LEGISLATIVE COUNCIL

Wednesday 6 July 2011

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

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

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, Minister for Gambling) (11:04): By leave, I move:

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

Motion carried.

SITTINGS AND BUSINESS

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, Minister for Gambling) (11:04): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements on matters of interest to be taken into consideration at 15 minutes past 2 o'clock and Orders of the Day: Government Business to be taken into consideration prior to Notices of Motion and Orders of the Day: Private Business.

Motion carried.

STATUTES AMENDMENT (BUDGET 2011) BILL

Adjourned debate on second reading.

(Continued from 23 June 2011.)

The Hon. S.G. WADE (11:05): I rise on behalf of the opposition to address the Statutes Amendment (Budget 2011) Bill 2011. This bill amends, amongst other things, the Summary Procedure Act 1921 to establish a presumption that costs will not be awarded against police in a summary prosecution even though the prosecution has been unsuccessful, and seeks to increase court enforcement fees from $25 to $100. As shadow attorney-general, it is those two aspects of this bill that I propose to address.

I will address section 189B first, that is, the court enforcement fees matter. The opposition does not offer any comment on that fee increase. We note that it is clearly a budget measure and should appropriately, therefore, be treated within the conventions as a matter with which the opposition will defer to the government. However, section 189A is a totally different kettle of fish. Section 189A of the bill reduces the Magistrates Court's discretion to award costs against police. The changes were proposed by the 2010-11 Sustainable Budget Commission report, and the estimated savings at that time were $1.6 million.

A bit like Loch Ness, this monster reared its head unexpectedly in the 2011 budget bill. It was very sneaky of this government to embed it in a budget measures bill rather than in separate legislation. In fact, notes in the budget papers about the delay in the Attorney-General's Department's savings suggest that the government at the last budget was intending that it be a separate piece of legislation. I think it is very sneaky for the government to try to embed it in a budget measure and then seek to, if you like, distort parliamentary conventions by expecting us to let it through without a squeak.

A squeak there has been, and the unity of the non-government members who I have heard address this issue and the broad concern of the legal community and the wider community have shown that this community is extremely sensitised to this tired, arrogant and now sneaky government; we will be alert to this sort of move. The rising of the monster is particularly offensive because the measure, therefore, turns up in this parliament without the key stakeholders having had an opportunity to provide input to the government in the structure of the measure.

The advice from all of the key legal stakeholders is that none of them were consulted about this matter, so in considering this matter in the House of Assembly my colleagues in the other place did not have the properly considered view of the stakeholders in debating the matter, and the government itself chose to not take advantage of the wisdom of the legal community. Therefore, I

think it is appropriate for me to put on record the key concerns of the legal community. I propose to do that by quoting from letters from that community, primarily so that I cannot be accused of gilding the lily.

The passion with which the legal stakeholders have commented on this bill is a salutary clarion call to this house that, as a house of review and as a house that traditionally stands up for the well-established rights of South Australians, particularly in the legal area, it is very important that we give this bill all due consideration. As this council has often reflected, it is extremely indebted to the support it gets from legal stakeholders, particularly bodies such as the Law Society and the Australian Lawyers Alliance. Their advice is, more often than not, of an exceptionally high quality.

As I read these excerpts of letters that were sent to me as shadow attorney-general, members will see that the passion with which they are conveyed is a strong indication to this house of how important these issues are. It might look very simple for the Treasurer to say, 'Okay, let's just remove the right for police costs in the Magistrates Court.' It might have seemed like an easy take for Treasurer Snelling but, considering that there was no consultation with the legal stakeholders, it has been an extremely reckless decision of Treasurer Snelling, one which we believe this council should take the opportunity to address.

As I said, I will let the legal stakeholders convey their wisdom to us in their own words. In the first instance, I propose to quote from a letter to me dated 29 June from the President of the Law Society of South Australia. In part, it says:

> The proposed amendments seek to severely restrict the current discretion in a Magistrate to award costs in favour of a successful defendant in a police prosecution. The Government has sought to justify the proposed amendment on a number of grounds including that it is appropriate to bring the practice in the Magistrates Court into line with the superior courts. Why then are the proposed amendments limited to police prosecutions? It does not include criminal proceedings prosecuted by the Crown; the Director of Public Prosecutions; any other instrumentality, agency or servant of the Crown; any Local Government Authority or any private individual. The Bill is purely designed to accommodate police prosecutions prosecuted by a police officer and, as such, any arguments in its favour relating to practices in other jurisdictions are without merit.
>
> There is a long, historical and proper rationale as to why summary proceedings should attract orders for costs. That is the price that the State must pay for the purposes of summary proceedings. That is the price that the State has had to accommodate for the purposes of sacrificing a person's right to trial by jury. That is the price that the State must accommodate for the purposes of having summary disposition of matters in the Magistrates Court. It is the summary nature of proceedings which are cost effective, summary in nature, not liable to the dictates, practices and procedures of the superior court, whether as to the conduct of the trial, the conduct of pre-trial matters and appeal rights. It is fundamental to justice and the rights of an individual to have their opportunity to go to court and to obtain an order for costs. That is what exists in this State and has existed for many years.

The letter continues. I quote further:

> This amendment has the potential to clog up the Magistrates Court and significantly hamper the delivery of cost effective justice. Cases involving unrepresented litigants invariably take longer.
>
> The proposed amendments will have an impact on the Legal Services Commission, Community Legal Centres and similar organisations who provide representation on limited budgets. The inability to recover some of the costs incurred will have a negative impact on the already strained financial resources of these organisations, which in turn will curtail their ability to provide representation for those in need.
>
> The proposed amendments have not been costed and are likely to impact adversely to a far greater extent than the $1.6M estimated annual saving.

I will pause in my quote and reflect on the point that the Law Society makes.

The fact is that a significant proportion of defendants in the criminal jurisdiction are represented by the Legal Services Commission. In the estimates committees the opposition members of the other place questioned the Attorney-General as to what would be the impact on the Legal Services Commission if the commission was not able to recover costs in summary proceedings. The Attorney-General took that on notice. I find it very concerning that not only has this government failed to consult with legal stakeholders in relation to the impact of this bill but it seems that the government has not followed through the impact on other budget-funded agencies as a result of these changes.

The Law Society president then takes the opportunity over two pages to outline specific concerns with particular clauses in the bill, and he does so with great wisdom. At the conclusion of that section he returns to the general points. He says:

The attempt to preserve some discretion in s189A(2)(a)-(h) does not in reality provide any realistic prospect of any costs order in favour of a successful defendant. This is mere window dressing in an attempt to water down the injustice that the proposed amendments create.

The proposed amendments will have the effect of removing the accountability and propriety by which police prosecutions are to be conducted. Without costs sanctions there are no external measures in place to ensure that this accountability remains.

Later in the letter, the President continues:

The Society was not consulted on these proposed amendments and as you will note from the above they seek to effect a fundamental change to a defendant's position. What is the origin of this proposal and why was there no consultation? A self-serving, cynical response may well be that the authors of this proposal realised how unacceptable, repugnant and unpalatable it is. This is not a 'budget measure' and it should be defeated.

I can do nothing more than agree with Mr Bonig: indeed, it was sneaky and deserves to be defeated. I turn now to one of the submissions I received from the Australian Lawyers Alliance. Again, in the interests of the time that the house needs to consider this matter, I will read only excerpts. This is a letter sent to me by Mr Tony Kerin from the Australian Lawyers Alliance dated 17 June. It reads, in part:

1. Consultation—ALA has certainly not been consulted and from what I have gleaned from the Law Society, neither were they. This is a bill which changes fundamentally the rights of citizens in this state and should have been a matter that was raised for transparent discussion and not form part of the budget process.

The letter continues, at point 2, in outlining what Mr Kerin calls 'the current situation', as follows:

The law in South Australia regarding costs is governed by the Summary Procedures Act 1921 as amended. Section 189 provides the courts and all Magistrates with an unfettered discretion to award costs as it sees fit. The ordinary principle and the ordinary rule is if you succeed in defeating a charge against you, you obtain costs in the Magistrates Court. This only applies to summary matters, not to matters heard in the District or Supreme Court. The rule has existed for most of last century and up until currently. Before that there were common law considerations. The rule exists for good reason. The obligation of prosecuting someone is not a light one. Police need to be held accountable if they make errors. That includes prosecutions that proceed in bad faith.

Later in the letter, Mr Kerin says, at a point called 'Costs Awarded':

The costs awarded are awarded now in accordance with a general scale which is produced under the rules of the Magistrates Court. They are not a statutory legislative amendment as this would be. Those rules do not detract from the unfettered discretion of the court to award costs at large if it sees fit.

Subsequently, Mr Kerin says:

The ability to claim costs holds the police prosecutions accountable. Firstly, because it is tax payers funds that launch the prosecution and carry it through and secondly because costs are a deterrent to prosecutions that should not be brought. It is also an essential tool in the administration of justice. Matters resolve because of a threat of costs on both sides. To remove it from one will cause significant imbalance to the ability to resolve matters at that level in an expeditious, fair and just manner.

Within a section on the bill, I quote Mr Kerin in the following terms:

Sub Clause (d) and (e) in section 189A(2) are clearly erosions to the presumption of innocence. You are either acquitted or not, whether it is technical grounds or on some other basis. If the prosecution has been brought about incompetently then that is a matter for prosecutions. It should not be a matter for a defendant to be concerned about. Bringing someone to court on a criminal charge is one of the most serious things that can happen to a citizen. Suggesting that because a matter is dismissed on technical grounds that that can be taken into account as a proper matter making order for costs is reprehensible. Similarly, the suggestion of whether a defendant brings suspicion on himself or herself by conduct engaged in after the events constituting commission of the offence also erodes the presumption of innocence. It is up to the prosecuting authority to prove all elements of the offence beyond reasonable doubt. The actions of a defendant after a charge may or may not be relevant to the matter before the court. They can in no way be relevant to the issue of the costs if the charge is defeated.

Most disturbingly, in clause 2(f), it says that 'where a defendant unreasonably declines an opportunity before a charge was laid to explain his version of events or produce events to exonerate him and that could have avoided a prosecution' then that can be taken into account in awarding costs. Currently the law in Australia in every jurisdiction is that there is a right to silence and the right against self incrimination. Prosecutions have to prove every element of the case. What this does is impose a potential costs penalty for so doing and this will erode one of the purposes of the rule.

Later in the letter, Mr Kerin continues:

This bill is not an attempt to cap fees, it is an attempt to erode a long standing and worthy right of every member of the community. That is that you are innocent until proven guilty and that if you succeed in your challenge you should be able to obtain costs for the prosecution that is being brought and that has been not sufficient to find the charge against you.

In a section entitled 'Access to Justice', Mr Kerin says:

> In many cases where costs are awarded, claims against the Legal Services Commission [Fund] does not occur. Accordingly, those funds are then put to another case. You are going to therefore reduce the pool of funds available for defendants to utilise in defending themselves.

In the section headed 'The Complexity of the Law', Mr Kerin says:

> The law is so complex now due to decades worth of law and order amendments to the Criminal laws that it is absolutely brazen to now take away the right to costs which are necessary to incur to defend oneself in most cases. To be charged with an offence can be financially devastating, devastating to family units and relationships and can result in loss of employment, all on the basis of allegations, which if defeated are very hard to remedy. No government should be responsible for making that position even harder for those who succeed in defending their charges.

That ends the quotes from Mr Kerin. I would suggest to the council that those are two very strongly-worded pieces of advice from highly-respected legal stakeholders in our state. They have highlighted to us the very severe impact that this proposal, simple though it may look, would have on the rights of South Australians.

The Liberal opposition has filed an amendment. I know that that was merely a matter of timing because there were a number of crossbench MPs who had joined the Liberal Party in making public comments in opposition to this proposal, and it is another example of crossbench MPs and the opposition finding common ground in invasions of traditional rights by this government.

In concluding to my second reading contribution, I would reflect on the lack of contribution by the Attorney-General. The Attorney-General, soon after his appointment, chose to highlight publicly the duty of an attorney-general to defend the administration of the justice system even if that meant, from time to time, being in opposition to his political colleagues. This is clearly a very significant issue in relation to our justice system, and I think it is incumbent on the Attorney-General to break his silence. He needs to make clear to his cabinet colleagues that they have crossed a bridge too far.

This bill will be considered by this council and, in due course, the council will consider the opposition amendment to section 189A. It will then go to the other place. The Attorney-General has an opportunity to put on the record what his views are. He has studiously avoided it to this point and I would ask him to consider his responsibilities as the chief law officer. I would indicate that the opposition will be supporting this bill, but we will certainly not be doing so without having amended it to remove new section 189A.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:24): I rise to make a few brief comments in relation to a couple of aspects of this particular Statutes Amendment (Budget 2011) Bill and particularly the first home owner bonus grant. As members would be aware, the first home owner bonus grant, which is currently available for eligible first homebuyers who have purchased or built a newly-constructed home, will be reduced from $8,000 to $4,000 from 1 July 2012 and then be abolished from 1 July 2013. The phased-out abolition of the First Home Owner Grant will save this government $21.3 million over the next four years. The government is doing it as a budget saving measure.

It is interesting to note that other states offer some significant incentives. I was recently made aware that Western Australia, in particular, provides a $10,000 bonus for young families that relocate to Western Australia to take up employment in the mining sector, which, of course, we know is booming, unlike ours here, which we have been told will boom but, as yet, has not.

As members would also be aware, I recently went on an overseas trip with a number of South Australian property experts. Certainly one of the things we frequently saw overseas was the real benefit in providing first home owners an opportunity to become first home owners—getting them into the property market, into some sort of wealth creation, and giving them some sense of home ownership and some sense of belonging.

Building Better Communities is about people actually having a stake in their community, having some ownership in their community. So, every incentive offered to first home owners should be applauded and, likewise, every incentive that is withdrawn, should not be applauded but booed and discouraged.

Members would also be aware that, last week, the Leader of the Opposition made a speech to the Urban Development Institute of Australia, South Australian Division, outlining a range of areas where the next government—the Redmond Liberal government—will offer some incentives to get people back into the CBD and back into home ownership. This is particularly

targeted at first home owners because, as I said earlier in my contribution, the Liberal Party recognises the real importance of people having a stake in our communities, having some home ownership and having some ability to create some wealth. The earlier they do that in their life—as soon as they enter the workforce—the better, and it is to be applauded.

I note that, in my local hometown of Bordertown, one of my neighbour's grandsons bought his first home at the age of 19. There was quite a big feature article about him, not because it was a particularly special allotment but that, at the age of 19, he had recognised the importance of home ownership. It was his first home. He had a secure job, and he was able to use the $7,000 First Home Owner Grant as well as the subsidy that is provided. He used the two grants to set himself up.

I think it would be a tragedy if we saw young people now starting to walk away from home ownership and from the housing market. Delaying putting their toe in the water of home ownership delays their wealth creation and, in the long run, it puts a greater burden on our society.

It is also interesting to note that, in discussions with people in the development industry, the housing market at present is going through a 60-year low—the worst it has been in 60 years. The government said that, because of this phasing out, there would be a rush for the First Home Owner Grant and that this should stimulate the market. I suspect that that may have a stimulating effect, but what happens after that stimulation? Are we likely to see a further softening of the housing market, which really is one of the big components in driving the economy?

I saw a magazine yesterday called *Smarter Business Ideas* July 2011. It has just reprinted some information that was published by the Institute of Public Affairs last December. It rated all of the states in relation to their tax burden. It is titled, 'Your tax burden. Which state are you in?' Interestingly, the best state or territory in the whole nation is the Northern Territory and, sadly, the worst in the overall ratings is South Australia.

A number of independent bodies have done the assessment and can see that we are the highest taxed state in the nation, and that will continue to have a very negative impact on our economy. I think that, coupled with measures such as this, it is a particularly negative step and really shows that the government has no real understanding of the things that drive this economy and provide young people—and I think this is really the important thing—with an opportunity to get into the housing market to create some wealth.

The government just does not see that as being an important component of managing our state's economy. A couple of the other measures in this bill are the increased fees to raise $3.6 million per annum in liquor licensing fees. The revenue from these will cover the cost of providing liquor regulatory services. Again, this is an indication of how the government has lost its way in relation to our hospitality industry as one of the areas that benefits from tourism.

It also drives our economy; the night and evening economy in South Australia is particularly important, and our government is taxing those who provide that service, which in turn flows on to more expensive drinks, more expensive meals and more expensive service at licensed venues, and if people have an expensive experience they probably will not return. It indicates just how out of touch they are.

Also this morning it came to light, in relation to tourism, that the new tourism centre that has been shifted from King William Street—

The Hon. T.J. Stephens: And privatised.

The Hon. D.W. RIDGWAY: —and privatised, as my colleague the Hon. Terry Stephens just interjected from behind me. I know interjections are out of order, but it was a particularly important one. It has been moved from a street level, main street frontage on King William Street to a side street, Grenfell Street, and we learnt this morning that is in a basement, below ground.

That gives you an indication of the sort of intellect of the current minister, who has spent eight years on the backbench reading novels. He should have spent eight years out in the community looking at how things work and actually operate. How on earth he can justify that it benefits our tourism industry to shift from a main road street level office to a side street basement office is beyond me. I hope he is asked to explain today in relation to that, because it is a joke.

If Mr Rau thinks he is a contender to be premier of this state when the current Premier decides he has had enough (or when your friends, Mr President, decide that he has had enough and they shaft him) and he becomes premier, it is an indication of the sad state of affairs this state

will be in if he sits there as minister and thinks it is a good idea to go from a main street to a side street and go below ground.

The other matter I will quickly touch on in this contribution, which is not specifically covered in this bill, but given that I my get a little distracted in my appropriation speech in a week or two's time, is the South-East drainage levy. As members would know, I was on the ERD Committee for some time, which oversaw the management of the South-East drainage system and the construction of the drains.

One of the concerns I had as the network developed was who would actually pay for the management of this particular investment. At no time were we told during the time I was involved with the ERD Committee that it would be back again on the landowners. The landowners have made significant contributions and members would be aware that I was a levy payer in the upper reaches of the Tatiara Creek before I came to this place and sold my property to my father.

The Hon. G.E. Gago: And became a city slicker.

The Hon. D.W. RIDGWAY: The Hon. Gail Gago says that I became a city slicker. I might live in the city, but I still understand the pressures and the problems and lies that you lot have told to the people down in the South-East. The only thing I will say is that the Hon. Gail Gago did, as minister, continue to dig the drains, and I am pleased that she did.

The Hon. T.J. Stephens: Personally!

The Hon. D.W. RIDGWAY: I do not think she did it personally. There were tough decisions to be made and I commend her for those decisions. However, the landowners, who have paid dearly for these drains, were never advised that additional revenue would be collected via increased levies for the management of this system.

The management is quite complex, because there are two outcomes. First, it is the Upper South-East dry land salinity and flood management. Sadly, it floods, but not often enough, but it is managing salinity, which gives you an environmental benefit and an economic benefit, and flood management is also more about an environmental benefit.

I would hope that the government, through the NRM committee, is publishing the guidelines for the management and negotiating with the landowners. The landowners have spent all this money, their money—while the state and federal governments have put some money towards it, it is the biggest landowner contribution to a drainage scheme I think in Australia's history, certainly, South Australia's history—and I hope that guidelines are established in such a way that there is some balance between the environmental benefits and the economic benefits. Clearly, the farmers and the landowners were happy to pay the levy to get an economic benefit, their land having become unproductive. I hope now that there is some balance.

Most of the farm owners I know, perhaps with the exception of one or two in the South-East, are very mindful of the environment, and it is a balance between the environment and economic returns. I hope, now that the guidelines that have been established for the management of this scheme and the fact that we now see an increased burden upon farmers with increased levies, there is some balance struck between the environmental and economic outcomes.

I will not speak any further. My colleague the Hon. Stephen Wade has already spoken about the components of this bill that we will be opposing. I indicate that we will not be opposing the others but we do not think they are particularly sensible. We do not support them but we will not be opposing them.

The Hon. K.L. VINCENT (11:36): I want to speak to this bill because I believe that equal access to justice is an essential part of a well-functioning society and one section of this bill poses a real threat to that. Of course, I am talking about section 189A of the bill which has been the target of much controversy, as has already been pointed out, since the piece of legislation was introduced in the other place.

South Australia's Magistrates Courts have always had the option to award costs in cases where the defendant is found not guilty. To me, this seems to be a perfectly logical system. If a person is dragged through an arduous, long and expensive justice proceeding only to be found not guilty of a crime, why should they pay for the inconvenience?

Of course, realistically, there are lots of reasons a person might be found not guilty and, due to the presumption of innocence which underpins our legal system, some of those reasons might not be a total lack of guilt per se. However, that is a consequence of having our model of

legal system and I think it is a price worth paying to ensure everyone is given a fair go at trial. If we accept the notion of innocent until proven guilty, then we must legislate within its bounds. I believe the government has written some subtle rhetoric into this amendment which seeks to undermine the innocence presumption.

What we are looking at here is an attempt to legislatively recognise that some people are more not guilty, so to speak, than others. By adding criteria against which a case must be measured before costs are awarded, the government is seeking to establish a hierarchy of how legitimate a not guilty finding is. This is a sneaky and unfair move as, again, has already been pointed out, and one which should offend every person who truly believes in the tenets of our justice system.

As I have already mentioned, the current system does not force a magistrate to award costs to a defendant who is found not guilty. It simply gives the magistrate the option of doing so. Does the government not trust our magistrates to exercise this discretion properly? I believe that giving a wise and well-educated person the power to determine the merits of awarding costs on an individual case basis is a great system, and it has worked so far.

Apart from these bleedingly obvious social justice arguments against this section of the bill, there are a few practical arguments to be made as well. To that end, I would like to thank Tony Kerin from the Australian Lawyers Alliance for taking the time to brief me on these matters. It was he who pointed out that the potential threat of having to pay costs when a case falls over in court is one of the only checks which make police consider whether taking a case to court is worthwhile. Mr Kerin believes (and so do many others in the legal profession) that, if this threat is removed, then it will be an open season, so to speak, on police prosecutions.

The removal of costs will amount to the removal of a reason not to prosecute, and our already clogged magistrates courts could be further backlogged with a flood of iffy police cases. The other practical matter to consider is the money the costs measure can potentially save legal aid. When a defendant who has been granted legal aid funding is found not guilty and costs are awarded, the money for payment of costs can often be used to pay the lawyer involved. This means that the money guaranteed by the legal aid is no longer required and can be put back into the funding pool and used to help another person access justice.

