LEGISLATIVE COUNCIL

Wednesday 23 February 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:17 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) (14:18): I move:

That the sitting 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 (14:18): I bring up the 17th report of the Legislative Review Committee.

Report received.

The Hon. R.P. WORTLEY: I bring up the 18th report of the Legislative Review Committee.

Report received and read.

EDWARDSTOWN GROUNDWATER CONTAMINATION

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) (14:20): I table a copy of a ministerial statement relating to groundwater contamination in Edwardstown made earlier today in another place by my colleague the Hon. Paul Caica.

QUESTION TIME

HERITAGE

The Hon. J.M.A. LENSINK (14:21): I seek leave to make an explanation before asking the Minister for State/Local Government Relations a question about heritage.

Leave granted.

The Hon. J.M.A. LENSINK: Just today, at around lunchtime, I received a reply to a freedom of information request about all correspondence between the Heritage Council and ministers for conservation over the last two years. Within those documents there was a brief provided to the former minister for heritage from the council which referred to its concerns about local government listing of places. In particular, it states its concern about the impact of budget savings and unprocessed nominations for state heritage listing (this is dated 15 February 2010) and that there were 43 nominations awaiting assessment. It also states:

> With the support of the heritage branch, the council will identify the best approach to progress this matter within available resources. Currently, the heritage branch has only one full-time assessment position and the council may need to consider other models such as engaging consultants.

Another document, dated 5 August 2010, from the current minister, the Hon. Paul Caica, to the chair of the South Australian Heritage Council states:

> One of the key issues that you identified relates to local heritage and the increased number of emergency nominations for state heritage listing for places that would be more appropriately protected at local level. I have written to the Minister for State/Local Government Relations, the Hon. Gail Gago MLC, seeking her support to ensure local councils update their development plans to protect local heritage places.

Honourable members may recall that in 2005, I think, the then minister for heritage released a document entitled 'Heritage Directions', which attached funding which was then made available to local government to assist it in developing its list of local items. As recently as Monday the National Trust has come out and said that country councils need to do more to protect locally listed heritage items, and the state president, Mr David Beaumont, has said that communities are having their culture and history demolished before their eyes. My questions are:

1. Is the minister aware of this issue?

2. Will he undertake to take up this issue now that he has been appointed to this position?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:23): I will seek information from my colleague in the other place, the Minister for Environment and Conservation, who is responsible for heritage. The honourable member seems to be indicating that the state government should bear some responsibility for local government decisions in relation to heritage. Obviously, the state plays a role in heritage, and, as my honourable colleague points out, it is also a factor under the Development Act, so this is a matter on which I would need to seek further information from my colleagues.

In relation to the implication that it is the state budget that is preventing local government from doing its job, I can certainly inform the council that the latest version of the State-Local Government Relations Agreement—which I witnessed the signing of by the Premier on 9 February—requires me as minister to provide information on state and local government financial relations, including, as part of the state government budget process, to the LGA. What this means in practice is that a state budget briefing is provided to the LGA on matters which have implications for local government, and those commitments have been met again for the 2010-11 budget.

A briefing provided to the LGA on the 2010–11 state budget included detailed written analysis, I am advised, of the implications of the budget in program areas important to local government. The budget identifies specific purpose payments made to local government in 2009-10 totalling $101.362 million, I am advised, and for 2010-11 estimated funding of approximately $100 million dollars is expected to be made available to local government when allocations for all programs are finalised. Local governments, of course, also receive substantial funding for roads and for other purposes from federal governments.

Members interjecting:

The Hon. B.V. FINNIGAN: The deputy leader of the opposition's question was essentially saying that local governments cannot do their job in relation to heritage because of the state budget. That is the matter that I am addressing in my answer. In the 2010-11 budget estimated funding of approximately $100 million dollars is expected to be made available to local government within a range of programs and portfolios. So, the suggestion that it is a state budget decision which should have an effect on local governments playing their role in relation to heritage is a falsehood.

HERITAGE

The Hon. J.M.A. LENSINK (14:27): I have a supplementary question arising from the answer. Given that minister Caica did in fact write to your predecessor in August, are you going to write back to him and tell him that it is not relevant to your portfolio?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:27): I began my answer by saying I will seek further information from my colleagues in the other place.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:27): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to Burnside council.

Leave granted.

The Hon. S.G. WADE: Yesterday, in response to a question related to the investigation into the Burnside council, the minister stated that the work of Mr MacPherson was suspended on 4 February pending the outcome of legal proceedings. My questions are:

1. Can the minister advise the council what work or task was undertaken by Mr McPherson on behalf of the government from the date on which the government gave an undertaking to the court on the report of Mr MacPherson up until 4 February 2011?

2. Why was this work suspended on 4 February 2011?

3. Who ordered the suspension?

4. Is there any significance in the fact that 4 February was minister Gago's last working day in the state/local government portfolio?

5. What is the estimated cost of the investigation up to 4 February and the anticipated costs to project close?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:28): The suggestion is that the minister was taking some action because it was her last working day. My honourable colleague was the minister, for state/local government relations until such time as I was sworn in as minister and to suggest that she was not minister until that time is an absurdity.

In relation to Burnside council, the honourable member has asked questions again and again relating to the Burnside council investigation. We all know where that matter is at. There is a Supreme Court action by a number of people in relation to the draft report. As I advised the house yesterday, my understanding is that there will be a hearing on 10 and 11 March before the Full Court of the Supreme Court.

It would therefore not be appropriate to speculate on what is going to happen in the future in relation to that report. What the government has done is said that, in light of the legal action that is proceeding, we will not continue with the investigation beyond this point until the court matter is resolved, and then we will obviously need to have a look at what action we will take in relation to this matter once the court action has been finalised.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:30): I have a supplementary question arising from the answer. If the minister suggests that it is inappropriate for an investigation to proceed while court matters are proceeding, why was work going on up until 4 February and what was the work related to?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:30): What I said was that the government decided that, in light of the court action that was proceeding, it would be most appropriate to cease the investigation. I did not say that it was illegal in some way. The principal reason why it was appropriate for the government to suspend the work of Mr MacPherson was so that we can await to see what the outcome of the case will be and decide the best course of action following whatever decision the court makes. Obviously, the investigation was wide ranging—

The Hon. S.G. Wade interjecting:

The Hon. B.V. FINNIGAN: The honourable member is aware of the terms of reference. There are quite a number—

The Hon. S.G. Wade interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: —of matters that are part of the investigation; not all of them are subject to what the court case is about. What the government is doing is ensuring that we are able to make best use of what the investigation has done to date. The only way we can do that is to await the outcome of the court decision, or at least to ensure that there is some finality to what is happening in relation to the court case, and then the government will be in a better position to decide how to proceed.

SA LOTTERIES

The Hon. R.I. LUCAS (14:32): My question is to the Minister for Government Enterprises. Can the minister assure the house that, since the last election, no officer in the Lotteries Commission, or in her office, has been engaged in any discussion about the possible sale of the Lotteries Commission?

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) (14:32): I can absolutely assure the honourable member that, to the very best of my knowledge, there have been no discussions with members of the agency or any members of my office—with anyone—about the potential sale of the Lotteries Commission.

SA LOTTERIES

The Hon. R.I. LUCAS (14:33): I have a supplementary question arising out of the minister's answer. Given the minister's caveat, 'to the very best of her knowledge', is she prepared to seek a briefing from the Lotteries Commission executive to see whether she can come back to

the house and give an assurance, subsequent to that discussion, that since the last state election no officer of the Lotteries Commission has been engaged in a possible sale of the Lotteries Commission?

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) (14:33): The question is: am I prepared to bring that back? Yes, Mr President.

OUTBACK COMMUNITIES AUTHORITY

The Hon. P. HOLLOWAY (14:34): My question is to the Minister for State/Local Government Relations. Will the minister inform the house how the Outback Communities Authority is improving its services to people in remote areas?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:34): I am pleased to inform the chamber that last week (on Tuesday, as I understand it), the Outback Communities Authority relocated to a new office at 12 Tassie Street in Port Augusta. People familiar with Port Augusta will know the heritage-listed building is known locally as the PIRSA building.

The move from the authority's former Marryatt Street office means that OCA staff and board members have more office space to better accommodate customers and future business needs. The government-owned building has a more functional boardroom, which can better accommodate outback community members who wish to observe board meetings. There is also a larger reception area, where displays and information will be provided for customers. The Outback Communities Authority is sharing the building with the Department of Primary Industries and Resources SA and is just up the street from the former office. I believe contact phone numbers, email addresses and the postal address remain unchanged.

The Outback Communities Authority was established on 1 July 2010, replacing the Outback Areas Community Development Trust as the management and governance authority for the outback. I acknowledge the work of my colleague, the previous Minister for State/Local Government Relations, in establishing the authority. The OCA is responsible for, I believe, 65 per cent of our state in area, where there are more than 30 outback communities and numerous grazing and farming properties not serviced by local councils.

Outback communities can look forward to having a greater say in what happens in the outback. The government is committed to consulting with the community about what services and infrastructure will deliver the greatest benefits to outback residents. The Outback Communities Authority further empowers communities to initiate and drive proposals to seek improved services.

CHILDREN WITH DISABILITIES

The Hon. K.L. VINCENT (14:35): I seek leave to make a brief explanation before asking the minister representing the Minister for Disabilities a question about child protection for children with disabilities.

Leave granted.

The Hon. K.L. VINCENT: As my fellow members would know, I am greatly concerned about the prevalence of abuse and neglect against children and, indeed, adults with disabilities. The Hon. Justice Robyn Layton QC, in her Child Protection Review of 2003, recommended that consideration be given to a process of annually collecting and publishing information pertaining to young people with disabilities who are the subject of child protection notifications.

However, despite this recommendation, as I understand it, such information is not currently published. In any event, it is widely accepted that children with disabilities are more vulnerable to sexual abuse. Despite this fact, research shows that abuse and neglect against people with disabilities is significantly under-reported. One of the reasons cited by researchers for the under-reporting is the perception that reports are not always taken seriously by institutions such as the police or protection agencies. My questions to the minister are:

1. When reports of abuse and/or neglect are made to the Child Abuse Report Line, is the operator required to ask whether the child has a disability and, if not, why not?

2. Over the past 12 months what percentage of these reports relate to children with disabilities?

3. Of those reports which do involve children with disabilities, what percentage result in criminal charges being laid?

4. How do report and charge rates relating to the abuse of children without disabilities compare to those of children with disabilities?

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) (14:37): I thank the honourable member for her questions and will refer them to the Minister for Disabilities in another place and bring back a response.

AUSTRALIAN MILLING GROUP

The Hon. R.P. WORTLEY (14:37): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Australian Milling Group.

Leave granted.

The Hon. R.P. WORTLEY: As a food lover, I have a keen interest in ingredients of all sorts. Lately, I have been working (as we all should) on being healthier. I have listened to advice in the media from various allied health professionals about how to balance food and exercise and how to increase the intake of vegetables to get the daily target of two servings of fruit and five servings of vegetables each day.

Another part of my health mission has to been to look at the source of daily protein servings which would usually be meat, chicken or fish. However, these are not the only good sources of protein and, increasingly, beans or pulses such as lentils have made an appearance in my diet. I am sure I am not alone in this change. Will the minister advise the chamber about recent developments to support South Australia's export of this important food source?

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) (14:38): It is with great pleasure that I thank the member for this most important question and his interest in pulses. Indeed, South Australia is a prime agricultural producer and has a significant interest in pulses. I understand that lentils currently earn South Australia's farmers between $55 million and $75 million at the farm gate.

An honourable member: How much?

The Hon. G.E. GAGO: Between $55 million and $75 million at the farm gate—this is lentils alone. Lentils are a premium source of protein, served daily on millions of dinner tables around the world. They are a very important ingredient in cuisines, particularly in places like India, for foods like dal. South Australian farmers have seen the financial benefits of participating in the lentil market, which is why the total acreage under crop has increased by 37 per cent, I am advised, in the past year.

I am pleased to tell the chamber that the South Australian government has recently helped to support this important market by allocating up to $390,000 through the Regional Development Infrastructure Fund towards a new storage and processing plant for pulses near Port Wakefield.

The Australian Milling Group is building a major facility at Bowmans, between Balaklava and Port Wakefield; a regional site well positioned at the gateway of Yorke Peninsula and within easy reach of Adelaide. The Australian Milling Group's primary business is the acquisition, processing, packaging and distribution of peas, beans and lentils. The RDIF grant will contribute to the cost of installing transport, power, telecommunications and water infrastructure needed to support this new facility. The total project cost is $8 million—so this is good leverage use of South Australian money—with additional investment likely as business develops. I am advised that the project is likely to begin shortly.

This project will enhance the regional economy, and I am advised that it is expected to create 25 new jobs within four years of operation and to double production from a projected 40,000 tonnes in 2011 to 80,000 tonnes in 2013. The RDIF plays an important role in the implementation of South Australia's Strategic Plan by helping to meet a number of targets for regional jobs, investment and export earnings. The development of this processing and storage facility will add value for growers and deliver social and economic benefits for the region.

What it means is that we will be value adding to the pulses that are grown in South Australia. Instead of bulk shipping peas, beans and lentils overseas for sorting and packing,

as I understand currently occurs, they will be sorted by colour and then packaged before sending them to market. We are always very keen to invest in value-adding projects. It translates to more local jobs for South Australians and is a great example of investment in growing an industry that is obviously good for this state. It is also an excellent program in terms of helping to add to the diversification of our agriculture sector, which is something else we are attempting to do. Of course, we intend to increase diversification to improve our long-term sustainability across all of our agriculture sector.

SECURITY OF PAYMENT LEGISLATION

The Hon. J.A. DARLEY (14:43): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs questions regarding security of payment legislation.

Leave granted.

The Hon. J.A. DARLEY: Members will recall that in December 2009 parliament passed the Building and Construction Industry Security of Payment Act 2009. That legislation cannot commence its operation until the accompanying regulations are drafted. Obviously, there are also a number of administrative matters that need to be addressed at departmental level. My office has been following the progress, or lack thereof, of this legislation since its inception, and I am in regular contact with stakeholder groups regarding its progress.

Needless to say, these stakeholder groups are growing very concerned over the delays around the consultation period of the draft regulations and the implementation of the legislation itself. In addition, because so much of the detail involved in the new scheme will be dealt with by way of regulation, stakeholder groups cannot adequately prepare themselves for what is to come. Given that yesterday the minister referred to the government as being about action, my questions are:

1. When does the government intend to make an announcement regarding the consultation process for the security of payment draft regulations?

2. When is it intended that the legislation be implemented?

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) (14:44): I thank the honourable member for his ongoing interest in this particular policy area. It is an extremely important policy area, and it does provide additional protections to contractors in terms of securing progressive payments to them. Often these contractors are single entity businesses. They do not have the backing of large corporations or organisations and the resources they have at their disposal. Often it is the very small businessman—

The Hon. Carmel Zollo: Or woman.

The Hon. G.E. GAGO: —or woman. They are predominately men, though, I have to say, in the construction area. So, it is a very important policy area, and I know that the Hon. John Darley has had an ongoing interest in this particular area.

The Office of Consumer and Business Affairs is currently working with government agencies to process the security of payments legislation. This particular policy cuts across a number of different agencies and different ministerial responsibilities, so work has had to be done across agencies. I am advised that some issues are being considered, including relevant structures and processes and the function of similar schemes in other states, so we are really working down to the details now.

This body of work is obviously a large undertaking. It is setting up a new system and processes within this state that have not previously existed, especially given that most of OCBA's work to date has been focused on transactions and disputes between businesses and consumers.

The work on regulations has commenced, so I can assure the member that the work is progressing. The intention is to have the new system in place by the end of this year as the legislation, I believe, requires. I can assure the member that an announcement will be made very soon.

APY LANDS, HOUSING

The Hon. T.J. STEPHENS (14:47): I seek leave to make a brief explanation before asking the Minister for Regional Development representing the Minister for Housing a question about the dire state of housing on the APY lands.

The PRESIDENT: Without the opinion.

Leave granted.

The Hon. T.J. STEPHENS: Members may be aware that there was a recent report regarding three houses that were built for families at Pukatja on the APY lands last year. Residents say they are still not being used, despite existing homes in the area being overcrowded. Existing residents have grown increasingly frustrated that the houses remain empty. The houses were originally built by the Australian Army Aboriginal Community Assistance Program for families assisting Indigenous communities on the lands. The fact that they remain empty is a slap in the face to both these families and the local communities also struggling with accommodation.

Housing on the APY lands is too limited, and too much taxpayers' money has been spent for these houses to remain empty any longer. Can the minister provide details on the exact time frame when the allocated tenants are expected to move in, because Housing SA has indicated that it should happen soon, or will this be yet another case of failed bureaucracy under the Rann government?

The PRESIDENT: The honourable minister will ignore the opinion.

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): I will refer those questions to the relevant minister in another place, but I do have to reiterate the Hon. Paul Holloway's comments and remind the opposition that, when it formed a Liberal government prior to us, its performance in relation to the APY lands across all policy areas was nothing short of a disgrace—an absolute disgrace—not just in terms of housing, but policing, education and health. There is no policy area where the opposition could do anything less but hang its head in shame. So, it is somewhat of an audacity that the opposition can stand up in this place and ask such a question when, in fact, it has no track record whatsoever.

The Hon. T.J. Stephens: I've asked a simple question; give us the answer!

The Hon. G.E. GAGO: He can throw whatever little hissy fit he likes, Mr President. He can have a little hissy fit in his seat. It is a shame that he did not show such emotional energy and interest in what the former Liberal government failed to achieve when it was in government. I will gladly pass on those questions to the relevant minister but, again, members of the opposition should do nothing short of hanging their heads in shame in terms of their track record in the relation to the APY lands. Absolute shame; nothing short of a disgrace.

RETURN TO WORK FUND

The Hon. CARMEL ZOLLO (14:50): My question is to the Minister for Industrial Relations. What projects have been approved for the second round of the Return to Work Fund to assist and educate South Australian employers and workers about how to safely remain at work after sustaining a workplace injury or return to work as soon as possible if time away from work is required?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:51): I would like to emphasise that the best outcome that can be achieved following a workplace accident is that the worker who sustained an injury remains at work, with appropriate treatment, either on the same or alternative duties. If the worker needs time away from work as part of their recovery, then the best outcome for the worker and the employer is an early return to work.

All parties involved in the Workers Rehabilitation and Compensation Scheme need to employ best practice injury management and find better ways of working together so that injured workers remain at work or achieve healthier return-to-work outcomes. To support this effort, WorkCover SA and the government established the $15 million Return to Work Fund in 2009. The aim of the fund is to implement initiatives that contribute to supporting an injured worker to recover at work or, in the case of lost time, improve return-to-work outcomes. The second round of the Return to Work Fund was advertised on Tuesday 3 November 2009, with expressions of interest

closing on 30 June 2010. I am advised that 43 expressions of interest were received and 18 completed their assessment. From these, five projects have been approved.

I am advised that Employment Accelerators will undertake a pilot project called Back on Track, in which they will work with 10 injured workers to develop lifelong skills, self-initiated drive and real employment outcomes. MS Vocational Services have been funded to undertake the Reinvent Yourself—Life After Injury project. Group programs will be provided for up to 96 injured worker participants working with qualified and experienced health educators, facilitators and guest speakers who have recovered from injury. The programs will focus on attitudinal healing and change for participants.

Beckman & Associates are running a project called Families Working Together. They will provide family-based counselling and education for injured workers. Up to 20 families will be engaged in this pilot project to identify the importance of family support in the recovery and return-to-work process. Mindful Movement Physiotherapy will undertake a project entitled Moving Mindfully Towards Health. It is intended that the program aim to create positive physical and psychological change in injured workers through participation in a structured program. I believe 20 injured workers will be referred by general practitioners from the Adelaide Hills and general practitioner partners' networks to an eight-week program of 30 hours.

The Master Builders Association of South Australia will undertake a project called Achieving Cultural Change in the Construction Industry. The project is designed to better understand the drivers of, and address barriers to, injured workers remaining at work or returning to work in the construction industry. The program, led by its own industry association, will assist trade contractors to better support the rehabilitation of injured workers.

Finally, the Australian Institute for Social Research is evaluating and reporting on the outcomes achieved to date by the Return to Work Fund, including its individual projects and associated programs. I understand the report for the year ending 30 June 2010 is available on the WorkCover website.

PERMACULTURE EDUCATION ZONE

The Hon. M. PARNELL (14:54): I seek leave to make a brief explanation before asking the Minister for Regional Development, representing the Minister for Environment and Conservation, a question about the Adelaide Gaol and the new Royal Adelaide Hospital.

Leave granted.

The Hon. M. PARNELL: In March 2009, a new non-profit association was established called the Permaculture Education Zone. One of this organisation's key goals is to establish a demonstration site for a city farm in close proximity to the Adelaide CBD. The site would provide hands-on education experiences for local students and the public in practical sustainable living, including food production, waterwise gardening and energy efficiency measures.

Adelaide is now the only mainland capital that does not have such a site. The Permaculture Education Zone has received in principle support for this proposal from the Adelaide City Council and the department for environment and heritage. In addition, close to 1,000 residents signed a petition to support the proposal. After considering potential locations, an area around the Adelaide Gaol was considered the best location for such a city farm.

Permaculture Education Zone contacted the Premier, the ministers for education, health and environment, as well as myself and the local member for Adelaide, seeking support for its project. Permaculture Education Zone believes, as stated in its proposal, that:

> ...the development of a large, interactive garden at the Gaol site will be particularly useful in terms of therapeutic attributes for patients of the RAH as well as a nice place for hospital visitors to relax...This use of Gaol grounds would be very complementary to the RAH project.

