee, can the honourable member give us some indication of possible terms and conditions of employment and budgets? It is all a bit wishy-washy and up in the air trying to work it out.

The Hon. R.L. BROKENSHIRE: It is wishy-washy, the honourable member says, as to where the budget would come from. In fact, it raises a very good point and it is something I was talking to my colleague the Hon. Dennis Hood about. It is something I intend to bring to this house in the near future, based on what happened in Canberra, and that is to give the parliament here access to Treasury so that we can see where funding is allocated and what financial requirements will be needed for the plethora of government bills that come into this house day in, day out with no costings and no assurance to this house whatsoever about what staff will be involved, where they will be housed and what the costings will be. Then we find at the same time that we get people such as minister Conlon, who can spend $495,000 upgrading the Roma Mitchell House ministerial suite, which I went into numerous times—

The CHAIR: The member should answer the question that the honourable member asked.

The Hon. R.L. BROKENSHIRE: Sir, I am getting to it: $495,000 that one minister spent will be more than they will need for this committee. The bottom line is that I expect the government to be reasonable without being ridiculous in funding this. I know that the budget is there for it, if the will is there for it. The will is there for it when they want a project up and they are prepared to put plenty of funding into it.

The Hon. J.M. GAZZOLA: I note that the Hon. Robert Brokenshire was a former minister and still has the wonderful skill of dancing around the question and not really providing an answer. Can we have some indication, some figure? Is it half a million dollars for the committee and its structure and its staff? Is it half a million per annum; is it $2.7 million? You must have some figure rather than just saying, 'It will be a reasonable figure.'

The Hon. R.L. BROKENSHIRE: A reasonable and fair figure to be able to do the job. I say to the council that I very much look forward—and I make a commitment to this, subject to not

burning my colleagues off—to questioning every minister and every bill that this government brings in from now on for the rest of this term and not supporting the bill until we get costings.

Members interjecting:

The CHAIR: Order! The Hon. Mr Gazzola.

The Hon. J.M. GAZZOLA: Perhaps I can put it this way: can the Hon. Mr Brokenshire describe or define 'reasonable terms of conditions'?

The CHAIR: I do not think he knows what it is going to cost but, if he does, he should tell us.

The Hon. R.L. BROKENSHIRE: I do not know the absolute last dollar cost but I can assure you that it will not be anywhere near the hundreds of millions of dollars that are wasted year in and year out by this government.

The CHAIR: That is three out of 10 for that one.

Clause passed.

Clause 13 passed.

Clause 14.

The Hon. D.W. RIDGWAY: This is in relation to the plan itself. Clause 14(1) provides:

> The committee must, within 12 months after the commencement of this act, prepare and publish a plan (the Basin Plan) in relation to the Willunga Basin.

Subclause (2) provides:

> The minister may extend the time within which the committee must prepare the Basin Plan being no more than 18 months after the commencement of this act.

I know I am jumping to clause 15, but I need to talk about this in context. Clause 15 provides:

> The committee must publish a draft Basin Plan...within 6 months of the commencement of this act.

My experience, especially with this government (and if it is supported it will be this government that delivers this committee and develops this plan) is that the draft process is more important and often takes longer. I am also interested to know what type of consultation and community engagement the member envisages.

I am also wondering whether the timeframe for the establishment or the preparation of the basin plan is to be no more than 18 months but only allowing six months in the act to define a draft plan, which is the one where you have the most, if you like, community engagement and where all the detail will be sorted out. Is the member interested in looking at some amendments in the other chamber that may change that timeframe or does he think that is a suitable timeframe?

The Hon. R.L. BROKENSHIRE: I thank the honourable member for his question. On an issue such as this, I am happy to listen to comment from the community and my colleagues, given that this has passed and is going to the other house for discussion with the carrier of the bill. However, the reason we have put time lines on this is because there will be lots of consultation. I expect that there will be public meetings with the essential requirement of some advertising, as well. The difference with this plan, compared to a lot of other things the government does, is the passion and the power would be, to a large extent, from representative groups coming up with a vision and the draft plan. They will be working back through all of their organisations. So, it will not be like the water allocation plans that hardly anyone seemed to know about until they found out about a draft.