There is not that much legal aid funding around, and the payment of costs is propping up the legal aid system. I do not see a promise from this government to direct more funding into legal aid if payment of costs is marginalised, so I can only assume that the success of this measure will result in an even greater barrier between the poor and good representation in the justice system.

Of course, our government has argued that the higher courts in South Australia do not have the same tradition of awarding costs. This is true, but there are obviously lots of differences between these courts and the Magistrates Court; that is why we have the split courts system. The different courts have different functionalities and, while the awarding of costs might not be appropriate in some courts, I can confidently say that it is often appropriate in the Magistrates Court.

I cannot believe that the government would be happy to endanger the integrity of our justice system for a measly saving of $1.6 million annually. I will vote any way I can to stop this proposed change from becoming a reality, but I am not opposed to any of the other measures in this bill, so I hope that as a council we can agree to amend this legislation appropriately.

The Hon. A. BRESSINGTON (11:42): While there is much to be said of this year's budget, and more broadly of the priorities of this government, I shall save that for another time. Instead, I rise today to add my objections to the reforms of costs orders in criminal proceedings and the Magistrates Court as proposed in the Statutes Amendment (Budget 2011) Bill.

Surely I have seen since my time in here this government try to get away with some pretty dodgy legislation, but in my mind this one takes the cake, because it has been done in a sneaky and arrogant manner. It just shows a government that has little or no respect for the justice system, for the law in general or for the people who elected them.

As has been outlined, the government seeks to remove the magistrate's discretion to award costs to a defendant who has successfully defended charges against them. Currently, the Summary Procedure Act 1921 enables magistrates to award costs as they think fit. Subject to consideration of incompetence or negligence of a defendant's legal practitioner or prosecutor, or

the obstruction by a party or witness to proceedings, proposed section 189A, however, will see a magistrate restricted to awarding costs to a defendant only where it is proper to do so.

What is 'proper' is guided by section 189A(2), which details eight scenarios to which a magistrate must have regard, three and arguably four of which relate to the incompetence of the prosecution. As the President of the Law Society of South Australia has submitted, many of the scenarios, even if they have occurred, will be difficult to demonstrate, and in some cases will necessitate a trial within a trial.

Further, one such scenario is where a defendant is unreasonably declined an opportunity before a charge was laid to explain the defendant's version of events; that is, they have exercised their right to silence, a fundamental cornerstone of our criminal justice system and a right they are informed of on being cautioned when arrested. Will the caution not be amended to inform the accused that if they do exercise their right to silence then, they may not be awarded costs if successful in court?

The restriction on the awarding of costs where it is proper, particularly with regard to these scenarios, will, by intent, severely restrict the number of cases in which costs are awarded. As the Law Society submitted:

> …the attempt to preserve some discretion in s 189A(2)(a)-(h) does not in reality provide any realistic prospect of any costs order in favour of a successful defendant.

Adding that, as the Hon. Stephen Wade quoted, section 189A(2) is 'merely window-dressing in an attempt to water down the injustice that the proposed amendments create'.

The effect of this will be to restrict the ability of people accused of a summary offence from accessing the court to defend themselves. Access to justice has long been a concern of mine and it is disappointing that we find ourselves debating a measure that will see our constituents, particularly those for whom the budget is tight, less likely to be able to defend themselves. Let us not forget that we can all be accused of a crime and it is to the courts that the innocent look to defend themselves.

An unintended consequence of the proposal is the impact it will have on community legal centres and the Legal Services Commission that currently provide representation on limited budgets. The inability to recover costs where they have successfully defended a client will mean that that additional source of revenue will no longer be available to assist other people who would otherwise be unable to procure legal representation.

The Treasurer, presumably revealing that the Legal Services Commission had not been consulted on the bill, attempted to argue that legal aid lawyers do not, as a rule, pursue costs in the Magistrates Court. Having spoken to the Legal Services Commission, I can inform the Treasurer that the commission, and lawyers acting on its behalf, vigorously pursue costs.

Another unintended consequence is that the bill removes a disincentive from proceeding with improper prosecution. The awarding of costs is not itself compensation for improperly brought prosecutions, given that prosecutions fail for a variety of reasons, not simply because an innocent person is in the dock—a crucial witness may withdraw their support, for example. However, the potential imposition of costs does act as a deterrent to police from proceeding with doubtful or dubious charges. This, with this amendment to this section of this bill, will no longer be the case

As has been raised previously, this will also have the effect of acting as a further deterrent to a person challenging what they believe to be a wrong or unjust expiation notice. While other members have raised examples of motorists wrongly accused of speeding, I would like to raise an example of a constituent who was given an expiation notice after being pulled over by the police for driving without a numberplate.

This young woman went to her car late at night after finishing a late night shift and had no idea that she was missing her rear numberplate and (short of the two screws holding it in place coming loose simultaneously and the numberplate falling off) is convinced that it had been stolen the night before. The two police officers who, realising she was the victim of a crime, could have exercised their discretion and focused on the theft of her numberplate whilst also informing the woman on how to have it replaced, instead wrote her up for a $577 fine. Clearly they were yet to reach their quota for the day.

This woman is yet to take legal advice on how best to proceed, but if she does elect to challenge the expiation notice, under this bill, even if she is successful, she will still face the

financial penalty of her legal and associated court costs, a sum likely to far exceed the original fine. I remind members that she is a victim of a crime. The person who brought this to my attention was a retired police officer and he was absolutely disgusted with the conduct of police in this matter. There was no intent by this young person to drive without a numberplate. She had obviously no idea why she was pulled over, yet slapped with a $577 fine.

To impose a financial penalty on an individual when they have been found not guilty of an offence is plainly unjust. That the government would consider doing so when they only stand to supposedly save $1.6 million per year for the police is an indictment of the Labor Party, its values and its lack of concern for justice for the people of this state. I say 'supposedly save $1.6 million', for I am at a loss as to how this figure has been calculated.

As was made clear in another place by the Treasurer, the total value of costs being awarded in the Magistrates Court against the police has been steadily increasing. On the figures provided, this is seemingly due to an increase in the percentage of cases in which costs are awarded, but primarily due to the increase in the amount awarded, a reflection on the broader increases in the cost of legal representation.

Given that the total amount awarded each year has been increasing, how the government can suggest that it will save the police a stable figure is beyond me. Further, if it is as the Law Society suggests, that very few defendants will be awarded costs if this bill passes as it stands, then how did the government reach the conclusion of $1.6 million and not the near $3 million awarded last financial year?

I pose these as questions, but I believe the answer was inadvertently given by the Treasurer himself in another place, who revealed during the committee stage that the figure is calculated on the total amount awarded against the police in the 2008-09 financial year. Answering a subsequent question by the member for Davenport about the average cost of each file, the Treasurer stated:

> In 2008-09, there were 755 files. In 1.06 per cent of files, costs were awarded against police. It came to a total of $1,660,351 and the average cost per file was $2,199.

So the projected saving of $1.6 million is based on the 2008-09 financial year in which just over $1.6 million was awarded against police. So members are clear, this is a clear confirmation of the Law Society's position that few if any defendants will be awarded costs and that the attempt at preserving some discretion is mere window dressing.

One final point I seek to make relates to the debate about whether this is a money bill or not. In my opinion, it is frankly irrelevant. While such considerations may be of importance in another place, here in the Legislative Council, the house of review, the issue should simply be whether or not it will be good law. This, I note, is the position of the assistant commissioner Tony Harrison who, in an attempt to distance SA Police from responsibility for this so-called reform, in an interview with *Today Tonight* stated:

> This is a piece of legislation before parliament and it is really up to the parliament now to determine if that legislation gets passed or not.

The point to be made in relation to this, however, is that the government sought to fundamentally undermine access to justice without consultation or public debate by inserting it in the budget bill and using its money bill status as cover. No doubt the government assumed that the Liberal opposition would raise its objections but, on the premise that it is a money bill, allow its passage. I am ashamed that the government would attempt this, and I commend the opposition and the crossbenchers for proving them wrong and not allowing this abuse of power to eventuate.

I have one more line here from an email that I received today from a constituent that I believe is quite pertinent to this particular debate. The closing line is: 'When injustice becomes law then it is time to fight the law'. Thank you.

The Hon. M. PARNELL (11:54): The Statutes Amendment (Budget 2011) Bill introduces four main changes to various legislative regimes. The first is the phasing out of the First Home Owner Grant, the second is an amendment to liquor licensing arrangements and the third is the very welcome decision to reverse the decision made last year to abolish leave loading for public servants. The Greens have no objections to these moves, but that is not the case in relation to the fourth tranche of amendments, and that is to the Summary Procedure Act.

Before I go into detail as to why the Greens object to these changes, I would like to reflect very briefly on the procedure that has been followed by the government. The first thing we have to

note is that there has been no consultation with key stakeholders on these changes. As other members have pointed out, we now know, but only after the bill was introduced into another place, that this part of the bill does not have the support of key professional organisations: it does not have the support of the legal profession, the community legal centres or other key stakeholders.

I would also like to comment briefly on the inclusion of this measure in a budget bill. Normally, including something in a budget bill gives it some degree of precedence; it gives it some additional gravitas, because it is no small thing to vote against appropriation to give effect to budget measures. But this measure does not belong in a budget bill. It is a measure that affects, guides and, in fact, directs magistrates as to how they can exercise their judicial discretion. It is a bill that is primarily related to the administration of justice rather than the budget.

However, the government's attempt here is to use this mechanism of directing judicial discretion in a hope, and I think a well-founded hope, that public funds will be preserved by, in effect, ordering the judiciary not to award costs to successful defendants. So, rather than being a proper budgetary measure, the Greens see this as a sneaky attempt to make fundamental changes to the administration of justice and, for that reason, we oppose it—and the government, as I have said, has done it without the normal and respectful consultation with stakeholders that would be expected. I hope that when this provision comes back, if it does, it will be following a respectful consultation.

I would like at this stage to thank, as other members have, the President of the Law Society, Ralph Bonig, and also the South Australian President of the Australian Lawyers Alliance, Mr Tony Kerin, for their considered and very reasonable submissions, which they have sent to us. These are submissions that the Greens overwhelmingly agree with.

I would now like to go to the substance of these measures. At the heart of it is a fettering of magistrates' discretion to award costs in favour of successful defendants in criminal cases. The mechanism built into this bill is that the magistrates are obliged to have regard to a range of criteria, many of which, I would say, cannot be defined and are, in fact, unworkable in practice.

The result of requiring magistrates to have regard for and to comply with these criteria is that it will be very difficult for people to have costs awarded in their favour if they win a criminal case in the Magistrates Court. That is unfair of itself, and that would be reason enough to oppose this measure, but what I think is even more insidious is the impact that measures such as this will have on the choices defendants will be forced to make and also the integrity of the legal system itself.

The result, I think, is clear to all who have had a look at these amendments, and that is that the pressure will be on to plead guilty even if you are not. The process that defendants will go through is that they will have to do a mini economic analysis. They will, first of all, work out what the maximum fine might be. They will have to work out what it would cost them to get legal representation, bearing in mind that the legal-aid system is underfunded and rarely, if ever, are defendants in summary matters able to get legal aid.

So, they would have to work out the maximum fine, what would their lawyer cost and then: what is the chance that I will get my costs reimbursed even if I win? Once you have done the sums, the pressure is on defendants to plead guilty even if they are not, because that is the cheapest way out.

I would say that an innocent person who is convicted wrongly, even if by their own voluntary action, is still an injustice, and it is an injustice that this bill will bring into effect in many cases. The Greens will be supporting the status quo in relation to the discretion of magistrates to award costs, but I think it is important to note also that, in doing so, we are not seeking in any way to punish the police. The police are generally doing a fine job. They are serving the community. This is not about criticising or punishing the police.

We can all understand that even a police prosecution that was conducted impeccably with no criticism able to be levelled against it at all can still collapse through no fault of the police or the prosecutor. We just have to accept that that is part of the reality of a criminal justice system. It does not mean that, in those circumstances, the cost burden should be shifted to the defendant.

We know that the criminal justice system is expensive. It costs a lot of money to investigate and to prosecute and to judge cases. If we lived in a totalitarian regime, a cheaper option would be that anyone who the police thought may have committed an offence would be lined up against the wall and shot. That would, by far, be a cheaper option, but we live in a democracy and we live

under the rule of law, and it is unacceptable for the rule of law to be subverted in the way intended by this bill.

The price we pay for living in a democracy is that sometimes things will go wrong in criminal cases and, when that happens, the just response is for those who are acquitted to receive their costs or at least for the magistrate to have an unfettered discretion in deciding whether or not they should receive their costs. So, the Greens will be voting to take the proposed section 189A out of the bill, and we invite the government to bring back the remaining provisions of this bill which, as I have said, the Greens will not oppose.

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

ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL

In committee.

Clause 1.

The Hon. G.E. GAGO: There were some outstanding issues that were raised through the second reading and negotiations around amendments that I think it would be helpful to put on the record at this point in time. As the Minister for Infrastructure has indicated in the other place, the government has shown a great deal of genuineness to accept any amendments which will still allow the project to be delivered within a reasonable time frame and at no greater cost.

To this end, the minister would like to thank the member for Davenport in the other place for his willingness to deal in good faith with the government. The minister is also grateful for the openness of many crossbench members of this council for their goodwill. It must be said that cricket and football have always sought—and continue to seek—greater control over the precinct, but it has been the Minister for Infrastructure's view that the government's role is to find the right balance.

I understand that other members still have amendments today, so I will briefly outline the government's position to the amendments already filed. In relation to changes which provide legislative certainty to the Cresswell Gardens and surrounding areas, the government is accepting of these amendments. In relation to the vehicle which gives the minister control over the core area, the government remains of the view that vesting the land in the hands of the minister and then allowing an 80-year lease of the stadium asset to the SMA is still the desired approach by all parties. The opposition disagrees, and all members can obviously make their points during the appropriate clause.

Amendments from the opposition relating to the grassed northern mound and the protection of Moreton Bay figs will be accepted, as the intent was always part of the government's plans. The government remains concerned about the amendments which specify a transfer date between SACA and the SMA, simply because this matter is still the subject of negotiation between the two sports, the Department of Treasury and Finance and also the Crown Solicitor's Office. So, I will await the comments and reasonings during the debate of these clauses.

Amendments regarding the sinking fund are acceptable to the government because, again, this important work was already underway and simply not part of the bill. The next set of amendments have been the subject of a great deal of work from parliamentary counsel, and I would like to acknowledge their assistance, particularly Richard Dennis. These amendments relate to, and in fact replace, clauses which allow for fair timing and the transparent development approval process for the stadium itself. The government will hear the contributions of other members, but it is comfortable with the current compromise, subject to final legal advice.

Consequent amendments relating to licence terms, parkland controls and the role of the Development Assessment Commission are also acceptable to the government. Amendments relating to the 535 million-dollar taxpayer cap and the role of the Auditor-General are still of some concern to the government. However, I want to be clear that there is no argument over the intent. The government has been adamant that the full taxpayer exposure to the project is $535 million, and any involvement deemed necessary by the Auditor-General is certainly welcome and expected. The member for Davenport is aware of what the government's technical concerns are, and I am happy to discuss them further during the debate.

Finally, the government remains opposed to the amendment which requires rent or a licence fee to be returned to Treasury. The government is of the view that sport should be allowed to be successful and invest profits in junior and country sport. Nevertheless, if the opposition

persists with this clause, the government believes that an amount should be set and indexed over a 20-year term to provide sports with certainty beyond the fifth year. The government also believes that any agreed amount should be spent on junior sport rather than simply accept it as general revenue. That is the government's position.

In closing, I understand that the Hon. Mark Parnell is seeking greater detail and controls over public transport planning, and I am informed that the minister as well as the Chief Executive, Rod Hook, are keen to continue these discussions and assurances. I am not yet in a position to respond in relation to the amendments filed by Mr Parnell this morning, as the department is providing advice as we speak on agreeing to the public transport matters. However, the government is opposed to the amendments that provide the Adelaide City Council with the ability to refuse a licence, as it has been a baseline commitment to football and cricket that they have this level of certainty for their business models.

The Hon. R.I. LUCAS: I thank the minister for her response to a number of issues raised in clause 1. I must indicate that I was taking a telephone call when the minister started, so I actually missed the first part of her contribution. I wonder whether it would be possible—if she has not already indicated—for a copy of the statement she read on behalf of the government to be provided to interested members. I know that I am one, and I suspect that other members might be as well. If that was possible through the minister's officers, that would help expedite our consideration of the government's position.

There were certainly, as I heard the second part of the minister's contribution, different words and phrases used in relation to various amendments, ranging from supporting some, not opposing others, awaiting further debate and taking further advice. The government's position clearly in relation to some of these amendments is slightly nuanced in relation to whether it is either outright opposing, supporting or prepared to support at some stage the amendments. If that was possible, it would certainly expedite the debate. Secondly, our understanding is that the government might be seeking advice in relation to amendments to some of the opposition's amendments. Can the minister indicate whether that is the current government position?

The Hon. G.E. GAGO: In relation to the first request to make available the outline of the statements made this morning in written form to those members who would like a copy, we are certainly happy to do that. I have been advised that, as I have put on the record in relation to the transport assurances requested by the Hon. Mark Parnell, further advice is being sought in respect of that. In relation to the opposition amendments, I am advised that we are working with parliamentary counsel on contingency positions, depending on the final position of the opposition.

The Hon. R.I. LUCAS: Certainly the current final position of the opposition is the amendments we have drafted, so let us make that clear. If, however, the government comes back and shares possible amendments, we have indicated that we are prepared to consider amendments, but obviously we will need some time for that to occur. My questions are in relation to how we will continue to handle this particular debate, given that set of circumstances and given that we are about to head into private member's business this afternoon and we may well return to government business after private member's business this evening, at the moment my suggestion would be—and I will give some other reasons in a moment—that a sensible course of action may be that, if the government has amendments to some of the opposition amendments, there are two courses of action.

Obviously one is to have those discussions with the member for Davenport and me, and we will see whether we are prepared to incorporate them into our amendments, which would seem to be the cleanest and neatest. If we do not agree with those, the government then has the stage 2 option of moving amendments to our amendments anyway, but it would need to flag those not just to us but to the Independents and minor parties, because they have been briefed and are aware of our amendments at this stage. If there is to be a refinement which we are not going to agree to (I am not speaking on their behalf), I suspect they will want a little time to consider that particular position as well.

I accept that the parliamentary counsel needs to work on whatever it is the government is contemplating, but as soon as that is possible, and the government has considered it, we need to have that discussion with the government's representatives. That is the first thing. If that is where we are heading, my suggestion would be that it would probably make some sense to return to clause 1 later this evening, because I suspect under clause 1 there is going to be clarification of what the minister just said in relation to having a general debate.

I know there are some general issues that we have, and other members have, in relation to the total debate that having a broader ranging debate on clause 1 may well flesh out and help expedite a number of issues in relation to the specific amendments later on. It is essentially a judgement call for the minister in charge of the bill as to whether the government would like to take that particular course of action but, at the moment, as the lead speaker for the opposition, I indicate it would be our view that we are probably not going to be supportive, in the light of what we have just heard, of progressing with detailed amendments in the committee stage if we are still debating possible government amendments to ours as well.

The only other thing I should mention is that we provided this morning, I think, to the government one further amendment from the opposition. If it is not tabled now, it is about to be tabled. I verbally flagged this with the minor parties and Independent members of the chamber; that is, the opposition is tabling an amendment which will seek to ensure that there is a deadlock provision incorporated in the legislation. There is to be a deadlock provision in the partners agreement between football and cricket. We are told that that has not been resolved yet.

Crown law, we understand, is still working on that partners agreement, but we have been provided with the detail of how that deadlock provision is to work. The deadlock provision is that, if the four directors from cricket and the four directors from football are gridlocked, that is, they cannot agree on something, to refer it to the President of the Law Society and he or she would then determine a process for independent arbitration and both sides would agree to abide by the independent umpire's decision on it. It seems an eminently sensible solution, and we are proposing to ensure that that is in the legislation.

The potential problem with the partners agreement is that, if at some stage one of the partners decides to take their bat and ball—or their Sherrin, if I can use a phrase that the Hon. Mr Parnell suggested to me—and go home, it is easy for one of the partners in that partners agreement to tear up the agreement and say, 'We no longer want to agree to this partners agreement.' In those circumstances there would be no mechanism for resolving gridlock: there would be no deadlock provision.

I think, as I said in the second reading, in all my time in the house I cannot think of a body or agency where there was not some form of resolving deadlocks. It is normally a casting vote for the presiding member, there are odd numbers of members on the body, or there is some mechanism to resolve a dispute. In this case, that is proposed to be in the partners agreement and we are suggesting it should be in the legislation. In addition to that, I know the Hon. Mr Parnell has tabled only recently the Greens amendments.

We have been privy to a draft of those over the last 24 to 48 hours, and we appreciate that, but I know there are some other minor party and Independent members of the council who are only seeing it now for the first time. So I think, to allow them the opportunity to absorb their views on those amendments and how they link with ours, etc., a little time would be useful. In summary, my position is, clearly, we need to await the government's response about possible amendments to our amendments. That is the first thing that needs to happen. I have suggested a process of resolving that with the government.

Once that is determined, I have suggested—and this is entirely a matter for the minister—that we could continue with some debate of clause 1 this evening. Certainly, from the opposition's viewpoint, if we see the government's amendments we believe we will be in a position to continue debate on the specific amendments to tomorrow. We obviously cannot speak on behalf of the minor party or Independent members but, certainly from our viewpoint, if we can resolve any possible government amendments to our amendments today, we would be happy to proceed with the detailed committee stage tomorrow and are happy to proceed with a more general discussion this evening which might expedite the committee stage of the debate.

Certainly, from our viewpoint, we have said publicly to the interested stakeholders—and also to the media—we are working (as, I think, everyone is) within the government's desired time frame of resolving the legislation before the end of this session, that is, two sitting days this week and four sitting days in the final week of session.

Certainly, from our viewpoint, our expectation would be that we should be able to resolve this no later in the council than, say, the first Tuesday of the last sitting week, that is, we might not get through it all tomorrow. There might be tidy-up or consequential amendments which we might need to resolve on that Tuesday, which would then give the government its desire of having the legislation resolved by the parliament before the end of this session.

The Hon. G.E. GAGO: I have been advised that, at this point in time, there is only one outstanding matter for the government to consider, and that is in relation to a matter concerning the member for Davenport, which he has indicated he wanted further thinking time on. He has not got back to us in respect of that one matter, but, at this point in time, that would be the only matter that remains outstanding that we are aware of.