In response, the Minister for Environment and Conservation said that:

> ...the proposed city farm is incompatible with the future direction of the Adelaide Gaol site particularly as the new Royal Adelaide Hospital is developed.

He went on to say that the Department for Environment and Natural Resources believes that an open approach from the southern side is required. My questions are:

1. What are the government's plans for the Adelaide Gaol site?

2. Will the minister consult with Permaculture Education Zone to see if the city farm can be accommodated in the vicinity of the old Adelaide Gaol?

3. What steps is the government taking to find an appropriate site for an Adelaide city farm?

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) (14:57): I thank the honourable member for his most important questions, and I will refer those to the relevant minister from another place and bring back a response.

REGIONAL FLOOD MANAGEMENT

The Hon. J.S. LEE (14:57): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about flood management in regional areas.

Leave granted.

The Hon. J.S. LEE: Regional councils say frustration is growing in their communities about a lack of action by the state government on regional issues. Numerous regional communities have reported on radio last week how dissatisfied they are with the state of regional roads and the flood damage they are facing.

In answering my question about flood management last week on 9 February, the minister reported that the local regional communities can apply for the Local Government Disaster Fund. However, in the case of the Clare and Gilbert Valleys area, it was reported in the *Northern Argus* on 9 February 2011 that 'only $400,000 is available to the Clare and Gilbert Valleys Council through the Local Government Disaster Fund', leaving the council with 'a $9.5 million shortfall'. Mayor Allan Aughey said:

> This is a major financial challenge for our council if we don't get substantial assistance from governments to meet our losses—I am putting this to the state government that this is an impediment to fair treatment in South Australia.

My questions are:

1. In view of the fact that the Local Government Disaster Fund will not be sufficient to meet the repair bill without substantial state and federal government help, will the Minister for Regional Development outline what other funding source will be available to assist regional communities with their problems?

2. The minister said yesterday in this chamber that this government is about action. If this is the case, can the minister outline a clear action plan to resolve the matters in regional areas?

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) (14:59): I thank the honourable member for her most important questions. Indeed, this government is very committed to regional South Australia, as I went to lengths yesterday to outline, but I am happy to repeat that again today if honourable members are not convinced about our commitment. I am happy to go through our commitments again. In the meantime, whilst I believe I have outlined some of the funding arrangements that local governments have available to them, I am happy to do so again. Some of this is the responsibility of the Minister for State/Local Government Relations as well as the Minister for Transport so, again, it does cut across a number of different portfolio areas.

As the Hon. Jing Lee has pointed out, there is a local government disaster fund, and Clare has been able to avail itself of some of those funds. I understand that includes an amount to assist with roads but also an amount to assist in gaining technical advice and assessment of the damage and the extent of their needs. Part of the problem was that it had a rough idea about what was needed, but there was no detailed analysis or engineering input into exactly what was required and exactly what the cost might be.

If I understand it correctly, I believe the disaster fund also provided an amount of money for that assessment to take place. That work was just about to commence when I passed over the portfolio to the Hon. Bernard Finnigan, so I do not know whether or not the work has been completed yet. However, I doubt that extensive work could have been completed within that short

time frame. Nevertheless, it is clear that we would need to wait until we had that detailed analysis before the next part of planning could commence.

So disaster funds were made available to address immediate needs, and I think those funds were made available basically the day after; if I recall correctly, it was 24 or 48 hours from the time of the flood event. That upfront money was made available instantly, and I got on the phone and spoke to the mayor myself at the time. I know we were very quick, very responsive, in ensuring that they had some upfront money to begin infrastructure repair and clean up.

There is also the local roads funding, which is, again, distributed through the Minister for State/Local Government Relations. There are significant funds there that can be spent on roads and other infrastructure. Of course, there is also the federal disaster funding, and I have already indicated in this place that one of our strategies was to look at the flood damage right across the state to determine whether we could reach the $30 million or $40 million threshold—I do not recall it exactly, but the figure is about there—that had to be met before the availability of the federal disaster funds was triggered.

Work was being done on that to see whether we could reach that trigger by taking a more comprehensive look at flood damage across the state. However, again, that cannot be progressed until the details of the damage to infrastructure can be assessed, and that requires considerable technical input. I understand that work is still under way. So, as I have pointed out, not only is this a caring government, one that cares about regional South Australia, it is also a government of action.

NATIONAL PLAN TO REDUCE VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. I.K. HUNTER (15:04): I direct my question to the Minister for the Status of Women. Will the minister inform the chamber about the National Plan to Reduce Violence Against Women and their Children 2010-22?

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) (15:04): I thank the honourable member for his important question. Although he may not have an interest in pulses, he certainly has an interest in chickpeas and lentils and healthy diets! Nevertheless, the honourable member has an ongoing interest in this very important policy area, which he has shown great interest in and active support of through his role as a White Ribbon Ambassador, as have many other members in this place. The Hon. Ian Hunter and the Hon. John Gazzola have had a very active part in progressing that agenda.

I am very pleased that last week I announced that the South Australian government endorsed the new National Plan to Reduce Violence against Women and their Children 2010-22. The national plan is a single unified strategy that brings together Australian government efforts to reduce violence against women. I believe that the national plan is the very first of its kind to focus so strongly on prevention, including building respectful relationships amongst young people and working to increase gender equality to help stop violence from occurring in the first place.

In my view, the national plan will help us with a real and sustained reduction in the level of violence against women, in part because the Gillard government is working cooperatively with all states and territories on this plan. I think members will acknowledge that no group or government can really tackle this problem in isolation. They need the cooperative activity of a coordinated approach.

South Australia will use the national plan to help guide local planning for services to assist women who are victims of violence, and the state's Women's Safety Strategy is being refreshed and revamped to bring it into line with the priorities outlined in the national plan. The Gillard government is clearly very committed to the national plan.

For members' interest, some of the key actions under the national plan include supporting local community action to reduce violence against women; a commitment to support the inclusion of respectful relationships education in phase three of the Australian curriculum; provision of telephone support for front-line workers, such as allied health, child care and paramedics, to better assist clients who have experienced violence; new programs to stop perpetrators committing acts of violence and national standards for perpetrator programs; and establishing a national centre of excellence to evaluate the effectiveness of strategies to reduce violence against women.

Evaluation is very important in guiding our future directions. It is one thing to have a good idea and put a program in place, but we need to make sure that that program is doing what we expect and want it to do and that we are in fact using the Australian dollar very wisely and

responsibly. That sort of work will very much help provide guidance and direction in relation to that. The other is a personal safety strategy and national community attitudes survey to track the impact of the new action plans every four years, to mention just some of the initiatives that have been announced so far.

NATIONAL PLAN TO REDUCE VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. T.A. FRANKS (15:08): I have a supplementary question arising from the answer. If the minister is so committed to the safety of women and children, will she urgently communicate with the Minister for Aboriginal Affairs about the lack of a safe house for women and children on APY lands and the lack of even a tender being put out for a project that is now well overdue?

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) (15:08): Do you mean the Umuwa facility?

The Hon. T.A. Franks: Yes.

The Hon. G.E. GAGO: I am happy to provide some advice about that particular facility. Of course, putting forward strategies to address domestic violence is a difficult enough issue and a challenging enough policy on its own and, in terms of addressing those issues in Aboriginal communities, there are significantly increased challenges, which we do indeed try to grapple with.

I am advised that funding of $4.5 million was provided by the commonwealth to the South Australian government in June 2008 to implement Mullighan recommendations regarding child protection, family safety and court facilities. I am advised that a proposal was put forward for a courts administration centre at Umuwa that would incorporate court facilities and specialist services to provide assistance in child protection cases. Subsequently, the Courts Administration Authority was notified that they do not require the services of a courthouse attached to that facility.

Discussions have been held with the federal minister, Jenny Macklin, about alternative uses for that funding, and there is strong agreement that it will be used for the purposes of a facility that promotes child and community safety, consistent with the Mulligan recommendations. I have been advised that discussions are ongoing between state and commonwealth agencies to progress these plans. I have been advised that the development of safe houses on the lands is being addressed through ongoing discussions with local organisations, including the NPY Women's Council and APY and state and commonwealth governments.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:11): I table a copy of a ministerial statement relating to the 30-Year Plan for Greater Adelaide's first anniversary made in another place by the Deputy Premier.

CHRISTCHURCH EARTHQUAKE

QUESTION TIME

RESIDENTIAL TENANCIES

The Hon. R.L. BROKENSHIRE (15:11): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question regarding residential tenancies.

Leave granted.

The Hon. R.L. BROKENSHIRE: A constituent recently approached me, in addition to others who have approached Family First in the past, concerned about the balance, in her opinion, being too strongly in favour of disruptive tenancies in public and private housing rather than giving landlords power to deal with the worst tenants.

This particular constituent, who is a landlord, has for years been unhappy with the effectiveness of the Residential Tenancies Tribunal. Recently she sought an order for possession of premises she and her agent could demonstrate were being maliciously damaged by a former tenant. The tribunal would not grant absolute possession of the premises, despite two hearings and the evidence laid before it.

I note that the act is the Residential Tenancies Act 1995 and, whilst it has been the subject of amendments consequential to changes to other acts, the only formal reviews I could identify were in 1999 and the last one launched over eight years ago, in November 2002. The minister is on the record as having previously informed the parliament that, first, the tribunal had heard 8,200 in 2009. Yet on 8 February, the minister tabled a reply to a question by the Hon. Michelle Lensink indicating that in 2009 there had been 9,370 hearings. Incidentally, to 31 October, we see that there had been 7,108 hearings, according to the minister in January. My questions are:

1. Is the minister satisfied that matters involving malicious damage to premises are being swiftly and decisively dealt with by the tribunal?

2. What are the final figures on tribunal hearings for 2010?

3. Will the minister conduct a formal review of the act?

4. Will the minister consider making the orders of the tribunal enforceable by SA Police rather than the bailiffs of the tribunal?

5. Can the minister advise us where the 2009-10 Office of Consumer and Business Affairs annual report is?

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) (15:14): I thank the honourable member for his important questions. The Residential Tenancies Tribunal plays a very important role in terms of balancing the rights and responsibilities of both landlords and tenants, and that can sometimes be a very challenging and difficult task but one I believe it does extremely well. The tribunal has a longstanding history and a wonderful track record of dealing with these matters in an extremely balanced way but also in terms of dealing very quickly with large quantities of matters.

The tribunal's decisions are independent determinations of the members, so any specific case or specific set of circumstances would need to use the tribunal and appeals processes available if that decision is believed to have not been correct or has been challenged in some way. So I invite the honourable member to use the processes that are available. There are natural justice processes that are available to those who do not agree with a decision with or who believe that a decision is not correct. However, that is certainly a matter outside my powers—and so it should be. The tribunal should be making independent decisions.

In terms of the act, the government did undertake a review of the Residential Tenancies Act 1995. A discussion paper was prepared then and approximately 170 submissions were received during the public consultation phase. I understand a review working party, comprising the Commissioner for Consumer Affairs and also senior staff from the Office of Consumer Affairs, made a variety of recommendations to the then minister for consumer affairs.

The review has already resulted in some important changes in pieces of legislation, such as the Residential Parks Act 2007. That act commenced on 5 November 2007 and has significantly improved legal protections for both residents and operators of caravan and mobile park homes in South Australia. OCBA is still continuing to consider additional amendments to the Residential Tenancies Act.

There is no doubt that further improvements to residential tenancies law can be made and, I think, should be made. However, developing amendments to the Residential Tenancies Act obviously involves a very careful assessment of the balance between the rights and obligations of both tenants and landlords, and it is obviously a very complex process, which means that it takes time to be effective.

Clearly, the COAG agenda—the nationalisation of a number of policy areas, credit and consumer law, our NOLS, our licensing systems and a range of areas that impacted directly on OCBA—was really thrust upon us and it consumed a great deal of our time. That activity went on for quite a period of time, which meant that the progress of the Residential Tenancies Act did not progress at a speed that perhaps I would have liked.

Nevertheless, there were some benefits in that. For instance, we have a new presiding member of the tribunal, who has only recently commenced, and I have asked for her input and advice in terms of a review of the act and any proposed amendments, as it is most important that she be involved in that process as well. I think it is timely that we take a good look at this, and so I

have invited her input. I think a meeting has been set within the foreseeable future for me to listen to and discuss some of her ideas on this.

This review process is an important opportunity to update and improve this act, which is a critical policy piece. In my view, it is most important that we get it right and take the time to make sure that we do get it right. As I said, although the speed has been less than desirable, there have been good reasons for that and there have also been real benefits to come out of that. I am very keen about this process, and I am looking forward to having the new presiding member's input into the process. In terms of the final figures I was asked about for 2010 and the annual report, I am happy to take those questions on notice and bring back a response.

RESIDENTIAL TENANCIES

The Hon. R.L. BROKENSHIRE (15:19): Will the minister undertake to write to all members of parliament and ask them to have input into this review and to pass on some constituents who have had real-life experiences, positive and negative, with respect to the tribunal?

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): My understanding is that there already has been extensive public consultation so that the work that is there in the pipeline, so to speak, very much reflects real people's life experiences, so we already have that well and truly in the pipeline.

RESIDENTIAL TENANCIES

The Hon. M. PARNELL (15:20): Does the minister think it is fair that the Residential Tenancies Tribunal is paid for almost entirely by tenants through interest on their bond moneys, yet it is used almost entirely, or at least overwhelmingly, by landlords bringing applications against tenants?

The PRESIDENT: The honourable minister is being asked for an opinion there.

The Hon. M. PARNELL: The original answer.

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 am happy to answer this, Mr President.

The PRESIDENT: It is up to you.

The Hon. G.E. GAGO: The funding for the Residential Tenancies Tribunal does come from money earned on the interests of bonds, but also the honourable member would be aware that I recently introduced a $35 application fee, and that contributes to funds as well. The funds are very much put to good work. The tribunal's roles and responsibilities do provide services to both tenants and landlords, and a great deal of that is not just the tribunal work, but it is also the support, advice and education that is given to landlords and, predominantly, tenants as well.

I think that any dollar that can be spent helping people to avoid using the tribunal is a good thing. It is in everyone's interests for people to be very clear about their rights and responsibilities so that they are better able to deliver those and to adhere to those, and then to try to nip disputes or problems early in the piece before they escalate into something more serious. We are investing more money into that early prevention, if you like. The application fee money, in particular, has gone into initiatives to help that early intervention.

MATTERS OF INTEREST

FLOOD LEVY

The Hon. J.M. GAZZOLA (15:22): 'Unity in disaster and disunity in recovery' captures the nation's mood as the public and politics respond to the federal government levy initiative to rebuild after the disastrous summer floods in three eastern states. In a recent poll across the country and across political parties by Essential Research, roughly 40 per cent approved and over 50 per cent disapproved of a one-off levy, the voting in each category following party lines with the total vote across parties in Queensland itself evenly split on the issue.

This poll was taken prior to the passage of Cyclone Yasi. The then tepid response to the proposition suggests that, apart from being the best of mates on Australia Day and together celebrating all things Australian, the admiration of all things green and gold does not necessarily extend to the hip pocket for those in extreme adversity. This comment, of course, requires

qualification, but the contrast between this proposal and past levies is noticeable for the lack of strong public support and bipartisan support across the major federal political parties.

This is not meant to deprecate the strong contribution by many generous Australians to the tune of about $17 million, but the planned introduction of a levy has now seen battle lines drawn up between voluntary contributions and a mandatory levy, no matter the qualifications of tax deductibility or protection for low income earners.

The debate has become particularly political and venal, given the many perceptions of political debate. At the moment, public support has grown in favour of a levy to the tune of around 55 per cent. The passage of Cyclone Yasi has no doubt further coloured the debate, but it is clear that considerable help is required from the federal government to alone meet the flooding in Queensland and the damages in other states.

It appears, at least in the minds of the Coalition members, that a levy is unnecessary, a product of poor fiscal management and a great big new tax and that the costs can be met from savings and contingency funding. It seems that not even a conservative economic analyst like Henry Ergas can find a clear path between the two.

In fact, the development levy, together with cuts and deferrals, has been seen by others as a significant and positive approach. All of the carping illustrates the degree to which the calamity has become politicised and, to my mind, what we can rightly ask of insurance companies and banks, the big end of town, in regard to future financial reform to this end, apart from the question of whether or not we should have a permanent natural disaster fund.

The annoyance felt by voluntary contributors is understandable but misplaced, considering the cost of the recovery and the real plight of the victims, and has been fed by the opposition raising the political stakes. This is not to suggest that there is no debate to be had. The responses from the federal opposition leader, however, are reactionary and becoming true to form, like the Murdoch press, which seeks to continually undermine public confidence in the government sector.

Six months ago, Mr Abbott led the charge for a levy to pay for his paid parental leave scheme, his own great big new tax. His hypocrisy is bold and breathtaking, and the media, as always, shies away from pulling him up.

Let us list the levies under the opposition when it was in power and Abbott was a player: 1996-97, the guns buyback levy; 1999-07, the stevedoring levy; 2000-01, the East Timor levy; 2000-07, the milk levy; 2001-03, the Ansett levy; 2003-06, the sugar levy. All in all, six applied levies with a budget mainly in surplus throughout and one proposed levy under the Liberal banner. Let us not forget the bailout by the then prime minister, John Howard, of his brother's business.

In concluding, let us frame the debate in a climate of reason and compassion and not allow it to be hijacked by short-term interests and hypocrisy.

NEW MINISTRY

The Hon. J.M.A. LENSINK (15:27): I rise to speak on the disappointing treatment of this Rann Labor government in its new cabinet, which *The Advertiser* chose to label on its front page as, 'Equal opportunity—not in Labor's new cabinet.' In fact, under Mike Rann, this government has gone backwards in its representation of women.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I remind members to refer to the Premier as the Premier or the Hon. Mike Rann.

The Hon. J.M.A. LENSINK: Thank you, Mr Acting President. Women have been bypassed in favour of a narrow faction. They have been kept in junior positions, and no new women have been brought into the fold in what has been labelled by SA Unions secretary Janet Giles as 'boofhead politics'. This government chooses to talk about boards, but we all know that the real power in government resides with the pecking order of the leadership ranks.

There are a number of Liberal women firsts in our history that we can refer to very proudly. Obviously, we have the first elected leader of a major political party in our leader, Isobel Redmond; Amanda Vanstone was Australia's longest serving female cabinet minister at federal level; we had our first female agriculture minister in Australia in the Hon. Caroline Schaefer; we had the first cabinet minister in 1968; the first woman elected to the House of Representatives in 1966; the first woman opposition whip; the first woman elected to the South Australian parliament; and the first woman to be endorsed by a political party in 1924.

Letters to the editor have reflected this disgraceful decision by this government. A regular contributor to *The Advertiser*, a Mr Robert McCormick, wrote in response to minister Gago's characterisation that the Liberals have an appalling record in promoting women, stating that equal opportunity is a bipartisan concept, although one could be forgiven for thinking that the Premier had abandoned this. He states:

> That women in the Liberal Party decide not to stand is their decision. Many would rather work in the background than the cesspit parliament has become.

I think it certainly has become that under this government, and that has been my experience when approaching women to stand for office. Mr McCormick continues:

> The ALP does not allow such freedom. ALP policy is that it must have a certain number of female MPs.

He then goes on to say that the party deliberately preselects women with little or no ability in politics, which might be a bit unkind, but he posits:

> This is quite deliberate for the almost entirely male party hierarchy and their mates in parliament are, with good reason, scared stiff they might select a woman who is better than any of them.

Further, in *Indaily* Susan Mitchell has written a very powerful piece entitled 'Disgrace: Where are the women?' She says:

> And all members of SA Labor Party should hang their heads in shame. How, in 2011, can Premier Mike Rann, have the gall to announce a so-called 'renewal', a 'regeneration' even, in his Ministry and not promote any of the three women who currently hold Ministries? Moreover, how can he have the hypocrisy not to promote any new women into the 'new' line-up. Rann is forever claiming former Premier Don Dunstan as his hero and mentor…a Premier who huffs and puffs, and still we only have three female ministers out of 15, and no new women elevated to the ministry.

She criticises the newly elected Deputy Premier for saying that it is unfortunate that three women lost their seats in the state election. She says:

> Unfortunate? How pathetic. How lame an excuse for not elevating three new women into the ministry or at least promoting the ones they had. Men also lost their seats but it didn't stop the Premier from elevating two new men…Is there perhaps another Don who is now the real mentor of Premier Rann?

I think she is referring to Senator Farrell, the head of the so-called Christian Taliban. She says that this collection of people believe in things such as no sex before marriage, no oral contraception, no use of condoms, no right to legal abortion, no use of the morning-after pill, no divorce and no same-sex relationships. She says:

> Which Don should the Premier be following? Why should a woman give them her vote?—

that is the ALP—

> Why should a man who believes in equality give them his vote?

SENTENCING

The Hon. D.G.E. HOOD (15:32): I rise to express some concerns about some inadequate sentencing that has been imposed by our court system in recent times with respect to drug dealers dealing in very significant quantities of very serious substances indeed. Just one week ago is just one example of many that I could quote. On 16 February, a judge of the District Court sentenced a man for drug offences, and I will read in part from the transcript of the sentencing remarks of the case. I have, of course, read it all, but given the short time I have to make this contribution, there is not time to read all the remarks.