The reason this has timelines on it like that is that, with the water allocation, it took the government three years more for the Western Mount Lofty Ranges water allocation plan to come out than the act required. In other words, the government was in breach of the act by three years. When the government finally put out the draft plan, it put it out in November and wanted responses from all the interest groups, sectors and landholders by the middle of January. That gave them very little time.

The draft is what stimulates the debate, and that is why I had six months for the draft. I am prepared to listen to fair and reasonable input on that and discuss it in the other house, but we have to have timelines on these things because, first, we have to protect this basin, we cannot let it just drag out and keep subdividing it like the government is doing at the moment; and, secondly, we

also have to be fairly hard and fast and focused in doing the job properly but having some timelines on it. I think 18 months is not a bad timeline. We will not have a situation where the government lets things drag on by having timelines in there; otherwise we could be subject to still more development because the government would stretch it out.

The Hon. D.W. RIDGWAY: I guess what the member is doing with the plan is saying that nothing would change until the plan was adopted. There will not be, if you like, a stopping of the clock for any changes of land use in the Willunga Basin, if this is passed by the House of Assembly and we go through a period where a development approval is in place. Yes, that can go ahead, but does the honourable member envisage that the clock will stop until the plan is prepared and adopted or will it just go on and, as he pointed out, the frustration may then be that it will be a long, slow process to prepare the plan and a whole range of land use changes could take place?

The Hon. R.L. BROKENSHIRE: The advice given to me is that we have to get this legislation through, and then we have to get a plan through that protects and looks after the long-term future. In the interim, the current planning laws are there and you have to work within them. That is why I said in my summing up, and when thanking members for their contribution, that I call on the Premier to lead the way now and discuss a moratorium with the new planning minister.

The government can put a moratorium on tomorrow. I would love to be able to implement a moratorium myself, but the advice I have from parliamentary counsel is that members of parliament are not in a position to implement a moratorium; all we can do is try to get long-term protection in there as quickly as possible. In answering this, I also remind the Leader of the Opposition that, if the government were to stick to the memorandum of understanding that is still there, as well as putting on a moratorium, then we would be protecting the basin as best we could while this plan was developed.

I spend a lot of time with a lot of people, including in my office with parliamentary counsel, and I am advised that we do not have the capacity to implement moratoriums. We have to rely on the government to be honest now. If this bill is passed here, there is a strong message from the Legislative Council, on behalf of the people, that we want protection for Willunga Basin, and it will be on the government's head if it does not listen and heed what happens here tonight.

The Hon. M. PARNELL: Just a question in relation in clause 14. I notice that subclause (4) provides that details of this new plan become part of the development plan; so they become part of the rules against which development has to be judged. Then subclause (5) provides that the provisions of the Development Act that relate to the preparation of plans do not apply. One of the things that no longer applies is parliamentary scrutiny. Whilst we all know that this parliament has never, in 17 years, thrown out a development plan, I think there is still merit in some level of parliamentary scrutiny, and I acknowledge the honourable member for ensuring that, in clause 15, a copy of the draft plan is laid before both houses of parliament.

Perhaps a question you can take on notice for your dealings with the other house is whether we can incorporate some final check and balance by way of parliamentary scrutiny once the plan is finalised, perhaps along the lines of a disallowable instrument. You would hope that this new plan would be so much more superior to the development plan that the government has prepared that no-one would want to disallow it, but in order to make sure that we have proper scrutiny I would ask you to take that suggestion on board.

The Hon. R.L. BROKENSHIRE: I thank the honourable member for his question. His colleague was in here; he was busy doing something else for a minute, but I did acknowledge the effort that he and other members put into the Mount Barker region. Following what has happened in Mount Barker, where we saw guillotining and effective non-listening to the community, I am very happy to take it on board if it is passed tonight.