Discussions have occurred well in the past, I expect them to continue into the future, and our officers are available and the minister is available to engage in those conversations and discussions when needed.

Progress reported; committee to sit again.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

In committee.

Clause 1.

The Hon. S.G. WADE: I was briefly wanting to reflect on where we have got to at this point, and I should say that my comments will take only a minute or two. It seems that we have got to the position where the government and the opposition agree on one key point, that is, that witness identification can be improved. Where we differ is that the government wants to suggest to the council that, given the improvements of witness identification, it should support the bill because it argues that live line-ups are no better than photo boards, so we should increase the capacity for police to use photo boards.

The opposition agrees with the government that witness identification has moved on significantly, but we say that the science suggests to us that the method does not matter as much as the quality of the identification. It is my judgement that it would be a distortion of the science and reckless lawmaking to remove the judicial preference for live line-ups without acting to ensure quality. The Law Society and the ALRM have made a range of suggestions to improve the quality of identification and, therefore, the quality of justice.

It is the opposition's judgement that the best way to improve quality is not to pass this bill, so that the government can refocus on quality and away from costs. If honourable members are inclined to support the bill and hope that the government improves quality of identification anyway, I urge them to reconsider and retain the respectful suspicion that this council holds for the executive.

We do not usually swallow the 'Trust us; we're from the government' line. Why would we give away the only leverage we have to promote quality in identification and justice? I hope that we will see another bill in the not too distant future, but at this stage the opposition urges honourable members not to support the bill.

The Hon. M. PARNELL: This is now the opportunity for the Greens to put its position more firmly on the record, given that in my second reading speech we supported the passage of the bill through that stage, but we reserved our right in relation to the final passage of the bill.

As I see the evidence, whether it is a photo board line-up or a human line-up, it is less important which of those is chosen: either can lead to reliable or unreliable outcomes depending on how they are conducted. I have not seen any evidence that contradicts that basic position; in other words, a badly conducted photo line-up is as unreliable as a badly conducted physical line-up.

The question that arises is: why in legislation would we move away from the status quo, which is a judicial preference for one form, and through legislation express a preference for another form when we know that both can be unreliable and that what is really missing are the detailed rules of procedure as to how various methods of identification are to be conducted?

As the Hon. Stephen Wade said just now and in his earlier contribution, I think the target for us needs to be to get the quality right and not to simply shift the presumption in favour of physical line-ups towards photo line-ups when the only real advantage of that is the saving in cost. Having said that, the Greens have also heard evidence that the cost of physical line-ups is certainly greater.

We have also heard evidence that defence lawyers have sought to use the preference for physical line-ups to delay identification evidence for as long as possible and to put as much time between the events and the identification as possible in order to increase the chance of a non-identification or a misidentification. I have no doubt that those things can happen.

We have also heard evidence about the difficulty of physical line-ups in remote locations. Whilst we can acknowledge that all of these things are problems, I do not think that necessarily gives us sufficient reason to simply swap boats—to jump from a presumption in favour of physical line-ups to a presumption in favour of photo line-ups—when we know that both, misapplied, can equally lead to miscarriages of justice.

I note also, as other honourable members have, that the Greens have supported in this place the creation of a body to address miscarriages of justice. One of the greatest causes of miscarriages of justice is misidentification of suspects, so it is inconsistent for us to say that we want a mechanism for redressing miscarriages of justice without putting sufficient evidence into the rules that actually aid and abet those miscarriages of justice from taking place.

Given that there are no amendments to consider in this bill, I will put the Greens' position on the record now. We will oppose this bill and we invite the government to come back with something that is more considered and has more procedural detail in it so that whichever method is to be preferred is one that is guided by sound scientific procedure. We note the precedent for that approach in other jurisdictions, including at the commonwealth level.

It is probably too late to amend this bill between the houses, but I would welcome the government bringing us something back, which the Greens would be pleased to consider, that focuses on the quality of identification evidence and not simply a kneejerk reaction to trying to preference the cheapest method of identification evidence.

The Hon. D.G.E. HOOD: I have indicated Family First's position previously but I will reiterate, given that it has been some time since the last time we were able to address this bill. I will be brief, however. If we accept the argument that both the photographic identification method and the so-called line-up method are both flawed and that they are essentially equivalent, that they are open to errors in both cases, the question has to be asked: why would we not go for a method that is less susceptible to manipulation by defence lawyers—and even prosecution lawyers, but certainly by defence lawyers predominantly—and obviously has some sort of cost benefits as well?

I have spoken with a number of defence lawyers in informing Family First's position on this particular bill. A number of them have been open enough with me to say quite categorically that they have, on occasions, either deliberately delayed a particular identification of a suspect, somebody they were defending, or else not opposed outright—I will be careful what I say—but making it more difficult, if you like, for someone to be identified through a line-up. Frankly, I will not have any part of that. I do not think that is something that I am prepared to support at any level. I know my colleague the Hon. Mr Brokenshire feels the same way, so we will be supporting this bill. If the identification process is equally or similarly flawed, then why would we not support something that offers benefits in terms of a cost benefit and less potential for deliberate manipulation?

The Hon. A. BRESSINGTON: I will be very brief too. I think I made my position quite clear in the second reading speech. I will also be opposing this bill. It seems to be a trend of this government to undermine our justice system and our defence mechanisms that are in place. I do not see any reason to be throwing the baby out with the bathwater. If there are flaws in the quality of a procedure, then fix the flaws, and do not start to whittle away at procedures that we have had in place in our justice system for a very long time, either for the purpose of a prosecution or a defence.

No offence to the Hon. Mr Hood, but if defence lawyers use this as part of the system to delay a trial or make identification difficult, then that is what we should be legislating for. We should be legislating to limit what the legal profession can do if they are abusing this and improve the procedures to make sure that they are delivered with criteria that is scientifically and forensically proven to be effective and to put those measures in place. I see this simply as a cost-saving mechanism. I attended the briefing—and I cannot remember the professor's name.

The Hon. M. Parnell: Professor Brewer.

The Hon. A. BRESSINGTON: I thought it was Brewer—where he said that you can alter the outcome of a line-up quite effectively one way or the other. You can make it obvious that it is the person or try to cover up that it is the person. This is all procedural. This is not about the fact that line-ups do not work or photo IDs do not work: it is about how they are used, how it is applied and the procedures that underline that. I am with the opposition and the Greens on this: let the government come back with a bill that shows that we are prepared to fix the flaws rather than just ditch it for the sake of ditching it.

The Hon. S.G. WADE: I will be brief. I do not know whether it is out of order to answer a rhetorical question; nonetheless, I propose to do so. The Hon. Dennis Hood posed the question: if each identification method is equally flawed, why would we not support the cheaper one and the one that is less vulnerable to manipulation? My answer is that the council should not support this bill because we have the opportunity to reduce the flaws in both methods and, when we have had a go at that, we can feel comfortable in removing the judicial preference.

The Hon. J.A. DARLEY: I will be opposing this bill.

The Hon. K.L. VINCENT: For reasons already outlined by many honourable members, I will be opposing this bill.

Clause passed.

Remaining clauses (2 to 4) and title passed.

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, Minister for Gambling) (12:36): I move:

That this bill be now read a third time.

The council divided on the third reading:

AYES (9)

Brokenshire, R.L.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hood, D.G.E.
Hunter, I.K.	Wortley, R.P.	Zollo, C.

NOES (12)

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

Majority of 3 for the noes.

Third reading thus negatived.

CONTROLLED SUBSTANCES (OFFENCES RELATING TO INSTRUCTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 June 2011.)

The Hon. K.L. VINCENT (12:41): I wish to place very briefly on the record some of my concerns around this bill, although I am likely to support it. I would like to start by thanking the Hon. Ann Bressington for her contribution the other day and to say that I largely agree with her sentiments.

The Hon. A. Bressington: Hear, hear!

The Hon. K.L. VINCENT: I understand that the government has presented this bill under the guise of being tough on drugs and in closing loopholes in the existing legislation, but as the Hon. Ms Bressington and the Hon. Mr Wade have pointed out, there are questions around exactly what loopholes they are talking about. The clarifications which have been made around the selling, supply and possession of instructions for drug manufacture are, in my opinion, mostly redundant.

These amendments give lip service to the reality that the internet makes instructions for drug cultivation and manufacture readily available but does not really address this issue because, as we all know, the law does not have the power to hold anyone outside its jurisdiction accountable and much of the instructions offered on the internet are offered by international sources or sources that are untraceable.

It seems to me that there is a small amount of value in this bill in terms of the amendments made by the opposition in the lower house, particularly in terms of clarifications relating to the

supply of precursors, so I would like to acknowledge the opposition's efforts in this area. Beyond that provision, this bill represents for me another sad indicator of our government's unwillingness to understand the realities about drugs in South Australia. It refuses to consider what policies might lead to the prevention of drug addiction. It is uninterested in solutions which might require a move away from the silo mentality currently adopted by departments and it is unreceptive to the idea of harm minimisation.

Effectively, when it comes to drug policy, this government is living in the mid-1980s. Perhaps it is time to step into the time capsule and read some of the research around drug dependency that has been conducted in the last 20-odd years. Then maybe we can pursue some more sensible policies which are not just based around increasing and spreading punitive measures. That kind of legislation would be something that I could support with some enthusiasm. Instead, we have this current bill which will get my vote, but that is mostly because it seems to me that generally there is no harm in providing consistency across acts. I look forward to the opportunity to sink my teeth into some real drug legislation in the future.

The Hon. A. Bressington: Good luck.

The Hon. K.L. VINCENT: Let me have hope.

The Hon. A. Bressington: I have been hoping for ages.

The Hon. K.L. VINCENT: I am young, Ann. I am not dead yet; we have time. Let that be a lesson to you over there.

The PRESIDENT: Has the Hon. Ms Vincent now finished?

The Hon. K.L. VINCENT: I had finished, but then the honourable member started laughing at me. I have the right to defend myself, sir.

The PRESIDENT: The Hon. Mr Hood.

The Hon. D.G.E. HOOD (12:45): I rise to indicate Family First's support for the second reading. This bill makes it an offence to sell a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant. It is also an offence to have in one's possession a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant, intending to sell it. The prescribed penalty is a maximum of $10,000 or imprisonment for three years, or both. There is also a new offence of supplying instructions (that is, without remuneration), which carries a similar $10,000 maximum fine but a lower two-year period of imprisonment, or both.

Although not mentioned in the minister's second reading contribution, the bill also significantly amends provisions relating to the sale and manufacture of controlled precursors. I understand that drugs such as pseudoephedrine are considered precursors in that they are used as the active ingredient in methamphetamines and similar substances. A person who sells a large commercial quantity of a controlled precursor, or has possession of a large commercial quantity of a controlled precursor for sale, now faces a maximum penalty of $200,000 or imprisonment for 25 years, or both.

For commercial quantities, the figure is $75,000 or imprisonment for 15 years, or both. A simple sale offence attracts $50,000 or imprisonment for 10 years, or both. There are also separate possession and supply offences, which usually now attract maximum penalties of $10,000 or imprisonment for three years, or both. These penalty increases are welcomed by Family First. At the last election, the Labor Party launched its community safety policy with a promise that stated:

> South Australia's drug paraphernalia laws will be amended to restrict the availability of material which informs people on how to cultivate or manufacture drugs. By making it an offence to possess such material, it will close the current loophole identified in the existing law. By banning the possession of such material, the proposal will restrict the sale and production of publications that inform people how to grow, cultivate or make illegal drugs. The possession of the material will be an offence under the Controlled Substances Act 1984 section 33LA.

In principle, that is a statement that Family First supports.

It has been said that there is already some scope under section 33LA to ban instructions relating to the manufacture of drugs (in fact, I think that particular issue has been raised by a number of members in this debate). This is perhaps because the words 'prescribed equipment' are defined to include, 'a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant.'

The Hon. Ms Bressington suggested that the government already has the necessary legislation in place and that it made 'an election promise purporting to address a non-existent loophole'. She has a point, and I certainly welcome the fact that we have somebody in this chamber who has personal experience in these areas and is able to put forward an informed opinion, if you like. Going back to the promise the government made, whether or not this particular election promise could have been better considered, from Family First's perspective, the overall intent is important and significant.

I completely agree, however, with the Hon. Ann Bressington's comments that this offence may be rarely prosecuted. It is, for example, true that all kinds of drug instruction one could imagine are already readily available somewhere in a dark corner of the internet. That does not mean we should not still send the message that the distribution of such material is still legally and morally wrong, and that is what I think the main point of this bill really is. Indeed, I think we are obliged to send that message as often and as loud as we can. For that reason, I indicate Family First's support for the second reading of this bill and our general support for the thrust of the bill, subject to the detail in the committee stage, of course.

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, Minister for Gambling) (12:50): I thank members for their second reading contributions to this important piece of legislation and I look forward to its being dealt with expeditiously through the committee stage.

Bill read a second time.

Bill taken through committee without amendment.

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, Minister for Gambling) (12:52): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUMMARY OFFENCES (TATTOOING, BODY PIERCING AND BODY MODIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 June 2011.)

The Hon. K.L. VINCENT (12:52): I wish to briefly place on the record my position on this bill. I feel that its passage has been a good example of how our parliamentary procedures can work effectively. When I saw the first draft of this bill in January I was quite offended by it. Among other useless and heavy-handed measures it proposed to totally outlaw body piercings for people under the age of 18, unless they wanted a nose, eyebrow, ear or bellybutton piercing.

In the past I have had a nose piercing, and why this particular piercing should be seen as more acceptable or be more legal than the lip piercing, which I also had at another stage in my life, is totally beyond any reasonable person's logic. Exactly what it was that the government thought distinguished the ear, nose, eyebrow and naval piercings from something like a labret piercing or a beauty-spot piercing, I am not sure, but this was the arbitrary rule our government had decided to punish South Australia's youth with.

The government had also seen fit to include a provision outlawing any pre-payment for a tattoo, piercing or body modification procedure. This measure would have effectively meant that tattoo artists would need to go through the design and research stages of preparing a tattoo without receiving any payment. This is simply an insult to the profession and discounts the true artistic merit that many professional tattooists bring to their craft.

Perhaps even more offensive would have been the other option that a tattooist would, in fact, be forced to forgo the designing stage and therefore have to 'wing it', so to speak, as they made a permanent marking on somebody's skin. This is not what I would call a preferential situation for customers, to say the least. Thankfully, this bill went through a full consultation procedure and those rather archaic and overbearing provisions were withdrawn.

The bill we are now considering today is, in many senses, a much more moderate document which has clear emphasis on safety and good practice. It is an amazing improvement on

the original, which felt to me more like an attempt to paternalistically and condescendingly prevent members of the public, young and old, from altering their own bodies. I strongly believe that what people do with their bodies is their business, not the government's, and it is only on points of public health and safety that we should intervene.

I would like to thank both the Hon. Ms Franks and the Hon. Mr Wade for the effort that has gone into their amendments.

The Hon. A. Bressington interjecting:

The Hon. K.L. VINCENT: The Hon. Ms Bressington was making some, I am sure, very worthwhile contribution.

The Hon. A. Bressington: I was talking to somebody.

The Hon. K.L. VINCENT: You were talking to Stephen but I was talking to the President, so I win. As I was saying, I would like to thank the Hon. Ms Franks and the Hon. Mr Wade for the effort they have put into their amendments to this bill. Both sets of amendments clearly have health and safety as their main goal, but I must say that I believe that the Hon. Ms Franks' amendments are a little more explicit about exactly how health protections should be enforced, so I intend to support her in making those changes.

Both the Hon. Ms Franks and the Hon. Mr Wade have also made a point of deleting section 21I of the bill. I fully support this and, if this section is not removed, I would be highly inclined to vote down the entire bill. Section 21I is a throwback to the government's earlier, totally unreasonable draft of this bill. The section proposes to give the police expanded search powers in tattooing, body piercing and body modification business premises.

The expansion of police powers is a worrying trend which we see often from this government's legislation. It seems to be almost a default setting for them. I cannot understand how, in this case, such a broadening of powers could be justified. When we are looking at relatively minor offences like those detailed in this bill which attract penalties of a few thousand dollars, why is it necessary to allow police to trample all over people's rights? The short answer is: it isn't necessary.

A little piece of my mind suspects that this push has something to do with a possible government perception that tattoo parlours have bikie gang links. This is a very stereotypical view which does not make a good case for policy change. Yes, bikies have tattoos, but so can artists, teachers, lawyers, students and even stay-at-home parents. I think you see my point, Mr President. Having a tattoo does not automatically mean you are a 'bad' person, just as having a tattoo parlour does not automatically make a person 'bad'.

This government should remember that an expansion of power can often result in a corresponding shrinking of individual rights. Such deprivation of freedoms should be used sparingly and balanced carefully. I hope that this council agrees with me and votes to delete this one last black spot in an otherwise reasonable bill. Then the passage of this bill could be seen as a truly great example of good governance at work.

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

[Sitting suspended from 13:00 to 14:20]

FAMILY RELATIONSHIPS (PARENTAGE) AMENDMENT BILL

His Excellency the Governor assented to the bill.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

His Excellency the Governor assented to the bill.

ELECTRICITY (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

KING, HON. L.J.

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, Minister for Gambling) (14:21): I move:

That the Legislative Council expresses its deep regret at the recent death of the Hon. Leonard James King AC QC, former minister of the Crown, member of the House of Assembly and chief justice of South Australia, and places on record its appreciation of his distinguished and meritorious public services, and that as a mark of respect to his memory the sitting of the council be suspended until the ringing of the bells.

Today it is my great privilege to pay tribute to the Hon. Leonard King AC QC who passed away on 23 June after a long and distinguished career in law and politics in South Australia. Len King was one of the very small number of people who can rightfully claim to have played a major part in setting the foundations of modern South Australian life. His brilliant term as attorney-general during the early years of the Dunstan government saw the introduction of legislation rights, protections and progressive social change that were the hallmark of the Dunstan era. That would have been sufficient for any of us but he then followed his political career with an equally stellar performance as chief justice of South Australia.

He was a true reformer who played a central role in turning South Australia from a closed, class-structured society into the far more open and tolerant society that we still enjoy today. To understand what drove Len King we need to go back to the 1930s Depression-era Norwood. His parents went through very hard times, surviving for five years on rations and the occasional odd job. These experiences gave Len a passion for egalitarianism and the need to defend the rights of everyday citizens.

It was not all grim: with his father he would have gone to the races at Victoria Park where he developed a lifelong appreciation for horseracing, and I understand not so much for betting but definitely for the drama and the sport of it all. Len attended Marist Brothers College in Norwood where he was a brilliant student. However, in those days going to university needed ready money and his parents were far too poor to send him to university, so he left school and became a clerk for Shell Oil while studying at night and gaining further secondary qualifications.

Then the Japanese attacked Pearl Harbor, and at the very early age of 18 Len joined the RAAF to become a radio telegraph operator. Even while he was stationed in New Guinea, apparently he kept up his studies. As a returned serviceman, Len was able to get into the University of Adelaide and pursue his pre-war dream, which was to study law. To complete his studies he needed to be articled to an existing law firm to be fully qualified.

It says a lot about the impervious class-ridden nature of law in those days that he did not have the social contacts that usually made articles possible. After some considerable time, it was only through a very distant family friendship that he succeeded by being eventually articled to none less than Roma Mitchell. After completing his articles he obtained work as a lawyer in Whyalla, where he practised his profession in often trying circumstances, sharpening his considerable legal skills.

In the early 1950s he moved back to Adelaide and set up his own chambers. He also married Sheila Keane in 1953, a lifelong partner with whom he had five children. I understand from tributes to Len King at his funeral that, unfortunately, Sheila died a number of years ago and in her latter years suffered severely from Alzheimer's. Apparently Len provided devoted care and attention to Sheila until the day she died.

About the time he met Sheila he met another reform-minded lawyer, Don Dunstan. Len got involved in Labor politics, helping Don in his successful election campaign for the seat of Norwood in 1952. Throughout the 1950s and 1960s, Len's legal career prospered, becoming a Queen's Counsel in 1967. Despite this improvement in his own circumstances, Len was always a strong defender of the rights of ordinary people. He was extremely conscious of the role money played in the justice system. Money was crucial to obtaining background material, doing legal research and mounting a well thought-out and thorough, well-resourced case. Of course, without money your chances of winning were much slimmer.

Politically, Len's moment of truth came in 1970 when Don Dunstan asked him to run in the state seat of Coles, which is pretty much the seat of Morialta at the moment. Dunstan did this with the view to making Len attorney-general should Labor win and form government. Len won the seat and Dunstan won government, and together they set about introducing a series of reforms that utterly changed South Australia.

Through Len King's energetic advocacy as attorney-general, South Australia enjoyed a transformation that pulled South Australia into the modern era in terms of rights and protections: consumer affairs, social welfare, the abolition of corporal and capital punishment, the progressive erasure of sexual and racial discrimination, and a host of other changes. Len was also minister for social welfare, Aboriginal affairs, community welfare, and prices and consumer affairs—all portfolios in which he made great and lasting contributions.

After a brief but brilliant parliamentary career, Len resigned in 1975 to be appointed as a Supreme Court judge, returning to law. In 1978 he was appointed chief justice of South Australia. If anything, his service as chief justice of South Australia had even more far-reaching consequences. In his 15 years of determined leadership, he streamlined and improved administration of the law, improved accountability and created the circumstances for faster delivery of justice and gave it genuine autonomy. As John Emerson said of Len King in his book *First Among Equals*:

> He believed that it was not enough for judges just to judge—they had to oversee the justice system in its totality. They had to strengthen and defend the very independence of the judiciary itself and protect it from any interference from the other arms of government. Under King, the office of Chief Justice of South Australia would undergo the greatest transformation in its history.

When Len King stepped down as chief justice of South Australia, the first to retire under the new compulsory retiring age of 70, he left behind a court system massively improved and modernised. The passing of Len King marks a significant point in South Australian history. He was a man who modestly but very resolutely made this state a far better place, without fanfare but always in a scrupulously principled and humane way. He is a fine model for all of us as lawmakers. I extend my condolences to his family and commend his memory to this house.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:30): I rise on behalf of the opposition to second and endorse the Leader of the Government's condolence motion and to make a few comments on behalf of the opposition. I also indicate that my colleague the Hon. Stephen Wade will also make a contribution.