The facts of the case were that on 23 July 2010 some premises were searched by the police and 68 ecstasy capsules were found at a particular residence. In addition, a document colloquially known as a 'tick list' was found, together with a sum of $320. A tick list, I am sure most members would be aware, is usually a piece of paper (either the back of an envelope or something similar) on which a drug dealer writes down the names of people who owe money to them for the drugs they have supplied. Two hydroponic cannabis plants were also found at the address.

The defendant was arrested but released on bail under curfew conditions. Those conditions included requirements that the defendant remain at his home during certain hours and attend at the door when requested by police. These requirements were ignored by the defendant. On three occasions, the defendant did not remain at their address or failed to attend the door when requested. On one occasion when police attended, they were required to break down the door in order to gain access because the defendant simply refused to open it, a clear contravention of the order.

When police attempted to place handcuffs on him, he struggled substantially with police and had to be restrained to the ground, making the job of the police attending that much more dangerous and obviously placing them and their colleagues in danger. In consequence, the defendant pleaded guilty to one count of trafficking in a controlled drug. The maximum penalty for that offending is a fine of $50,000 or imprisonment for 10 years.

The defendant also pleaded guilty to cultivating a number of cannabis plants, the maximum penalty being $1,000 or six months imprisonment. The offence of possessing prescribed equipment carries a maximum penalty of $10,000 or imprisonment for three years. The three counts of breach of bail carried a maximum fine in each case of $10,000 or imprisonment for two years, and the one count of resisting police carries a maximum penalty of $2,500 or imprisonment for six months. I might just mention as an aside that I think that that is a woefully inadequate penalty and one which I will be looking at.

Potentially, the defendant was looking at several years in prison. Nevertheless, the defendant, after all these offences and potentially a very substantial sentence—resisting police in a very violent manner, many ecstasy capsules as I outlined, hydroponic cannabis, breach of bail and on and on it goes—the penalty that this defendant incurred was a single $500 fine and a suspended sentence of imprisonment for 20 months with a non-parole period of 10 months which this person obviously ignored anyway.

As a result, this defendant remains on the street and is potentially still a risk to the community. What is needed is mandatory minimum sentences for drug dealers and also a tougher regime for dealing with street-level dealers, many of whom are currently not penalised at all for possession of street quantities of drugs and escape virtually any form of conviction or certainly any substantial penalty merely by agreeing to participate in a drug diversion program.

With the remaining moments I have, I should outline that this is just one of many cases that I could have highlighted today. I chose this one because it is very recent. The facts are that we pass laws in this place that simply are not being applied by the courts in any substantive way, and I think it is a disgrace. I also believe that we are not doing our best as a society to protect particularly children or youths from the influence of drugs, and I think this penalty, amongst many others, bears witness to that.

I might also say, if I may, that it might come as something of a surprise to members in this place that, if somebody is caught with marijuana in their possession in South Australia, the penalty is a $300 expiation fee. If you are caught with heroin in your possession, if it is under two grams, there is no penalty. There is no fine whatsoever if you agree to attend a drug diversion program at which you merely have to turn up and then can simply leave and you have fulfilled the requirements, despite the fact that you have been found with nearly two grams of heroin. It is just not good enough.

POLICE RESOURCING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:37): I rise this afternoon to 'Wright' a wrong. I rise because an apparent injustice has been done and lives are potentially at risk. I rise because the opposition suspects that the government has found a goat to scape while ignoring the principle and convention of a minister accepting responsibility.

I speak of the government's response to the events of 11 September last year when a 63-year-old woman who lived alone in Callington was allegedly murdered. Just after midnight she phoned police saying that rocks had been thrown at her home by a group of youths. No patrol car was dispatched.

Just three days later, on the next parliamentary sitting day following opposition pressure, then police minister, the Hon. Michael Wright, announced an inquiry, but not an independent inquiry: an internal investigation. The minister then did something quite extraordinary. He pre-empted the findings of his own inquiry. He said that it was a call centre operator's fault that no patrol car had been sent out to the victim's house. This was before any evidence had even been heard and before any witnesses had been called.

It is like saying that the reason the war was lost was the incompetence of some lowly private or corporal while giving the blundering drunken general a fourth star and a medal. He ruled out resourcing, even though we all know, and South Australia knows, that resourcing goes to the heart of police operations. In today's South Australia, under this incompetent government, there are simply no patrols that can get to even high priority crime scenes quickly enough. Under this

government, priorities for police attendance have been downgraded from an A to a B classification—

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I look forward to the Hon. Mr Holloway's first matters of interest speech.

The Hon. D.W. RIDGWAY: —because of the very same resourcing factor that the police minister denies: there are no free patrols.

In December 2007, a call came about a huge brawl, possibly gang-related, in Parafield Gardens. People in the street were woken up by sounds of fighting and screaming. They called the police, but no patrols were immediately available. It was only after an ambulance at the scene contacted police to say that there had been a stabbing and the victim may not survive that the police arrived. The man died from his wounds.

The police minister yesterday referred to what happened in Callington as 'an incident'. This is a death, an apparent murder. A 63-year-old woman calls the police, the police do not come and then she is later found by her brother dead in her home. To describe this as 'an incident' devalues the minister and the parliament. It is a scandal. Then we have an inquiry conducted not in the open, so we can hear the evidence, but in secret, away from the eyes and ears of ordinary South Australians—men, women and families who want to feel safe in their home whatever the time of day or night.

Not only is this inquiry conducted in secret but the results are also secret. In a statement yesterday, the police minister made the spurious claim that the inquiry—which was now called a review—had been wide ranging. And guess what? It ruled out resourcing; it blamed the operator, the person who took the victim's call—the minister's scapegoat. The minister claims that the call was not handled in accordance with call centre standard operating procedures and that the patrol should have been dispatched in response to the woman's call. Where is the ministerial accountability? Where is the ministerial responsibility? It has gone. It has left the building. It has fled the scene of the crime.

Let's go back to September, the days after the woman was found dead. The police minister claimed, without even hearing any evidence, that the call centre operator made an error of judgement by not referring the police incident report—that is, the woman's call to the communications centre—for a follow-up patrol. The call-taker's colleagues said that they followed the procedure to the letter, because the offenders had left the scene and there was no provision in the operating procedures for a patrol to be sent.

If the government and Mr Hyde are correct, and it was indeed human error, why would the minister admit yesterday that he will amend the General Orders, recommendation 1 of the report, and also amend the call centre standard operating procedures, which is the report's second recommendation? It simply does not make sense. Does this government have something to hide? Yes. It is hiding its moral judgement, it is hiding the truth. And it is on a hiding to nothing.

NATIONAL DISABILITY INSURANCE SCHEME

The Hon. K.L. VINCENT (15:41): Today I wish to talk about the concept of a national disability insurance scheme (NDIS), which is something of a focus in the disability community at the moment and which has recently found its way onto the fringes of the mainstream media. I hope to use this opportunity to talk to my fellow MPs, and indeed South Australians, about why d4d considers that an NDIS is the right way to go for the future provision of disability services in this country.

First and foremost, we clearly need a change. As my fellow members know, the current system for the provision of disability services is quite simply not working. This is evident when looking at the level of unmet need among people with disability in this state, which is deplorable. My fellow Australians expect a high level of health care, and I ask: why should disability care be any different?

What is wrong with the current system? We all know that the current system is starved of funds and needs more money now, but aside from that we have a short-term approach in which people with disabilities are basically drip fed services and treated like charity cases. We have an ad hoc approach from state to state which inadequately addresses crisis after crisis. We have a system under which people are unclear as to what their entitlements are, and here in

South Australia we have a system that has little accountability and monitoring of services, so basically people make do with what they have with little recourse beyond the ballot box.

The current system is inequitable. If you acquire a disability in a car accident or at work, you are likely to have insurance. I know these systems are not perfect, but they do provide something. Yet those in our community who are born with a disability, or who do not have insurance to help manage their acquired disability, have to make do, and I ask: why shouldn't all people with disabilities have some sort of insurance?

You may ask, 'What is an NDIS?' Good question. An NDIS could provide a different approach on so many different levels. While there are many different structures that an NDIS could take on, broadly speaking it is a no-fault insurance scheme that is akin to Medicare. So, if you need services and you are eligible, you will get them; you will not have to fight, as so many people have to do now. An NDIS, as the name suggests, is a national scheme which helps to ensure equity for all Australians.

An NDIS would first evaluate the risk of disability in Australia, calculate the costs of meeting the needs of those people with disabilities in Australia and then estimate the contribution required of the general populace to meet those needs. As such, an NDIS would provide a long-term, lifetime approach that is careful and considered, as opposed to the government's ad hoc approach, which is driven by those who write the budget. An NDIS provides an equitable and individual focus on care and support needs which allows full participation in the community by people with disabilities.

I envisage that the NDIS would be governed by an independent statutory authority, with a board of directors who oversee the operation of the scheme, and with a stakeholder group that provides advice to the board. This model will encourage a considered approach that is focused on addressing need as supposed to politicians carving out scraps for disability service funding.

Some of you will be thinking, 'Where have I heard of this NDIS?' Well, the Productivity Commission has been asked to look at alternatives for a long-term approach to a disability care and support scheme and has been asked to specifically consider a social insurance model or NDIS. This comes from the idea that disability is indeed a shared responsibility, just like health or education.

So how should it look? Of course, there are lots of options as to how the NDIS would look when considering who would be eligible, what services and benefits people would receive (equipment, services, transport, etc.), and who would provide that care, and all of these elements will impact on the cost, which will be great in any event. It is not surprising that it will cost a lot to support people with disabilities in this country, particularly considering that there is currently a $5 billion shortfall in disability funding.

So who supports it? There is a huge amount of support out there for the NDIS. The Every Australian Counts website lists 308 organisations which support it. The major parties at a federal level seem to be holding their breaths for the Productivity Commission report. They all support the concept, but no-one is saying who should pay for it or how it should be paid for. According to the *Financial Review*, the governments of New South Wales, Victoria, South Australia and Tasmania all support an NDIS and an associated levy to fund it. Of course, there are still mean-spirited types such as the WA Liberal Premier, Colin Barnett, who may support the NDIS but who does not support a levy to fund it.

Time expired.

FENNER, PROF. F.

The Hon. CARMEL ZOLLO (15:47): It was my pleasure on 17 December last year to represent the government, and in this case more specifically the minister, the Hon. Jack Snelling MP, in his then capacity as the minister for science and information, on the occasion of the state memorial service held at the Australian National University in Canberra for the late Professor Frank Fenner.

Professor Fenner most identified himself with the John Curtin School of Medical Research, of which he was a director for some years. His career at the ANU was long and distinguished. It also included being the first director of the Centre for Resource and Environmental Studies (CRES). The service program had messages from respected academics and scientists from Australia and worldwide. Whether one reads those messages or the public websites available, it is

difficult to paraphrase his achievements as anything other than outstanding. One website sums it up well:

> Professor Frank Fenner's outstanding career as a scientist has been marked by two achievements of considerable magnitude, namely the eradication of smallpox and the control of Australia's rabbit plague.

Although Professor Fenner won numerous awards for his contributions to pure science, it is these two achievements that have reduced human suffering and benefited society in countless ways. His work on smallpox, along with D.A. Henderson and I. Arita, was recognised by the Japan Prize (regarded as equivalent to the Nobel Prize except that it is for applied science) in 1988. I want to select several quotes from his memorial service booklet, firstly from Professor Julio Licinio MD, the now director of JCSMR:

> In the 20th century alone five hundred million people died of smallpox. On 8 May 1980 Frank Fenner, chairman of the Global Commission for the Certification of Smallpox Eradication, announced the eradication of the world's most pathogenic disease. In my opinion this is the greatest medical accomplishment in history.
>
> Professor Fenner gained international recognition by combating malaria amongst allied troops stationed in Papua New Guinea during the Second World War. His other achievements include his brilliant work with the myxoma virus, which addressed Australia's rabbit plague; global eradication of smallpox; and his subsequent work on environmental sciences. Professor Fenner accomplished, in one lifetime, what would be enough to justify four very successful careers.
>
> A most gentle and unassuming man, it was this remarkable, and sadly unusual, confluence of a brilliant mind, remarkable research accomplishments, integrity, character, determination, and inspiration that made him so effective in everything he endeavoured. Is it possible for any one scientist to ever fill his shoes?

I quote from comments from Sir Gus Nossal, as follows:

> More generally, we must give credit to Frank for the broad sweep and meticulous execution of his own research; for his highly effective leadership of JCSMR; for his assiduous promotion of international health through the World Health Organisation; for his foresight in recognising the importance of environmental research before almost anyone else in Australia; and for his extraordinary personal generosity to both the Australian Academy of Science and JCSMR. All of these accomplishments rested lightly on his shoulders, he was the most unassuming and unpretentious individual. What a life! We will not see his like again.

The service was led by the Hon. Dr Barry Jones, a former federal science minister. The service included both academics and Professor Fenner's family, in particular his daughter, with the presence of his granddaughter and great grandchild.

Some may not be aware that Professor Fenner still has an Adelaide connection, with his brother and family living in South Australia. Indeed, Professor Fenner was raised and educated in South Australia, attending Rose Park Primary School, Thebarton Technical College and the University of Adelaide.

Professor Fenner's father, Charles Fenner, was appointed South Australia's first superintendent for technical education in 1916 and appointed to the directorship of education in 1939. He also established the Geography Department of the University of Adelaide and was a regular broadcaster and publisher of science literature. The Fenners will be part of a documentary series exploring the lives of great Australian scientists whose work has changed the world. I hope to have the opportunity to speak further on this exciting initiative after its launch. I will conclude with some pertinent comments from Professor Judith Whitworth AC, a former director of JCSMR. She said:

> The term 'hero' is much overused. True heroes are few and far between. Frank Fenner was a true Australian hero.

Time expired.

RAYTHEON

The Hon. T.A. FRANKS (15:52): I rise today as US arms manufacturer Raytheon is about to move into yet another South Australian school. Staff at Hallett Cove R-12 school have recently been told that the school will now have a relationship with the defence company Raytheon. Currently, I understand that there are three schools in Adelaide in the program that have such a relationship: Glenunga International, The Heights and Aberfoyle Park. I understand that Raytheon entered into a three-year partnership with these schools in 2008, worth some $450,000.

I also understand that the program is a government-funded program called Ignite, a high school program for students with high intellectual potential—our best and our brightest. In return for supplying the Ignite students with personal laptops, Raytheon is given access to these students in

order to mentor them towards maths and science studies, with a view to promoting engineering as a career path.

Raytheon, of course, employs many, many engineers—more than 40,000 of Raytheon's 75,000 employees are engineers—and the company hires many more thousands each year, but what does Raytheon hire them to do? Well, Raytheon, as members are also probably aware, is the world's largest guided missile manufacturer: Tomahawk and Paveway missiles were the weapons of choice for the US military during the Iraq war.

Raytheon produces cluster bombs, which have been used extensively by both US and Israeli forces, including the AGM-154A standoff weapon, a cluster bomb that contains 145 smaller bomblets. Human Rights Watch estimates that 1,600 Iraqi and Kuwaiti civilians were injured between 1991 and 1993 as a result of unexploded cluster bombs and that 60 per cent of these were children under the age of 15; that is the same age as those in the Ignite program—some 960 or so children.

Some cluster bombs are bright yellow in colour, which makes them similar in appearance, in the eyes of small children in war torn areas, to toys or food packets. Many of those who follow the work of War Child would be horrified to find that these bombs were, in fact, made to look attractive to children. Raytheon is now looking to develop new technologies and, in 2010, it announced that it had successfully tested a ship-borne killer laser to knock four unmanned aerial vehicles out of the sky. The laser weapons offer the military a very cost-effective and nearly unlimited magazine for shooting down things such as threatening UAVs or perhaps even aeroplanes.

On 25 July 2010 it was reported that Raytheon had delivered three active denial systems, or heat ray guns, to the US military, which had deployed them for the first time in Afghanistan in June. These guns direct focused, invisible 100,000 watt beams of energy at the speed of light across a range of up to 250 metres (or 750 feet) at human beings, burning them intolerably until they get out of the beam's way. The heat ray penetrates the skin to a depth of about one sixty-fourth of an inch, according to the report.

Raytheon expects the technology to jump from the battlefield to civilian use. Various commercial and military applications include law enforcement, checkpoint security, facility protection, force protection and peacekeeping missions, according to Raytheon's own website. This system was never used in Iraq because it was found to be politically risky.

In the light of the Abu Ghraib prison torture scandal, the ray gun was seen as too closely evoking a form of torture. Curiously, those issues were set aside when the weapon was recently shipped to Afghanistan. In addition to pioneering the use of ray guns as weapons of modern warfare, Raytheon continues to manufacture such old technology weapons as Maverick, Sparrow, Sidewinder, Tomahawk, Hawk, Patriot and Sea Sparrow missiles.

The Greens raise this today, because we have grave concerns that we are opening up our students to the influence of a company like Raytheon without perhaps providing some of these pieces of information to our students, and certainly without proper consultation of school communities. The Australian Education Union has opposition to such corporate sponsorship and its policy states, 'No sponsorship under any circumstances should be accepted from corporations involved in the ownership of armaments factories, sale or manufacture of armaments or environmentally damaging products.'

The Greens agree with that. We also alert the parliament to a new alliance which is forming (and I imagine we will hear a lot more of that in South Australia over the coming years) of human rights, peace, and political women's groups who believe that education should not be linked to a defence industry and certainly should not allow a company which is involved in the killing of children to have access to our best and brightest children.

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

LIVESTOCK ACT

The Hon. R.L. BROKENSHIRE (15:57): I move:

That the regulations under the Livestock Act 1997 concerning property identification codes, made on 16 December 2010 and laid on the table of this council on 10 February 2011, be disallowed.

I move this disallowance motion after a great deal of consideration. It is not my intention, as a member of parliament and as the spokesperson for primary industries within Family First to move a disallowance motion without a great deal of consideration. However, I must say that I and I am sure many of my colleagues have had a lot of representation from a huge cross-section of not only primary industry associated community members but even people in the metropolitan and peri-urban areas.

What we are seeing with this property identification code fee is effectively what I understand to be a full cost recovery on a property identification code system that was implemented with agreement by all of us, as primary producers and those with an interest in agriculture, to assist with biosecurity.

For several years we have had property identification codes—and, dovetailing in with those property identification codes, what is called the National Livestock Identification Scheme (NLIS)—and those property identification codes have been of benefit, although I think there are still a lot of technical glitches, and the technology and procedures to ensure that you can trace right through are not, on all occasions, working. I am sure some of my colleagues, when they speak later in the coming weeks on this disallowance motion, will back me up on that.

Suffice to say that there is evidence out there that the department and all primary industries ministers, through the Primary Industries Ministerial Council, need to have a look at the failings of this technology that is not foolproofing the protection of property owners and the biosecurity matters relevant to the property identification codes and the NLIS.

Specifically on the property identification codes, the reason I am moving this disallowance is that, as colleagues may or may not know, some of the changes now mean that if you own a horse, a pony for your child, or one pony, one alpaca or one sheep, and you have an acre of land—whether it be at Burnside, Elizabeth, Salisbury or in the McLaren Vale rural region—my understanding is that you will be up for registration of a property identification code. That is an impost on families and communities that has not been there before, so that point alone says to me there needs to be some reconsideration of this procedure from the government.

What is of particular concern to all property owners who have property identification codes is that the government, in its wisdom, provides for these fees under section 11, variation of schedule 1—Fees, subsection (2), by deleting the item and substituting:

> 2. Application for registration or renewal of registration under section (17) of the Act (other than as a beekeeper)
>
> If the term for which registration is to be granted or renewed is less than or more than 24 months, a pro rata adjustment is to be made to the amount of the fee by applying the proportion that the number of the whole months in the term bears to 24 months.

It goes on to provide:

> No registration fee is payable if—
>
> (a) the application is accompanied by an application for the allocation or a renewal of a property identification code for the land where the livestock are or are to be kept; and
>
> (b) the proposed term of registration is no longer than the proposed term for which the property identification code will be active; and
>
> (c) a fee is payable for the allocation or renewal of the property identification code that is not less than the fee that would be payable for registration apart from this provision.

My interpretation of that, in layperson's language, is that everybody is going to be up for an initial registration fee of $76 for that 24-month period, albeit with a pro rata adjustment, and that every time you have to re-register your property identification code you will be hit with another $76.

Of course, we all know, particularly after looking at the front page of the *Sunday Mail* or *The Advertiser* recently, that this state is already the highest taxing and fee-charging government in any state in Australia; in other words, we have the highest taxes and charges at a state level of any state in Australia. Yet, after the last budget, thanks to the razor gang, we saw increases of astronomical amounts well above CPI in so many state taxes and charges, with a lot of those imposts coming back to rural people.

Farmers are saying to me that they are fed up with all the taxes, charges and levies that they have to pay. They ask me regularly, 'What is the government doing with the $15 billion (or

thereabouts) of taxation revenue that it has coming in?' They also say to me that, when they see the cuts to PIRSA and SARDI, the intended commitment from government to have what is basically full cost recovery for almost anything that primary producers happen to do in respect of PIRSA and/or SARDI, and, on top of that, the cuts to research and development, they have had enough.

It is time to draw a line in the sand and say to the government, 'People are not going to continue to pay all these taxes, charges, imposts and levies because they add up.' Within a few years, this $76 will be $150 and, a few more years after that, it will be $300, and it will just go on and on. It is happening at a time when farmers are already struggling to get a reasonable farm gate price.