There are so many examples recently coming up—the bund argument at Lake Albert is another one. We took the government at its word on that. What have we got now, and who do they put up to defend that today? They put up Allan Holmes, the CEO, on the radio this morning—not good enough. I think the honourable member made a good point, and I will certainly take that on board, given that it is passed tonight and discussed with the carrier of the bill in the other place.

Clause passed.

Clause 15.

The Hon. M. PARNELL: I have another issue for the mover to take on notice. I am encouraged very much by what he said about public consultation and how it will be more thorough

than what we have had. I would hope that the public meetings that the mover envisages would be held would not be just passive exercises where a mute table of suits listens to the community but where the community also has the chance to ask questions of the committee about why certain things are or are not in the plan.

I just point out a slight inconsistency: the public consultation period under clause 15 must be at least eight weeks, but the community has 12 weeks to put in submissions. Those two dates need to be consistent, otherwise you will find the public consultation period finishing before the right to make written submissions has expired.

The Hon. R.L. BROKENSHIRE: Again, I thank the honourable member for his contribution. That is a point that I acknowledge needs to be looked at, and I will take it up with the carrier. I do want to reinforce and support what the Hon. Mark Parnell has said. It is time that the parliament had the power back on behalf of the community that we are democratically elected to represent and that the community is given as much power as it can, which is the intent of this bill.

In summary, if this bill gets through it is groundbreaking from the point of view that it is removing the so-called faceless men in suits who go there and stonewall communities on behalf of the government, and it would actually open up democratic debate again, which would be a pleasant reinvigoration for South Australians.

Clause passed.

Clauses 16 to 18 passed.

Clause 19.

The Hon. J.M. GAZZOLA: It seems quite a strange clause, but basically it provides immunity to committee members for any act or omission done or made in good faith and in the exercise or purported exercise of powers or functions under this act. I wonder if we could hear the mover of the bill describe how he arrived at this, because the liability ends up with the Crown.

The Hon. R.L. BROKENSHIRE: The advice that my legal officer got from parliamentary counsel is that this is a standard clause that you will find in many government bills. If someone wants to go outside the norm and create a criminal offence or something, then they are subject of the criminal offence. To protect people doing a job that they are engaged and appointed to do, my advice is that this had to be in there as a standard immunity.

Clause passed.

Clauses 20 to 23 passed.

Schedule.

The Hon. J.S.L. DAWKINS: I do not wish to delay the committee much longer, but it is just a very simple question relating to part 2 of the schedule in relation to the amendment to the Development Act 1993. It states that the 'Willunga Basin means the Willunga Basin area as defined in the Willunga Basin Protection Act 2010'. When you go to the interpretation at the start of that bill, it says the Willunga Basin means 'the geographical area that is defined as the Willunga Basin in a plan deposited in the GRO by the minister for the purposes of the act'.

I presume that the Willunga Basin is entirely within the City of Onkaparinga, but I have learnt not to presume anything, so will the minister define that for the committee? I am not sure whether it actually spills over into a couple of neighbouring council areas.

The Hon. R.L. BROKENSHIRE: I thank the honourable member for his question, and his assumption is correct. The whole of the designated Willunga Basin region now is entirely in the City of Onkaparinga.

Schedule passed.

Title passed.

Bill reported without amendment.

The Hon. R.L. BROKENSHIRE (21:43): I move:

That this bill be now read a third time.

Bill read a third time and passed.

TRAINING AND SKILLS DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (21:43): I move:

That this bill be now read a second time.

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

Leave granted.

On 30 September 2010, the Government tabled the McCann Report on the Regulation of vocational education and training services for overseas students in South Australia.

On 13 October, a draft Bill to amend the *Training and Skills Development Act 2008* was released for public comment

Today the Government is introducing the *Training and Skills Development (Miscellaneous) Amendment Bill 2010* that addresses the recommendations for legislative change in the McCann report.

The Government is acting promptly on the McCann recommendations because it takes its responsibility to ensure a high quality vocational education and training sector in South Australia seriously.