Len King was a distinguished member of this parliament, a distinguished lawyer and later a distinguished jurist. He made history by stepping into cabinet without previous parliamentary experience. As the attorney-general in the Dunstan government, he steered South Australia's mid-1970s social reforms through the parliament. He also helped South Australians to accept those changes, which were not easy but were somewhat controversial at the time: the homosexual law reform, consumer and welfare laws reform and liberalised drinking and censorship laws. It was also Len King who persuaded South Australia to end the barbaric practice of human executions, and he abolished the death penalty.

In 1975, he was appointed to the Supreme Court and later, in 1978, he became the chief justice. Don Dunstan called him a man of great humanity and conscience. On behalf of the opposition, I offer condolences to his family.

The Hon. S.G. WADE (14:31): I rise as shadow attorney-general to associate myself with the comments of the two leaders in acknowledging the passing of Len King. As the leaders have referred to, Len King was born on 30 April 1925, when the world was still recovering from World War I. He grew up in a working-class family and endured the deprivations of the Great Depression.

In 1943, at the age of 18, he joined the RAAF and served three years in both Australia and New Zealand. When he returned, he took advantage of resettlement schemes to take the opportunity to study law. He was admitted to practise in 1950 and was a Queens Counsel in 1967.

Mr King was one of the most respected legal minds this state has ever seen, so much so that former premier Don Dunstan specifically approached him to enter the parliament in order to be his attorney-general. This is a rare example in the Westminster system of a person being recruited to a particular role. In fact, Mr King gained the distinction of being only the second person to enter cabinet in this state with no prior parliamentary experience.

A pre-eminent legislative reformer, Mr King was the attorney-general and the member for Coles (now Morialta) from 1970 to 1975. In his maiden speech on 15 July 1970, Mr King foreshadowed his interest in law reform when he said:

> Human dignity in society is protected by the rule of law. Respect for the law, like respect for conscience, is vital to the well-being of society.

In his time as attorney-general, Mr King was instrumental in implementing significant legal and social reform. Social reforms implemented on his watch include legislation to decriminalise

homosexuality and to liberalise drinking laws. In terms of his work as the chief law officer of the state, he took the opportunity to restructure the justice system by separating magistrates from the Public Service and by creating the Courts Administration Authority. Former premier Don Dunstan described him as the greatest attorney-general this state has seen.

Mr King was a regular churchgoer; he attended St Ignatius, Norwood for virtually his whole life. I suspect that his sense of justice was invigorated by his association with the Jesuits. I share Mr King's abhorrence for the death penalty. He once said:

> When the State, as a deliberate act of policy, lays aside its power to punish by inflicting death, it demonstrates in a practical and striking way its conviction of the value of human life.

Mr King was elevated to the Supreme Court bench following his retirement from politics in 1975 and became chief justice just three years later, in 1978.

His career on the bench was illustrious but, from our point of view, it is a particularly significant contribution because he had the rare perspective of both a person who had served in this place as a politician and as a chief law officer of the state and who was then serving as the chief justice of the state. It was from that perspective that he wrote an article which was published in Volume 74 of the *Australian Law Journal*. As the then chief justice, reflecting on the role of an attorney-general, he said:

> The Attorney-General as a law minister has, beyond the political responsibilities of a ministerial portfolio of the same nature as the responsibilities of other ministers, a special responsibility for the rule of law and the integrity of the legal system which transcends, and may at times be in conflict with, political exigencies.
>
> The Attorney-General has the unique role in government of being the political guardian of the administration of justice. It is the special role of the Attorney-General to be the voice within government and to the public which articulates, and insists upon observance of, the enduring principles of legal justice, and upon respect for the judicial and other institutions through which they are applied.

In reflecting upon the life of a great attorney-general, a great chief justice, I think it is incumbent on those of us who hold the position of attorney-general and those of us who aspire to the position of attorney-general to reflect on those words. Mr King died peacefully on Thursday 23 June aged 86. Mr King was a family man, and I join other members of this council in offering my sincere condolences to his wife and to his five children. I commend the motion to the council.

The Hon. CARMEL ZOLLO (14:36): I add my condolences to the family and friends of the late Len King AC QC. As we have heard, Len King became the first member for the then newly-created electorate of Coles in 1970 and held it until his retirement from parliament in 1975. He served in a number of portfolios during those years but in particular as attorney-general. Such was the respect for his capabilities, he was appointed directly to the cabinet upon winning his seat. He was already a QC upon his election.

He was a reformist and a man of exceptional ability and compassion and devoted to the ideals and tenets of the Labor Party. Len King knew he had an important job to do and did it well. Whilst there are always variations after every election, the electorate of Coles is equivalent to the now seat of Morialta where I live. I moved into the electorate of Coles when I got married and started getting more involved in the party at that time. People like Len King were one of the reasons why my husband and I became more passionate about politics and worked for many years on campaigns in Coles and Sturt.

I recently read comments in relation to voter composition and voter behaviour in the seat of Coles in a clipping from the library from the time that Mr King was standing, and I have to note that, in some areas, nothing really changes in politics. Needless to say, the King name is one that has been respected for very many years, not just in politics but also in the wider community.

Following Len King's parliamentary career, he was appointed to the Supreme Court and subsequently appointed chief justice of the Supreme Court in October 1978. He had a distinguished career—the law—but did not stop giving back to his community. My husband worked for a period of time for the Health Consumers Alliance of South Australia. Mr King was then patron of the association, and he freely gave his time and expertise. My husband remembers how genuine and giving he was with the association, even chairing the AGM. Needless to say, it was not the only community group he was generous with.

Along the years, as part of the Labor Party, my husband and I have had the opportunity to know and work with two of the King children, Sue and Cathy King, as well as his son-in-law, David

Bamford, who is now Dean of the Law School at Flinders University. Whether the occasion is work or social, they do their father and the King name proud.

Along with other members, I attended the state funeral last Friday at St Ignatius Church Norwood where we heard that Len King had been an active member of the parish right until the end of his life. I do remember Father Paul Mullins saying to me afterwards that he had a particular spot in the middle of the church near a saint and never shifted from his particular spot every Sunday.

We all saw and heard for ourselves how proud the family justly were of their father and grandfather both on a personal level and in his important contribution to public life in South Australia. Again, I add my condolences to the family and friends of the late Mr Len King.

Motion carried by members standing in their places in silence.

[Sitting suspended from 14:40 to 15:00]

PAPERS

The following papers were laid on the table:

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

Flinders University of South Australia—Report, 2010
Regulations under the following Acts—
Emergency Services Funding Act 1998—Remissions Land 2011
Parliamentary Superannuation Act 1974—Additional Contributions
Rates and Land Tax Remission Act 1986—Remission of Water Rates
Road Traffic Act 1961—
Mass and Loading Requirements
Miscellaneous—Apparatus Approved
Road Rules Ancillary and Miscellaneous Provisions—Crashes
Road Rules Ancillary and Miscellaneous Provisions—Dangerous Goods
Southern State Superannuation Act 2009—Parliamentary Superannuation
Rules under Acts—
Road Traffic Act 1961—Vehicle Standards—Dictionary
Rules of Court—
District Court—District Court Act 1991—
Civil—Amendment No. 17
Criminal and Miscellaneous—Amendment No. 10
Magistrates Court—Magistrates Court Act 1991—
Civil—Amendment No. 37
Supreme Court—Supreme Court Act 1935—
Civil—Amendment No. 16
Criminal—Amendment No. 28
Criminal Appeal—Amendment No. 4
Emergency Services Funding (Declaration of Levy and Area and Land use Factors) Notice 2011
Emergency Services Funding (Declaration of Levy for Vehicles and Vessels) Notice 2011
Flinders University of South Australia—Statute 2.7—The Registrar
Flinders University of South Australia—Statute 1.2—University Colours and Insignia, Statute 2.3—The Vice-Chancellor, Statute 4.1—The Council, Statute 3.4—The Faculties, Statute 6.1—Admission, Statute 6.2—Enrolment of Students, Statute 6.4—Student Conduct, Statute 7.9—Academic Dress

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Act—
Liquor Licensing Act 1997—Dry Areas Long Term—Hahndorf, Mount Barker and Nairne

By the Minister for Industrial Relations (Hon. R.P. Wortley)—

Regulations under the following Acts—

Fisheries Management Act 2007—Fees—
Divisions 1-4
Schedule 1 Part 1
Schedule 1 Part 3
Health Services Charitable Gifts Act 2011—General
Natural Resources Management Act 2004—General—Transitional Provision

By the Minister for State/Local Government Relations (Hon. R.P. Wortley)—

District Council By-laws—
Port Lincoln—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs
Wattle Range—
No. 4—Local Government Land

LEGISLATIVE REVIEW COMMITTEE

The Hon. P. HOLLOWAY (15:02): I bring up the 27th report of the committee.

Report received.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Hon. J.M. GAZZOLA (15:02): I bring up the report of the Aboriginal Lands Parliamentary Standing Committee 2009-10.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE

The Hon. P. HOLLOWAY (15:03): I bring up the report of the committee on invasive species.

Report received.

The Hon. P. HOLLOWAY: I bring up the report of the committee on bushfires.

Report received.

SCHOOL VIOLENCE AND BULLYING

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:03): I table a copy of a ministerial statement relating to school violence and bullying made earlier today in another place by my colleague the Hon. Jay Weatherill.

BURNSIDE COUNCIL

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:04): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.P. WORTLEY: As members are aware, Mr Ken MacPherson was appointed in July 2009 to conduct an independent inquiry into allegations raised about the conduct of council members at The City of Burnside. It also needs to be remembered that, for some time, legislative councillors were calling for the government to launch an investigation under section 272 of the Local Government Act 1999.

Furthermore, individual elected members of the Burnside council, including the plaintiffs, supported an investigation. The action taken by the minister was the first time section 272 of the act had been tested and therefore such an investigation was unprecedented. The minister responsible acted upon the best possible advice when initiating the inquiry. At no time did the Burnside council itself challenge the appointment of the investigators or the terms of reference.

The initial term of the investigation was expected to take 12 weeks from the beginning of August 2009. This was extended in October 2009 and again in January 2010 at the request of the

investigator, based on the volume of evidence he received, including from the plaintiff's themselves. As members are aware, the investigation produced a draft provisional report on 24 August 2010, which, for the purposes of natural justice, was provided in full or in part under confidentiality agreements to all those persons whose interests were potentially adversely affected by reference to them in the report. This was to enable them to respond.

It was also at this point in time that the six plaintiffs decided to apply to the court for permission to carry out a judicial review of the actions of the minister and the investigator, prompting a further delay in the progress of the inquiry. It is interesting to note that the six councillors had not brought their actions either when the investigation was launched or within the six-month time period for judicial review. However, they were granted an extension of time by the court.

The Full Court of the Supreme Court has since delivered a judgment in these proceedings to the effect that three aspects of the terms of reference were found to be invalid and that the terms of reference were required to be read narrowly. However, the ruling held that the minister had reason to believe that there was basis for investigation and that the council was not acting as a representative, informed and responsible decision-maker in the interests of the community.

Local government elections across the state, including elections for the Burnside council, were concluded on 12 November 2010, that is, during the period the draft report was distributed to interested parties and while the judicial review was proceeding. One of the six plaintiffs who brought the action for judicial review chose to stand again for the Burnside council and was defeated, while the other plaintiffs did not renominate. Not one of the previous Burnside councillors was re-elected at the 2010 election. This led to the election of an entirely new council, remedying the problems of friction between the previous council which gave rise to complaints and which led to the independent inquiry. The election result brought to an end the intractable dysfunctional relations on the council.

The court last week ordered the government pay the cost of the five plaintiffs and pay 20 per cent of the costs of the sixth plaintiff. The actual quantum of the costs payable by the government with respect to the court action is still to be confirmed. It is already a matter of public record that the cost of the investigation to date is approximately $1.3 million. Once all the costs are received by the plaintiff's legal representatives and then collated, I will advise this chamber of the total cost of the investigation and the court action, but in the meantime I will not participate in speculation about the cost.

Given the court's ruling and the outcome of the election, it is appropriate to conclude this inquiry. The Full Court's ruling is such that the draft report would require extensive revision to excise those areas related to the terms of reference ruled invalid before a final report can be published. Further, plaintiffs have not responded to the investigator and there would be further delays and possibly further legal challenges if the inquiry was to proceed further. This would be a lengthy and potentially costly process, and I do not believe the public interest can be further served in light of the court's ruling and the outcome of the November 2010 elections by continuing toward that end.

Based on advice available to me, and having regard to the public interest, I have decided the inquiry should not proceed. I am very mindful of the continuing suppression order in relation to the provisional draft report, and I hope that honourable members will be respectful of the court's order. I will not undermine that order by lifting the exemption under the Freedom of Information Act that applies to the documents associated with the investigation. That exemption was put in place to protect the integrity of the investigation and the people affected by it, including staff of the council and other witnesses, and for the same reasons the suppression order applies I shall not disturb the exemption.

The experience gained from this inquiry, the first instigated under the new act, has also focused attention on the checks and balances required to ensure that local government, both elected members and council officers, maintain the highest standard of conduct expected of them by the South Australian community. These are issues currently being considered by the Attorney-General as part of the work being carried out to create a new office of public integrity.

Today I have also met with representatives of the Local Government Association and the Mayor of Burnside, Mr David Parkin. We agreed that, beyond the Burnside council matters, there are a number of issues that need to be discussed in relation to our system of local government. I look forward to working closely with the LGA on these issues.

QUESTION TIME

CARBON TAX

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:11): I seek leave to make a brief explanation before asking the very first question of the new Minister for Industrial Relations regarding the carbon tax and the union movement.

Leave granted.

The Hon. D.W. RIDGWAY: The Transport Workers Union revealed yesterday that truck drivers and small trucking operators face charges of up to $200 a week on fuel alone, with no way to recover the cost under the carbon tax proposed by the Australian government. The TWU national secretary, Tony Sheldon, says:

> If the driver is left to carry the can on increases to fuel due to a price on carbon, then drivers will be put under more economic pressure on the roads.

The TWU is the very trade union that gave the Minister for Industrial Relations an entree into politics. Before entering parliament, members would remember the Hon. Mr Wortley was a TWU official, and the TWU says drivers will be working the equivalent of an extra day a week in a six or seven-day week to make the same wages they are now. Meanwhile, Labor senator Glenn Sterle says Labor is following the 'lunatic' Greens and Senator Sterle would back the TWU. My question to the minister is: does he back a carbon tax, or does he agree with the TWU?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:12): I thank the honourable member for my very first question. On Sunday the Prime Minister will give a statement in regard to the carbon tax and will outline, I imagine, quite a lot of detail regarding compensation for anyone who may require it. I would like to make the point that during this whole debate there has been misrepresentation, innuendo and very misleading—

The Hon. D.W. Ridgway: Do you support it?

The Hon. R.P. WORTLEY: Let me finish the answer, if I may. On Sunday the Prime Minister will give quite a lengthy statement, I understand, and I support the Prime Minister of this country and I support the carbon tax. I also support the compensation package that will be given to those who are in need.

The Hon. A. Bressington: What's in it?

The Hon. R.P. WORTLEY: You'll find out Sunday. Hold your breath until Sunday.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway has a supplementary.

CARBON TAX

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:13): Is the minister still a member of the Transport Workers Union?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:13): Mr President, I am a proud member of the Transport Workers Union, and will be until the day I die.

The PRESIDENT: The Hon. Mr Ridgway has a further supplementary.

CARBON TAX

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:13): Given that the minister backs a carbon tax and not his union, will he now resign or wait to be expelled from the union?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:13): They never stop. They are a barrel of laughs. You are a laugh a minute. Mr President, the senator and the federal secretary who made that statement have one point of view and a position and it may have merit or it may not. It only happened today. I can assure the honourable member that there will be a very generous compensation package for this carbon tax. I know that upsets you, but the fact is there will be a generous compensation package, and you will have to wait until Sunday—

The Hon. D.W. Ridgway: Are you going to resign?

The Hon. R.P. WORTLEY: There is no need to resign.

The Hon. D.W. Ridgway: They'll kick you out.

The Hon. R.P. WORTLEY: No, they value me very much as a member. On Sunday there will be a very detailed statement on the compensation package and the price of carbon.

Members interjecting:

The Hon. R.P. WORTLEY: It is a little bit like stereo here. I am a proud member of the TWU—always have been and always will be—and my views do not contradict anything they have said.

CARBON TAX

The Hon. J.M.A. LENSINK (15:14): I seek leave to make an explanation before directing a question to the Minister for Regional Development regarding threats to Port Pirie's major employer, Nyrstar.

Leave granted.

The Hon. J.M.A. LENSINK: As honourable members may be aware, Nyrstar contributes some $1.6 billion to South Australia's economic output, employs 800 South Australians and indirectly provides over 2,000 jobs. Many of Nyrstar's Australian competitors are in Asia, particularly in China, and the company has been quite clear that the carbon tax threatens its Port Pirie operations.

Indeed, its executives have criticised the government's consultation with industry on compensation as 'lip service'. Its Zurich-based General Manager of group smelting (Matt Howell) says that, if the federal Labor government does not protect the company's Australian operations under a carbon tax, then the Port Pirie smelter will close. He said:

> In the case of Port Pirie, in the event that government policy caused us to exit that business, it will never return and the lifeblood of an important regional community of 14,000 will be lost. Where the hell are those people going to go to, what are they going to do?

The group also says that untrue comments by South Australian Labor Premier Mike Rann in parliament had misrepresented the company's position on a carbon tax, and that the Premier was misleading the people. My questions to the minister are:

1. Does the Minister for Regional Development represent regional South Australians, or does she represent the Premier?

2. Does the minister support a carbon tax or does she support regional South Australia?

3. Has the minister visited Port Pirie and Nyrstar since the Prime Minister said before the last election that there would be no carbon tax?

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, Minister for Gambling) (15:16): Indeed, as the honourable minister Russell Wortley has pointed out, there are a number of future announcements to be made by the federal government in relation to the details of the carbon tax—how it will operate, who it will apply to and where compensation will be made, and those details will take time to be rolled out in a series of announcements.

We know that what the opposition is doing here is scaremongering. We know that they are going around to regional centres and scaring the living daylights out of these communities. We know that is what it has been—a campaign of scaremongering. We know that they are carbon sceptics. We know that they do not believe that carbon is having a polluting effect on our environment; that it will have a major social, economic and environmental impact on the planet that is going to cost all of us significantly—and our children and our grandchildren, etc.

There is a cost from these polluters, and what we see is a federal government that has a strategy to stop polluters, and that is something that any responsible person on this planet should be supporting.

CARBON TAX

The Hon. J.M.A. LENSINK (15:18): As a supplementary: has the minister in her capacity as Minister for Regional Development visited Port Pirie, and has she, in fact, met with Nyrstar or any of the locals who are employed at the smelter?

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, Minister for Gambling) (15:18): I have visited Port Pirie—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgeway is expending a lot of carbon.

The Hon. G.E. GAGO: I have visited many regional centres. I have not met with Nyrstar but I have met with many industry leaders, including OneSteel and many, many other industry leaders, as well as non-government community groups. I have had a relationship with the regions for many, many years, particularly in my ministerial responsibilities.

One of my first ministerial responsibilities was as the minister for environment, and I had a series of ongoing regional visits throughout that portfolio and many other portfolios that I have had; so I have established some extremely good relationships right throughout the regions with a wide cross-section of industry groups.

What I can say is that most South Australians are deeply and profoundly concerned about the long-term impact of carbon pollution on this planet and the enormous ongoing social, environmental and economic cost to this community. I could not count the number of people who have approached me to raise their deep and profound concerns.

CARBON TAX

The Hon. D.G.E. HOOD (15:20): As the goal of the carbon tax is to reduce global warming or to impact on the problem of global warming, can the minister estimate what she believes the introduction of the tax will lead to in reduction in global temperature?

The PRESIDENT: You are asking the minister to make an estimate on a matter that has been a federal issue, and both ministers have taken up the challenge so far. Perhaps you ought to get your colleagues in Canberra to ask those questions.

BURNSIDE COUNCIL

The Hon. S.G. WADE (15:21): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to the Burnside council.

Leave granted.

The Hon. S.G. WADE: On 28 June 2011 the Full Court of the Supreme Court delivered a judgement in relation to the Burnside council investigation. The Full Court stated in its judgement that:

> It is in the public interest that Mr MacPherson complete his inquiry and report to the Minister, as soon as practicable, on matters within the scope of the Terms of Reference as limited by the Court. The difficulties confronting him in doing so will have to be dealt with, if and when they arise. The orders claimed by the plaintiffs do not prevent him from reporting to the Minister, if he can do so, relying on material on which he is entitled to rely.

Another part of the judgement urges Mr MacPherson to 'complete his inquiry and report to the minister as soon as practicable'. Yet, today the government cancelled the inquiry after more than $1.5 million and after 96 weeks. I ask the minister: why does the government disagree with the Supreme Court that the Burnside inquiry should be completed, thereby leaving the residents of Burnside in the dark about the goings-on in its own council?

Secondly, given that the draft report of the Burnside investigator reportedly contained evidence of criminal conduct, what action will the minister take to ensure that any matters that could give rise to a criminal charge have been or will immediately be referred to the police for further investigation and possible prosecution?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:23): First of all, regarding the judgement of the full bench of the Supreme Court which talked about it being in the public interest for Ken MacPherson to finish the report, what the judge was saying in the verdict was the fact that, because there was a new, more narrow term of reference, it was probably in the public interest for him to 'de-strand' the evidence

already taken under those terms of reference that were made invalid and remove it, instead of starting the investigation all over again.

He basically wanted the investigation to be completed at a much quicker pace. The problem we have is that, to do that and to 'de-strand' any evidence that was given with regard to those invalid terms of reference, what would happen is that first of all he may have to re-interview some of the people who were involved—bearing in mind that none of those people are now back on the council.

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: None of those people—ex-councillors or the ex-mayor—are back on the council. Secondly, the—

The Hon. R.I. Lucas: 'I've forgotten the second point now.'

The Hon. R.P. WORTLEY: No.

The Hon. R.I. Lucas: Quickly, someone suggest it!

The Hon. R.P. WORTLEY: Secondly, it is not necessarily going to follow that these people will cooperate with the investigator. I have to make a decision eventually on how much we are going to spend on this report. I have to take into consideration myself—no-one else but me—that there are no longer any councillors on the City of Burnside council. So, I have made the decision to end the report as of now. That does not contravene anything with regard to the judgement that was handed down by the Full Court of the Supreme Court.