I have discussed with the minister my intention to move this disallowance motion. I know the minister personally is between a rock and a hard place. I feel sorry for minister O'Brien because he has to try to manage what is left of PIRSA, which has had the guts ripped out of it after the last budget, but, notwithstanding that, he is the minister, and if this disallowance motion is passed in this chamber, then he will have to go back to the drawing board and find another way around it or perhaps go back to the executive of cabinet, and particularly Treasury, and say, 'It is unworkable. People are starting to revolt. They will not put up with these enormous imposts, new taxes and levies.' They saw—

The Hon. R.I. Lucas: Did he ask you to move it?

The Hon. R.L. BROKENSHIRE: The Hon. Rob Lucas wonders whether the minister asked me to move this. No, in fairness to the minister, he did not.

The Hon. R.I. Lucas: Is he going to support it?

The Hon. R.L. BROKENSHIRE: He was very concerned that I was moving it. The minister is going to have to go back and revisit this if this disallowance motion is passed in this house. In fairness to the government—I am a fair person—I have said, 'I am not going to put this to a vote during the next week of sitting.' I believe that perhaps the government might want to brief members of parliament on the benefits of having this impost on primary producers and property owners, but the bottom line is that I believe it is time that we stood up and said, 'They pay a lot of taxes and charges. The most sustainable industry economically to grow strength and vibrancy into the future is agriculture and you cannot continue to put these imposts on primary producers.'

For example, without very much consultation at all, a few years ago we had what is often termed the Rann Save the River Murray tax or levy. It is interesting to see that that has delivered little. It did not fix the River Murray. In fact, nature fixed the River Murray through the floods—temporarily at least. I understand that over $6 million remains unspent from last year. Approximately $142 million has been collected through that levy and what has it delivered? I have not seen it deliver much at all.

Primary producers want to see some delivery from the government. They want to see some goodwill. They want to see the word 'partnership', a word which the government uses often, used properly; that is, that the government partners primary producers so that they can produce food and grow the economy. They are sick and tired of these levies and imposts. I believe that most of them do not want to pay $76 every couple of years. This levy will become an increased taxation base for the government.

Simply because the government has mismanaged its expenditure, now one of the razor gang's recommendations, as I understand it, is to have so-called full cost recovery. It is not acceptable. It is time to draw a line in the sand and say, 'Enough is enough.' In moving this motion, I advise the house that in two to three sitting weeks I will be putting it to a vote. I commend the disallowance motion to the house.

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

SUICIDE PREVENTION

The Hon. J.S.L. DAWKINS (16:10): I move:

That this council notes:

1. The Senate's Community Affairs References Committee Report titled 'The Hidden Toll: Suicide in Australia';

2. That this committee recommended a suicide prevention and awareness campaign for high risk groups, such as people in rural and remote areas;

3. That this committee also recommended that additional 'gatekeeper' suicide awareness and risk assessment training be directed to people living in regional, rural and remote areas;

4. That both the World Health Organisation and the International Association for Suicide Prevention have advocated a multi-faceted approach to suicide prevention, including recognising the important role that community based organisations can play in preventing suicide;

and

5. Congratulates the Eyre Peninsula Local Government Association and the Eyre Peninsula Division of General Practice for seizing the initiative and providing funding to establish its own Community Response to Eliminating Suicide program on the Eyre Peninsula; and

6. Urges the Rann government to place greater emphasis on community based organisations such as the Community Response to Eliminating Suicide program and acknowledges their importance, particularly in preventing suicide in regional South Australia.

In 2006, I became aware of the Community Response to Eliminating Suicide (CORES) initiative, which featured late that year on ABC's *Landline.* In early 2007, I visited Sheffield in Tasmania to see the CORES scheme operating and was very impressed with my observations. CORES was established in the Tasmanian municipality of Kentish in 2003-04 in response to a situation where a local government area of 5,500 people over three or four localities—two larger ones and a number of smaller ones—had experienced six suicides in one year. Funding was provided from the Tasmanian Community Fund, which was established in 1999 with the sale of the Trust Bank.

From humble beginnings, CORES has quickly spread throughout Tasmania and, currently, 12 separate CORES groups operate in regional areas of that state. In addition, CORES has programs running in regional Victoria and North Queensland. I was privileged last year to visit two of the programs running—in Ayr and Ingham, in sugarcane country—and also to see the moves being made to establish a CORES program in the city of Townsville. Recent events in that part of the country would have, I think, exacerbated some of the pressures on the community that saw these programs initiated in the first place.

South Australia has one CORES program running on Eyre Peninsula and that, of course, has only happened because the Eyre Peninsula Local Government Association saw the need for it. They saw that other programs did not fill that need and they put money into it. It is worth saying that the Liberal party outlined the policy before the last election, providing $350,000 in seed funding for 10 of these programs across South Australia. This is still our policy and it is a policy designed around giving seed funding to small community groups that can get on and get the work done and identify the people in their communities who can be the gatekeepers, as such.

As I said, in the absence of funding from the Rann government for the CORES program, the Eyre Peninsula Local Government Association announced in 2009 that it would fund the program independently for one year as a trial. After the success of that first year, the EPLGA extended its funding support along with the Eyre Peninsula Division of General Practice. I was very pleased that the doctors in Eyre Peninsula saw what a good opportunity this was for them to have some assistance in dealing with mental health issues in such a large region which is sparsely populated and where a lot of people do not have ready access to a medical practitioner.

It is also worth commenting, I think, that in all of these areas that I have been to and seen the CORES program operating and in a number of other areas that I think would be very keen to get more community-based suicide prevention schemes running, while money is welcome to get these things up and running, if you do not have the local people prepared to commit their time to drive the program, then it is not going to work.

It is not going to have the impact that we would like it to, and I pay tribute to those people, particularly Ms Karen Burrows on the Eyre Peninsula from the District Council of Elliston (formerly a councillor with that council) and a number of other people including Ms Diana Laube, the Executive Officer of the EPLGA, who have driven the program on Eyre Peninsula. A number of other people have given their time voluntarily to make it work.

Late last year I wrote an article, which was published in several agricultural and regional papers, advocating greater action to prevent suicide, including the need to provide greater support to groups such as CORES whose trained volunteers are as recognisable in their local communities as CFS volunteers or members of Lions or Rotary or the local football club. These people are the gatekeepers that the Senate committee report talked about.

I was inspired to write the article because of a feeling I was getting from many people I spoke to in regional communities, particularly from grain farmers who were left extremely

disappointed in that year's harvest, primarily because of such high expectations early in the season which were dashed when Mother Nature struck and wiped out an estimated $300 million from crop values across the state.

At that point I should say that there are many people who have been involved in primary production, particularly in dryland farming, and where there is a dry year probably it is fairly early in the piece that you get a fair idea that your income is going to be pretty tight that year and you can cut your cloth to fit that. However, in a year where expectations were so high, a lot of people who had been in difficulty for a while and could anticipate being able to pay off debt, to perhaps purchase some machinery or a motor car or something that they had not been able to do for some time, suddenly had their hopes dashed.

I think that is far worse than when you know for several months that the year is going to be pretty tight. For that reason there are significant concerns about the mental health of a lot of people on the land, and not only on the land. I think in many communities it goes into other related businesses where the pressures have been pretty tight.

I continue to be a passionate advocate for greater community involvement in a multifaceted approach to suicide prevention. To this end I strongly believe that more needs to be done if we are to decrease the number of completed suicides. Government has a role in this, not only by supporting front-line health services but also indirectly by funding community or not-for-profit organisations to act as gatekeepers.

A stronger community presence has been advocated by the World Health Organisation, the International Association for Suicide Prevention and, recently, by the community affairs Senate committee. I was having another look at this report earlier, and it is a significant document that does, as I state in my motion, describe the hidden toll of suicide in Australia. I commend the Senate committee for the work it did there.

On 21 July last year the South Australian Coroner, Mr Mark Johns, penned an opinion article for *The Advertiser,* titled 'We need to talk about suicide'. In it Mr Johns states:

> The road toll is subject of enormous scrutiny in the media, and so it should be. But the suicide rate in this state is probably double the road toll, and yet as a subject it is not given anything like the same attention…If the suicide toll in this state were reported in the same way as the road toll (and this may not be possible for a number of reasons), people might be inclined to consider their friends and loved ones and work colleagues in a different way: Has something changed in their behaviour lately that might indicate that they are so deeply unhappy that they might be thinking of self harm?

Whilst any road fatality is a tragedy, when you compare the amount of money spent on public awareness campaigns to reduce the road toll versus the level of resources dedicated to preventing suicide the disparity is quite alarming, especially as the suicide toll in South Australia is about double the road toll.

In the time that I have been advocating the CORES program, I have taken it to three ministers for mental health; the first one was not very complimentary about my efforts, but the subsequent two have promised to look at it.

The Hon. R.I. Lucas interjecting:

The Hon. J.S.L. DAWKINS: Well, the minister in this place called me a disgrace. However, the subsequent ministers both promised to look at it, but looking at it has not done anything. Nothing has happened.

It is a very simple thing. For a very small amount of money, I think a number of areas in this state would have local groups that would very quickly accept the challenge of establishing a CORES program in their region. They would go out and seek the 'gatekeepers', as I describe those who are prepared to give their time to act in the community as people who are trusted by those who have mental health issues and who want to talk to someone, but who will not talk to their loved ones or a medical professional. They certainly will not talk to their bank manager, but if there is someone else in the community who they see as being an advocate for suicide prevention and mental health in general, they will talk to those people and will allow them to point them in the right direction.

I am enthused about the fact that in the next couple of weeks I am going to Mount Gambier, and the director of CORES will speak at a meeting there. There is a significant amount of concern about suicide, and particularly youth suicide, in that part of South Australia, and I am hoping that we can get something happening there. It is all very well to ask local communities

to do this, but I think for a very small amount of money, and considerably less than what is supposedly being directed into mental health, to be put into community groups playing the role at the local level would be a great thing for this state.

I appreciate the time that I have been given to move this motion, and I commend it to the house. I seek the support of members in presenting this to the government and urging the government to do more in the community in relation to suicide prevention.

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

NATURAL RESOURCES COMMITTEE: UPPER SOUTH-EAST DRYLAND SALINITY AND FLOOD MANAGEMENT ACT REPORT

The Hon. R.P. WORTLEY (16:26): I move:

That the 46th report of the Natural Resources Committee be noted.

The South-East region of South Australia is a highly modified landscape. Broadscale land clearing and an extensive drainage network developed over the past century have converted what was once a wetland-dominated landscape to agricultural production on a vast scale. Although this has generated great wealth and prosperity for the region and the state, environmental health has deteriorated.

Several east-west drains intercept environmental flows which in the past flowed northward to the Upper South-East and the Coorong, a Ramsar-listed Wetland of International Importance. There are two major components to the Upper South-East or the USE program as it will be referred to for the rest of my speech. One is draining saline groundwater and floodwater away from agricultural areas and two is maintaining essential surface water flows to wetlands and watercourses.

The USE program of the Department for Water is completing the construction of a vast interconnected network of surface and groundwater drains, floodways and natural wetlands and watercourses. The Bald Hill and the Wimpinmerit drains are the final pieces of infrastructure comprising that network. The system of drains that reconnects surface water flows to wetlands, swamps, watercourses and ultimately the Coorong comprises largely of what is known as the REFLOWS (Restoring Flows to the Upper South-East of South Australia) project.

The REFLOWS project is designed to capture some of the surface water from the Lower South-East that is currently drained to sea and redirect it along natural historic flow paths to the Upper South-East to supplement environmental flows to the stressed wetlands and watercourses. Once environmental flows are delivered to the existing USE flows network by the REFLOWS project, it should be possible to direct flows throughout the region to optimise water use for environmental purposes. The system is designed to be flexible, so it can be operated sensitively in response to environmental and agricultural needs.

In July and August 2009, the Upper South-East received above average rain. This water was able to be diverted via the Upper South-East Dryland Salinity and Flood Management Program into a number of key wetlands, allowing them to be watered for the first time in many years. Furthermore, there was sufficient water to allow some releases into the Coorong South Lagoon via Salt Creek.

The apparent success of these watering events reflects well on the REFLOWS component of the USE program and bears out the considerable research and planning that have gone into these reflows. The committee looks forward to hearing from the department how the Upper South-East program, and REFLOWS in particular, have functioned, given the trials of the significant above average rains that we have seen in the region over the past year. I commend this report to the house.

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

NATURAL RESOURCES COMMITTEE: ANNUAL REPORT

The Hon. R.P. WORTLEY (16:30): I move:

That the report of the committee, being the annual report for 2009-10, be noted.

The year 2009-10 saw a new committee appointed after the March state election, as well as the expansion of membership from seven to nine members. Two members from the previous

committee (the Hon. Steph Key MP and I) have provided some continuity of service to this committee in this new parliament.

A period of reduced committee activity in the lead-up to and following the election, as well as the retirement of the former executive officer Knut Cudarans in May 2010 and the consequent recruitment process, resulted in fewer reports being published than in recent years. This hiatus is an unavoidable function of our four-year election cycle, compounded by staff turnover.

In the reporting period, the Natural Resources Committee undertook 13 formal meetings, totalling 21 hours, and took evidence from 34 witnesses. Six reports were drafted and tabled in the reporting period. These were an annual report describing the 2008-09 reporting period, three reports into the Natural Resources Management levy proposals, a bushfire inquiry interim report, and a report into the Upper South-East Dryland Salinity and Flood Management Act.

Four fact-finding tours were undertaken in the 2009-10 financial year. Over the six days we were away, the committee visited the South-East, Kangaroo Island and Eyre Peninsula natural resource management regions and met with NRM board members, staff and landholders. In addition, members completed their inquiry into the Murray-Darling Basin, with a tour of New South Wales and Victorian basin catchments, taking in the Barmah Choke and Barmah Forest, Hume Dam, the Snowy Hydro Scheme and Shepparton, in November 2009.

A number of non-committee members of parliament joined the committee on three of the tours (at their own expense) where they had a particular interest. For example, Mr Michael Pengilly MP joined the committee on its visit to Kangaroo Island, which is part of his electorate; former member, Ms Vini Ciccarello MP came on the Kangaroo Island and South-East tours, while Ms Robyn Geraghty MP joined the Kangaroo Island, South-East and Murray-Darling Basin tours.

The committee continues to encourage non-committee members to attend committee hearings to observe witnesses and present evidence, as well as to attend fact-finding tours that relate to their interests and electorates. As in past years, the committee has chosen to engage with communities in their regions. The full list of meetings and fact-finding tours can be found in the text of the report. Copies of all the committee's reports, Hansard transcripts and presentations are readily available on the committee's website.

I acknowledge the valuable contribution of the committee members who left us during the year: the former presiding member, the Hon. John Rau MP; the Hon. Graham Gunn MP; the Hon. Caroline Schaefer MLC; the Hon. Lea Stevens MP; and the Hon. David Winderlich MLC. To all those who have served on the committee, I thank them for the cooperative manner in which they worked together, and I look forward to a continuation of this spirit of cooperation in the coming year.

Finally, I thank the committee staff for their support over the past year, in particular the much appreciated former executive officer, Knut Cudarans, who retired in May 2010. He consistently undertook to provide members with an exceptionally high level of service. I commend the report to the house.

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

DISABILITY SA CLIENT TRUST ACCOUNT

The Hon. K.L. VINCENT (16:34): I move:

That this council calls on the Minister for Disability and the Treasurer to rescind the decision to abolish the Disability SA Client Trust Account.

I move this motion in response to the anger, frustration and despondency that is keenly felt by those people who have been contacting my office regarding the government's decision to effectively abolish the Disability SA Client Trust Account by transferring disability client trust management from Disability SA to the Public Trustee. Frankly, it seems to me that this decision is thoughtless, gutless and, most of all, heartless.

As I see it, this decision is a blatant cost-cutting measure. The Sustainable Budget Commission estimated that the transfer of funds would see a windfall to the government of about $740,000 per year, but let us face it: this saving will come at the expense of people in our community who are least able to afford it, that is, people with disabilities who are unable to manage their own funds. As one father wrote in a letter to me, 'People with disability have enough to cope with without the Public Trustee reducing their income.' Frankly, this decision is going to hurt people.

For those who have estates worth more than $4,400 this will result in capital commission fees of 4.4 per cent and income commission at 5.5 per cent. That $4,400 is not a particularly large amount, so I imagine that many people will be affected by these fees. On top of this, people who are transferred to the Public Trustee will be required to pay annual fees of $134 and may be subject to a tax fee of $45.

It sounds confusing and vague and, to put it plainly, it is confusing. From what we have been told by many concerned mums and dads, the true extent of the costs has not been made available to them. I wrote to the minister outlining these concerns at having to pay increased fees and her response was that fees would only apply to people with assets greater than $4,400. Quite frankly, this response is not good enough.

The Hon. S.G. Wade: $4,000, dear me!

The Hon. K.L. VINCENT: Hear! Hear! From my calculations, as an example, a disability pensioner who has assets worth $8,000 and receives a pension of $400 per week, which is paid to the Public Trustee, will then be up for more than $1,630 in charges per year, which is huge when your annual income is a mere $20,800.

To paint a picture, let us say, for instance, that I am a person on a Disability Support Pension who currently receives that average amount of $400 per week, amounting to roughly $20,800 per year. I live in a supported residential facility meaning that I pay 85 per cent of that (or $17,680) to that facility to pay for my bed and the meals provided to me for one year. This leaves me with $3,120, which must last me an entire year.

But wait: it gets worse. If the Public Trustee is managing my funds, I need to pay the $1,630 in charges for commission fees, income fees, etc. That leaves me with $1,490 per year or $28 per week to spend on other essential items such as clothing, personal interests, entertainment, outings and transport.

It is clear that the government's plan to shift many Disability SA clients' funds to the Public Trustee will leave some people with a minuscule amount of money, thereby eating away at their choice and independence, as well. While taking from people who have already extremely limited finances and leaving them with this scrap of annual disposable income is deplorable in itself, this is, of course, not just about the money for those who will be affected. There are also concerns raised by loved ones as to the quality of service to be provided by the Public Trustee.

There seem be few complaints about the service already being provided by Disability SA in managing these funds. In fact, I am hearing many compliments as to the prompt service that is currently being provided. The friends and family members of clients who have contacted my office are worried that the Public Trustee will not provide the same level of service as Disability SA and that, as a result, their loved ones will suffer. These funds are needed for day-to-day expenses, and the people who have contacted my office are also worried that the Public Trustee will not have the same level of understanding as the staff at Disability SA who are accustomed to facilitating the needs of people with a disability.

There is then the issue of change. My office has received phone calls and letters from distraught relatives of people with disabilities who are deeply concerned about how their loved one will cope with this change. While it may not seem like a great change to most of us, for many of these people, the switch to the Public Trustee would mean adjusting to what is for them a huge change and may adversely affect their mental health.

Consultation is another bone of contention for people who have contacted my office. This was another decision made behind closed doors, with no consultation with those who will be directly affected. I am told that many families received vague letters from the department telling them of the changes, and at no stage were people consulted or asked how the changes would impact on them or their loved ones. These are people who have a right to be involved. As the Public Advocate John Brayley so rightly stated on the front page of *The Advertiser*, it is 'unbelievable' that the system could be changed without careful review and consultation with advocacy groups.

Now the minister has said that some of the fees may be waived, but that is of little consolation to those families who are worried now, who know that the decision has already been made. There are too many 'mights and maybes' from the minister, but no real informed consultation. The minister has told me that a steering committee will be set up with representatives

from the department and the Public Trustee to resolve issues surrounding the decision, as well as the legal issues associated with it.

However, this is too little too late—too little because families and advocates are seemingly not involved in this committee, and too late because the decision has already been made. These changes are set to come into effect from 1 July this year, and the government is still ironing out legal issues and other concerns. Why the rush? Surely, if this government wants to do the right thing by people with disabilities, and their families, it will hold off and rescind its decision at least until it has consulted and until it knows what the consequences truly are.

The minister has told me that she will ensure that information that soundly guides clients and their families will be provided, but when, minister? Surely the information should have been provided initially to allay concerns, but, no, it seems that the government was in such a rush for a cash grab that it could not wait. The minister says that this is not about money. In a letter to a constituent she said that she had received numerous complaints about the inappropriateness of Disability SA as a service provider also managing funds.

I note that the Auditor-General raised concerns about the current arrangement; however, as I see it, he was suggesting that improved processes were required, not a complete overhaul. The minister has also said that the decision was made because she believes that the management of Disability SA client funds is not a core function of the DFC. Funny; I thought that a core function of the DFC was to uphold the interests of the people that it served, whereas this decision clearly does not uphold their interests.

One would hope that our government would make a decision with this many negative ramifications only as a last resort. However, it has made this decision with the sole aim of saving a mere $2.2 million, or about $740,000 per year over three years. Of course, I acknowledge that the government must run an effective budget, however, to snatch this money from vulnerable people who are already living on a pittance is neither effective nor responsible. A government's role is to protect and to provide justly for its people, and to eat away at people's opportunity to have financial access to the most basic needs in life does neither of these things.

I am also aware that the government may argue that it is not actually forcing anyone to move their funds to the Public Trustee. It is simply saying that Disability SA will no longer manage the funds for them and they must find an alternative. However, as I have already touched on, many of these clients do not have the capacity intellectually, emotionally, or both, to make a decision about their financial management for themselves, so the government is in fact forcing these people into the hands of the Public Trustee, albeit indirectly.

Put simply, this decision is tactless and heartless. It is another shameless cash grab from a government that continually seems to put people second. It does not seem to me at all that this government has truly considered the amount of people who will be affected by it and the severity to which they will be affected. People whose disability means that they are dependent on social security and such services deserve a government which treats them with respect and in a trustworthy manner and does not treat them as pawns in a reckless money grabbing game.