Mr Warren McCann, the Commissioner for Public Sector Employment, was asked to review regulatory requirements in this sector following the closure of the Adelaide Pacific International College after its registration to operate was cancelled by the Department of Further Education, Employment, Science and Technology. The Government was particularly concerned that most students enrolled at this College had come from overseas, paid their fees to the College and were not receiving vocational education of a satisfactory standard.

The Government was also concerned that overseas students at other Colleges should not go through the experience of those at the Adelaide Pacific International College. We have a special obligation to students who come to this State from overseas expecting to receive a high quality education.

The quality of our vocational education and training sector is also, of course, very important for South Australians entering the labour market and developing skills for participation in our community. The vocational education and training sector is a diverse mix of training providers including TAFESA, and privately owned, industry owned and community based providers. These training providers deliver publicly funded and privately funded training to clients seeking to enter the workforce, to trainees and apprentices and also to current workers upgrading their skills and qualifications.

In this context, the Bill makes a number of important changes to regulatory arrangements. These measures will not increase the regulatory burden on the majority of training providers that are delivering high quality services to their clients. The Bill will give training providers confidence that regulation of the sector can deal with unscrupulous providers who may seek to gain market advantage by not operating in accordance with regulatory requirements.

The Bill strengthens regulatory powers by enabling the Commission to respond more quickly to apply sanctions where that is warranted by the seriousness and urgency of the matter. The Commission will still, however, be subject to natural justice requirements and must give the provider an opportunity to respond before taking action.

All training providers need to know that, once registered, they are expected to take their obligations seriously and that not complying with their conditions of registration is an offence. The Bill provides a more effective deterrent against contravening the Act by raising the level of penalties for offences.

Industry expects that a person certified as competent by the issue of a qualification is able to carry out his or her duties to industry standard. This is particularly important where the qualification meets the competency requirements for issue of a license in a regulated occupation.

The Bill authorises the Commission to cancel a qualification if it is satisfied that the training provider issuing the qualification was not operating in accordance with standards and the requirements for the qualification have not been met. The Bill authorises a person whose qualification has been cancelled to apply to a court for compensation from the training provider for loss arising from this cancellation. The Bill also makes it an offence for a person to use a qualification that has been cancelled by the Commission.

The Bill introduces a new measure to allow the Minister, on recommendation from the Commission and with the agreement of the training provider, to appoint an administrator to ensure a training provider complies with its regulatory obligations under the Act. This would only occur if there are serious concerns about the provider that it is unable to resolve and it is judged that it is in the students' best interests to maintain the training provider's registration rather than pursuing suspension or cancellation.

It is important to note that an administrator under this Act will not take over full responsibility for the management of the training provider, in particular its financial affairs. An administrator would not be appointed under this Act in the event of insolvency when an administrator would be appointed under Commonwealth law.

The Bill provides a range of new measures to protect consumers, whether they are domestic students or clients or overseas students studying in Australia on a student visa.

If a client suffers a loss from a training provider contravening the Act, the Bill allows a person to make application to a court for compensation. This measure complements the offences under the Act thus reinforcing the message that training providers must operate in accordance with the Act and their conditions of registration.

The Bill enables the Minister, the Training Advocate or the Commission to make a public statement about a training provider, or education and training services, to inform quickly current or potential clients about a matter of concern.

Under this Bill, it is a serious offence for a person to make false or misleading statements about training recognised under this Act. Again, this is a significant deterrent against poor behaviour and poor quality providers.

When a training provider closes or has its registration cancelled by the Commission, students need ready access to their records so that they can resume their training with an alternative provider. The Bill gives powers to authorised officers to inspect, copy and or take all relevant records, including student results.

In summary, this Bill strengthens the regulatory arrangements underpinning the quality of education and training in the tertiary education sector. The Bill demonstrates to all providers registered under the *Training and Skills Development Act 2008* their clear obligation to operate in accordance with the Act and their conditions of registration. If they fail to do so, the Government will have the powers it needs to enforce the law, apply the appropriate penalty and support consumers to seek redress through the courts.