When you are talking about criminality, a lot of the allegations that were investigated by the investigator were already referred to the Anti-Corruption Branch of the police, and they found no evidence or no basis to continue on with any action. At the end of the day, once this is all over and done with, I will be talking with the LGA, looking at some of the issues in the broader context of local government and looking at the Local Government Act to see if we can do something that would prevent this sort of thing occurring in the future.

The PRESIDENT: The Hon. Mr Wade has a supplementary question.

BURNSIDE COUNCIL

The Hon. S.G. WADE (15:25): Can the minister advise whether the investigator shared the minister's view that there was a low prospect of, shall we say, 'de-stranding' the material in relation to the excluded terms of reference?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:26): I have not spoken to the investigator, but that is a decision I make alone. I have made that decision and that is what is going to happen.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas has a further supplementary question.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (15:26): Who is responsible for the $1.3 million to $2 million waste of taxpayers' money? Is it the government in terms of drafting the terms of reference or was it the investigator in terms of implementing the investigation?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:26): I am not going to point the finger at anyone, but I will say this: when we initially, with the full support of this council, went into this investigation, it was meant to last for 12 weeks. We gave two extensions because this government made the responsible decision to keep at arm's length and allow the investigator to handle this report in his own way. After almost two years and a lengthy and expensive court case—

The Hon. R.I. Lucas: Who is responsible?

The Hon. R.P. WORTLEY: If you don't mind, I am trying to answer the question. If you do not want me to answer the question, I will sit down.

The PRESIDENT: The Hon. Mr Wade has a supplementary.

Members interjecting:

The PRESIDENT: Order!

BURNSIDE COUNCIL

The Hon. S.G. WADE (15:27): I have a supplementary question. Considering that the Full Court said that the terms of reference were not prepared with care and attention to their scope, is that the reason the minister cancelled the inquiry?

Members interjecting:

The PRESIDENT: Order! With the supplementary question including the phrase 'is that the reason', it is asking the minister for an opinion.

The Hon. S.G. Wade: No, it is a reason for his actions.

The PRESIDENT: You can answer it if you want.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:27): He went through a few things. There are a number of reasons I have decided to do away with the inquiry. One of them is the fact that it has been going on for two years now, and to complete the report by de-stranding all those terms of reference that were made invalid could take an amount of time I could not even contemplate. Secondly, it has already cost $1.3 million—and it is a fact that the previous minister was constantly reminded of the cost of this investigation. Thirdly, there is no councillor from the previous council currently on that council.

Consider the scenario that it takes another two years and another million dollars to complete this, then they come down with the report and it is a distant memory from the original investigation. What is the value of that? In the public interest, I think the people of this state really want to move on. Burnside council deserves to be able to get on with their life. They have a new council and a new CEO. I met with the council today, and I met with the Local Government Association. We had a long discussion about this and I am looking forward to working with them into the future and looking at some of the issues that have arisen out of all this.

It would be irresponsible of me to continue on with a report that, at the end of the day, what will it mean? The possibility of any prosecutions or any findings against any person in that report, on my advice, is very unlikely, so I am not going to waste another million dollars of taxpayers' money on a report which has been ended now.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (15:30): I have a supplementary question arising out of the answer. Does the minister now accept that it was the incompetence of the former minister for local government in poorly drafting the terms of reference for this inquiry that has led for the scandalous waste of up to $2 million of taxpayers' money?

The PRESIDENT: Order! It is asking the minister for an opinion. The minister does not have to answer.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:31): I have total confidence in the previous minister. The previous minister did nothing without seeking advice. Not one decision was made without seeking advice, so I do have full confidence in the minister.

The PRESIDENT: The Hon. Mr Darley has a supplementary deriving out of the original answer.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (15:31): Thank you, Mr President. The minister, in one of his answers to the question, indicated that matters of criminal conduct have been referred to the Anti-Corruption Branch. Does the minister know how many of those matters were referred?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:31): No, I do not.

NATIONAL PLAN TO REDUCE VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. CARMEL ZOLLO (15:31): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the National Plan to Reduce Violence against Women and their Children.

Leave granted.

The Hon. G.E. GAGO: The minister has spoken many times in this place about the importance of the government's—

Members interjecting:

The PRESIDENT: Would the Hon. Mrs Zollo like to complete her explanation, or start again perhaps?

The Hon. CARMEL ZOLLO: I think I should start again, Mr President.

The PRESIDENT: Why not?

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the National Plan to Reduce Violence against Women and their Children.

Leave granted.

The Hon. CARMEL ZOLLO: The minister has spoken many times in this place about the importance of governments working together to achieve positive change. Can the minister provide information about what South Australia is doing to progress the National Plan to Reduce Violence against Women and their Children?

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, Minister for Gambling) (15:33): I thank the honourable member for her most important question. The National Plan to Reduce Violence against Women and their Children sets an aspirational vision and target to focus national efforts over the next 12 years (2010-22), aiming for Australian women and their children to live free from violence in safe communities. It seeks to achieve a significant and sustained reduction in violence against women and their children.

The Australian government's response to a Time for Action, the final report of the National Council to Reduce Violence against Women and their Children, was released on 15 February 2011. The national plan has been endorsed by the Council of Australian Governments, and I am very proud to say that it has the full commitment of the South Australian Labor government. It recognises and complements the substantial work already undertaken nationally and in the states and territories.

Actions identified in the plan build on existing work and joint undertakings between the commonwealth, state and territory governments and non-government organisations. It will help achieve a real and sustained reduction in the level of violence against women, while working cooperatively with all states and territories in a coordinated approach. The national plan is the very first of its kind to focus so strongly on prevention, including building respectful relationships among young people and working to increase gender equity to help violence from occurring in the first place.

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

Some of the key actions undertaken in 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 3 of the Australian curriculum; provision of telephone support for frontline 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; national standards for perpetrator programs; and, of course, establishing a national centre of excellence to evaluate the effectiveness of strategies to reduce violence against women.

Evaluation is a very important aspect in enabling us to guide our future directions and efforts. It is one thing to have a good idea, but it is most important that we are actually able to put programs in place. We need to make sure that the program is doing what we expect and want it to do and that we are in fact using the Australian dollar 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

survey and national community attitude 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.

The national plan is intended to get the best results possible by bringing the efforts of all service systems together to achieve the common goals of preventing violence, delivering justice for victims and improving systems. It will bring a new focus on preventing violence against women by seeking to change the attitudes and behaviours that lead to violence.

The national plan also contemplates other important work being progressed by state and federal governments, including the development of a National Framework for Protecting Australia's Children, the evaluation of the Northern Territory Emergency Response and the work of the Social Inclusion Board. The national plan will be implemented through four three-year action plans over a period of 12 years.

The action plans will be governed by a ministerial council and overseen by a national implementation group including representatives of the federal government, state and territory governments and non-government sector, and leading researchers and experts. South Australia will continue to work with our jurisdictional colleagues to implement projects under the national plan such as the 1800 RESPECT 24 hour, seven day a week national telephone and online crisis service.

DISABILITY SERVICES

The Hon. K.L. VINCENT (15:37): I seek leave to make an explanation before asking the minister representing the Minister for Disabilities questions about disability services in South Australia's Indigenous communities.

Leave granted.

The Hon. K.L. VINCENT: As most of the members here are hopefully aware, this week is NAIDOC Week, which is an opportunity for all of us to celebrate the richness of Indigenous culture, history and achievements across Australia. Unfortunately, NAIDOC Week can sometimes also serve as a sad reminder of things which could be done better in the area of Indigenous service delivery.

I am acutely aware that, while disability services are hard to access in metropolitan areas, the problems are doubled for people living in regional and rural areas who are attempting to access things like personal care or respite. It is my suspicion that such difficulties are often compounded for those living in Indigenous communities but, unfortunately, there is not much localised data available on this issue.

The wonderful organisation, Motivation Australia, has recently started nationwide research into what kind of access to services is offered to Indigenous Australians with a disability, and the initial results are very disheartening. Given the appalling lack of South Australia-specific public information on this topic, my questions to the minister are:

1. What proportion of cases recorded on the unmet needs list originates from Indigenous communities?

2. What measures are in place to make the offer and engagement of disability services culturally appropriate for Indigenous Australians?

3. What processes are used to make sure that equipment provided through Community and Home Support SA is appropriate for the terrain and environmental conditions of outback Australia?

4. Do the policies of this government recognise the high worth of in-community carers of Indigenous Australians?

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, Minister for Gambling) (15:39): I thank the honourable member for her important questions, and I will refer those to the Minister for Families and Communities in another place and bring back a response.

AGRIBUSINESS COUNCIL

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for

Government Enterprises, Minister for Gambling) (15:39): While I am on my feet, I table a copy of a ministerial statement relating to the Agribusiness Council made earlier today in another place by my colleague the Hon. Michael O'Brien.

QUESTION TIME

LOCAL GOVERNMENT REFORM FUND

The Hon. P. HOLLOWAY (15:40): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Local Government Reform Fund.

Leave granted.

The Hon. P. HOLLOWAY: I understand that, back in 2009, after a meeting of the Australian Council of Local Government, the commonwealth government announced funding of $25 million to establish the Local Government Reform Fund. Will the minister update the chamber as to what projects have since been developed and advanced here in South Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:40): As the honourable member mentioned in his question, at the Australian Council of Local Government meeting held back in June 2009, the commonwealth government announced funding of $25 million to establish the Local Government Reform Fund. In establishing the Local Government Reform Fund, the commonwealth government aimed to support the accelerated implementation of the nationally consistent frameworks for local government asset and financial management, as agreed by the Local Government and Planning Ministers' Council back in May 2009.

Additionally, the commonwealth also established the fund to encourage collaboration in the local government sector to build capacity and resilience and improve the collection and analysis of nationally consistent data on local assets and finances. I can advise the chamber that all states and territories were invited to submit initial project proposals by 30 November 2009.

The South Australian government signed up to the National Partnership Agreement to support local government and regional development in April 2010. I am pleased to advise that the Office for State/Local Government Relations has worked closely with the Local Government Association of South Australia to develop a strategy known as Proposal 1, containing six projects for submission to the Local Government Reform Fund.

I am also pleased to advise that funding of $1.65 million was approved for three of the six projects. These projects were developed with an emphasis on building capacity within individual councils and the sector as a whole to ensure the long-term focus of asset and financial management as a priority.

All of the projects in the Office for State/Local Government Relations and the Local Government Association proposal—while they can be defined as individual projects—come together in a planned approach using the principles of continuous improvement to ensure their ongoing relevance. These projects include the development of accepted standards of good asset and financial management practices and an audit of all South Australian councils based upon those standards. The proposal also looks at the development of individual improvement plans emphasising the principles of financial and asset management, collaboration, workforce planning and climate change adaptation.

Finally, the proposal considers the development of solutions based upon the results of the audit and content of improvement plans. The projects will be carried out under the auspices of the Local Government Association, and the Office for State/Local Government Relations will have oversight of funding expenditure to ensure projects are progressed in accordance to the funding submission.

The projects contained in the proposal are consistent with the legislative changes introduced in this state to improve the financial and asset management of councils and with the broader policy approaches to build capacity in the local government sector through collaborative approaches.

I am also pleased to advise that the remaining three projects under proposal one (projects 1.2, 1.3 and 1.5) have received informal support but not final approval at this stage. These projects focus on workforce planning in relation to asset management and financial management plans,

climate change adaptation and measurement of asset and financial management data in local government (SA).

I am pleased to see the Local Government Association and the state government working together to achieve such a positive outcome for local government. I congratulate the respective officers on their hard work and wish them all the best in their future endeavours.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (15:43): My question is to the Minister for State/Local Government Relations regarding the Burnside council case before the Full Court. Given that one of the former Burnside councillors is also a senior sergeant of police, does the minister know whether the Police Commissioner received a draft copy of the MacPherson report and, if so, can the minister advise what action, if any, the commissioner took based on the information contained in the report?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:44): I would like to make clear that all allegations of corruption have been referred to the South Australia Police Anti-Corruption Branch, even prior to this investigation. I am advised that there has never been evidence presented to the Anti-Corruption Branch that warranted further investigation. Nevertheless, if any person—and I will put this to Mr Darley—has any evidence of anything improper having occurred, they should contact the Anti-Corruption Branch.

We also have to remember that, just because an organisation is dysfunctional, it does not mean there are any criminal elements to it. We only have to look at the party room of the opposition! There is no more I can say about criminality, because I have not read the report.

Members interjecting:

The PRESIDENT: The minister should refrain from exciting the opposition.

SOUTH AUSTRALIAN VISITOR AND TRAVEL CENTRE

The Hon. T.J. STEPHENS (15:46): I seek leave to make a brief explanation before asking the Minister for Regional Development, representing the Minister for Tourism, questions about the new South Australian travel centre on Grenfell Street.

Leave granted.

The Hon. T.J. STEPHENS: Following the privatisation of the South Australian Visitor and Travel Centre, a number of issues have been raised with me by industry operators and members of the public. These issues include the lack of disability access at the new site and concern over changes to commission structure. The minister disclosed to the estimates committee that funds were provided for the improving of disability access at the Grenfell Street site. My questions to the minister are:

1. How much is this government paying to ensure the new privatised visitor information centre is suitable for customers with a disability?

2. When will the disability access modifications be completed?

3. Will Holidays of Australia actively promote all products and have a strict policy of neutrality towards products?

4. Will similar brochures and information services be available at the travel centre as were available before the privatisation?

5. Why has minister Rau allowed this whole privatisation process to turn into such a debacle?

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, Minister for Gambling) (15:47): I thank the member for his questions and will refer them to the Minister for Tourism in another place and bring back a response.

SMART STATE PERSONAL COMPUTER PROGRAM

The Hon. I.K. HUNTER (15:47): I seek leave to make a brief explanation before asking the Minister for Public Sector Management a question about a recent state government initiative.

Leave granted.

The Hon. I.K. HUNTER: Community organisations play a valuable role in the social life of our state. As members present all know, they are often challenged by not being able to afford often small amounts for equipment items or resources that can be vital to their service delivery. Will the minister advise what the government is doing to assist community organisations facing these challenges?

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, Minister for Gambling) (15:47): I am very pleased to announce that the new round of offers of the Department of Premier and Cabinet Smart State personal computer program has now been finalised. The Smart State program is an initiative that involves donated surplus computer equipment from state government departments being provided to community organisations so that they can continue to serve a useful purpose.

The provision of computers is at no cost to the applicant, and PCs also include hard drives, monitors, keyboards and mice. The equipment is donated by various state government departments and I am advised will go to benefit people under the consideration of the Social Inclusion Unit. This will enhance support services and educational opportunities for people like the elderly, the socially isolated and at-risk groups.

They may also be used to assist special populations such as Indigenous groups, Disability Action and support groups and linguistically and culturally diverse groups. Availability is dependent on department turnover of equipment and its suitability for the program. This Labor government aims to reduce its ecological footprint as part of its commitment to sustainability and climate change, and this program is just another way the government is seeking to achieve its goals.

The application process is designed to be simple to understand and comply with. Organisations are required to demonstrate the extent to which activities undertaken with the PCs will benefit the wider community and also the relevance of the activities to fulfilling objectives of the South Australian Strategic Plan. Some of the applicants who have been successful in this round include the Eudunda Community Centre, the Muslim's Women's Association of South Australia, the Barossa Area Fundraisers for Cancer Inc and Positive Life SA.

Opening and closing dates for each round are announced on the Department of the Premier and Cabinet website, where you can also download an application form. DPC assesses each application against the criteria of the program and a panel submits recommendations, which I then consider carefully before selecting successful applicants.

This policy helps the government to reduce, as I said, its ecological footprint and is a smart and easy way to continue to provide a benefit to the wider South Australian community. This is an ongoing program, with another round of offers opening on 27 June this year, and I strongly urge members to suggest to all community organisations or people they feel may be eligible and worthy that they apply for the next round of offers.

POINT LOWLY

The Hon. M. PARNELL (15:50): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about Point Lowly.

Leave granted.

The Hon. M. PARNELL: The extraordinary giant Australian cuttlefish aggregation, which is just metres off the beach at Point Lowly near Whyalla—an amazing annual event which was recently given worldwide prominence in a David Attenborough wildlife documentary—continues to be under threat from a wide variety of sources. In what should be of great concern to all South Australians, local diver and long-time observer of the cuttlefish, Tony Bramley, said on ABC radio recently that cuttlefish numbers this year are significantly lower than usual. Adelaide University marine biologist Bronwyn Gillanders says that their 'live fast and die young life history strategy' makes this species particularly vulnerable to threats from industrial development.

We know that Santos is currently fighting the EPA in the ERD Court about a long-term hydrocarbon leak from their Point Lowly refinery—a leak that the EPA says has reached the shoreline. However, the government is continuing to advocate for a range of other industrial projects nearby, including a second refinery and a large new jetty transporting potentially toxic minerals over the top of the cuttlefish breeding grounds. Also, we have BHP Billiton ignoring the

thousands of submissions opposing the location of their massive desalination plant for the Olympic Dam expansion and forging ahead with their original plan to locate it off one of the most sensitive parts of our marine environment.

It is not surprising that the federal Liberal member for Grey (Rowan Ramsey) has stated recently that he is still not convinced that Point Lowly is the best spot for BHP Billiton's desalination plant. Perhaps he was disturbed by his Liberal colleague opposition leader Isobel Redmond's recent claim on 20 June on ABC radio when she said she is now satisfied that the plant will not cause damage to the cuttlefish population, saying the outfall pipe for the salty brine is 'so much further and so much deeper, it's like three kilometres at least back upstream, as it were, to the nearest cuttlefish, and 10 kilometres to the main cuttlefish breeding grounds'.

This curious claim is at complete odds with what BHP Billiton—Uranium president, Dean Dalla Valle is saying, who stated in May that extending the pipe a further 200 metres out to sea would ensure that it will be 'up to 800 metres from the nearest point of cuttlefish breeding grounds'.

In addition to these threats, Tony Bramley has said that fishing should be banned in the surrounding area until the cause for this year's significant decline is known. If the government does not get the right protection in place, the future of the cuttlefish will indeed be bleak. My questions of the minister are:

1. What does the government believe has caused the significant decline in the numbers of cuttlefish in this year's aggregation?

2. Is the government concerned about it and, if so, what is its response?

3. How far exactly is the BHP Billiton desalination plant outlet pipe from the breeding grounds of the cuttlefish? Does the government agree with the opposition leader Isobel Redmond that it is between three and 10 kilometres away?

4. Does the government intend to include the whole of the cuttlefish breeding grounds off Point Lowly in marine park no-take zones?

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, Minister for Gambling) (15:54): I thank the honourable member for his questions. Clearly, they are outside the responsibility of the Minister for Regional Development. They largely rest with the Minister for Urban Development and Planning, and I think also the Minister for Infrastructure and the Minister for Environment and the EPA. All have certain responsibilities in respect to a number of the different issues that the honourable member has raised. I can only comment in a very general sense, but the projects that have been planned for the Port Bonython/Port Lowly area—each and every one of those—must go through a very rigorous assessment, not just in terms of the business study and the impact and capabilities but also the environmental impacts.

I visited Port Lowly quite recently and went right around the area where a number of projects are planned to occur, and I am confident of the sorts of procedures that are being put in place and the rigorous requirements to ensure that environmental impacts are assessed accurately to ensure that where there are problems associated with negative impacts they have to be rectified before a project can proceed. As I said, most of the details around the length of outlet pipes, and such like, are outside my purview. As I said, they are matters for a number of other ministers in another place.

POINT LOWLY

The Hon. M. PARNELL (15:56): As a supplementary: as Minister for Regional Development, does the minister accept that an adverse effect on the cuttlefish will also adversely impact on the regional economy, particularly in the area of ecotourism?

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, Minister for Gambling) (15:56): As I have said, there are processes in place, and a rigorous process in place, which requires that environmental as well as business impacts are assessed for each of these projects; so, the projects must comply with those standards before they are able to proceed. The question is really a hypothetical one.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (15:57): My question is to the Minister for Industrial Relations. Given the minister's claim that it would be too difficult to 'de-strand' (whatever that means) Mr MacPherson's report, has the minister read the report and, if he has not, how did he make his judgement?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:57): No, I have not read the report; I have been given advice.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (15:57): As a supplementary question arising out of the minister's answer: from whom did the minister receive the advice, and did that person read the report?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:57): I have been given advice from a number of sources: the Crown Solicitor's Office and my advisers. I must say that at no time have I even asked whether they had read the report. I have not read the report. The report itself has not been the basis of my decision.

The Hon. R.I. Lucas: You don't even know what's in it?

The Hon. R.P. WORTLEY: I actually do not want to know.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: Have you read the decision?

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: Have you read the decision?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: Have you read the decision? Have you read the court decision?

The Hon. R.I. Lucas: Have you read the report?

The Hon. R.P. WORTLEY: I have read the court decision, and I understand what the court has said.

The Hon. R.I. Lucas: Have you read the report?

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: You are an arrogant fellow, aren't you? You are sitting there making statements to me. You obviously have not read—

The Hon. R.I. Lucas: Have you read the report?

The Hon. R.P. WORTLEY: I have answered it. You have not answered—

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The minister.

The Hon. J.S.L. DAWKINS: Point of order.

The PRESIDENT: Order! The Hon. Mr Dawkins has a point of order.

The Hon. J.S.L. DAWKINS: The minister ought to be well aware of the fact that, when he refers to 'you', he is referring to the President, and he ought to work that one out.

The PRESIDENT: What number standing order is that one?

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (15:58): I have a supplementary question arising out of the minister's answer.

The PRESIDENT: The Hon. Mr Lucas has a further supplementary, and I must remind the Hon. Mr Lucas and the honourable minister that they should not be debating across the chamber.

The Hon. R.I. LUCAS: Hear, hear! Thank you, Mr President. Thank you for your protection. Will the minister take on notice and check with his advisers as to whether they had actually read the report before they advised him that it was going to be too difficult to 'de-strand' (whatever that means) Mr MacPherson's report?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:59): Mr President, I do not think it takes a Rhodes scholar to understand that, if you have done hundreds of pages of a report and the court then narrows the terms of reference down by almost, well, probably, about one-fifth, to continue on with that report without starting over again, they have to go into that report, and all the evidence taken in regard to the terms of reference are made invalid and have to be de-stranded. I will look up 'de-strand' in the dictionary and I will give you its meaning. You ought to read the court's decision and then you would understand what it means. Mr President, I have not read the report. I did not need to read the report for me to make my decision, as simple as that.