For this reason and all the others mentioned above, I encourage honourable members to support my motion and to do all in their power to ensure that this thoughtless decision will quickly be reversed.

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

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

Adjourned debate on motion of Hon. J.A. Darley:

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.

(Continued from 9 February 2011.)

The Hon. R.P. WORTLEY (16:46): I rise to give the government's response to the motion moved by the Hon. Mr Darley. The Select Committee on Matters Related to the General Election of 20 March 2010 was established with a very precise terms of reference. These were to inquire into and report on issues that are specific not to the conduct of state elections generally but to the state election held on 20 March 2010 and issues of process and fairness that arose from this particular election; and the members of the committee were appointed with this expectation.

What the honourable member has proposed is not an extension of these terms of reference but a requirement for this committee to investigate and report on very different issues. In the first instance, state and local government elections are conducted through fundamentally different processes. As members know, voting in state elections is compulsory. Voting in local government elections is voluntary and, of course, local government elections are conducted entirely through postal voting. This means that the issues surrounding how-to-vote cards and voter identification at polling places that the committee has investigated are not relevant to the local government elections.

While the committee was established to examine particular concerns regarding process—the processes that arose from the 2010 state election—the key issue with regard to local government elections, as I am sure members will agree, is voter participation. Indeed, the honourable member acknowledged this in his amended terms of reference that he has proposed.

I am sure that the government takes a keen interest in improving community engagement with councils, particularly voter participation in local government elections. The 2010 local government elections were the first to be held since this parliament passed very significant changes to the Local Government Elections Act 1999, changes that were designed to improve both the process of local government elections and voter turnout.

The review of local government elections that preceded this legislative change was based on extensive consultation with the local government sector and the South Australian community more broadly. This review considered nearly all the issues that the honourable member is now proposing this committee investigate. Indeed, they were all subject to very spirited debate in this very place.

Of course, the fact that most South Australians choose not to vote for their council remains an important issue and one that deserves continuing attention. While it was pleasing to see an improvement in voter participation levels in the 2010 local government elections, I understand that the Department of Planning and Local Government will be working to analyse all results from the elections, with input from the Electoral Commission of South Australia and the Local Government Association. This data will underpin an assessment of whether our policy objectives have been met and any recommendations for change that may be necessary.

The Hon. J.A. DARLEY (16:49): I thank honourable members who are supportive of this motion. In particular, I thank the Hon. Stephen Wade for his support and for his contribution on behalf of the Liberal Party. As previously mentioned, the amendments to the terms of reference proposed 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.

Among other things, this motion will provide the opportunity to review the manner in which local government elections are conducted in this state and to scrutinise the effectiveness of those practices. It will also provide the opportunity to consider alternative models. I remind members again that matters relating to the inquiry into state general elections will be dealt with before matters relating to local government elections. To that end, this motion will not result in any delays to the tabling of the report into the state general election. I commend this motion to the chamber.

Motion carried.

MARRIAGE EQUALITY BILL

Adjourned debate on second reading.

(Continued from 9 February 2011.)

The Hon. S.G. WADE (16:50): I rise to speak on the Marriage Equality Bill 2011 as lead speaker for the opposition. In a recent meeting the parliamentary Liberal Party determined that while the issue of legal recognition of same-sex relationships is a conscience vote for our party, we will not support this bill on the ground of legislative competence.

When this parliament has considered a range of legislation to deal with the discrimination against same-sex couples and legal detriments to their children, the Liberal Party has shown that it is sensitive to the needs of the gay community. In a recent vote on the legal recognition of children conceived within a same-sex couple household, more Liberals voted for the bill than Labor members. There is a diversity of views in the party on the issue of whether marriage should be available to people of the same gender. A number of our members would oppose a same-sex marriage law if they were members of a legislature competent to determine the issue; others would support it.

It is not surprising that our parliament is being asked to consider same-sex marriage—it is topical. In recent years, same-sex marriage has become legal in Argentina, Belgium, Canada, Iceland, the Netherlands, Norway, Portugal, South Africa, Spain, Sweden, and five states in the USA. Same-sex civil union is performed in 18 countries, including France, Ireland, Germany, New Zealand, and the United Kingdom.

In Australia, subsections 51(xxi) and 51(xxii) of the Commonwealth Constitution give the commonwealth parliament the power to make laws for the peace, order and good government of the commonwealth with respect to marriage, divorce and matrimonial causes, and in relation to parenting rights and the custody and guardianship of infants. Nonetheless, marriage law was state-based until the passage of the commonwealth Marriage Act 1961. The Marriage Act did not include a definition of marriage, preferring to rely on the common law definition and 'the evolution of the meaning of marriage as it relates to marriages in foreign countries'.

However, section 46 of the act included a provision that a celebrant, in explaining the nature of a marriage relationship, must say the words 'marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life'. Same-sex marriage became contentious at the federal level in the early 2000s, and the Marriage Act was amended in 2004 firstly to make explicit that the marriage under that act is available only to a male and female. Section 5(1) of the act now reads:

> *marriage* means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

Secondly, the 2004 amendments withheld recognition of foreign same-sex marriages. Section 88EA now provides:

> 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 Australia, civil unions are available in the ACT, Tasmania and Victoria, and New South Wales offers same-sex couples access to a domestic partnership registry. In September 2010, Tasmania became the first Australian state to recognise same-sex marriages performed overseas. In August 2009, the Greens introduced a same-sex marriage bill in the commonwealth parliament. The bill was reviewed by the Senate Legal and Constitutional Affairs Committee which recommended that the bill not pass.

Bills to allow for same-sex marriage have been or are being presented in the parliaments of Tasmania, New South Wales and Victoria. On Wednesday 9 February, Greens MLC the Hon. Tammy Franks introduced a private member's bill to allow for same-sex marriage under South Australian law. The South Australian, Tasmanian, Victorian and Northern Territory state ALP conferences have passed motions supporting same-sex marriage. Nonetheless, I understand that the ALP caucus did not allow the Hon. Ian Hunter to introduce a bill.

The threshold question with this bill for the Liberal Party is that of the legislative competence of the Parliament of South Australia. My party has come to the view that the answer to that question is sufficiently unclear for us not to support the passage of this bill. The Hon. Tammy Franks relies on legal advice provided to the Tasmanian Greens in 2005 from Professor George Williams, a constitutional lawyer from the University of New South Wales, which supported the right of state parliaments to legislate for same-sex marriage.

Professor Williams considered that the commonwealth Marriage Act covers the field of marriage only insofar as the concept is defined by that act, that is, between a man and a woman to the exclusion of all others. A state law for same-sex marriage would cover a different field, in his view, and therefore not be inconsistent with the federal act.

The Hon. Tammy Franks did not quote this source, but I would also draw the house's attention to the advice given in 2009 by the Gilbert + Tobin Centre of Public Law in a submission to the Senate Legal and Constitutional Committee. The centre asserted that, while section 51(xxi) of the Australian Constitution gives the commonwealth power to make laws with respect to marriage, this may not extend beyond the power to legislate for a union between a man and a woman.

While both sets of legal advice support the right of state parliaments to legislate for same-sex marriage, both advices are neither confident nor equivocal. It is highly likely that the passage of such legislation would be subject to legal challenge. The Liberal Party has come to the view that it should not support the enactment of a bill of such questionable validity.

First, we do not consider that South Australia should commit scarce state taxpayers' money to fund legal challenges of such dubious value. As other states and territories are looking to legislate in the area, I also suggest that it would be wise to await judicial consideration of their acts. If the courts do come down on the side of the states having legislative competence, the issue may well be raised again in this place.

Secondly, enacting a doubtful law would also invite judicial involvement in an issue which we consider is best resolved at political and parliamentary levels. Thirdly, at a time when our party is increasingly concerned about the expansionism of the commonwealth government and parliament—which we often condemn in a range of domains—it would be peculiar for us to be just as constitutionally aggressive.

Even apart from the constitutional issues, I doubt whether most supporters of same-sex marriage would be satisfied with a state-based law. A key element of the push for same-sex marriage is that the same form of marriage should be available for same-sex and different-sex couples. Civil union is seen as a second-class form of recognition to marriage. Similarly, I would have thought that a state law marriage was likely to be seen as a second-class form of recognition to a commonwealth law marriage.

The issue of whether same-sex couples should be allowed to marry is a free vote for our party. The Marriage Equality Bill 2011, however, will not be supported. I close with a personal reflection, not a party position. Before doing so I stress that I am not stating a position on the issue. I have a consistent record of being open to homosexual rights and of standing against homophobia; however, I want to respond to a furphy thrown into this debate by the Hon. Ian Hunter in his contribution. The honourable member said:

> 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.

He goes on to say, later in his contribution:

> Australia enjoys freedom of religion and freedom from religion. Therefore, arguments based on religion have no place in this debate about minority human rights.

Now is not the time to challenge the Hon. Ian Hunter's understanding of the separation of church and state in Australia, but I do not want to let the opportunity pass to rebut his attack on religion couched in the term 'freedom from religion'.

We live in a pluralist society, not a secular one. Those of us with religious views have every right to participate in public debate and to do so in accordance with our religious views. The honourable member's argument is inconsistent with his own contribution. He cites the perspective of a range of religious people to support his case, but if politics and government should be free from arguments based on religion he should not have done so. Supporters of the bill have no more right to engage in the debate than other people of faith, on his argument.

The Hon. Ian Hunter may argue that religious people can participate in the debate as long as they do not mention religion. Not only would that encourage a lack of openness but it also fails to appreciate the holistic nature of faith in most faith traditions. In my faith, for example, Jesus challenges us to 'love the Lord your God with all your heart and with all your soul and with all your mind'. Everything Christians do should be consistent with a holistic world view.

Different members of parliament of Christian faith will understand their duties differently; some will see it as their responsibility to legislate to mandate their understanding of Christian moral choices. I do not. However, all Christians have a responsibility to apply the values of their faith—values such as justice, compassion and hope. A decision about whether or not to support a proposal to hand on a pension increase to housing trust tenants is just as much a values-based choice as whether or not to allow euthanasia.

The Hon. Ian Hunter's call for a religion-free debate is particularly bizarre in the context of this bill. The Hon. Tammy Franks paid tribute to the leadership of Senator Sarah Hanson-Young from the Greens. The Hon. Ian Hunter paid tribute to the leadership of Senator Penny Wong from the Australian Labor Party. I understand that both honourable senators are committed Christians. Accordingly, I accept their positions as being informed by Christian values and respect them as an expression of their Christian faith.

They have every right to bring those values and views to the marketplace of ideas. Unlike the Hon. Ian Hunter, I do not embrace freedom from religion. I celebrate the freedom of religion we enjoy in Australia, both between and within the faith communities and between and within the non-faith communities.

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

MARINE PARKS

Adjourned debate on motion of Hon. J.M.A. Lensink:

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.

(Continued from 9 February 2011.)

The Hon. M. PARNELL (17:02): The Greens will not be supporting this motion, which calls on this council to call 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.

There has been much media discussion in all forms, including online forums and even in speeches made in this parliament over the last couple of months, regarding the supposed negative impact that marine park sanctuary zones might have on coastal communities in South Australia. Most of these allegations are unsubstantiated, and they are at odds with the overwhelming consensus of marine scientists, who conclude that sanctuary zones not only conserve marine life but also provide a long-term benefit to fishing and other activities dependent on marine resources, such as tourism.

Fish stocks are under pressure and declining catch rates in South Australia are a reflection of a global pattern of resource decline. Pollution is responsible for some of the drop in marine life in our coastal waters, especially around Adelaide, but overfishing is by far the biggest threat. Eighty per cent of the world's fish stocks are either being fished to their absolute limit or are already overfished. Global catches peaked in the late 1980s and have fallen drastically ever since. South Australia is not immune and, even with all the different fisheries management strategies at our disposal, catch rates are falling for key commercial species, including the lucrative southern rock lobster.

It is often suggested that recreational fishing has little impact on the marine environment, and it is true that recreational fishers individually have minimal impact. However, collectively, recreational fishers in 2007-08 caught 1.25 million King George whiting, which was nearly half of the total harvest. For southern calamari, the total recreational catch was 40 per cent of the total harvest, or 484,000 fish caught. These are large volumes of biomass that are being removed by recreational fishers.

South Australia needs sanctuary zones, and they need to be based on international best practice scientific guidelines. Eighty-five to 90 per cent of the marine life in South Australian waters

is found nowhere else on Earth, and less than 1 per cent of the marine environment is protected in the equivalent of terrestrial national parks. These points are being lost in the negative political battle that has been whipped up over the issue of marine conservation, not just in our state, but nationally. What is an overwhelmingly positive initiative has been turned into a campaign of fear and misinformation.

The Hon. Michelle Lensink's call for an immediate moratorium on the imposition of the draft sanctuary zones contained within the marine parks' outer boundaries makes no sense to me. The sanctuary zones are clearly a draft and they are out there for consultation. A call for a moratorium is a call for less debate rather than more over how to protect the marine environment.

According to recent commentary on fishing in South Australia, you would think that the seas are still teeming with fish. The member for Flinders said, in a speech in another place on 10 February this year:

> South Australia's fisheries are amongst the best in the world and that industry has an intimate understanding of fishing stocks and sustainability and South Australia especially has world's best practice when it comes to balancing the need for protection of habitat with the necessity of fishing the waters of this state. The proof is in the pudding.

Evidence, however, would suggest the opposite. The Department of Primary Industries and Resources' own catch-rate data shows that iconic commercial species are experiencing falling catch rates. A classic example, as I mentioned before, is the southern rock lobster. Although the peak body representing the fishing sector claims in a letter sent to editors of newspapers on 7 February this year that the industry is sustainable, the government's own data paints a very different picture. Rock lobster catch rates have been in decline for seven years.

The honourable member in moving this motion consistently refers to problems in the process of consultation, and I agree with her that this phase of the consultation process has had problems, not the least of which is the government's failure to put its scientific advisers in the public arena to explain in plain English terms their proposals for marine sanctuary zones in South Australia.

However, this does not mean that we have to place a moratorium on sanctuary zones. It means we have to improve the lines of communication from the scientific community to the public arena. The honourable member says, ‘The government needs to talk to regional communities directly about how these proposals will affect them.' Well, of course they should, but what the honourable member is forgetting is that this is precisely where the conflict has arisen: from the public consultation that is taking place around South Australia. You fix poor consultation with better consultation; you do not fix it by gutting marine parks.

Another area where I agree with the mover of this motion is in relation to the issues she raises about the shortcomings identified by Agardy in her paper about why some marine-protected areas do not work, such as many being too small. However, the honourable member's moratorium motion is about process, whereas the Agardy paper examines the results of the implementation of sanctuary zones, and we are nowhere near that point yet in South Australia.

The current phase of the process is to ensure that the shortcomings identified by Agardy, such as the zones being too small to offer true protection, are not repeated here in South Australia. The honourable member claims that marine parks are 'a relatively new phenomenon, so trying to find a consensus as to how effective they are is quite difficult'. I disagree with that statement. It is correct to say that in South Australia marine parks are a relatively new phenomenon but, in other states and around the world, marine parks have been in place for over 70 years.

Australia's first marine park was established in 1937 at Green Island in North Queensland, and we have had plenty of time to develop and implement marine parks in many states since then. I take the opportunity to refer members to a letter that was written a few months ago, in August last year, but it is a letter that came to my attention only recently. It is an open letter by some 150 or so scientists to both Prime Minister Julia Gillard and opposition leader Tony Abbott. In this open letter, entitled 'Science Supporting Marine Protected Areas', these scientists say the following:

> Dear Ms Gillard and Mr Abbott
>
> Recently articles have appeared in State and national press suggesting that there is little or no scientific evidence to support the creation of systems of marine protected areas. This is false. In this letter we briefly discuss the scientific evidence that shows marine protected areas have very positive impacts on biodiversity, and in many cases fisheries as well. Some reserve systems also produce substantial economic benefits through tourism, as well as providing important educational, inspirational and research opportunities.

This letter was coordinated jointly by two leading academics, Dr Jon Nevill and Professor Hugh Possingham, now of the University of Queensland, who many members will remember from his days as a leading academic in South Australia. I will not read the whole of the letter, but the number one point they make, under the heading 'Government actions needed', reads as follows:

> [Governments need to] recognize the importance of...[marine protected areas] in mitigating major threats to marine biodiversity. Set area protection targets ensuring at least 10% of all ecosystem types have no-take protection, with vulnerable, rare and iconic ecosystems, and special and unique habitats, protected at higher levels.

That conclusion is very much consistent with what I believe the government is trying to achieve with marine parks here, and it is a statement the Greens support as well.

Because this letter might not have reached many members (as I have said, over 150 academics are named in it), I thought I would put on the record the South Australian academics who signed this letter, and there are half a dozen or so of them. They are: Dr Bayden Russell, Southern Seas Ecology Laboratories at the University of Adelaide; Dr Bronwyn Gillanders, Marine Ecology, from the University of Adelaide (many members would have met her in relation to her work on the giant Australian cuttlefish in Upper Spencer Gulf); Professor Corey Bradshaw, Ecological Modelling, University of Adelaide; Luciana Moller, marine mammal ecologist from Flinders University; Dr Luciano Beheregaray, molecular ecology and conservation genetics at Flinders University; Patricia von Baumgarten, oceanographer from Nairne; and Dr Paul van Ruth, biological oceanographer from Port Noarlunga.

There are two more I am particularly pleased to mention; one is Dr Scoresby Shepherd AO, benthic ecologist from Henley, now retired but a former, very prominent scientist working for the South Australian public sector and a person for whom I have had a great deal of respect for many decades. The final of the South Australian academics on this list is Dr Sue Murray-Jones, marine biologist from Henley Beach South, who greatly assisted this parliament through the inquiry that was conducted by the ERD Committee just a year or two ago. These scientists have signed this open letter to both the major parties certainly, and they sent it to the Greens as well. I think their case is overwhelming that the science does support marine protected areas.

To return to the current motion, the honourable member makes some comments about the lack of resources for compliance and monitoring. I agree with her that this is a clear issue that needs addressing. The government must fund this program of marine protected areas and it must fund it properly. However, I do not agree with the implication in the honourable member's comments that South Australians will do the wrong thing if enforcement is not visible at all times.

As the member said, 'Everyone I know observes bag limits religiously.' Well, you cannot have it both ways. I know the vast majority of South Australians will abide by the rules when sanctuary zones are put in place. Although the budget cuts to marine parks need to be reversed, this issue is not a reason to put in place a moratorium on sanctuary zones in South Australia. I think the vast majority of South Australians will do the right thing, especially if the government improves its communication as to the science behind these sanctuary zones.

I do take issue with the honourable member's comment that boating will become more dangerous because there will be restrictions to launching sites. I do not think this is true. The government has in place a policy, as I understand it, which is supported by the proposed zoning arrangements, that not one single boat ramp will be made out of bounds as a consequence of the zones. Whilst a few individuals who currently launch their boats informally from remote beaches may have to travel to a formal boat ramp, that hardly makes boating more dangerous.

I would also challenge anyone to provide examples from other parts of Australia or, indeed, the world where sanctuaries have been in place for many years where a fatality or a serious injury has occurred due to a marine park zoning arrangement. I do not think that this is any reason to be placing a moratorium on sanctuary zones in South Australia.

It is worth reminding ourselves why sanctuary zones are being proposed, and it is not just the scientific evidence from the letter that I referred to. We need to remember that sanctuary zones are the only parts of a marine park that will actually conserve marine life from exploitive activity. All the other zones within a marine park, which will make up about 90 per cent of state waters, will allow exploitation, including fishing—both commercial and recreational—at some level.

So, whilst we know that sanctuary zones are proven to be of benefit to fish stocks, we also need to remember that what we are talking about is conserving the 85 to 90 per cent of the species which consist of unique marine life found off the coast of South Australia. Sanctuary zones are proven to be a win-win solution. They both conserve marine life and help to manage fish stocks.

In her speech, the Hon. Michelle Lensink made repeated calls for government transparency, and I agree—we all want that—but what she fails to acknowledge is that the fishing industry has never been open and transparent either with the community or with government regulators. The commercial fishing community consistently refuses to release any data about where they fish and how much they catch in various locations.

It is worth reminding ourselves that the fish in the sea are not private property; we all have responsibility for them. I think it is a bit rich to complain that the environment department does not know where everything is when the fishing industry refuses to share that information with government officers. The industry does not want to be told where they cannot fish but they refuse to disclose where their key commercial fishing spots are located.

As the honourable member noted in her speech, Agardy concludes that marine protected areas 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. Each marine protected area needs a unique design, depending on its goals. I would say that this is precisely what the current consultation will achieve if it is allowed to run its full course. It will ensure that a balance between resource use and conservation is achieved.

If we stop now, as proposed by the honourable member, due to the reaction of fishers, we will cheat the right of other stakeholders to be heard during this consultation process. It is surely our responsibility to proceed with the process, not just to react to the complaints of one group at the very start of the consultation process. I, for one, want to uphold the rights of all South Australian citizens to contribute to this important process.

The honourable member also implies that the metropolitan area is not having to carry any of the marine protected area heavy lifting, as it were, and presumably this is alluding to some sort of country versus city divide, but I do not think that these arguments stack up. The objective of the Marine Park Act is to protect biodiversity and we all know that the metropolitan coastline is heavily degraded, and I do not need to detain the chamber as to why this is so, but Adelaide already has a long-standing aquatic reserve at Aldinga and, as I understand it, a sanctuary zone is proposed over the existing aquatic reserve.