I commend the Bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will come into operation on a day fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Training and Skills Development Act 2008*

4—Amendment of section 4—Interpretation

The first amendment inserts a definition of the *authorised operations* of a registered training provider for the purposes of sections 36 and 36A (see clause 14). The second amendment inserts the definition of *associate* and is consequential on the amendment of section 37. This definition is currently present in sections 29(4) and 57(3) of the Act and, because the term is also referred to in the substituted section 37 (see clause 15), the definition has been removed from those sections and included in the general interpretation section.

5—Amendment of section 5—Declarations relating to universities and higher education

Under section 5 of the Act, it is an offence for an institution to which a section 5 declaration relates to contravene a condition specified by the Minister in the declaration. This amendment increases the maximum penalty to $10,000 (from $5,000) and the expiation fee to $500 (from $315).

6—Amendment of section 27—Conditions of registration

This amendment makes clear that the offence in section 27(2) refers to a condition of registration of a training provider imposed under the Act and not just by the Commission. The amendment also increases the maximum penalty for contravening such a condition to $10,000 (from $5,000) and increases the expiation fee to $500 (from $315).

7—Amendment of section 28—Variation or cancellation of registration

Currently the Commission may vary or cancel the registration of a training provider only on the application of the provider. This amendment provides that the Commission may also do so of its own motion.

8—Amendment of section 29—Criteria for registration

This amendment removes the definition of *associate* from section 29 and is consequential on the amendment to section 4 (see clause 4 above) which inserts the definition in section 4 of the Act instead.

9—Amendment of section 31—Conditions of accreditation

This amendment makes clear that the offence in section 31(2) refers to a condition of accreditation of a course imposed under the Act and not just by the Commission. The amendment also increases the maximum penalty for contravening a condition imposed on the accreditation from $5,000 to $10,000, and increases the expiation fee from $315 to $500.

10—Amendment of section 32—Variation or cancellation of accreditation

Currently the Commission may vary or cancel accreditation of a course only on the application of the provider. This amendment provides that the Commission may also do so of its own motion.

11—Amendment of section 34—Duration of registration/accreditation

This clause amends section 34 to clarify that a registration or accreditation is not 'in force' while suspended. This clause also increases the maximum penalty for failing to lodge a return and pay the registration or accreditation fee under this section, from $5,000 to $10,000, and increases the expiation fee from $315 to $500.

12—Amendment of section 35—Grievances

This amendment proposes to insert a new subsection (3) in section 35. That new subsection makes it clear that the Commission must inquire into a matter referred to it under this section and take such action (if any) the Commission thinks fit in the circumstances, including—

- discontinuing the inquiry; or
- referring the matter and relevant information to the Training Advocate, another registering body or some other person or body, specified by the Commission, for consideration and action; or
- issuing proceedings for an alleged contravention of the principal Act or a corresponding law.

13—Amendment of section 36—Inquiries and interventions

This clause amends section 36 of the Act to extend the power of the Commission to intervene following an inquiry into a training provider under this section. The subclauses inserted allow the Commission to require (whether by varying the conditions of, or imposing further conditions on, the provider's registration or otherwise) the affairs of the provider to be audited, specified action to be taken to ensure compliance with the Act, the correction of particular irregularities, or the application of specified management practices. It may also take action under section 37 (such as cancel, suspend or vary the registration or accreditation held by a provider), or such other action as prescribed by the regulations. The Commission may also recommend to the Minister that an administrator be appointed to conduct the operations of the provider that are within the scope of the provider's registration (the provider's *authorised operations*). Such a recommendation can only be made if the Commission is satisfied as to certain matters.

14—Insertion of section 36A

This clause inserts a new section that deals with the appointment of an administrator by the Minister.

36A—Appointment of administrator

On the Commission's recommendation under section 36, the Minister may, with the agreement of the training provider, appoint an administrator to conduct the authorised operations of the provider. The administrator must be independent of the Minister and is entitled to such remuneration as the Minister determines, to be paid out of the funds of the provider, along with the other costs of the administration. An administrator has all the powers, functions and duties of the provider in relation to the conduct of the provider's authorised operations and must report regularly to the Minister. At the end of his or her appointment, the administrator is required to fully account to the Minister.