SAFEWORK SA

The Hon. J.M. GAZZOLA (16:00): My question is to the Minister for Industrial Relations. Will you inform the council on what is being done by SafeWork SA to assist and guide industry in reducing the incidence of work-related injury and illness in South Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:00): I thank the honourable member for his question. SafeWork SA, as the safety regulator in this state, assists and guides improvement in occupational health and safety. As part of their role, SafeWork SA develops and implements proactive injury prevention programs to assist and guide industry to reduce the incidence of work-related injury in line with target T2.11 Greater Safety at Work of South Australia's Strategic Plan and the National Occupational Health and Safety Strategy 2002-2012.

SafeWork SA's key proactive injury prevention initiative is the industry improvement program through which employers are engaged in a range of intervention strategies that build the employer's capability to prevent work-related injury and illness. The agency works with a range of key industry consultative committees that assist and guide the development and implementation of specific safety initiatives. Committees are in operation for five high risk industry groups: construction, hospitality, aged and personal care services, manufacturing and meat products manufacturing.

Small businesses (those employing 20 or less workers) represent more than 90 per cent of employment in this state. They are strongly supported by SafeWork SA through a range of proactive preventive initiatives. This support includes an ongoing series of small business forums to raise awareness of industry risks for small business and to encourage a systematic approach to managing health and safety successfully.

Since 1 July 2010, six forums have been conducted in both metropolitan and country regions. A new small business visits project was completed in 2010. This project, engaging 117 small businesses experiencing a disproportionate number of workers compensation claims, provides face-to-face assistance and guidance at the workplace for employers to reduce injuries and to manage their health and safety successfully. The small business visits project will continue with planning for a 2011 cohort in progress.

SafeWork SA also continues to support small business in 2010 and 2011 through sponsorship of the Messenger Small Business Awards. Medium and large employers with higher rates of workers compensation claims than their industry average are engaged in a registered, employer-targeted intervention strategy which provides guidance to comply with their legislative responsibilities, improve their occupational health and safety performance and reduce injury rates. This strategy engaged and completed interventions with 99 employers in 2010-11, and planning for the 2011-12 intervention program is progressing.

The latest data available indicates a significant improvement within the targeted groups. I am delighted to inform the council that the latest statistical data available indicates that as at 3 April 2011, when comparing their performance in 2009-10 with 2008-09, these employers have achieved a reduction of 8 per cent in injury claims; above any reduction that may have been achieved had they not been involved in the program.

WorkCover's analysis of the 2007-09 cohorts indicate that significant reduction in injury, and therefore cost to the workers compensation scheme and SA business, are being achieved. The reduction in injuries represents approximately 383 workers compensation claims avoided over the year for the groups: an estimated total workers compensation claims cost avoidance in excess of $4.8 million. This government remains committed to working in partnership with industry employers to ensure further reductions in injuries and accidents across all industries.

SAFEWORK SA

The Hon. R.I. LUCAS (16:04): I have a supplementary question. How long has the Executive Director of SafeWork SA Ms Michele Patterson been on leave from her position as executive director, and when is it understood that she will return to her position? Why has the government agreed to such a lengthy absence from the leadership position of SafeWork SA?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:04): I have not spoken with the director, Michele Patterson, but I will take your question on notice and get you an answer as soon as possible.

PRISONS, DRUG USE

The Hon. D.G.E. HOOD (16:05): I seek leave to make a brief explanation before asking the minister representing the Minister for Correctional Services a question concerning drugs in prisons.

Leave granted.

The Hon. D.G.E. HOOD: A submission prepared by Correctional Services recently tabled at the select committee into that department admitted that one in five prisoners were testing positive to illicit substances. The submission indicates that in 2009-10 a total of 4,210 urine tests were undertaken in prisons. On page 33, the submission admits that testing of prisoners in open custody and those applying for home detention or parole revealed 'approximately 20 per cent of samples tested positive'. The report on page 34 also notes that in 2009-10 a total of 25,119 searches were undertaken in the state's prisons, with 1,297 items of contraband being confiscated. My questions simply are:

1. What steps will the minister take to reduce drug use in our prisons?

2. Will he consider a wider role for drug detection dogs and other screening measures in order to stop drugs being available in our prisons?

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, Minister for Gambling) (16:06): I thank the honourable member for his questions and will refer them to the Minister for Correctional Services in another place and bring back a response.

The PRESIDENT: I must remind honourable members that questions should not be raised about evidence given to a select committee until such time as that committee reports.

MOUSE PLAGUE

The Hon. J.S. LEE (16:06): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about South Australia's mouse bait mixing stations.

Leave granted.

The Hon. J.S. LEE: The Australian Pesticides and Veterinary Medicines Authority announced on Tuesday 21 June that they have approved the use of mouse bait regional mixing stations that will save farmers tens of thousands of dollars. Mixing stations were a recommendation from the mice task force, as stated by Peter White from the South Australian Farmers Federation on 5 May. It is believed that this system will involve farmers presenting their own grain for treatment with zinc phosphide for about a quarter of the price.

While this is good news for farmers, my colleague from the other place, the member for Hammond, and farmers I have been speaking to have raised serious concerns about the government's commitment to set up the mixing stations for farmers in South Australia. My questions to the minister are:

1. Can the Minister for Regional Development confirm whether regional mouse bait mixing stations will be established in South Australia? If so, when and where?

2. Can the minister inform the house about the time frame and locations?

3. What assistance will the government provide to fast track local approvals and compliances to ensure farmers in South Australia will be given the same access to mixing stations as other states?

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, Minister for Gambling) (16:08): I believe it is actually a question for minister O'Brien and a matter that primary industries has taken responsibility for. I am not involved at all in mouse baiting. It is a primary industry issue and I am happy, on behalf of the honourable member, to refer it to the minister for primary industries and to bring back a response.

The PRESIDENT: Mr Brokenshire has a supplementary question.

MOUSE PLAGUE

The Hon. R.L. BROKENSHIRE (16:08): Does the minister agree that it is acceptable for the government to condemn farmers for mixing their own bait in a time of absolute urgency and need when the government offered no assistance, unlike what they did with the locust plague the year before?

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, Minister for Gambling) (16:09): That is an absolutely outrageous statement. South Australia led the nation in terms of its response to locust outbreaks.

An honourable member: He said that.

The Hon. G.E. GAGO: Not only did we do that, but our response to the drought situation in regional South Australia was outstanding. In terms of the details—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: That just shows how out of touch the Hon. David Ridgway is, because I have visited those regions—I visited the Riverland just recently—and I have spoken to a wide range of not just businesses but community groups, mums and dads, and that community—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway should not be interjecting.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Not since you left the bush.

The Hon. G.E. GAGO: —acknowledges and values the enormous contribution the state government made in terms of its drought relief to that area. It does acknowledge and value that, so to suggest, as the Hon. David Ridgway did, that no-one from regional communities acknowledges that incredible contribution we made just shows how out of touch he is. He has moved into the city; he is a city slicker now, and he has completely left his old friends and mates behind. He is out of touch, out of the loop and out of the network; he has lost the plot. He relies on me now to go out and visit the regions and bring back up-to-date, relevant and contemporary information to keep him in touch and in the loop.

In relation to this government's track record and commitment to the regions, as I said, it has been outstanding. In respect of the details around mouse baiting, it is a matter the minister for primary industry has led and is in charge of. As I have indicated, I am more than happy to refer those questions to the minister in another place and bring back a response.

MATTERS OF INTEREST

SAME-SEX DISCRIMINATION

The Hon. I.K. HUNTER (16:12): On 3 February 2011, I wrote to the federal Attorney-General, the Hon. Robert McClelland, to raise my concerns about the Australian government's refusal to provide certificates of no impediment to marriage (otherwise known as CNIs) to same-sex couples who wish to wed overseas in countries that recognise marriage equality.

I suspect that the majority of Australians have never heard of CNIs. Unless you wish to marry overseas, there is little reason you would know about these internationally-recognised documents. Certificates of no impediment to marriage are designed to assure foreign governments that the Australian applicants meet the legal requirements for marriage in that particular country. They confirm that applicants are of marriageable age, they are not closely related to each other and are not currently married. The Australian government continues to refuse CNIs to same-sex couples.

In his letter of response to me dated 9 May 2011, the Attorney-General informed me that CNIs are not issued to same-sex couples because same-sex marriages are not recognised in Australia. The Attorney-General referred me to advice on the DFAT website that stated that CNIs are 'issued purely at the request of overseas countries seeking to ensure that a marriage involving one or two Australian citizens celebrated in that overseas country will also be recognised as a valid marriage by Australian authorities'. It is here where the problem lies.

I think the Attorney-General has been badly advised in this matter. The government's interpretation of the purpose of CNIs is incorrect, I humbly submit. CNIs are not designed to validate overseas marriages, whether these marriages be between heterosexuals or homosexuals. CNIs do not confer any recognition of the legality of a marriage under Australian law, nor do they promise to confer a mutual recognition of marriages carried out overseas. Countries such as the Netherlands and Spain, which allow the same-sex marriage of Australian citizens, have no expectation that those marriages will be recognised in Australia.

I have written again to the Attorney-General explaining why the government's policy on CNIs is incorrect. In that letter, dated 27 June 2011, I also warned the Gillard government that, if it continued to deny same-sex couples this documentation, the government runs the very real risk of appearing vindictive and petty in the eyes of same-sex couples, their families and their friends.

I believe the government should be ashamed of this unnecessarily mean policy, which it inherited from the Howard government. Why should Australian same-sex couples be inconvenienced in this manner? Why should overseas nations such as the Netherlands, Spain and South Africa, amongst others, have to make special exemptions for same-sex Australian couples from their usual CNI requirements, acknowledging that it is impossible for these Australian citizens to obtain basic legal documentation from their own government?

Let me declare an interest in this matter. As someone who is considering marrying overseas, I am personally affected by this bureaucratic bigotry. In my letter of 27 June to the Attorney-General, I also forwarded my personal application for a Certificate of No Impediment to Marriage, listing both myself and my partner Leith, for processing by the Attorney-General's Department. I eagerly await the processing of my application and the government's response.

Regardless of the outcome of the current community debate regarding marriage equality, this is an issue that must be addressed as a matter of fairness. The Gillard government must overturn this discriminatory policy, this act of bureaucratic meanness, immediately.

OZASIA FESTIVAL

The Hon. J.S. LEE (16:15): I rise today to speak about the OzAsia Festival. It was a pleasure to represent the Leader of the Opposition, Isobel Redmond, on Wednesday 29 June at the launch of Adelaide's OzAsia Festival program for 2011. The OzAsia Festival has garnered much support and momentum since its inception, so it was not surprising at all to see the launch of the OzAsia Festival so well attended by members across the community and supported by the arts sector, corporate and business sectors and so many multicultural organisations.

I was very pleased to see the Lieutenant Governor of South Australia, Mr Hieu Van Le (the Patron of OzAsia) at the launch as well as the Hon. Gail Gago representing the government. The Adelaide Festival Centre's OzAsia Festival was established five years ago in 2007. I consider myself pretty lucky to have participated in all the past festivals at various levels and enjoyed many

spectacular performances. I am certainly looking forward to this year's program with much excitement.

I would like to take this opportunity to congratulate Douglas Gautier, CEO and Artistic Director, Adelaide Festival Centre, and Jacinta Thompson, Festival Director of the OzAsia Festival, for their hard work and dedication in upholding the reputation of the Adelaide Festival Centre as a cultural leader and making the OzAsia Festival the pre-eminent event of its kind in this region.

The objective of the OzAsia Festival is to create a broad community-based event that connects with the cultures of our neighbouring countries. The festival has been embraced by local audiences and communities because of this broad cultural reach. It offers something delightful for everyone of all ages and includes theatre, dance, music, film, visual arts, food and design culture.

I see the OzAsia Festival as an annual celebration of our diverse multicultural society. The festival presents work by Australian artists who identify with an Asian heritage. It is wonderful to see creative and artistic collaboration between Australian and Asian artists. Their willingness to express their talents and abilities to present a cross-section of traditional and contemporary cultures of Asia provides the audience with delightful cross-cultural experiences and amazing entertainment.

Each year, the OzAsia Festival also presents a free outdoor public event, which is a Moon Lantern Festival to coincide with the Asian Mid-Autumn Harvest Festival. This year the Moon Lantern Festival will be held on 12 September. Twelve primary schools, I believe, and many community groups have been engaged to participate in lantern-making workshops this year, and they will join many diverse performances on the main stage.

I really look forward to attending the lantern parades at the OzAsia Festival. I have done so with my family for many years and it has been a highlight. I think that we should all make the effort to wander down to Elder Park. It can get pretty cold so, if some of the honourable members would like to attend, make sure you wear something warm.

OzAsia Festival this year will put the highlight on Japan, bringing Australian-Japanese collaborations such as Dreamscape, Four Winds and KOAN. We will also be seeing Shaolin warriors from China and Raga Shambhala, classical and folk music from India and Tibet and so on. I encourage all members of parliament and staff and community members to participate and support this exciting and wonderful festival.

ITALO-AUSTRALIAN AGED CARE

The Hon. CARMEL ZOLLO (16:19): In the past, I have had the opportunity a number of times to place on record my appreciation of those who work in the Italo-Australian aged care sector: those who strive to offer not just aged care of the highest quality to all those for whom they care but also the challenge to provide culturally appropriate aged care services.

Several weeks ago, along with other colleagues, I was invited to attend the Italian Benevolent Foundation's inaugural gala dinner held in their new function centre at the Italian Village, St Agnes. The IBF has been well established in the north-eastern suburbs for over 30 years. The foundation currently has three residential and community service sites providing a range of high and low level hostel and nursing home accommodation and various levels of in-home care programs across the metropolitan area. The accommodation sites are the Italian Village at St Agnes, Domus Operosa in Burton and Campbelltown Nursing Home.

Apart from celebrating the newly completed function centre at the Italian Village, the evening was used as an opportunity to honour the pioneers of the IBF, and none were more deserving than Dr Carmine De Pasquale. Dr De Pasquale was the third chairman of the foundation between the years of 1978 and 2010. I quote IBF's CEO, Mr Daniel Desteno, when talking about Dr De Pasquale:

> Carmine is not only a well-respected psychiatrist, but the recipient of an Order of Australia Medal, author, philanthropist and recently awarded Grande Ufficiale Ordine della Stella della Solidarieta Italiana by the Italian Government.

The Acting Consul of Italy in South Australia, Dr Orietta Borgia, has spoken in a number of public locations in the last few months in appreciation of Dr De Pasquale's absolute commitment and service to the welfare of the aged in South Australia. It was fitting that the order was conferred upon Dr De Pasquale in May at the Italian Village in St Agnes. I add my personal thanks and congratulations—and that of all members of the South Australian parliament, I am certain—to Dr De Pasquale.

Mr Desteno went on to tell those gathered on the evening that, under the period of Dr De Pasquale's stewardship, the growth of the IBF had gone 'from small beginnings (40 places with a grant of just over $484,000) to a service with around 400 places (assets totalling about $46 million and an annual turnover of $22 million).' The generosity and philanthropy of those who provided money from their own pockets to build up a deposit for bank financial approval to enable the purchase of the first piece of land is something that I suspect we do not see a great deal of today.

So many other pioneers were rightly acknowledged on the evening, too many to name in the time permitting for this contribution, other than indulging myself with one name—the first vice president and subsequent second president, Pasquale Tiberio Pirone, who then went on to become South Australia's first Italian-born judge. I know he was a respected friend of my father, being born in the same village in Italy as I was. It was pleasing to see his wife among the guests on the evening.

The IBF now also has a training facility, the IBF Healthcare College of South Australia. It provides dedicated training in the community and in the aged care industry, with a strong focus on skills and knowledge through real-life work experiences. Vice chair of the foundation for many years, solicitor Marie Alvino, took on the mantle of chair late last year, and I congratulate her also on her appointment.

I understand that, in the last 11 years, the organisation has grown from 168 to 277 resident beds, with a further 44 beds to be built as part of the stage 2 redevelopment at St Agnes, bringing the total to 321. There has also been a similar expansion in the level of in-home care provision. I know that Ms Alvino, as chair, will continue the leadership provided by Dr De Pasquale and that she is well assisted by a professional team headed by the Chief Executive Officer, Mr Daniel Desteno.

TOURISM

The Hon. T.J. STEPHENS (16:23): I wish to speak today on the concerning plans the government has for the tourism industry in this state and the impact of these plans on the industry, particularly in regional South Australia. The government has done two things which I believe will fail to grow tourism in this state and may even harm it. They are the implementation of the Regional Tourism Growth Plan and the privatisation of the South Australian Visitor and Travel Centre on King William Street.

I will start with the Regional Tourism Growth Plan. This 'growth plan' takes money directly out of the hands of the local bodies—including councils and operators—and centralises the services in Adelaide previously reserved for local experts. The plan requires that local government make more of a contribution to the operation of visitor information centres and to the assistance of local operators.

The government's plans are to cut SATC's representation in regional South Australia from 23 to 11 people and, of those 11, the commission has stated that 'some' will be based in Adelaide. So, the reality is that well short of the 11 regional tourism representatives will actually be based in the regions. I can confirm that the government will only be funding those people to the tune of $10,000 per person, so I am not sure how much they expect work-wise from them.

The government cannot confirm whether this handful of people will be regional experts or public servants from Adelaide. If they are from Adelaide, then the burden will be on the local council to provide local people for its visitor information centres. It is my personal opinion that it should be local people selling the secrets and beauty of their own regions and not bureaucrats from Adelaide. Therefore it should be locals employed by SATC to be based locally. I have had representations from regional operators, industry representatives and regional tourism councils: none were consulted about potential changes to the existing system or about how to best benefit regional tourism.

Local tourism operators are concerned about the cutting of funding, the cutting of representation and about the viability of visitor information centres without subsidy. Regional councils are already struggling without having further funding assistance removed from under them. I want to know how the government thinks that regional councils can afford to run visitor information centres without assistance from the state's tourism department. Why is the government not focused on providing this public good instead of focusing elaborate marketing campaigns across all media, many of them I believe not proven. The minister may believe that the Adelaide centre could turn a profit if privatised, but how are centres based in the regions meant to turn a

profit? I always thought it was the government's job to step in where the market failed, but obviously not in this case.

Moving along to the new South Australian travel and visitor information centre to be operated by Holidays of Australia in Grenfell Street, we had Mr Derbyshire of the SATC on radio this morning trying to defend the deficiencies of the new site. How can a lack of disability access be defended? Mr Derbyshire stated that those in wheelchairs can be helped up and down stairs to get to the lift, that mothers can carry their prams up flights of stairs. This is unbelievable and I commend the Hon. Kelly Vincent for expressing her concerns with the new centre in terms of disability access.

The Hon. D.W. Ridgway: That is what happens when the minister spends eight years of his career reading a book on the backbench.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Mr Stephens does not need any assistance from his colleague.

The Hon. T.J. STEPHENS: Mr Acting President, some protection would be much appreciated, thank you. Mr Derbyshire stated that those in wheelchairs can be helped up and down stairs to get the lift and that mothers can carry their prams up flights of stairs.

The minister stated that provisions for disability access was in the contract with Holidays of Australia. Therefore, why were not works started immediately following the granting of the tender in order for the travel centre to be available for all South Australians and visitors to this great state? The government has failed disabled South Australians.

I want to reiterate concerns of this venture I have made previously, concerns which have not been addressed by the minister, the SATC or even Holidays of Australia, for that matter. The industry has concerns about whether there are adequate protections and safeguards of the equity of operators when it comes to exposure and advertising at the travel centre. There are also concerns about the commission structure remaining similar to what it was at the old visitor information and travel centre. However, I understand that Holidays of Australia also needs to turn a profit, so how can these two issues be reconciled?

I and the people of South Australia want answers to these questions and taxpayers deserve them. After all, it is their money being spent and, if they are losing service quality as a result, they need to be made aware. The standard line from the minister seems to be commercial in confidence, but if there is nothing to hide then this detail should be revealed. The minister needs to answer the question of why regional and disabled South Australians have been forgotten and abandoned by this government. The minister also needs to answer why he has completely gone missing on this issue and why has it been such an absolute debacle—privatisation at its worst.

SHE COULDN'T SAY GOODBYE

The Hon. A. BRESSINGTON (16:28): Today I rise to bring members' attention to a newly written book called *She Couldn't Say Goodbye*. It was written by Mr Peter Russell and Sharon McKell. Sharon McKell is the mother of Emma Pawelski, the young girl, 21 years old, whose body was found dumped in a national park. Emma had a history of substance abuse and to this day they still have not been able to secure a prosecution against the person who murdered her.

This book is a mother's outpouring of a family dealing with a child with an addiction and the struggles that that family and the young girl herself went through. I knew Emma personally and knew her for three years before she was murdered. Emma was a lovely, sweet person who would give the shirt off her back to anybody in need.

She loved life. She aspired to be an actress and performer. Unfortunately, heroin took over her life and destroyed her dreams and, eventually, because of her association with people in the seediest side of the drug culture, Emma was thrown into prostitution and everything else that that entails as well.

Sharon McKell, her mother, supported Emma through her treatment and rehab, as did her grandparents. Emma was clean for 14 months. She did the DrugBeat program and was clean for 14 months but, sadly, her associations with the drug culture and things that she found out while she was involved in that drug culture and people she associated with, we all believe, led to her murder.

I guess this is probably one of many stories of young people who lose their lives to substance abuse and in the most horrible of ways, and it is just another family telling another devastating story of not only the loss but also the years of struggle that precede that loss. I know to

this day that Emma's younger sister, Hannah, who says a lot in the book, still has not recovered from the loss of her sister. Hannah says:

> She tried so hard to get her life back on track but she was distracted. I wish I could have pulled her from the rut she had got herself into, but the drugs had taken over and she couldn't free herself from the life she was living. She enjoyed living life on the edge, so I know there were some good times out of it…I loved her so much too, yet at the same time I didn't know her very well. I didn't know the pain she felt and why she did what she did. There's so much to question, yet no answers.

As I said, I wanted to bring this book to the attention of members of the parliament and encourage them to read it. It is a simple book—it is plainly written—but it does tell a very potent story. It also shows the human side of addicts, who we quite often want to cast aside or criminalise.

I guess society has a view that they are less than human or subhuman. These are real people with real struggles. They suffer real pain, and many of them try very hard to get their lives on track and repair the damage done to the relationships between them and their families. Unfortunately, when a young person passes in such a violent way, there is no so-called closure for the family. I urge members to read this. I have copies of it in my office if they would like to borrow a copy. It is called *She Couldn't Say Goodbye: The Story of Emma Pawelski*.