It is also worth remembering that the consultation process that we are at the beginning of will continue for at least another nine months and if a moratorium was put in place it would effectively be undermining the value of that remaining period. Of course conflict is to be expected at this stage with multiple stakeholders involved, but this needs resolution through careful, respectful engagement and not by cutting it off at the knees. We do need to go through these often painful and uncomfortable steps, and I say we should do that and see what happens at the end and not give up now.

Like the honourable member, there is much I do not like about this government and how it operates, but I know the community is having an input to the Marine Park debate, and that input is at a level that is not normally provided by government. Normally, we would love this level of engagement over projects such as the desalination plant or the future of Arkaroola or the allocation of water from the River Murray but, for once, the government has brought the community in early, and I support that. The call to action should be for us to make this consultation as effective as possible and not go to a moratorium at this early stage.

In conclusion, the Greens believe that South Australia was correct in deciding to adopt a marine protected area strategy. We have a model which aims to cater for all stakeholders, and I note that this model was supported by the Liberal Party and—

The Hon. J.M.A. Lensink: It was our idea in the first place.

The Hon. M. PARNELL: The honourable member interjects that it was their idea in the first place, and I am happy for that to go on the record. However, the Liberal Party in its pre-election commitments offered a range of promises including, if elected, to put in place sanctuary zones that meet international guidelines. The sanctuary zones proposed by this government will only cover approximately 10 per cent of state waters, and I fear they may well fall short of best scientific practice.

The final thing I would say is to go back to the letter that the 150 scientists sent to our Prime Minister and leader of the opposition and to close with a quote from a document that was endorsed by the Council of Australian Governments back in 1996, and that is Australia's National Biodiversity Strategy. The document states:

There is in the community a view that the conservation of biological diversity also has an ethical basis. We share the earth with many other life forms which warrant respect whether or not they are of benefit to us. Earth belongs to the future as well as to the present. No single species or generation can claim it as its own.

Debate adjourned on motion of Hon. J. Gazzola.

COUNTRY HEALTH SERVICES

The Hon. J.M.A. LENSINK (17:22): I move:

That the Social Development Committee inquire into and report on the current provision and plans for future delivery of Health Services in Regional South Australia, with particular reference to—

1. Health Advisory Councils replacing local Hospital Boards, significantly reducing their decision making power and effective contribution to local operations;

2. The consequent decline in local community fundraising due to local communities not having a voice in health spending in their area;

3. How funds previously raised by local communities are now spent;

4. The removal of funding to the Keith, Moonta and Ardrossan Hospitals;

5. Country hospitals failing to receive final 2010-2011 operational budgets so that they are forced to work on indicative budgets and the impact on their ability to make decisions;

6. Property titles of hospitals being transferred inconsistently or inappropriately;

7. The impacts of a state-wide freeze on the hiring of staff for any new positions;

8. Transfer of St. Johns Ambulance to South Australian Ambulance Service and consequent outcomes including:

   (a) removal of the ability of local volunteers to decide which community events they attend;

   (b) 'fees' for attendance at local community events set by and paid to Country Health SA instead of the traditional system of donations being provided directly to local ambulance stations; and

   (c) reduced incentive for new volunteers to participate;

9. The reduction of admission rights for country general practitioners and the consequences for the provision of accident and emergency services across CHSA and community hospitals;

10. The centralisation of purchasing by country hospitals and the consequent impact upon local communities' businesses;

11. Bullying and understaffing at the Port Augusta Hospital;

12. The impact of deeming Country Health as 'local network' for all of regional South Australia within the Federal health system so that different regions within the State have no different identity within the Federal programmes and funding; and

13. All other relevant matters.

In speaking to this motion, I note that there was some discussion in the other place just yesterday. The member for Stuart, who has been a very strong advocate of an inquiry into country health, made a contribution, as did the minister. In relation to these particular terms of reference, he stated:

...if we can come up with a neutral form of words I would be happy to support it, because it is my view that we have a very good story to tell;—

I would dispute that—

...and I think it is important that members of the Liberal Party actually go out there and find out what is really happening rather than what they think is happening, or rather what they have told themselves we are intending to do.

I would just like to put those comments on the record because we are the party representing regional South Australia to the greatest degree. We have a number of regional members and what they tell me is that this is the number one or two issue challenging them in their particular community. So, I think that is a poor reflection by the minister on our members in that they are in touch with their communities, quite frankly, and they hear complaints that fall within these terms of reference on a regular basis. I will refer to a number of those in a moment.

This is a case of 'We told you so' and it is the case that the Liberal Party told the parliament so in relation to the Health Care Bill which was passed in 2008 in which we raised a number of concerns about the way that health, in particular for country areas, was going to evolve under the altered governance arrangements. Local government is no longer a player at the table in Country

Health areas and we noted that the new Health Advisory Council structure would mean that there would no longer be any financial control from the local community. We were also concerned that a one size fits all approach would be adopted by the government. A number of those concerns that we raised at the time have come to fruition, and therefore we believe it is timely to have a proper inquiry into all these matters.

In relation to the terms of reference, I will refer to those in turn and in the order in which I have moved them as part of this motion. Firstly, in relation to Health Advisory Councils replacing local hospital boards, significantly reducing their decision-making power and effective contribution to local operations, the decline in local community fundraising and how funds previously raised by local communities are now spent, there is unanimous concern from our regional members, who, I should add, have provided me with information from their local communities in assisting me to make this particular contribution.

Initially, the government had marketed the HAC system with the acronym FACE, which means facilitate discussion, advise and advocate, communicate and consult, and engage with the community and evaluate process, which all sounds very nice on paper, but the reality is that the HACs have become an interface which do not have the power to be able to respond to the concerns of their local communities. I think that, in many ways, this has been a tokenistic approach, in that the HAC can wear the opprobrium of their local community and the department will insist that they sell the government's message, which puts them in a difficult position.

A number of people would have put their hand up to be on those HACs with the best intentions but are unable to respond, which is very frustrating. In effect, the HACs are a way of pretending to local communities that they have a say in running their local hospitals and then they are to be used as a scapegoat if a problem arises, such as saying that the relevant HAC was not consultative enough. We have seen centralisation of administration and that limits the amount of responsiveness to genuine local community concerns.

HACs do not have any responsibility for the running of hospitals, their maintenance, buildings, equipment, or management of staff. As I have said, it is just an interface, and I think that has led to a lack of ownership from local communities because they have become very frustrated with this changed process and, in fact, have given up. In relation to maintenance of hospitals, I think it needs to be acknowledged that lots of our country hospitals are older building stock and therefore need a lot more maintenance than some of the metropolitan hospitals which have undergone significant upgrades over the years. The local hospitals feel like they are not getting the services or funds, and because they are uncertain of their budgets, they tend to underspend in order to make sure that they do not go over, which, in effect, can be a cut by stealth.

We have had advice from the Adelaide Hills and regions such as the Inner North and the Mid North, where either staff or the community have sought that the HAC organise maintenance for them. HACs require the permission of Country Health if they are to expend anything over $5,000. As an example, the Gumeracha hospital has a highly visible rotting front entrance gable. The issues are: firstly, why is Country Health not picking up these issues and resolving them; and, secondly, maintenance, if that is to fall under the HAC, why is the responsibility between the HAC and Country Health SA being blurred? In today's news we see the delaying of repairs to the Karoonda hospital following what I understand to be some storm damage—nothing has been done in that respect.

From the Riverland, people tell us that local HACs have no decision-making powers whatsoever, other than spending money which has been raised by the community itself, up to a figure of $25,000, without further reference to the minister. This is causing immense frustration and anger amongst HAC members who see decisions made about reallocation of staff or reduction in staffing levels, with no reference to the wellbeing of the hospital. Now that the HAC no longer controls finances, cost overruns are usually not divulged to the HAC until well after the problem has occurred. So, when it is too late to take any real action, Country Health SA will let the HAC have that information. This would never have occurred under the previous arrangements while the hospital was under the stewardship of the board.

In the Mallee, maintenance has been an issue with a number of people, as has been their inability to assist in operational matters, and that has led again, as I have said, to people losing interest in being involved, which means that at least two of the HACs do not have a full complement of members. Again, we have reports from there that there are token committees that have little or no input into or influence on how things are done, whereas under the previous board arrangements, they had a strong say on things such as improvements, services and equipment.

Boards had better access to the minister and they had good communication and feedback with the public, but they feel that the information that they gather is not really accepted further up the chain. As a consequence, HAC membership is dwindling. On the Yorke Peninsula, the 10-year rolling strategic plan will provide more focus on monitoring activities against the plan and reporting to the people. This is yet to be implemented and the concern is: who is going to monitor activity against the plan and how will this be achieved?

In the Mid North and the Far North, in the HAC annual report for 2009-10, it is reported that they are still floundering with their roles and are frustrated with their inability to act or to be heard. The report goes on to state, 'One would hope that there may be a shift back to some form of governance and accountability by local persons in the not too distant future.' On page 5 of the Loxton and Districts annual report it states:

> Whilst the transition from Boards to HACs occurred in 2008, there continues to be areas of significant concern for the HAC with resultant legislative and administrative issues often creating confusion and challenges and actions undertaken by [Country Health] SA without the prior approval or consultation with the HACs.
>
> The recent intention to change ownership of land titles to CHSA being one example. The Loxton and Districts HAC actively pursued this matter on behalf of our community, and whilst the Minister has directed that land titles be returned to the name of the HAC, we are still awaiting an explanation as to why CHSA intended to change the titles and still waiting for the relevant documentation.

My second point in relation to this motion is that there has been a decline in local community fundraising due to local communities not having a voice in health spending in the area.

I note from the debate yesterday in the House of Assembly that the member for Stuart said that regional communities have probably had a reasonable time this season in terms of not being pressed by droughts and so forth, but they were still not as forthcoming with money as they used to be, and the minister has cited that donations across the board are down. I think that reflects two very different points of view.

On Kangaroo Island, we are advised that the local hospital auxiliary is finding it difficult to raise funds or gain support from the HAC and is being told, 'It isn't our hospital anymore, it's a government hospital, so they can supply the money and buy the equipment.' In the Riverland district there has been a substantial decline in community fundraising since the HAC system has been introduced. Now, however, many of the HACs have wrested back their bank account. In the case of the Loxton Hospital, it has been able to regain control of nearly $1 million of community funds raised which Community Health SA had appropriated during the change from the board to the HAC. Obviously this whole process has been poorly received by the community in Loxton, which is seeing it as a blatant cash grab by the government.

It is a widely held belief that Country Health SA has acted unconscionably in the matter of community funds. As an example, all the Loxton bank accounts were given a new name: Community Health SA Hospital Inc., followed by the name of the HAC. Term deposits were closed and the money placed in low-interest cheque accounts. It is only through their own extreme determination that the HACs have been able to follow the money trail and reclaim the money. Even now, Community Health SA continues to give 'advice' about deductible gift recipient status which is entirely contrary to the advice they have sought and received from the Australian Tax Office. On Yorke Peninsula they have fewer concerns, apparently, with this particular issue; the HAC controls the funds raised and approves where those funds are spent.

Item 3 relates to how funds that have been raised by local communities are now spent. In the Lower North there has been a drop-off in bequeaths, and Kangaroo Island states that it has reasonable funding available but needs ministerial approval to spend over $5,000 at any one time. The local hospital cluster has been told that it cannot spend any more than $25,000 per year as it will 'upset' the AAA credit rating, which I find extraordinary. There has been an issue in relation to large donations to the hospital, and the community now believes that the best place to direct that money is to the hospital auxiliary, as it is now an unincorporated body and does not require permission to expend its funds.

In the Mallee, funds raised locally are held in a separate state account for each HAC, and they can only be spent by that HAC. They do not have as many concerns about fundraising. In the Loxton and Districts annual report, on page 5 it says:

> Loxton and Districts HAC is awaiting a 'paper trail' explanation as to how accounts have been closed and a new one established without consultation with the HAC. The Loxton and Districts HAC is seriously concerned, as these events indicate a disregard for the HAC.

Item 4 has had quite a lot of coverage in the media, and we have had demonstrations on the steps of Parliament House. It relates to the removal of funding in the last budget to the Keith, Moonta and Ardrossan hospitals. From what I understand the funding, particularly to Yorke Peninsula hospitals, was a mere $120.05 a day, and that was only when there were persons occupying that bed, so it was really just a payment made for a particular service provided by the hospital.

I think most of us—apart from government members—would agree that it was a disgraceful decision to defund country hospitals and place them at risk, particularly when they provide such a valuable service. Keith is on Highway 1, and provides a valuable A&E service for people who might have a crash on their way to Melbourne. I think it is the view of some of the people in the Keith community that they are hoping that a few Rann government ministers might have a crash there and find out how important that particular service is. Those issues deserve further examination. I think this government is politically against not only country people but also independent hospitals, preferring to fund those that are completely within its control. This is an ideological decision which makes no sense.

Item 5 relates to the operational budgets, and I think most of us would agree that it is invidious to place hospitals in a position where they do not know their operational budget until seven months into the financial year. Again, this will have the impact of being a cut by stealth, because the administrators will be cautious in the way in which they expend their money and will therefore reduce the services available.

In the Mid North, the operating budgets for all hospitals have not yet been received. There is no budget for maintenance and repairs. These are ageing hospitals that require regular maintenance, and the community fears that the lack of repairs will mean that, at some point in the future, the government will declare that the hospitals are no longer safe to use and will be shut down.

The Jamestown hospital has asbestos-backed linoleum flooring; if nothing else, that is a sign that it has not had a new floor for at least 20 or 30 years. The lino has holes in it which have been covered with tape, and requests to have the lino replaced have been unsuccessful. This results in occupational health and safety issues for staff, patients and visitors due to tripping hazards and the potential impact of asbestos to their health.

In the Mallee Health Service, they say it is not unusual for their budgets to be delayed and for staff to continue to manage things on an interim budget. On Yorke Peninsula they say the state budget was late in the first place, which did not help. I now refer to item No. 6, that is, property titles being transferred inconsistently or inappropriately. In the Mid North the hospital titles are to be transferred to the HAC. However, the Orroroo hospital title is crown land and transfer is not automatic or is proving difficult to complete.

In the Riverland we are told that this is another example of Country Health SA trying to boost its asset register by creating vast landholdings in the name of Country Health SA Hospital Inc. In attempting this it is in breach of the Health Care Act 2008. Now that it has been caught out, it has decided to sit on its hands and not transfer crown land titles which it has illegally transferred into the name of the incorporated HACs, despite an assurance by the minister on 27 October 2010. They view this as another desperate effort by the former treasurer to retain the AAA status which is in so much strife thanks to massive borrowing and spending by this government.

The Renmark Paringa hospital land was bequeathed to the community of Renmark, and as a point of law it could be contended that the government has no right to appropriate land that does not belong to it. In the Mallee Health Service, properties have been transferred. Some of those transactions have been very complicated due to different ownership structures. In relation to Mannum, page 5 of the annual report states:

> During the past year we have attempted to locate the six land titles for Mannum District Hospital but, after an intense search, were only able to locate three.

I point out that hospitals are very important to their local communities and in days gone by titles used to be located either within the hospital safe or the local bank, which might not seem much to those of us who do not live in country areas, but it is obviously symbolic for the locals that they can access and see those.

In relation to item No. 7—that is, the impacts of a statewide freeze on the hiring of staff for any new positions—many regions report that their staff are working long hours, often in a voluntary capacity, in order to ensure patient safety because of staff shortages. On the Yorke Peninsula the

centralisation of administration has meant recruiting procedures are much more long-winded compared to the previous regional system.

I now refer to item No. 8—transfer of the ambulance services and removing the ability of local volunteers to decide which community events they attend. This relates to country shows, whether they be football games, rodeos or other sorts of shows. The volunteers used to provide a donation which would go to the local ambulance service, but now Community Health SA requires that those shows go through a central booking service. I understand that a fee is charged which goes back to Country Health SA and the local ambulance service providers do not have the same flexibility about who attends which particular show, which reduces the incentive for volunteers to participate.

This has caused some upset in particular in the Murray Mallee. Some time can elapse before new volunteers get training and then they are expected to do a certificate II, which is somewhat daunting. They may agree, but in the meantime they lose interest while waiting for training. In the Mid North there have been reports by hospital staff that crews from the SA Ambulance Service have delivered patients from a local hospital to Port Pirie or Port Augusta for a procedure and then left without any further assistance. These patients are then often not retrieved and returned to the hospital from where they came. This is distressing for patients, relatives and staff. Staff are often left arranging patient returns well into the night.

Item No. 9 deals with admission rights. This is an area which has received some considerable media attention, as it should. I note that there was a pre-election commitment that no country A&E would close. In some rural areas there is concern that the reduction in admission rights for country GPs will result in the closure of the A&Es by stealth. On Kangaroo Island, we had major issues in 2009-10 for emergency calls and obstetrics. The deadlock took some time to resolve after the government threatened to put a GP clinic at the health service. In their annual report, the Kangaroo Island HAC says:

> The failure of Country Health SA and the local medical practitioners to reach a satisfactory agreement for the provision of services to the KI health service. The community has a clear view that these services should be provided by local GPs with the necessary skill mix. The provision of any of these services by visiting practitioners or a practice set up by Country Health will create an unsustainable local practice and subsequent consequences.

There are also concerns with the Burra hospital, and I report from the local media, as follows:

> Until one day in April 2010 things at the Burra hospital were chugging along, with a doctor in attendance to handle emergencies as well as other regular doctor-type things. On that day, with absolutely no prior warning, our doctor's activities were dramatically curtailed and she was forbidden henceforth to associate with emergencies. The hows, whys and wherefores of this have never been explained by Country Health SA other than to state that the doctor was no longer qualified to undertake these duties and that they were not at liberty to divulge anything else.

So, if nothing else, that community deserves an explanation of why that has occurred.

Item No. 10, the centralisation of purchasing by country hospitals and the impact on local businesses, in the Mid North a digital X-ray reader for Jamestown Hospital, at a cost of $70,000, was donated by the Jamestown Ambulance Board. It was decided that the HAC would purchase the unit through Country Health SA so as not to incur GST. SA Health is introducing a statewide radiology service, which is holding up the purchase of the X-ray reader, which is unfortunate at least.

In the Riverland, centralisation from their point of view also means uniformity. It leads to not only impacts on local businesses but also poorer quality and fewer choices for patients and clients. It renders small hospitals unable to use the generosity of local growers, who send vegetables and fruit to the hospital. The Eudunda Kapunda HAC annual report of 2009-10 reports:

> The amalgamation of the Eudunda senior citizens' hostel into the Eudunda Kapunda health service is looking possible, but still awaits the final okay. The change of CEO for Country Health SA has stalled the process, but we remain positive that once the new CEO is able to review the situation, the amalgamation will proceed to the benefit of all parties.

I state that because I do not believe that changes in CEOs should stall those processes. Those should be decisions that are made at the local level and should continue post-haste.

Item 11, bullying and understaffing at the Port Augusta hospital, we can extend that to the Pika Wiya Health Service, which I understand is undergoing a report, the findings of which thus far are so serious that they expect there will be an interim report provided soon. There are a number of comments in *The Transcontinental* that relate to the Port Augusta hospital bullying, most recently on 2 February. I will not read those; people can avail themselves of those if they wish.

Item 12 is the impact of deeming country health as a local network, which I understand was the advice from this state Labor government to the federal government and which the member for Grey, Mr Rowan Ramsey, has labelled ‘not understandable'. In a media release dated 8 February this year, he said:

> The Federal Government had promised local management for hospitals and I have been saying for some time, for some unfathomable reason they have accepted the advice of the State Government that the whole of regional South Australia is one local area.

He goes on to say:

> It is just not conceivable that a board which has responsibility for hospitals as far apart as Murray Bridge and Coober Pedy, or Mount Gambier and Ceduna can be claimed as any sort of local management.

I can only say that I completely concur with his remarks. The Riverland region has also stated that one local health network for all of country South Australia is outrageous and is totally opposed to the intent of the national health ‘reform'. Clusters of five to six hospitals, with local clinician input and local community involvement and the ability to have their own budgets, would be welcomed by many HACs.

The consequent horse trading that has enabled Country Health SA to claim that it is a local health network for 43 hospitals means that in all likelihood commonwealth funding will be hived off for the four country general hospitals, which are intended to be the larger ones at Mount Gambier, Whyalla and the Riverland, and the small local hospitals will be run down. There will be no local input for small community hospitals. Item 13 is the standard 'All other relevant matters'.

Finally, I turn to the government's own report by its Health Performance Council. 'Reflecting on Results' is the name of the document, and it is dated December 2010. In chapter 3—Community Engagement, under the heading 'How did SA Health Perform?', it states:

> It is difficult to foresee how the health outcomes planned for South Australians (including those from at risk populations) can be achieved without effective ongoing engagement with community organisations, in relation to service development, delivery and evaluation.

Further on, it states:

> The release of SA Health's Consumer and Community Participation Guideline and Policy in late 2009 marked a positive step towards increasing system wide public participation in health. To date, SA Health's pursuit of community engagement as a core method of achieving all four strategic directions has not been robust or effective.

It continues and is fairly critical of the government's ability to engage or whether it has really been effective. On page 146, it states:

> There are examples of individual regions, units and services that have implemented community and stakeholder engagement processes. There is little evidence of SA Health developing an overall strategic approach to its relationships with community organisations and others, for the purpose of achieving its goals and demonstrating its accountability.