15—Substitution of section 37

This clause repeals current section 37 and substitute a new section dealing with the same topic.

37—Commission may cancel, suspend or vary registration or accreditation

New section 37 provides that the Commission may impose or vary a condition of registration or accreditation, or cancel or suspend the registration or accreditation if the holder of the registration or accreditation contravenes this Act or a corresponding law (including a condition) or fails to pay a fee as required under Part 3 of the Act. The Commission may also cancel or suspend the registration of a training provider if it is satisfied that the provider is no longer a fit and proper person. The amendments to this section also clarify the effect of a suspension of registration under section 37 and provide that the Commission may stipulate conditions for restricted operations of the provider during the period of suspension. It is an offence to contravene such conditions or to otherwise continue to operate as a provider.

In addition to the current grounds for cancelling the registration of a training provider (on the basis that South Australia is no longer the provider's principal place of business), the new section also provides that the Commission may cancel the provider's registration if he or she becomes bankrupt or an order for winding up has been made against them in the case of a provider who is a body corporate.

Under the new section, the Commission can, in urgent circumstances, give 24 hours notice of the proposed action, or otherwise where there is no such urgency, must give a minimum of 7 days notice in the case of bankruptcy or winding up, or 14 days in other circumstances. During the various time periods, the Commission must take account of the representations of the holder of the registration or accreditation and must also consult with any interstate registering or accrediting bodies if the provider operates or offers a course in other states or territories. Other subsections replicate current subsections 37(2) and 37(5).

16—Amendment of section 39—Cancellation of qualification or statement of attainment

This clause amends section 39 to allow the Commission to cancel a qualification or statement of attainment on the grounds that the training provider contravened or failed to comply with the standards for registered training providers. This is in addition to the grounds currently provided for by the Act which include where the qualification or statement was issued by mistake or on the basis of false or misleading information. Currently the Commission is required to give both the recipient of the qualification or statement of attainment and the training provider who issued

them, 28 days written notice. This clause amends the period of notice to 24 hours in circumstances where the Commission believes it is necessary to act urgently, or in non-urgent circumstances, to give 14 days notice. During this period, the Commission must take into account any representations of the training provider or holder of the qualification or statement of attainment.

Inserted subsection (4) provides that a court of competent jurisdiction may order the training provider to pay compensation as determined by the court to a person who has had his or her qualification or certificate of attainment cancelled under this provision.

New subsection (5) provides that it is an offence (with a penalty of $2,500) for a person to hold out that he or she is the holder of a qualification or statement of attainment if the qualification or statement of attainment has been cancelled under this section. However, there is a defence if the defendant proves that he or she did not know that the qualification or statement of attainment had been so cancelled.

17—Substitution of section 41

This clause deletes current section 41, which relates to the provision of information by the Commission to others in the course of its functions under the Act, and substitutes a new section.

41—Public warning statements

New section 41 provides that the Minister or the Commission may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about either or both of the following:

- the delivery or provision of education and training or other services in an unsatisfactory manner and training providers who deliver or provide those services;
- any other matter that adversely affects or may adversely affect the interests of persons in connection with their interaction with training providers.

The Training Advocate may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about a matter that adversely affects or may adversely affect the interests of persons in connection with their interaction with training providers.

The new section also provides that the Crown will not incur any liability for such a statement made in good faith by the Minister, Commission or Training Advocate and provides protection to a person publishing any such statement.

18—Amendment of section 42—Appeal to District Court

This amendment ensures that there is no appeal to the District Court available against a decision of the Commission to suspend or cancel registration or accreditation on the grounds that a training provider has become bankrupt or a winding up order has been made against the provider.