LABOR PARTY LEADERSHIP

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:33): South Australia is on the cusp of a new government. The Rann Labor machine is worn out, its gears are broken and its driveshaft is no longer connected to the electorate. There is no chance of having it repaired. Rann and his ex-deputy Kevin Foley are too far gone to be fixed, so soon the Rann machine will be replaced. The question is: by whom: John Rau or Jay Weatherill? But the bigger question is: by what?

What are the secret deals, the lobbying and the backroom antics that have morally bankrupted Labor since the 2002 election? Nothing will change except the occupant of the Premier's suite. Labor in South Australia will be run by the rock hard ALP right, epitomised by Senator Don Farrell and former trolley boy and checkout operator, Peter Malinauskas, and former family values exponent, Michael Atkinson. This unholy trinity is preparing a secret succession plan, and South Australians have every reason to be very wary.

John Rau will be in this troika's debt if he becomes premier, and he will have to repay that debt with interest. John Rau was in the centre left before it imploded, then he joined the right. That put him at odds with another great Labor puppeteer, the former ALP senator Nick Bolkus, the man who arranges and organises those sleazy ALP fundraisers which demean not only the Labor name but also governance of this entire state. Members would remember that John Rau worked in the office of Nick Bolkus when Nick was in the Senate; and Patrick Conlon was also labouring away in that office. Patrick Conlon owes Nick Bolkus. He owes his seat in parliament, his ministry and his political soul—none of that will change. Nick Bolkus will still be organising Labor fundraisers.

Whoever sits in the Premier's office, he will still be there, shaking hands with the past and potential donors, introducing them to Mr Rau, Mr Conlon and Mr Weatherill. He will still be lobbying on behalf of his business clients and the same clients who make donations to the ALP—the same clients who have an advantage or who stand to gain advantage from decisions made by this next Labor government. It is not what good, honest government is about.

Within 100 days of the next election, a Redmond Liberal government will be on the way to having an independent commission against official crime and corruption in South Australia. It will break the nexus between donations and decisions. It will remove the perception that government decisions can be bought. We will not be selling self-indulgences because we should not forget that the Raus, the Weatherills and the Conlons sat in the caucus room while it stripped the state in a slash and burn sell of our public assets: Glenside, the South-East forests and the Lotteries Commission, to name just but three.

Where were John Rau and Jay Weatherill when the Port Adelaide boatsheds were bulldozed, when Labor decided to close the Parks Community Centre, when the Mount Barker development was approved, when water bills went up, electricity and registration fees climbed and when schools were closed and hospitals were shut? They sat there and supped at the caucus table, and they made a meal of it.

Nick Bolkus has much to lose and much to gain on who replaces Mike Rann. Bolkus still needs to raise the cash that Labor needs to fight an election but he also needs to keep his foot in

the next premier's door—the door on behalf of his lobbying clients. Together with the SDA, the deal to oust Mike Rann is more about money and influence than it is about good governance.

A few weeks ago some Labor ministers and backbenchers reckoned they were rallying around Mike Rann. That is like the 7th Cavalry rallying around George Custer. It is not Mike Rann who has to go, it is this horrible Labor government.

LIFE EDUCATION AUSTRALIA

The Hon. J.A. DARLEY (16:37): I rise today to speak about Life Education Australia. Over the past 30 years there has been an increase in chronic disease which has been caused or heavily influenced by so-called lifestyle choices, such as tobacco use, alcohol abuse and consumption of illicit drugs, combined with poor diet, lack of exercise and obesity.

To address this, Life Education Australia and its affiliated state and territory members have developed a number of programs which aim to empower children to make informed decisions for a safe and healthy life. Their programs are somewhat based on the theory that prevention is better than cure, that is, if you educate children about drugs, alcohol and other lifestyle factors from an early age, you are more likely to prevent children from making negative life choices, which, in turn, results in a reduction of drug and alcohol-related diseases.

Six educators who are considered experts in the delivery of health education programs to children are employed by Life Education South Australia and visit preschools and primary schools to deliver age-appropriate programs to students. Preschoolers are provided with a fun and interactive learning experience, which aims to educate children about their body, provide information on leading a healthy, active lifestyle and reinforce the importance of having a positive attitude in life.

These preschool programs provide a foundation for future life education sessions by encouraging children to have a positive self-image and increasing their self-esteem. In primary school students are introduced to Harold the giraffe and his friends who assist in educating children about a broad spectrum of issues, including drugs, alcohol, bullying, smoking, peer pressure and support networks, with a view of providing children with the information to make informed, healthy decisions in life.

As children grow older, the programs are tailored to take into account their increased cognitive understanding, physical and emotional development and potential exposure to negative influences. Life Education educators also liaise with teachers to identify which issues may be particularly relevant to their class.

Life Education South Australia does not merely lecture students about the pitfalls of drugs and alcohol: its aim is to introduce the concept of these elements to children, explain the effects that these substances will have on their bodies and teach them coping mechanisms if they are confronted or offered these substances by helping them identify support networks and practising appropriate responses, all whilst reinforcing a positive attitude towards a healthy lifestyle. Children with increased self-esteem and self-image are more confident in dealing with peer pressure and therefore more likely to resist negative influences in favour of healthy and positive life choices.

In 2010 Life Education SA was allocated $450,000 of state government funding and managed to interact with 610,000 children. However, this funding has been withdrawn for 2011, which is in stark contrast to the New South Wales government funding Life Education NSW to the tune of $2 million. Being a non-profit organisation, Life Education SA relies on the support of sponsorships and government funding to ensure it continues its important work.

With the withdrawal of funding from the South Australian government, the number of children that Life Education SA is expected to engage will decline to only 50,000 students in 2011. I understand these children will be involved, as parents have volunteered to cover the cost of bringing the program to their child's school. However, there remains a vast number of children who will not receive the benefit of Life Education health education programs.

With the increasing cost of treating and caring for people with drug and alcohol related illnesses it is important that the Life Education program continues to reach as many children as possible.

DISABILITY CARERS

The Hon. K.L. VINCENT (16:41): I move:

That this council:

1. Notes with grave concern and sadness the recent passing of a young man with disabilities at the hands of his own mother.
2. Recognises that the Supreme Court has heard that the physical and emotional toll of being the full-time carer to a child with disabilities has played a part in the woman taking the life of her child.
3. Acknowledges that the desperation, helplessness and depression experts say was experienced by this woman is in fact felt by many other unpaid family carers of people with disabilities, particularly children with very high needs.
4. Understands there is a strong correlation between the physical and mental health of the carer and that of the person for whom they care.
5. Congratulates organisations such as the Carer Wellness Centre in the Adelaide Hills on its work to support carers.
6. Calls on this government to take immediate action to increase support, including mental health checks and respite for unpaid carers, with the aim of preventing another horrible tragedy such as the one which recently occurred.

I am moving this motion because I hope it will uncover an ugly truth which lurks within the disability community and is often ignored or dismissed by those outside it. On 26 July 2009 Beverley May Eitzen drove the dead body of her son to the Mount Barker police station. The back seat of the car was bloody and the corpse of 16-year-old Peter Eitzen was slumped in it. A wound to his neck was the most obvious cause of his death.

Peter had been stabbed by Beverley, his mother, as she had attempted to kill them both. While she was feeding a hose connected to the exhaust pipe of their car through the car window and preparing to close herself and Peter in the toxic cabin, Peter woke up from the sleep which had been induced with an antihistamine tablet and began to struggle. Beverley, the mother who had cared for him his whole life, calmed him, waited for him to fall back to sleep and then stabbed him, cradling Peter as life left him.

After Peter died Beverley considered killing herself, but instead she drove to the Mount Barker police station and stood before the officers on duty, telling them that she had done the 'un-undoable'; she had killed her own son. I feel as though the events I am currently describing should belong in the pages of some fictitious novel but, tragically, these are the real-life actions of Beverley, a kind and loving mother who was pushed to her limit; and Peter, a young man who fell through the cracks of our system to a point of no return.

It was not until more than a year later that psychiatric experts found that Beverley Eitzen was suffering from a major depressive episode while these events unfolded. She told police that her memory of that day was blank, and three independent experts agreed that she was not aware that her actions were wrong.

Of course, this fact that she did not know her actions were wrong cannot undo what has been done here. No expert opinion can bring Peter Eitzen back to us. But it would seem that this situation and the circumstances which led to it are in no way as clear cut as some people might think. To that effect I would like to quote a comment left on my official Facebook page in regard to the Eitzens' situation:

> Newspaper headline read 'free at last' but she will never be free after the physical and mental strain of trying her best to raise a child without a strong, clear diagnosis. Also the pain and guilt of taking her own child's life.'

So, yes, Beverley Eitzen took her son's life without consent, which would generally be viewed as an act of murder. However, it would seem to me that she may have thought at the time that she was in fact saving Peter's life—both of their lives in fact—by delivering them from an existence full of desperation, loneliness and anguish. Of course, this is mere speculation on the many millions of things that could be running through a person's head when they are found to be in this situation.

A few weeks ago I did a radio interview late one night regarding the Eitzen family. Immediately after, my phone rang. It was a very dear friend of mine saying, 'Kelly, I won't judge you. I won't tell anyone. You know you can trust me. Just tell me, do you think that that person is a murderer?' Well, Mr President, as I am sure you have picked up, it is not often that I am left without words to say, but when my friend asked me that question a cold kind of silence followed it. I opened and closed my mouth a few times as I grappled with the insufficiency of my vocabulary to

describe something like this. Eventually I did manage to say the only thing I felt I could: 'I honestly don't know how to answer that question.' In all honesty, I doubt that I will ever know.

The finding that Beverley was unaware of the gravity of her actions at the time did not surprise those who knew her, because the Beverley they knew was a lady who was dedicated and devoted to her family and who worked hard to get the best she could for them. She was not a mother who anyone imagined would be capable of killing her son, but this transformation—this desperation, which is so deep that it can cause people to carry out actions which are well beyond their own personal scope—is not so foreign for us who work and live in the disability community.

You see, all three psychiatric experts also agreed on the cause of Beverley's major depressive episode. While Beverley's situation is her own and no-one else's, the cause can be found in many homes across South Australia, waiting to turn ordinary people towards acts of inexplicable horror. The cause of Beverley's mental health problems was the pressure of caring for Peter. Peter had a disability and, while his disability was never given any specific label, it was medically accepted that he had the mental capacity of roughly a two-year-old child.

His development was difficult and there was trouble with basic things like toilet training and talking. As he grew older, he understandably grew increasingly frustrated and physically stronger. The Eitzen's home was regularly ransacked by Peter, furniture was destroyed, doors and cupboards were broken, and family members were beaten. Every day Beverley woke up and faced almost complete uncertainty about what Peter might do that day. She had one certainty though: she knew that, whatever it was Peter did, it would probably be violent.

Despite this, Beverley had little support, apart from that given by her own family members. The government left Beverley to care for herself and her son, due to the fact that Peter's lack of official diagnosis rendered him ineligible for services, and the pressure wore Beverley down. One of the psychiatric experts hinted at what most concerned Beverley about her situation. Dr Noelle Tomczyk said she had 'symptoms of being overwhelmed, helpless and concerned about her son's safety in the future'.

Amid all the chaos and violence of Peter's presence in the home, what most concerned Beverley was that she did not know if he was going to be all right in the future. She did not know who was going to care for him when she could no longer, and the uncertainty was a heavy weight that she carried around every day. This uncertainty when confronted by the complete lack of government support is a familiar feeling in the disability community, as I have already touched on many times in this place.

I cannot count how many times a parent has mentioned murder-suicide plans to me since I started this job alone. Thankfully, none of them have followed through yet, as far as I am aware, but that is the level of desperation which pervades some of the families of people with a disability, and it could only be a couple of steps further into the well of desperation before they join Beverley Eitzen in committing an action which should never seem like a solution. However, for some of these people, this action can seem like the only solution.

This situation is not specific to Beverley Eitzen. Every person in the disability community is different, of course, but there is a common feeling among some out there that there is no other option. There is no-one else to care for their children, their sister, their brother, their mother or their uncle—their loved one. There is no-one else to do it. There is not even anyone else to help them do it. So, when and if they decide they can no longer provide the right care, the only choice will be to kill the person they care for. This is, of course, not something we should ever accept.

It is time for the government and for all of us to face this reality and take responsibility for it. It is not all right that people with disability are more likely to die because their carers are forced into poor mental health, and it should not be okay that carers are put under this kind of insurmountable strain. It is our job as a society to stop this and to stop it immediately, and there are steps that we as a society and our government can take immediately.

Peter Eitzen's case once again reminds me of the desperate and undeniable need for a South Australian disability services system that is needs-based as opposed to diagnosis-based. I have heard countless stories of people, especially children, who are currently ineligible for certain services they need due to the fact that they do not have the so-called correct diagnosis: a child who cannot get enough support because they have a 'behaviour and language disorder' as opposed to autism; a lady who has trouble finding someone to fund her wheelchair because she does not yet have an official diagnosis for the condition with which she has lived for some five years; a lady who

is boomeranged between the disability and health departments while she struggles to obtain a sufficient supply of oxygen and overnight support.

This is an unfair and quite unnecessary trap for these people to be caught in. Yes, of course, we do need checks and balances, so to speak, around eligibility for disability services, but it is clear that the current system is shutting out many of the people who need it the most. Imagine, just for example's sake, Mr President, if you went to the chemist to get some pain relief tablets for a headache but were told that you were not eligible for Panadol because you had only a headache and not a migraine. This is, of course, ridiculous.

If you exhibit the symptoms, you should receive the treatment. So must the disability system move toward being more needs-based than diagnosis-based, and this is the first measure I would recommend to this government to help stop what happened to the Eitzen family from ever happening again. If the disability services system were structured that way, it is likely that Peter would have received the services he required to live life to its full potential, despite the fact that he was never given an official diagnosis. Peter Eitzen might still be with us today, instead of being forced into his all-too-early grave.

The second tip of the iceberg, so to speak, is the issue of Beverley Eitzen's mental illness. I am at a complete loss, as I am sure we all are, to understand how it is that Beverley Eitzen got to the point where she could even entertain the notion of taking the life of her own child. But as my office has heard, as the Supreme Court has heard, and as members would have heard through the media in recent times, the stress and strain of life as an unpaid family carer played an undeniable role in this.

I have spoken many times about the hardships family carers in this state face, and I think I have painted a sufficient picture for this particular debate, so I will not elaborate on this issue too much more, but I would like to remind honourable members of the fact that family carers are currently saving this government time and money by undertaking this work, with only a very small carers payment and the hope that their family member will have an adequate standard of living as a reward. It is because of this that the government owes family carers, as an overdue debt and a matter of ineffable urgency, to take steps to allow them to enjoy their right to good physical and mental health as they continue to save this government time and money by undertaking this work.

What is clear here is the need for ongoing, reliable and holistic support in this regard. I am told that Beverley now has quite a good network of support around her following the recent court case. However, if she had had that support around her before deciding to take the tragic actions that she took, it is entertainable that this whole situation may have been preventable.

Networking is an ineffably important part of the carer community in South Australia. However, one of the issues, I think, is that many family carers only have other family carers of people with disabilities as their support network and this can create quite a small, closed-in culture, if you like, which can result in a closed mind, in terms of objectivity about one's situation. I think the more objective and holistic supports we have in place for family carers, the better.

To that end, I would like to make special mention of organisations such as the Adelaide Hills Carer Wellness Centre which works to provide unbiased objective supports to family carers at times when they need it most, and I would encourage the government to allow such organisations to carry on their work well into the future. I would love to see the establishment of further organisations all across Australia to allow for every carer to have the support they need to carry out their very important job.

I would also love to see the establishment of mental health checks for family carers of people living with disability carried out by caseworkers. Just as a caseworker to a person with a disability will occasionally pop in on that person in their home, if you like, to see how they are going, I would love for that support also to extend to their family carer. I would love for perhaps a mental health expert to be able to accompany the caseworker to really discuss what the carer's needs are and really assess where they are at, so that we can find the early warning signs of such mental illness as in Beverley Eitzen's case and stop that because, as the saying goes, early prevention is key to intervention and cure.

As I said, this situation is not unique to the Eitzen family. Tragically, it is too late for Peter and this government must act before it is too late for another family, and another, and another. We cannot keep on forever. It is time now to hand down the rescue rope. Please join me in beseeching the government to react to this emergency which sits bubbling below the surface of the South Australian community.

To that end, I would encourage honourable members to help me campaign for the measures that I have mentioned in this speech and also any further measure that could provide for better mental and physical health for those wonderful unpaid family carers in our state. In fact this should not be an issue which is, as I just said, bubbling beneath the surface of our community. This should be something that is front and centre of our attention as a society and front and centre of this government's thinking and planning.

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

OLYMPIC DAM EXPANSION

The Hon. M. PARNELL (16:59): I move:

> That this council calls on the state government to ensure that all waste management practices for the proposed Olympic Dam Expansion, including the management of surplus ore and tailings, meet or exceed world's best practice.

This council will shortly face one of its most important decisions as it considers the granting of a new indenture for the Olympic Dam mega expansion. We need to get this right to ensure that our state is not left with a toxic legacy.

This motion today is very simple, and many would say that it is a little bit lacking in ambition. Surely the people of South Australia can expect in this day and age that any new project in a wealthy first-world nation such as Australia—especially a project as large and important as this one—would be subject to the most stringent environmental conditions. I think it is eminently reasonable as an expectation, therefore, the people of South Australia should fully expect all their representatives in this parliament—including those from both Liberal and Labor—to support this motion.

Certainly BHP Billiton believes that it should be subject to the world's best practice standard because, in a forward to the supplementary EIS released in May, Dean Della Valle, the President of the Uranium Customer Sector Group of BHP Billiton wrote:

> BHP Billiton, as the world's largest mining company, is well placed to develop a project of this importance and magnitude while ensuring best practice in health, safety, environmental management and community engagement.

In February this year, BHP Billiton chairman Jac Nasser wrote in a letter to the Australian Conservation Foundation:

> The Olympic Dam project uses world's best practice and many areas of the project will establish world's leading practice and set a new benchmark for others to follow.

So does the federal ALP, stating in its national platform in August 2009:

> Labor will ensure that Australian uranium mining, milling and rehabilitation is based on world's best practice standards.

Certainly the Premier of our own state thinks so as well, the Hon. Mr Rann announcing in May 2009, when the original EIS was released:

> It [the expansion project] has got massive benefits for South Australia, but I will insist that world's best practice in terms of the environment is complied with.

I do not need to remind Liberal members of this chamber that a desire for the most stringent environmental conditions is a genuine concern for them as well. The member for MacKillop in another place said on ABC Radio in May this year:

> ...the Liberal Party's always been very supportive of BHP Billiton and this particular project. It is an incredibly important project for the state...but I've always said—and Isobel Redmond has always said—that BHP has to meet the most stringent environmental standards, and I think the government have said the same thing. I don't think any of us are going to sit back and allow BHP to be environmental vandals, and I don't think that BHP expect to behave in that way either.

With all this seemingly genuine acceptance from Labor, Liberal and the company itself, for world's best practice environmental management at Olympic Dam, I am surprised and disappointed that we have come so far in this process with basic elements of the waste management practice proposed for the Olympic Dam expansion project clearly not, by any definition, meeting world's best practice.

To give one very simple example, the company's plans for the management of tailings, waste and rehabilitation at Olympic Dam do not comply with existing commonwealth requirements and standards for the management of radioactive tailings waste at the Ranger uranium open pit

mine in the Northern Territory. The reason the Ranger mine is an appropriate comparison is that it is the only other open pit uranium mine currently operating in Australia; therefore, its conditions are current best practice standards in Australia.

For the Ranger mine, the commonwealth requires that the environment must be protected from the hazards and risks of radioactive tailings waste for at least 10,000 years. Conditions and regulatory standards have been set for the existing Ranger uranium mine that all tailings must be disposed of into the pit 'in such a way to ensure that the tailings are physically isolated from the environment for at least 10,000 years' and to ensure 'any contaminants arising from the tailings will not result in any detrimental environmental impact for at least 10,000 years'.

So, we have one uranium project in the Northern Territory with these worlds best practice conditions and, yet, for another uranium mine here in South Australia, the company behind the project does not intend to go anywhere near meeting this standard.

I can give another example that is even closer to home. The Terramin Angus mine near Strathalbyn was required to double line the whole of its tailings pond. As I will explain to members shortly, the Olympic Dam tailings ponds are not even single lined. In fact, they are not even half lined; in fact just 4 per cent of the tailings ponds at Olympic Dam will be lined.

So, why does a wealthy company like BHP Billiton expect lower standards and less stringent requirements for the Olympic Dam mine expansion than current industry standards for a mine at Strathalbyn? How can anyone—the Premier, the opposition or BHP Billiton—themselves claim that the waste management at Olympic Dam goes anywhere near being world's best practice when it is not even South Australian best practice, let alone Australian best practice?

For the benefit of members who have not had a chance to read the 20,000 or so pages of the original environment impact statement or the supplementary EIS released by BHP Billiton, I will quickly outline what are the proposed waste management practices for the Olympic Dam mega expansion. Before I do that, I need to give members a quick refresher on why effective management of ore and tailings is so important. I will not concentrate on the radioactivity because, as members all know, the recent meltdown at Fukushima in Japan has already provided us with a terrible example of what dangers radioactive materials pose when they are not appropriately handled.

Instead I will focus on another aspect which makes these materials so dangerous, and that is acidity. On the whole, metals are not found in pure seams but as small mineral grains dispersed within a host rock. There are many types of these minerals, collectively known as sulphide minerals. A basic sulphide mineral has a metal attached to sulphur, like copper sulphide or iron sulphide. Sulphide minerals present an enormous problem for mining worldwide because of the way they weather. When these minerals are exposed to air and water, they dissolve to form acid. Typically, rainwater falls on to the host rock and, as it drains over, the sulphide grains oxidise into free particles and sulphuric acid. This acid is good at drawing out and holding other free metals in solution.

What happens next depends on how much is exposed. If the amount is small, dissolution is caused by a relatively slow chemical oxidisation. Because it happens slowly, acid neutralises quickly and metals drop out of solution as secondary minerals. These secondary minerals can be protective as they can be quite insoluble and form a cover against water. However, if the amount is large, such as the case at Olympic Dam, a general acidity build-up creates perfect conditions for extreme acid-loving bacteria that feed off the ore body, acting as a catalyst for the oxidation reaction, dramatically speeding it up and causing a snowball effect.