With those comments, I commend this motion to the house. There will be more discussions with the government about the terms of reference but, in the meantime, I would encourage all members to examine this issue in some detail, which I think has not travelled. We were all told, 'Everything will be fine; trust the government. It will be responsible.' However, in its implementation of that health care reform bill, the government has failed Country Health residents.

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

VICTOR HARBOR, MOVEABLE SIGNS

Notice of Motion, Private Business, No. 10: Hon. R.P. Wortley to move:

That the District Council of Victor Harbor By-law No. 2 concerning moveable signs, made on 20 September 2010 and laid on the table of this council on 14 October 2010, be disallowed.

The Hon. R.P. WORTLEY (17:53): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

CRIMINAL INTELLIGENCE

The Hon. M. PARNELL (17:54): I move:

That noting the recent decision of the High Court in the case of State of South Australia v Totani and Another, the Legislative Council refers the following matters to the Legislative Review Committee for inquiry and report:

1. The extent to which South Australian legislation includes the concepts of criminal intelligence, declared organisations or control orders;

2. Any concerns about the constitutional validity of such provisions;

3. The consistency of such provisions with established legal principles;

4. The impact of such provisions on the civil liberties of South Australians;

5. The effectiveness of such provisions;

6. The desirability or otherwise of expanding or contracting the use of such provisions in legislation;

7. Whether any amendments to any acts are necessary or desirable; and

8. Any other relevant matter.

This motion calls for the issue of criminal intelligence to be referred to the Legislative Review for inquiry. The use of criminal intelligence in South Australia is a dog's breakfast of inconsistent measures; some of these measures are legally invalid. This motion refers to the High Court case in the state of South Australia against Totani and another and, as members would know, this was in relation to the Serious and Organised Crime Act, which was passed by this parliament in 2008. The Greens did not support that bill and our opposition to it was vindicated by the High Court.

As well as the use of criminal intelligence in criminal cases, we also find the concept in use in a range of administrative laws such as licensing. I do not propose to debate any other items on the *Notice Paper* now, but I just point out to members that we have two government bills—one dealing with licensing and the other with knife crime—that incorporate criminal intelligence, and we are likely to see at least one or two other bills in the near future. We have not yet seen the government's proposed bill to fix the problems with the serious and organised crime act.

What is missing from the current debate is the opportunity for a thorough analysis of the pros and cons of criminal intelligence in all its forms. Debating the issue bill by bill in parliament is not the best way to get all the information out. We have all received detailed submissions from groups such as the Law Society and the Bar Association, yet those groups do not have the opportunity to front before parliament, give evidence and answer questions. That is why we need to refer this matter to a committee. I have proposed a legislative review committee. That seems to me to be the appropriate forum but it could just as well be a select committee, and I am open to other suggestions on that.

I want to put on the record the Greens' support for our police and the job they do. We want the police to have appropriate powers and resources to be able to do their job according to law, but we do not want to throw out centuries of civil rights, including the fundamental right to know and respond to allegations made against you, whether in criminal trials or in administrative cases, such as licensing matters. That is why the Greens have opposed criminal intelligence in the past and, unless it is substantially reformed, we will be opposing it in the future.

I would like to put on the record my appreciation of the briefings I have received from the police, both recently and over the past few years, as these bills incorporating criminal intelligence have come before us. The police have described a number of situations where bad outcomes would have resulted if criminal intelligence could not be used. The police point to cases of violence, intimidation and death threats that never find their way into admissible evidence because of the fear of retribution against those who assist the police. However, the question is whether the use of untested criminal intelligence is the only solution. I do not think it is, but that is what I would like to see this committee investigate.

What are the alternatives? How else can we assist the police in gathering admissible evidence? Is it a question of more resources to give the police greater capacity to gather evidence? Maybe it is. Another question we need to ask ourselves is: what is the price we pay for protecting civil liberties? Is the price that some crimes will go unsolved? Will the price be that some inappropriate people manage to get licences for various activities? Is that the price we pay? Well, perhaps it is.

By analogy, quite rightly we do not allow torture of suspects, even though we know it would probably help solve crimes, it would probably prevent crimes and it may even save lives, including mass murder and terrorism, but we do not allow torture of suspects because it is wrong. The

debate, I suggest, should not be about scrapping human rights to ensure maximum conviction rates or to allow dubious intelligence to achieve the status of fact, which is what can happen with criminal intelligence.

In conclusion, while the government keeps presenting bills to us that infringe civil liberties, the Greens will insist on the most thorough debate. I urge all members to support this motion. Let 's open the doors of this place to a proper debate. We want to hear from the Law Society, the Bar Association, the police, victims' groups and the public, and our democracy will be better for it.

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

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS ACT

Orders of the Day, Private Business, No. 18: Hon. S.G. Wade to move:

That the by-law under the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 concerning permits, made on 2 September 2010 and laid on the table of this council on 14 September 2010, be disallowed.

The Hon. S.G. WADE (17:59): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

CORRECTIONAL SERVICES DEPARTMENT

Adjourned debate on motion of Hon. T.J. Stephens:

1. That a select committee of the Legislative Council be appointed to inquire into the Department for Correctional Services and report upon—

(a) whether sufficient resources exist for the safe, effective and efficient operation of South Australia's prison system;

(b) claims of bullying and harassment within the department;

(c) claims that correct departmental practices and procedures are regularly ignored by management;

(d) claims of drug use and sales within the prison system;

(e) claims of poor occupational health and safety management in prisons; and

(f) any other relevant matter.

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

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

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

(Continued from 24 November 2010.)

The Hon. CARMEL ZOLLO (18:02): As a former minister for correctional services, I am pleased to be able to respond on behalf of the government. Whilst the Hon. Terry Stephens outlined in graphic detail concerns that were brought to his attention by a range of unnamed correctional officers, it is disturbing that the details presented to us have not (to the best of my knowledge) been brought to the attention of the Minister for Correctional Services or, indeed, the responsible officers within the Department for Correctional Services.

We are now being requested to yet again approve the establishment of a select committee which will then take evidence in relation to whatever it might be that led to these concerns, concerns that could have, and should have, been dealt with in appropriate forums already in place. Accepted practices in this chamber have been completely thrown out so as to get a bit more publicity. Well, how predictable.

As we would all be aware, correctional services is one of the most difficult areas of public administration and, over the years, has attracted, often for all the wrong reasons, negative publicity. At the same time, I think it is fair to say that the department, through its officials, has never avoided proper scrutiny, has proactively dealt with matters of complaint and has significantly changed, enhanced and strengthened the necessary governance arrangements to ensure transparency,

accountability and fairness for both employees within the department and, indeed, prisoners and offenders who are either incarcerated or supervised through Community Corrections.

I will just focus on a number of more recent developments. I am advised that, for the third year in a row, the Department for Correctional Services has successfully reduced its future WorkCover liability through a very proactive and intensive focus on occupational health and safety. This is an impressive manifestation of an organisation that continuously aims to improve the working conditions for its employees, and these subjective facts are further impressive given the growing but also ageing workforce. Reducing the number of workplace injuries, particularly psychological injuries, is, in my opinion, strongly indicative of organisational health rather than—as the honourable member put it—'prison officers' welfare and safety not being considered at all.'

The government is aware, through advice received from the Chief Executive of DCS, of a group of staff within the Department for Correctional Services who have consistently complained about their perception of being wrongly treated. The management of these matters is well documented and I am confident that, if a select committee is called for, evidence will support the strength and robustness of the formal departmental complaints management system, the rigour with which formal complaints are being investigated and followed up, and the absolute openness to appropriate scrutiny in relation to the administrative processes.

A further current initiative is the rolling out of ethical standards and anti-bullying training for all staff within the department. This concerted and intensive training effort is put in place to again inform and educate staff on appropriate ethical behaviour directly aimed at reducing incidents of bullying or harassment through proper education. Senior staff from the department's human resources branch participate in every session and are available to address any issue staff have after the session. This is an example of a proactive approach to addressing inappropriate workplace behaviour.

The government acknowledges that, at times, departmental employees, rightly or wrongly, feel they have been inappropriately treated. It is also not disputed that cases of workplace bullying and harassment can occur and it is a reasonable expectation from employees that their managers properly deal with such matters. If staff follow the proper and well-established complaints processes, it is an entirely reasonable expectation that inappropriate behaviour from any employee, regardless of their role within the department, is dealt with.

Let me be very clear. This government does not tolerate inappropriate workplace behaviour, and let me assure members opposite that any such behaviour that is properly reported will be followed up. Therefore, I encourage any correctional services employee who has a complaint to bring this to the attention of the authorities in the proper manner so that matters can be addressed and inappropriate workplace behaviour eliminated. This does not require another select committee. This is not a matter for political resolution: it is an important matter to be addressed through proper human resource processes.

I now want to turn to other matters raised by the honourable member. He stated that the select committee should investigate if rehabilitation is effective in our prison system. I draw to the attention of honourable members that South Australia continues to have the lowest rate in the nation of released prisoners returning to prison. The ultimate measure of success for a correctional system, surely, has to be the rate of reoffending.

Whilst any reoffending is concerning, the reality for South Australia is that we are outperforming every other state and territory. For the third year in a row, South Australia has the lowest return-to-prison rate of any jurisdiction. For 2009-10, 30.2 per cent of all released prisoners returned to prison within two years of discharge. This figure is below that of any other jurisdiction and less than the national average of 37.6 per cent. A further impressive outcome is the high participation rate (almost twice the national average) of prisoners in education.

These figures are both reflected in the Productivity Commission's Report on Government Services for 2011. It is a glowing report card of the state's prison system, and I suggest members opposite actually read it. Correctional systems should always strive to improve efforts made in assisting prisoners with rehabilitation, and the Department for Correctional Services, of course, is no exception.

Rehabilitation programs are longstanding, as are drug treatment programs. As has been widely reported in the media, some of the more recent initiatives undertaken by DCS include the implementation of the Making Changes program—a cutting edge therapeutic intervention program for prisoners and offenders who may be at medium to high risk of reoffending.

The department is currently evaluating the success of the Sierra program, a specific intervention program for high risk young offenders at Port Augusta Prison. These types of initiatives contribute to an improved and enhanced system, and I can assure all honourable members that no effort is spared to continue further improvements in the future. So, rather than referring to perceptions and hearsay, I think it is an unbeatable fact that South Australia is outperforming our counterparts in important areas of recidivism and prisoner education. The honourable member also referred to allegations regarding the reaction by departmental staff to prisoners who are found to have consumed illicit drugs. This matter has previously been brought—no doubt by the same source that informed the member opposite—to the attention of the Department for Correctional Services.

I am advised that a thorough investigation was conducted into the allegations. This investigation included a detailed review of all information contained on departmental records that relates to prisoner drug testing and subsequent actions where a positive drug test was returned. The investigation did not—and I stress 'not'—identify any consistent practice; and, in the absence of further evidence, it can only be concluded that these assertions are not based on objective facts. I would like to urge members to consider carefully the need for this select committee. There are important matters—

The Hon. S.G. Wade interjecting:

The Hon. CARMEL ZOLLO: —you should listen, though, when I tell you—to be managed within the Department for Correctional Services. There is every opportunity for departmental staff and any other concerned persons—including members of parliament, I should say—to bring matters of concern to the attention of the Minister for Correctional Services or the Chief Executive of the Department for Correctional Services. It is an appropriate and fair expectation that these matters are expeditiously dealt with, which I certainly can assure this chamber and this parliament will and has happened. For all those reasons, the government will not support the establishment of another proposed select committee.

The Hon. T.J. STEPHENS (18:11): Given the time, I will not be long. I thank honourable members for their contributions. I think that I am fulfilling my duty as a member of parliament to bring forward the concerns of members of the public who feel they have been bullied and victimised and to give them an opportunity to have their say. I would urge all members to support my motion, and I look forward, hopefully, to its passing.

Motion carried.

The council appointed a select committee consisting of the Hons R.L. Brokenshire, P. Holloway, T.J. Stephens, S.G. Wade and Carmel Zollo; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 27 July 2011.

CONTROLLED SUBSTANCES (SIMPLE CANNABIS OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 September 2010.)

The Hon. J.M.A. LENSINK (18:14): Given the hour, and given that I have made contributions on cannabis consumption in the past, I will be brief.

The Hon. T.J. Stephens: Did you say you made contributions when you were on cannabis?

The Hon. J.M.A. LENSINK: No, I did not say that. Mr President, he is delaying—

Members interjecting:

The PRESIDENT: Order! I am sure that we can all see through the smoke.

The Hon. J.M.A. LENSINK: I rise to indicate that we will be supporting this bill. I think that we have much higher potency levels of cannabis than we have had in the past due to hydroponics and who knows—interbreeding of various species. I remember being on jury duty and there was a grower who talked at length about various types of cannabis, which was an education.

I note from the honourable member's contribution that, obviously, she is very concerned about dealers and the fact that the current laws enable a dealer to split up their stock, if you like,

into sizes which enable the sale of this substance to occur quite easily (in smaller sizes), and therefore the gram size is to be reduced from 100 to 25 grams, and I think that is to be supported.

There is growing evidence about the health impacts of cannabis (it being the most prevalent illicit drug consumed by Australians, and particularly South Australians), particularly with respect to mental health. As recently as last month, a medical study concluded that people who consume cannabis are much more likely to suffer from schizophrenia, which demonstrates that we ought to exercise extreme caution in tolerating cannabis use. With those brief remarks, I indicate support for this bill.

The Hon. D.G.E. HOOD (18:15): I have cut down my speech, members will be pleased to hear, but I do have a few things that I would like to place on the record on behalf of the party. Obviously, I rise to indicate Family First's strong support for this very sensible bill, introduced by the Hon. Ms Bressington, which makes it perfectly plain that cannabis is not a harmless drug and that possession of cannabis should be subject to much more serious penalties than the token penalties we have seen for some time.

The honourable member is concerned with the wording found in schedule 5 of the Controlled Substances (General) Regulations 2000. The regulation sets out the penalties for cannabis possession. I will not read out the penalties from the statute book, as I had planned, but suffice to say that the honourable member's bill will reduce the amount from 100 grams being the threshold to 25 grams, which I think is eminently sensible.

The bill focuses on a key weakness of schedule 5, namely, the allowance to expiate or receive an on the spot fine for possession of up to 100 grams of cannabis. The expiation figure is currently $300. The Hon. Ms Bressington makes the sound point that a fine of $300 is a totally inadequate penalty for possession of as much as 100 grams of cannabis. Potentially, 100 grams is 50 two-gram joints, with a retail value of something like $1,250. Again, it seems to me that a $300 fine for those sorts of quantities is just unacceptable.

This bill proposes that the expiable amount be reduced from 100 to 25 grams, as I said, and Family First finds this proposal to be very sensible. Other states have far lower thresholds than 100 grams as well, it needs to be pointed out. Indeed, Western Australia has a threshold of 35 grams and recently reduced that to just 10 grams. New South Wales allows only 15 grams, and the ACT also has 25 grams as their limit.

We are alone, as I understand it, in Australia as having the expiating amount of 100 grams of cannabis. No other state permits even half that amount to be expiated, as I understand it. Our laws are therefore most lenient in this regard, the most lenient in the country, and far too lenient in my view. I will not go into some of the other detail I prepared. Suffice to say, this is a very good bill; we support it wholeheartedly and, I might say, it is long over due.

The Hon. R.P. WORTLEY (18:18): I stand to give the government's response to the bill. The Hon. Ann Bressington introduced the Controlled Substances (Simple Cannabis Offences) Amendment Bill into the Legislative Council on 29 September 2010. The bill aims to achieve four key outcomes, namely:

- to increase expiation fees for possession of cannabis (less than 25 grams) and cannabis resin (less than five grams) from $150 to $300;
- to include a requirement for the police officer to provide information in a form approved by the minister to the alleged offender. The information would cover the health risks and criminal penalties relating to cannabis consumption;
- to remove the possession of cannabis (25 grams or more but less than 100 grams) and cannabis resin (5 grams or more but less than 20 grams) from the cannabis expiation notice scheme (CEN), and thereby make these non-expiable criminal offences; and
- to move cut-offs for the above simple cannabis possession offences from the Controlled Substances (General) Regulations 2000 to the Controlled Substances Act.

The government shares the honourable member's concerns about the harms associated with cannabis use in the community. That is why the current approach to cannabis use in South Australia is one of prohibition with civil penalties. Under this approach, the production, sale, possession or use of cannabis is and remains illegal in South Australia, but court action and a potential criminal conviction can be avoided for minor offences (possession, use and cultivation of small amounts of cannabis) by payment of an expiation fine.

The CEN scheme came into effect in South Australia on 30 April 1987. Under this scheme, adults coming to the attention of police for simple cannabis offences could be issued with an expiation notice. The offenders are able to avoid prosecution by paying the specified fee or fees within 60 days of the issue of the notice. Failure to pay the specified fee within 60 days could lead to prosecution in court and the possibility of a conviction being recorded.

Underlying the CEN scheme is the rationale that a clear distinction should be made between private users of cannabis and those who are involved in dealing, producing or trafficking in cannabis. This distinction was emphasised at the time of the introduction of the CEN scheme by the simultaneous introduction of more severe penalties for offences relating to the manufacture, production, sale or supply of all drugs of dependence and prohibited substances including offences relating to larger quantities of cannabis.

It is important to highlight the fact that there has been a declining prevalence of use of cannabis in the South Australian community over recent years. In 1998, 17.6 per cent of the population had used cannabis in the previous 12 months, and this figure declined to 10.2 per cent in the latest available figures in 2007. This is in line with the encouraging downward trend in overall illicit drug use recorded in South Australia in recent years, down from 23.9 per cent to 14.7 per cent in the same period.

The government opposes the bill for the following reasons. The bill raises issues relating to undesirable impacts that require careful consideration. An increase in expiation fees for low-level possession will predominantly target users and not dealers. An increase in expiation fees is likely to reduce compliance with the payment of notices and thereby increase the demand for court resources for enforcement purposes. This would result in additional cases and burden on the criminal justice system.

Furthermore, in Australia, many recognise that the public health consequences of the application of the criminal law against cannabis users may be at least as significant as those of cannabis use itself. We do not want to run the risk of increasing the number of cannabis users who are prosecuted and convicted and thereby experience problems with regard to social stigma, loss of job opportunities and other harms that accrue to such users.

The law and its enforcement should not cause more harm than they set out to prevent or control. That is why the government does not support the proposed increase in expiation fees. Likewise, the government supports the intention behind the provision in the bill that would remove possession of cannabis (25 grams or more but less than 100 grams) and cannabis resin (five grams or more but less than 20 grams) from the cannabis expiation notice scheme and make it a non-expiable criminal offence, but it is yet to be provided with evidence that this is a significant problem requiring a legislative remedy in the form proposed.

This particular amendment would affect only a small number of offenders and would entail a disproportionate allocation of resources which could be better directed towards apprehending those in possession of substantially greater quantities of cannabis. We oppose the amendment that would require South Australia Police to provide information to an alleged offender regarding the health risks and criminal penalties in conjunction with the issuing of an expiation notice. In the past, police officers handed out such information at the time of expiation. South Australia Police later reviewed this policy and determined that the provision of these materials would cease because of the additional cost in producing this information and the administrative burden this imposed on police officers when apprehending offenders.

With respect to the final amendment, which aims to move cut-offs for the above simple cannabis possession offences from the Controlled Substances (General) Regulations 2000 into the Controlled Substances Act, the government cannot support such a move. The current listing of all expiation cut-offs and fees in the regulations provides a more flexible position and less cumbersome arrangements for future changes to these parameters if and when parliament wishes to implement such changes.

It is also much more sensible to retain all the expiation cut-offs and fees in the regulations than have some parameters of the cannabis expiation notice system listed in the regulations and some in the act. The retention of all the existing parameters in the regulations will also provide continuing support for the current arrangement for future amendments to be made through the Controlled Substances Advisory Council recommendation process.

In closing, members are aware that the South Australian legislation regarding cannabis-related cultivation and supply has been tightened over recent years to target cannabis dealers,

reduce the availability of cannabis in the community and thereby reinforce the message that cannabis is not a harmless drug. I note that there has been a declining prevalence of the use of cannabis in the South Australian community over recent years and reiterate the position that the production, sale, possession or use of cannabis is and remains illegal in South Australia. For the reasons I have expressed, it is not the position of the government to support this bill.

The Hon. A. Bressington: Weak, weak, weak.

The PRESIDENT: Order!

The Hon. A. BRESSINGTON (18:25): Very quickly, I would like to thank all members for their contributions, brief as they were. I am also grateful for the support that this bill has received in this place. I would make just one point: this bill was merely to reduce the amount a person can carry around for personal use, not be pinched for it and receive a minimal fine, carry around on their person an amount that has a street value of $1,250, claiming that it is for personal use, which can be broken up into bags (as I demonstrated in my second reading speech) and onsold for a great profit. They face a $300 expiation fee for that. It is ridiculous. It is not in line with the other states, which have realised that personal use is very different to carrying around dealable amounts, and have reduced—

The Hon. S.G. Wade interjecting:

The Hon. A. BRESSINGTON: Well then get more judges and fund the courts better. The problem is that this government is all speak and no do. It talks tough on drugs and it talks tough on crime but, at the end of the day, when a sensible bill is put before it to bring us into line with the rest of the country—

An honourable member interjecting:

The Hon. A. BRESSINGTON: We are the only state in Australia that allows 100 grams on a person for personal use to be expiated. We also have to understand the impact that has on other states, as well. So I leave it with members. I thank them for their contributions and I thank members for supporting the bill; I damn the government for not.