19—Amendment of section 43—Offences relating to registration and issuing of qualifications

This clause amends the penalties for the offences in section 43 (which include falsely claiming to be a registered training provider or issuing qualifications or certificates of attainment). The maximum penalties are increased from $5,000 to $20,000 and a maximum penalty for bodies corporate of $100,000 is also inserted.

20—Amendment of section 44—Offences relating to universities, degrees etc

This clause amends the penalties for the offences in section 44 (which include falsely claiming to be a university, university college or specialised university etc, or falsely offering a course to which a degree or graduate qualification is to be conferred). The maximum penalties are increased from $5,000 to $20,000 and a maximum penalty for corporate bodies of $100,000 is also inserted.

21—Insertion of section 44A and Part 3 Division 7

This clause inserts the following provisions:

44A—Offence to make false or misleading statements

This new section makes it an offence for a person to make a false and misleading statement in any information provided to a student, or prospective student, about the delivery or provision of education and training or other services. The penalty for such offence is $20,000 for a natural person and $100,000 for a body corporate.

Division 7—Orders for compensation

44B—Orders for compensation

This new section provides that a court of competent jurisdiction may, if satisfied that a person has suffered or is likely to suffer loss or damage because of a contravention of the Act, make orders compensating the person or to prevent or reduce the extent of the loss or damage. Examples of the types of orders that may be made are for the payment of the amount of the loss or damage, or for avoiding or varying a contract, refunding money or returning property or directing the delivery or provision of specified education or training or other services.

22—Amendment of section 57—Criteria for registration

This amendment deletes the definition of *associate* from section 57 and is consequential on the amendment to section 4 (see clause 4 above) which inserts the definition in section 4 of the Act instead.

23—Insertion of section 72A

This amendment proposes to insert new section 72A after section 72.

72A—Confidentiality of information

This new section provides that it is an offence (carrying a penalty of $20,000) if a person divulges or communicates information acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of this Act, other than—

- with the consent of the person to whom the information relates; or
- in connection with the administration of this Act; or
- to a member of the police force of this State or of the Commonwealth or another State or a Territory; or
- to a person concerned in the administration of a corresponding law; or
- for the purposes of legal proceedings.

24—Amendment of section 73—Other powers of Commission, Training Advocate etc

Under current section 73, an authorised person may inspect, examine or copy a record or document required to be kept under the Act. The amendment has the effect of allowing an authorised person to examine, copy or take extracts from any record or document, and also take any record or document and seize and remove anything that may constitute evidence of an offence. An authorised person may also take photographs, films or video recordings.

25—Amendment of section 75—False or misleading information

This clause increases the maximum penalty for providing false or misleading information under the Act from $5,000 to $10,000.

26—Insertion of sections 75A and 75B

This clause inserts the following new provisions to assist with the prosecution of a body corporate:

75A—Imputation of conduct or state of mind of officer etc

This new section provides that, for the purposes of proceedings for an offence against the Act, the conduct and state of mind of an officer, employee or agent of a body corporate who is acting within their authority, will be imputed to that body corporate. A similar provision applies to an employee or agent of a natural person. This provision does not affect the personal liability of the officer, employee or agent. The clause also provides that it is a defence where conduct or state of mind is imputed under this clause to prove that the alleged contravention was not to due to any failure of the defendant to take all reasonable and practicable measures to prevent the contravention.

75B—Offences by bodies corporate and employees

This new section provides that if a body corporate is found guilty of an offence, the directors and managers of the body corporate will also be guilty of the offence and liable for the same penalty as for a natural person. It is a defence if the defendant proves he or she took reasonable precautions and exercised due diligence to prevent the commission of the offence by the body corporate. A similar provision applies in relation to where an employee is found guilty of an offence. In this case an employer is liable to the same penalty. There is a defence if the employer shows that he or she had no knowledge of the actual offence or took reasonable precautions and exercised due diligence to prevent the commission of the offence by the employee.

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

CRIMINAL LAW (SENTENCING) (SENTENCING POWERS OF MAGISTRATES COURT) AMENDMENT BILL

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

At 21:44 the council adjourned until Thursday 10 February 2011 at 14:15.