Bill read a second time.

[Sitting extended beyond 18:30 on motion of Hon. G.E. Gago]

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS ACT GENERAL REGULATIONS

Order of the Day, Private Business, No. 41: the Hon. S.G. Wade to move:

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

The Hon. S.G. WADE (18:28): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

HEALTH SERVICES CHARITABLE GIFTS BILL

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

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) (18:29): 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.

The Commissioners of Charitable Funds were first established under the then *Public Charities Act 1875* to manage donations to public charitable institutions in South Australia. While their Act has undergone various amendments since that time, it has remained virtually unchanged since 1935 when the current *Public Charities Funds Act 1935* (the current Act) was passed. To this time the Commissioners have worked successfully to manage the donations and bequests for those institutions under that Act.

However, the current Act is seriously out of date and in need of substantial revision to ensure that it is consistent with current drafting standards and contemporary language. For example, the definition of an institution has not altered much since the 1875 Act and is expressed in a language that is no longer accepted by the community. The definition of an institution in the current Act is given as '…*any public hospital, destitute asylum, lunatic asylum, hospital for the mentally defective, orphanage, reformatory or other institution of like character*…'.

The definition gives honourable members some indication of the character of the current Act as well as how governments and the community have shifted in their understanding and approach to services that provide for people in need.

The Commissioners welcome the *Health Services Charitable Gifts Bill 2010*. It not only remedies the drafting and language issues, but also confers more contemporary responsibilities and powers on the Commissioners. The Bill also addresses legal uncertainty about the establishment of the Commissioners and some of their past actions. In summary the Bill:

- maintains the independent decision-making powers of the Commissioners
- preserves the current principal powers of the Commissioners under the current Act
- has new provisions consistent with other revised powers of the Commissioners and a more contemporary drafting, language and focus
- establishes the Health Services Charitable Gifts Board
- requires the Minister for Health to consider the skills and experience of persons to act as Commissioners when making nominations to the Governor
- continues the application of the Act to hospitals under the *Health Care Act 2008*
- removes unnecessary restrictions on the preservation of capital
- enables the Commissioners to establish a trust under the direction of the Minister for Health
- subject to meeting certain conditions, enables the Commissioners to apply a gift to an institution different to the one intended by a donor
- enables the Commissioners to Act as a trustee or co-trustee
- establishes advisory committees (in particular an Investment Advisory Committee) and requires the Commissioners to seek their advice
- validates past actions of the Commissioners done in good faith
- provides for better transparency of and accountability for the decisions of the Commissioners.

It is the Government's intention that the proposed Act apply to all public hospitals, with some exception. The hospitals can be proclaimed either individually such as the Royal Adelaide Hospital or Modbury Hospital for example, or as the incorporated entity, such as Adelaide Health Service, to be a public health entity for the purpose of the Act.

The main exception is for Health Advisory Councils and their local country hospital sites. The government previously made a commitment to people in the country regions of South Australia that the Health Advisory Councils established for those hospitals would retain control of local assets, including donations to a local hospital. In keeping with this commitment, the Bill specifically precludes Health Advisory Councils from being proclaimed a public health entity and the property they hold on trust from being vested with the Health Services Charitable Gifts Board that is proposed to be established by the Bill.

There may, however, be some circumstance where a Health Advisory Council prefers to transfer the property to the Board and the Bill will enable this to occur with the agreement of the Minister. Such property, despite any other provisions of the Bill, must be used by the Commissioners for the benefit of the local hospital that is named by the Health Advisory Council. The Bill also provides that the property, or remaining property or its financial equivalent must be returned to the Health Advisory Council should the Minister revoke such a decision.

The Bill considers the circumstances where an existing country hospital already has property vested with the Commissioners and enables these to remain with the Commissioners or be transferred to the relevant Health Advisory Council.

These provisions of the Bill will ensure that the government's commitment to the country region are kept and can be consistently applied across that region. The decision as to whether property should vest with the Board or with a Health Advisory Council will be made by the relevant Health Advisory Council.

The Bill provides for another exception for donations made to a hospital by a foundation or local auxiliary of a hospital. These donations will be exempted from being vested in the Board where the Minister grants such an exemption on application from a hospital. Such an exemption will avoid an overly bureaucratic process where public donations made to a body such as a hospital foundation or an auxiliary for a hospital must vest with the Board, and the hospital then having to apply to the Board for access to those donations. It also supports the direct relationship of a local auxiliary with the hospital and assures them that their fundraising efforts will remain for the benefit of that hospital.

A further exception is made to gifts of property that can be characterised as a chattel (for example, a television, piano or chair and the like which are donated for the use of staff or patients). Without this exception, these

kinds of gifts must vest with the Board and again, the hospital would need to apply to have these for the use of the hospital.

As given in the latest annual report of the Commissioners, the total value of the trusts the Commissioners hold is some $75.7 million. Of this, about $0.5 million is held in the name of the Intellectual Disability Services Council and Metropolitan Domiciliary Care service. That is, for institutions related to the Department for Families and Communities. Over recent years the growth of these funds has been achieved primarily through the returns on the capital that the Commissioners have achieved and not though increased donations. The Bill is focussed on public health entities that come under the *Health Care Act 2008*. It therefore enables the funds the Commissioners hold for benefiting those in need of disability or domiciliary care service to be transferred to the Minister for Families and Communities.

When the funds are transferred to the Minister for Families and Communities, the Bill provides that the Minister will have a responsibility to ensure, as far as is reasonable, that the funds are applied in a manner that accords with the intent of the donor. The Commissioners will work with that Minister to support the transfer of these funds.

The Act that established the Commissioners and the subsequent amending Acts which continued them led to some uncertainty about when the Commissioners were acting as a body corporate and when they were acting as individuals. This situation is remedied by the establishment of the *Health Services Charitable Gifts Board* as the body corporate to which the Commissioners are appointed. As a consequence, the Bill proposes that all gifts will vest with the Board and not with the Commissioners. These gifts are termed the 'charitable assets' of the Board. Persons appointed to the Board will still be known as the Commissioners but they will act as administrators of the charitable assets rather than themselves acting as trustees for the charitable assets. The Bill ensures that the Commissioners will, as they do currently, retain their independence in terms of the decisions they make regarding the investment and application of the charitable assets.

The Commissioners will continue to be appointed by the Governor on nomination of the Minister but the Bill now provides that the Minister must consider the requirements of the Board and the skills and knowledge of the persons that he may nominate to enable the Board to carry out its functions.

The Bill defines the procedures for the Board's meetings in line with current practices. For example, enabling a Board member to be regarded as present through a teleconference and for the Board to make decisions where a Commissioner cannot be physically present at a meeting of the Board through the use of a fax, email or letter. These provisions, which are now considered standard in most modern Board procedures, are lacking under the current Act and will make it easier for the Board to conduct its business.

For the first time, there will be provisions that clearly describe the functions and responsibilities of the Board. These functions and responsibilities are broadly consistent with those that the Commissioners currently undertake. In summary they include:

- to prudentially manage the charitable assets and apply them for the benefit of public health entities or otherwise in accordance with this Act
- to fulfil any fiduciary and other duties that arise out of the functions of the Board
- to determine appropriate investment strategies for the charitable assets and other property vested in the Board after consultation with the Investment Advisory Committee (to be established under the proposed Act) or any other body considered appropriate by the Board
- to consult with any body considered appropriate by the Board including a committee that may be established under this Act for the purpose of advising the Board on an application of funds for research and/or equipment
- to provide advice to the Minister as may be appropriate.

The Bill enables the Commissioners to act as trustees or co-trustees where they are so named or asked to act in this capacity. Under such circumstances, they will have the same responsibilities that are required of any other trustee under the *Trustee Act 1936*. The Bill will, for example, enable the Commissioners to act as a co-trustee for the Helpmann Family Foundation in which they are so-named and be actively involved in the management of this trust, something that they cannot do under the current Act since it provides no power to the Commissioners to undertake the functions of a co-trustee.

The current Act converts the specific purposes of a gift held on trust by the Commissioners given for a particular hospital to a more general one of being applied for the benefit of that hospital. The Bill maintains this power of the current Act and, in addition, enables the Board to apply a gift to a different hospital or a prescribed research body. This is a widening of the powers of the Board also sought by the Commissioners. However, before the Board makes a decision, the Bill requires that the Board must consider the intent of the donor, as far as that can be reasonably ascertained, and must apply that part of the charitable assets the Board considers most likely to achieve that intent. These are powers that the Commissioners support since it enables them to apply funds in the most beneficial way to achieve the health benefits for patients that may have been the intent of the donor.

From the government's perspective, it also makes sense since a considerable part of the charitable assets are funds for health and medical research and, in the future, much of this research will be undertaken by the South Australian Health and Medical Research Institute (SAHMRI) and far less so in individual hospitals. The Commissioners will now have the option of applying those funds to the SAHMRI (as a prescribed research body) where they believe that this will best achieve the health outcomes that a donor may have intended.

The government recognises that donations are often made because of an emotional attachment to a particular hospital and because the donor believes that the hospital can undertake the research intended to benefit patients. These are important considerations however, as the focus of health and medical research shifts to the SAHMRI, the belief the hospital is the best place to undertake the research may be misplaced. If the health benefits for patients for which a donation is intended are to be optimally achieved, the Board should have the capacity and the flexibility to apply funds where they believe there is better research infrastructure and the hoped for health benefits for patients can be best achieved.

Again, it is stressed that the Board will act independently and cannot be compelled in these decisions by any person or body, including the government.

The Bill removes the provisions that require the Commissioners to preserve the capital of a trust and restrict them to applying only the income derived from the investment of the capital. This restriction has meant the Commissioners have been unable to apply the full value of a gift even where that amount was small and/or where the donor intended this to occur. This restriction necessitated the enactment of the *Mount Gambier Hospital Hydrotherapy Pool Fund Act 2009*. This legislation enabled the Commissioners to apply all of the capital collected though local fundraising for a purpose agreed to by the Mount Gambier and Districts Health Advisory Council after the original fundraising venture failed to raise sufficient funds for a hydrotherapy pool at the local hospital. Had this specific legislation not been enacted, the Commissioners, much to the frustration of the local community, would only have been able to apply the earnings on that capital to the agreed purpose.

The Bill widens the investment powers of the Commissioners, enabling them to invest in the share market where they were previously unable to do so. To better support the Board in its decisions regarding investments by the Board, the Bill will make possible the establishment of the Investment Advisory Committee.

The Investment Advisory Committee will have at least a representative from the Department of Treasury and Finance and a person nominated by the Commissioners who has expertise in the field of investment advice. The Committee will be able to provide advice to the Board on the composition of its investment portfolio and on the performance of the Board's investments and procedures.

The government regards it as prudent to establish such a committee to aid the Board, particularly given the negative experience of the national and international financial sectors over recent years and the wider investment powers of the Commissioners. However, the Committee cannot direct the Board.

In the interests of public reporting and accountability, the Committee must provide a report to the Board which will be included as part of the Board's annual report that is tabled in Parliament.

With the greater power given to the Board in how it may apply a gift, it is expected that the Board will establish a committee that will advise it on the application of funds for research and equipment to ensure it has access to sound advice when making these decisions. It is unreasonable to expect the Commissioners to have the expertise to properly evaluate research proposals. While the government wishes to keep its involvement in the Board's business to a minimum, it nevertheless does have a responsibility to ensure that there are proper mechanisms in place that support the Board and provide for public transparency and accountability of the funds donated and managed by the Board. The Bill therefore gives the Minister the power to direct the Board to establish such an advisory body. The regulations will prescribe the information that must be provided by the Board in their annual report about the application of gifts.

The Bill enables the Board to establish what is described as a 'health trust' on direction of the Minister. Such a trust will hold specific funds that are not part of the charitable assets vested in the Board but can be managed by the Board. The primary purpose of these provisions is to enable the Board to hold funds that are not part of charitable donations or those that the Commissioners have in the past incorrectly held and enable these to be managed such that they do not become part of the Board's charitable assets. For example, such a trust will hold funds transferred from the South Australian Health and Medical Research Fund held by the Department of Health for the SAHMRI and for that Fund to be managed independently of the department by the Commissioners.

A health trust will also be able to hold the funds given to the Hanson and the IMVS that are currently incorrectly held by the Commissioners. The Commissioners have received legal advice that they were not empowered under the current Act to hold funds on trust for these bodies since they were not part of the Royal Adelaide Hospital, although they had a close connection with it. It was this connection that led the Commissioners to mistakenly believe that they could hold these donations on trust. On advice from the Crown Solicitor's Office, they continue to hold these donations as a 'constructive trust' until they can be properly dealt with. Enabling these funds to be transferred to a health trust will enable the Board to continue to manage these funds.

The Act and its previous iterations have been in operation for 135 years. During that time the government believes that the Commissioners have always strived to act in accordance with their Act. Nevertheless, because of the above mentioned outmoded drafting style, the changes in community values, the institutions and the assumptions about how the current Act (which is itself 75 years old) operates the Commissioners have erred in some decisions they have made in relation to the gifts they hold on trust. The example of gifts to the Hanson and IMVS is one of these. They have also on occasion made available the capital of a trust in circumstances where they should not. These are decisions the government believes the Commissioners made in good faith. Nevertheless, the Commissioners may remain exposed to a legal liability. This Bill seeks to address this risk by providing for the validation of the past acts of the Commissioners in so far as they may have acted in contravention of their current Act.

The Bill also provides for the continuation of the current Commissioners and ensures that the gifts properly vested with them will continue as gifts vested in the Board. It also ensures that the Board continues to hold in perpetuity, and for the benefit of the Royal Adelaide Hospital, 'Town Acre 86, City of Adelaide, Hundred of Adelaide',

which is part of the Thomas Martin bequest. This land, on which the Citi Centre building is also situated, is approximately encompassed by Pulteney St, Rundle Mall, Twin St and Hindmarsh Square.

The Bill is a vast improvement on the existing Act under which the Board must operate. It provides much clearer provisions as to the powers, functions and responsibilities of the Board in a contemporary legislative framework. It addresses issues for the Commissioners that have arisen out of the antiquated nature of the current Act. The Bill provides greater flexibility to the Board in applying gifts to meet the changing circumstances of hospitals and research in South Australia as well as mechanisms to support them in them in their decisions. It provides for better reporting and therefore greater public transparency in the Board's decisions. Crucially, it maintains the independence of the Commissioners when making their decisions concerning the charitable assets vested with the Board. The Bill is a vast improvement over the existing Act and I commend the Bill to honourable members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms and concepts used in this Bill.

4—Public health entity

This clause provides for the Governor to declare, by proclamation, an entity to be a public health entity. A proclamation may not declare a HAC, a prescribed research body, a private hospital within the meaning of the *Health Care Act 2008* or an entity that is not eligible, under the *Income Tax Assessment Act 1997* of the Commonwealth, to receive income tax deductible gifts to be a public health entity.

Part 2—Health Services Charitable Gifts Board

5—Establishment of Board

This clause provides that the Commissioners of Charitable Funds established as a body corporate under the repealed Act continues in existence as the *Health Services Charitable Gifts Board* and sets out relevant matters relating to the establishment of the Board.

6—Removal from office

This clause provides for the removal of a Commissioner from office.

7—Casual vacancies

This clause provides for a vacancy in the office of a Commissioner.

8—Acting Commissioner

This clause provides for an acting Commissioner to be appointed in certain circumstances.

9—Procedures

This clause sets out the procedures of the Board.

10—Vacancies or defects in appointment of Commissioners

This clause provides that an act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a Commissioner

11—Remuneration

This clause makes provision for the remuneration of the Commissioners.

12—Executive officer

This clause provides for an executive officer of the Board.

13—Staff of Board

This clause makes provision for the Board to appoint staff or make use of the services of the staff, equipment or facilities of an administrative unit or an instrumentality or agency of the Crown by arrangement with the relevant body.

Part 3—Functions of Board

14—Functions

This clause sets out the functions of the Board.

15—Certain gifts vest in Board as part of charitable assets

This clause provides that prescribed gifts vest in the Board as part of the charitable assets. A prescribed gift includes property given to a public health entity or a body specified in Schedule 1 clause 1. Proposed subsection (3) provides that certain gifts do not vest in the Board as part of the charitable assets (unless otherwise agreed). Proposed subsections (4), (5) and (6) provide that an exemption may be granted from subclause (1) in respect of gifts made from an organisation whose primary purpose is to benefit a particular public health entity.

16—Public health entity may transfer property to the Board

This clause provides that a public health entity may, with the agreement of the Board, transfer designated property to the Board (and the property becomes part of the charitable assets). Proposed subsection (2) defines *designated property*.

17—Application of charitable assets

This clause provides for the application of the charitable assets by the Board. Key aspects of the clause are as follows:

- once a gift has become part of the charitable assets, the gift is held free from any trust to which it was subject;
- the Board may give the whole or part of the gift to any public health entity or a prescribed research body (provided that, in so doing, the Board complies with the requirements of proposed subsection (3));
- the Board, in managing and applying a portion of the charitable assets attributable to a particular donor, must consider the intent of a donor and, so far as is reasonably practicable, apply that portion of the assets in a manner that the Board considers is most likely to achieve the intention of the donor.

18—HAC may apply to transfer property to Board

This clause allows a HAC to make a request in writing to the Minister for permission to transfer property to the Board to hold on trust for the benefit of a specified public health entity, or part of a public health entity. Property transferred to the Board under this clause is free from any trust to which it was subject and is held on trust by the Board for the benefit of the specified public health entity, or part of the entity. It also allows the Minister to require the Board to return such property.

19—Board may establish charitable health trusts

The clause enables the Minister to direct the Board to establish a charitable health trust on terms determined by the Minister. The clause also provides for property to be transferred to a charitable health trust as follows:

- the Minister may transfer property of the Crown to the Board to hold on trust for the purposes of a charitable health trust;
- the Minister may determine that certain property (specified in Schedule 1 clause 2), instead of being held by the Board as part of the charitable assets, be held by the Board on trust for the purposes of a particular charitable health trust;
- if a determination has been made under proposed subsection (4), the Minister may direct that, despite clause 15, property referred to in paragraph (b) or (d) of the definition of prescribed gift in proposed section 15(7) will, if given after the commencement of the clause, be taken to vest in the Board on trust for the purposes of the charitable health trust to which the determination relates (and the property will not form part of the charitable assets).

The clause provides that the Minister may vary the terms of a charitable health trust or direct the Board to wind up a charitable health trust in accordance with any requirements prescribed by the regulations and any other directions of the Minister. The clause also makes provision for certain procedures relating to charitable health trusts.

20—Board may act as trustee or co-trustee

This clause provides that the Board may act as a trustee or co-trustee in respect of a trust where the Board is named or otherwise asked to act as a trustee or co-trustee.

21—Trusts administered by Board

This clause provides that, to avoid doubt, if property is held on trust by the Board under proposed section 18, 19 or 20, the property does not form part of the charitable assets and the *Trustee Act 1936* (subject to any exclusions or modifications prescribed by regulation) applies in relation to such trusts.

Part 4—Miscellaneous

22—Advisory committees

This clause requires the establishment of the Investment Advisory Committee and provides that the Board may establish other committees to provide advice on any matter affecting the administration of the Act as the Board thinks fit. The clause also makes provision for the appointment of members and procedures of a committee established by the Board.

23—Town Acre 86 fund

This clause provides that land described as 'Town Acre 86, City of Adelaide, Hundred of Adelaide', being the whole of the land comprised in Certificate of Title Volume 5191 Folio 871, held by the Commissioners of Charitable Funds under the repealed Act continues to be held by the Board under the Act in perpetuity for the benefit of the Royal Adelaide Hospital.

24—Board to transfer specified property to HAC on application

This clause provides that a HAC may, with the agreement of the Minister, apply to the Board for the transfer of specified property forming part of the charitable assets if the property was, immediately before the commencement of the Act, held on trust by the Commissioners of Charitable Funds under the repealed Act for the benefit of a particular health service. The clause requires the Board to give effect to an application by transferring the specified property to the HAC.

25—Duty of Registrar-General

This clause will facilitate the registration of the vesting of any land in the Board or a HAC under the Act.

26—No duty or tax payable

This clause provides that no duty or tax is payable under a law of the State in respect of any vesting, transfer, assignment, receipt given or anything else done under the Act

27—Accounts and audit

The Board must keep proper accounts and prepare financial statements.

28—Reports

The Board must prepare an annual report, which must include the annual report of the Investment Advisory Committee.

29—Delegations

The Board will have the ability to delegate functions and powers.

30—Regulations

The Governor will make regulations for the purposes of the Act.

Schedule 1—Specified bodies and parts of the charitable assets

1—Specified bodies (section 15)

This clause specifies certain bodies for the purposes of proposed section 15.

2—Property that may be held for the purposes of a charitable health trust (section 19)

This clause specifies certain property for the purposes of proposed section 19.

Schedule 2—Investment Advisory Committee (section 22)

This schedule relates to the members and proceedings of the Investment Advisory Committee.

Schedule 3—Repeal and transitional provisions

This schedule repeals the *Public Charities Funds Act 1935* and sets out transitional provisions associated with the enactment of this measure.

Debate adjourned on motion of Hon. J.M.A. Lensink.

CONTROLLED SUBSTANCES (THERAPEUTIC GOODS AND OTHER MATTERS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

OCCUPATIONAL LICENSING NATIONAL LAW (SOUTH AUSTRALIA) BILL

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

At 18:31 the council adjourned until Thursday 24 February 2011 at 14:15.