This biological oxidation is extremely difficult to treat, and it has a very large impact on the environment. Large scale oxidisation is an enormous problem for mining because the acid solution, known as acid drainage, is often very strong, with a pH typically lying between 1 and 3. The strong acidity draws out and carries metals far in excess of any kind of environmental guideline and holds them in a form which readily transfers it into living tissue. It generally contains heavy metals such as lead, arsenic, mercury or cadmium.

The exact composition of acid drainage reflects that of the ore body, and in some of the worst cases will include uranium. There are two particular areas of concern at Olympic Dam: the radioactive tailings and the management of the overburden and the surplus ore. First, the radioactive tailings: tailings are the most potent waste component of a mine. They are waste product of metal extraction: high grade, finely crushed ore particles found at the bottom of a tailings dam, mixed with fluid to create a toxic sludge.

The current 400 hectares of low-lying tailings at Olympic Dam will be increased to 4,000 hectares and will reach a height of 65 metres. That is an equivalent area to about 2,000 football fields. For each of the nine new dams proposed, the central decant pond and a little extra will be lined with 1.5 millimetre HDPE plastic. The plastic will only cover 16 hectares of each dam, a maximum lining of around 4 per cent of the proposed 44 square kilometre tailings facility. As a consequence, the EIS makes it clear that BHP Billiton expects the tailings dam to leak—and leak it most certainly will.

According to the Australian Conservation Foundation, up to 8.2 million litres of liquid radioactive waste each day through the first 10 years of operations will leak, and some 3.2 million litres per day through to the year 2050. This will cause a mound of seepage into the groundwater below the so-called storage facility that would affect groundwater levels for up to six kilometres. BHP Billiton estimates that around 1.5 billion litres of toxic tailings will seep out every single year. It will take between 800 and 10,000 years before acidity would be depleted from these tailings.

Upon completion of works, the tailings storage facility will have a radioactivity level in the order of 10,000 to 20,000 becquerels per litre, which will almost certainly make it the largest and most toxic radioactive tailings dam in the world. The leachate will be horrendous, containing radioactive materials and other toxic substances in a pool of sulphuric acid. The expectation that this toxic liquid will leak for thousands of years is simply not acceptable, and it is certainly not the current commonwealth statutory regulatory requirement for the Ranger mine.

The current tailings dam is already leaking and is quite likely to have contaminated the underlying aquifer. The scale of the proposed tailings storage dam, as part of the Olympic Dam expansion, will dramatically increase the size and rate of this contamination. To get anywhere near world's best practice management, BHP Billiton must be required to prove that they will prevent further contamination of local groundwater and that they will line a sufficiently high percentage of the tailings area to achieve a standard to effectively prevent leakage.

BHP Billiton should also have to reveal the cost of investment in these basic environmental protection measures—for example, to effectively line the tailings piles to prevent leakage and to protect local groundwater—that they are seeking to avoid in their plans in the supplementary EIS by only lining some 4 per cent of the tailings storage facility.

The company has deep pockets and should be willing to pay to match their commitment to not just world's best practice but, according to their chairman, world's leading practice. The people of South Australia have a right to see the investment relationship between increasing the area of lining and reduced leakage rates.

In the original EIS submission, BHP Billiton offered (but did not commit to) a number of different options to manage or cap the tailings storage facility when completed. It gave sound (but expensive) measures along with ineffectual (but cheap) alternatives. Ominously, the supplementary EIS suggests BHP Billiton will take a step backwards from even the cheapest and least effective option outlined in the original EIS and use a non-vegetated limestone cap. Once again, this is far below world's best practice.

The second major area of concern is the rock waste heap, or rock storage facility, and there are actually two parts to this. First, there is the overburden, the ore that will take about five years to dig up and stockpile and, secondly, the class A material, which is essentially low grade ore that is uneconomic to process at the moment but the company may think about processing it in the future. This class A material will be stored in the so-called low grade ore stockpile, or LGS. The environmental effect of the rock waste heap is not adequately described in either the EIS or the supplementary EIS. This is a clear flaw in those statements, as the waste heap is likely to be second only to the tailings dam in its potential to cause major ground level pollution.

Inexplicably, there appears to be no protection from erosion and no vegetation cover as part of site rehabilitation. The class A material is going to be stored on the south-west tip of the waste heap over the existing airport. It will not be covered for at least 40 years, in case it becomes economically viable to process. This huge quantity of class A material will generate acidic leachate containing heavy metals, which will quite likely include toxic uranium, copper and other metals. The proximity to the Roxby Downs township of class A material is deeply concerning and presents a genuine and unacceptable risk to local vegetation, flora and fauna and the nearby residents of Roxby Downs.

The unsubstantiated claim that it is not practical to rehabilitate in the desert is not backed by recent Australian and overseas projects. BHP Billiton must be required to fully rehabilitate all its

waste rock dumps. Rehabilitation is a massive cost, and it should not be left to taxpayers. As a comparison, members should consider the considerable federal government financial liability as a result of inadequate rehabilitation at Rum Jungle mine in the Northern Territory for a project that was less than one-hundredth the size of Olympic Dam.

Without effective rehabilitation and appropriate management of the tailings and waste rock piles, BHP Billiton is effectively passing onto the government of South Australia the responsibility for the mining legacy at Olympic Dam—a legacy the commonwealth government recognises will last for at least 10,000 years.

In the only equivalent uranium open pit mine project in Australia, the Ranger uranium mine in the Northern Territory, the commonwealth has insisted that this responsibility remains with the company. BHP Billiton's risk reduction for its legacy, as described in the EIS and the supplementary EIS, is almost non-existent. For all intents and purposes, that land will never again support animal and plant life, and as such will be exposed to the full extent of weathering.

The best practice waste principle of either 'fully wet' or 'fully dry' management to minimise acid seepage is ignored by BHP Billiton as a cost-cutting measure. Surely we have learnt something from our own recent history. Let us look at a previous BHP project, the Brukunga mine near Mount Barker, which ceased operation in the 1970s. The Brukunga mine made the company about $10 million in today's money.

The state government sold the indemnity to BHP Billiton for $75,000, which is about $750,000 in today's money, yet the cost of remediating this site is of the order of $50 million for major earthworks (such as the tailings dam and waste heap) and around $600,000 annually in water collection and treatment, and this will be an annual cost for the taxpayers of South Australia for the next 200 years unless more comprehensive rehabilitation is carried out.

In terms of size, the Brukunga site has an eight megaton waste heap. Olympic Dam will have a 242 megaton waste heap, which is 30 times as large. The cost of rehabilitation is already five times the value of the ore that was extracted, with an ongoing liability for years and years and years. So, what would genuine world's best practice tailings and rock waste management actually look like?

The Australian Conservation Foundation believes that the Rann state government should require BHP Billiton to do the following three things: first, to prevent leakage of liquid radioactive waste in mine operations from the proposed tailings storage facility, including requiring BHP Billiton to fully line the area of this facility; secondly, to dispose of radioactive tailings into the pit to ensure isolation of the tailings from the environment and to ensure no detrimental environmental impacts for at least the same minimum 10,000 years as the regulatory standard that is required by the commonwealth for the radioactive tailings and open pit mine operations and rehabilitation of the Ranger mine in the Northern Territory; and, thirdly, to provide a costed rehabilitation plan for the proposed open pit at Olympic Dam, including the extent required for the disposal and isolation of tailings into the void of the proposed open pit with backfill or partial backfill with low-grade ore and waste rock, and to provide a commensurate rehabilitation bond from BHP Billiton.

I find it quite abhorrent that, in the 21st century, we are prepared to allow a private company to come into our state, make a huge toxic mess and then not properly clean up after itself, leaving the risk and the financial legacy for our children to manage. The Premier, the mining minister and the company are very happy to talk about world's best practice environmental management at Olympic Dam, but that is not what has been proposed so far by BHP Billiton for the Olympic Dam expansion—far from it; in fact, it is not even South Australian best practice. So I will be very interested to see if the government supports this motion.

If the Labor members opposite do vote in favour, they will be keeping faith with the public commitment made by Premier Rann in May 2009 when the original EIS was released. For the benefit of members I repeat his words: 'I will insist that world's best practice in terms of environment is complied with.'

A vote in favour of this motion is also an indication that the government believes that the management of the tailings and waste rock at Olympic Dam, as described by BHP Billiton in their EIS and supplementary EIS, is simply not adequate. It will mean that the Rann government believes BHP Billiton should be subject to the current minimum Australian regulatory standard: the requirement to effectively isolate their hazardous waste for the 10,000 years that the commonwealth believes those wastes pose a risk to the community.

The people of South Australia are getting a little bit sick of politicians who promise one thing and deliver another. This motion will test whether the Premier was genuine in his previous public commitments on the environmental impacts of this project. Finally, I will give notice to members now that as we are approaching the winter break, an expected end to this session, I will be bringing this motion to a vote on the next Wednesday of sitting, 27 July.

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

CLIMATE CHANGE

The Hon. M. PARNELL (17:21): I move:

That this council—

1. Notes the recent release of The Critical Decade report and the separate South Australian Impacts report by the Climate Commission and the call for urgent action outlined in the reports; and
2. Calls on the state government to intensify its efforts to respond to the challenge of climate change.

On 23 May this year the Climate Commission released their first major report entitled 'The Critical Decade'. The Climate Commission was established to provide an independent source of scientific advice on climate change, free of the sometimes bizarre public debate such as that which is currently occurring.

This, the first report of the commission, was prepared by Commissioner Professor Will Steffen, a highly respected climate scientist from the Australian National University. It attempts to capture and explain clearly the latest in scientific research on climate change and it was independently reviewed by leading climate scientists from the CSIRO, the Bureau of Meteorology and universities in Australia.

The message of the report could not be any clearer: unless Australia takes action before 2020 our way of life is at threat. Time is incredibly precious: emissions must be reduced now if governments want to have any hope of meeting a target of limiting global temperature rises to 2°. Failing to take sufficient action today entails potentially huge risks to our economy, society and way of life into the future.

Here are some of the key messages from the report. Firstly, there is no doubt that the climate is changing. The evidence is overwhelming and it is clear. The atmosphere is warming, the ocean is warming, ice is being lost from glaciers and icecaps and the sea levels are rising. The biological world is changing in response to a warming world. Global surface temperature is rising fast and the last decade was the hottest on record.

Secondly, we are already seeing the social, economic and environmental impacts of a changing climate. With less than 1° of warming globally the impacts are already being felt in Australia. In the last 50 years the number of record hot days in Australia has more than doubled. This has increased the risk of heatwaves and associated deaths, as well as extreme bushfire weather in south-eastern and south-western Australia.

Sea level has risen by 20 centimetres globally since the late 1800s, impacting many coastal communities. Thirdly, human activities, the burning of fossil fuels and deforestation are triggering the changes we are witnessing in the global climate. A very large body of observations, experiments, analysis and physical theory points to increasing greenhouse gases in the atmosphere—with carbon dioxide being the most important—as the primary cause of the observed warming. The increase in carbon dioxide emissions is primarily produced by the burning of fossil fuels such as coal and oil, as well as by deforestation. Natural factors, like changes in the Earth's orbit or solar activity, cannot explain the worldwide warming trend.

Lastly, the report's message is that this is the critical decade. Decisions we make from now to 2020 will determine the severity of climate change our children and grandchildren experience. Without strong and rapid action, there is a significant risk that climate change will undermine our society's prosperity, health, stability and way of life. To minimise this risk, we must de-carbonise our economy and move to clean energy sources by 2050. That means carbon emissions must peak within the next few years and then strongly decline. The longer we wait to start reducing carbon emissions, the more difficult and costly those reductions become.

I will speak specifically about South Australia, because shortly after the release of 'The critical decade' report an insert on the particular impacts for South Australia was released that

brings the story even closer to home. The South Australian insert details three key impacts. The first significant impact on South Australia is that rising temperatures in our state will affect health.

Average yearly temperature in South Australia has risen by almost one 1° Celsius over the past century, and the last decade was South Australia's warmest on record. Temperatures will continue to rise. At present, Adelaide experiences, on average, 17 days out of the year with uncomfortably hot weather, that is, above 35° Celsius. By 2030, the number of extremely hot days could rise to about 23, and by 2070 further increase to as much as 36 days a year.

More record hot days and associated heatwaves increase the risk of heat-related illness and death, particularly in the elderly. In January-February 2009, south-eastern Australia experienced record breaking prolonged temperatures and Adelaide reached its third highest temperature ever at 45.7°. During the 2009 heatwave, direct heat-related hospital admissions increased 14-fold and there was a 16 per cent increase in ambulance call-outs.

During the 2009 heatwave, there were an additional 32.4 deaths, with 23 of these in the 15 to 64 age group. In just a decade, without effective adaptation, heat-related deaths are projected to double. This poses substantial challenges for hospitals, morgues and ambulance services.

The second major impact is that changing rainfall patterns, combined with higher temperatures, pose significant risks to South Australia's agricultural areas and our urban water supplies. There has been a clear decline in rainfall in southern South Australia since 1970. There is some evidence that this decline in rainfall is linked to climate change, and it is more likely than not that the drying trend will continue.

Droughts in our state will become more severe because of higher temperatures, and the drying soil will lead to further additional warming. This will have a significant impact on South Australia's agricultural belt. A continuation of the drying trend would also have large risks for drinking water availability. Research so far suggests the southern Murray-Darling Basin is drying, which has clear implications for water availability in Adelaide and other parts of South Australia.

A prolonged drought in south-eastern Australia from 1997 to 2009 resulted in extremely low river flows in the Murray-Darling Basin, less than 50 per cent of the long-term average. In summary, while much uncertainty remains about specific details of rainfall changes in the future, we can say with considerable certainty that rainfall patterns will change as a result of climate change, and often in unpredictable ways, creating large risks for water availability.

I note that Brad Crouch, writing in this week's *Sunday Mail*, stated that the federal government has felt duped over South Australia's spin about reducing reliance on the River Murray and that is the reason funding is yet to be secured for the expansion of the Port Stanvac desalination plant to 100 gigalitres. The fact is that this government's plan is for us to still take in, year after year, 50 gigalitres of River Murray water for Adelaide's water supply. According to this report, we are in cloud-cuckoo-land if we think we can keep on doing that until 2050, as the Water for Good plan suggests.

The third major impact is that rising sea levels will exacerbate existing vulnerability in South Australia's coastal towns and infrastructure. On average, sea level rise has risen globally by 3.2 millimetres a year since the early 1990s, affecting many coastal communities. Even more worryingly, sea levels in South Australia have been rising at a rate higher than the global average—approximately 4.6 millimetres per year since the early 1990s, with much variability from year to year.

Globally, sea levels have risen by about 20 centimetres since the late 1800s. Another 20 centimetre increase in sea level by 2050, which is feasible at current projections, would more than double the risk of coastal flooding in Adelaide. A rise of 50 centimetres, which is likely later this century, will lead to very large increases in the frequency of coastal flooding—flooding that is currently considered a one-in-100-year event would occur every year. If members want to get a sense of what that might mean, I would encourage them to look at the maps that are included in the report. Adelaide, as we know, will be fundamentally changed.

The report also states that between 25,200 and 43,000 residential buildings in the state of South Australia may be at risk of flooding towards the end of this century, with a value of between $4.4 billion and $7.4 billion. We are even more vulnerable than most other parts of the country. South Australia has the second highest value of total assets at risk, with over $45 billion worth of houses, buildings and roads at risk of flooding.

We ignore such a stark warning at our peril. A decision not to take action to substantially reduce greenhouse gas emissions is a decision to make the problem worse, a decision to cause more hot extremes and to increase sea levels even further. Governments and communities must take urgent action to reduce greenhouse gas emissions this decade or face enormous social and economic costs in the future.

This report is squarely aimed at us, the members of the 52nd Parliament of the State of South Australia. The choices we make this decade, right now, will shape the long-term climate future for our children and grandchildren. Our climate may be so irreversibly altered that we will struggle to maintain our present way of life. We as members of parliament, during this critical decade, are responsible. We are the custodians for our state during this time. Our job as elected leaders and decision-makers is to ensure that we take the necessary action to protect our community in this critical decade, and the time for action is now; it is not tomorrow.

That brings me to the second and final part of this motion, which is a call for the state government to intensify its efforts to respond to the challenge of climate change. Despite the rhetoric and the many fine words, South Australia still contributes far more than its share to global carbon pollution. Per capita, there are only a handful of places in the world that are worse than South Australia, yet The Critical Decade report clearly reveals how we are also one of the most vulnerable places in the world to a climate shift.

This government is still disproportionately pouring our time, money and energy into road, rather than rail. The baby-step investment in public transport is dwarfed in comparison with major road projects, such as the bizarre elevated South Road Superway.

The mining minister was just last week spruiking a project to convert dirty coal into dirty diesel fuel, and then had the hide to ironically describe this carbon-polluting process as clean and green. Housing SA properties do not have any solar power, denying Housing SA residents access to an energy source that will save them in their power bills at the same time as reducing carbon pollution.

The government continues to approve new housing developments on the urban fringe that lock in failure, such as Buckland Park, whose future residents will have higher average greenhouse pollution than the state average. How remarkably irresponsible is that? So, we are continuing to make things worse and, equally irresponsibly, this government is not doing enough to prepare us for the change that is already occurring.

The last budget again failed to prioritise support for our agricultural sector to prepare for disruptive changes to our food production systems. Our health sector needs to be urgently geared up to respond to heatwave-related illnesses, and there needs to be a comprehensive plan in place for vulnerable coastal communities to respond to rising sea levels and beach loss.

In short, this government must genuinely treat climate change as the real threat that it is. It must urgently decarbonise our economy, stop approving new projects that make things worse and start having an honest conversation with the people of South Australia about what needs to be done. The Legislative Council needs to send a clear message to the government that we want the government to move beyond fine words and to start acting. As the authors of the Climate Commission report state:

> Failing to take...action today entails potentially huge risks to our economy, society and way of life into the future. This is the critical decade for action.

As with my previous motion, I can tell members that in the lead-up to the winter break, I will be bringing this motion to a vote on the next Wednesday of sitting.

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

SAME-SEX DISCRIMINATION

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

That this Council:

1. Expresses its concern that young people who are same-sex attracted and/or gender questioning continue to face discrimination and stigma in our society and consequently are more likely to attempt or commit suicide, to be at risk or homeless and to suffer unnecessary mental illnesses or other indicators of a higher health burden than their peers;
2. Welcomes and encourages all efforts to counter this discrimination and stigma;

3. Notes that programs offering peer and group support are uniquely effective in tackling the isolation that some young same sex-attracted and/or gender questioning people may experience;

4. Congratulates the longstanding Government-run programs at Second Story, including Inside Out and Evolve, for their continued efforts to support young people who are same sex-attracted and/or gender questioning; and

5. Urges that the valuable role of targeted support and counselling programs for this vulnerable group be continued with at least current levels of funding and with access by young people to group support and peer education as well as counselling and health services and advice.

(Continued from 8 June 2011.)

The Hon. J.M.A. LENSINK (17:35): I rise to speak on this motion and provide some remarks and indicate that the Liberal Party will be supporting this particular motion. Reading between the lines of how it has been reported in the media, I am taking it that there has been some dispute between volunteers at the service and some of the management, and I am pleased that the particular programs involved, which were Evolve and Inside Out, will not now be cut.

I was contacted, as other honourable members may have been, in mid-April by *Blaze Magazine* which said that they had received information that Second Story would be closing those two projects—Evolve and Inside Out—which focus on same-sex attracted youth in peer education and group drop-in sessions in favour of one of counselling which requires referral and greater evidence of vulnerability than having a diverse sexuality or gender. *Blaze* wrote to me and stated that:

> Concerns have been raised that this will see same sex attracted youth placed at further risk as the current preventative services of peer education, mental and social support and HIV prevention information will be exchanged for remedial services.

They have concerns about this new service model. They wanted to know what we thought the motives would be for such a change in the current service model and what evidence had been provided that discontinuing such services would be of benefit. We contacted the health minister's office, which was quite prompt in providing a reply to us to advise that those services would not be cut. That letter to me of 29 June states:

> What is currently underway at The Second Story Youth Health Service is a new planning and development process to ensure the provision of high quality, effective, best practice and safe health services for vulnerable young people, including those who identify as gay, bisexual or same-sex attracted.

There are a few weasel words in there, but I accept that the program will no longer be cut. I should just say, before I refer to a letter that the opposition received, that this issue was raised during the recent estimates process by my colleague the member for Unley who, in questioning the Minister for Youth, asked whether Second Story and indeed the issue of ward 4G had been directly raised with her and whether she had had advice sought and what advice she had provided.

I think it is telling that the minister—who has a very important portfolio, which is quite directly relevant to this particular issue—had not been consulted about it. I am sure that, if she has been, she would have told them that they should retain the service. The government policy, known as Youth Connect, directly infers in its first few pages that it wants to be inclusive of gay, lesbian, bisexual, transgender, intersex or queer (GLBTIQ) young people. So, in seeking to cut those services, I think the government was ignoring its own strategy.

I received a letter via one of my country colleagues in the Liberal Party, whom I will not name because I do not wish to identify the person who wrote it. This person wrote to his former local member expressing concern about these two programs being cut. His story is, I think, probably quite typical of young people in the country who may be experiencing sexuality issues. He states:

> After moving to the city I at first felt I had no support and nowhere to turn to find other youth my age who I felt comfortable associating with. I was, however, lucky enough to hear of this service—

that is, those services at Second Story—

> and was invited to come on a Friday evening. Within the group, I found acceptance and like-minded youth who helped me form friendships both within and outside the project while also gaining advice on sexual health, personal safety and other important areas.

He makes several other comments and then states:

> These struggles are magnified when the youth in question is 'different', and I imagine you would be concerned to hear that queer youth are still grossly overrepresented in youth homelessness and youth suicide. I fear

from this cut in funding that parliament may no longer consider queer youth to be at risk—a worrying assumption indeed.

And I concur with his remarks. As I said, I think that is fairly typical of the experience of young people in country areas who may come to the city needing some support, advice and assistance. Clearly, a peer model is of great benefit to them, rather than what has been proposed: to change the structure of those particular programs. So, I endorse all of the points expressed in this motion and commend the motion to the council.

The Hon. S.G. WADE (17:42): I rise to support the motion of the Hon. Tammy Franks on same-sex discrimination. The motion focuses on discrimination related to the potential mainstreaming of a service for young gay males provided by The Second Story.

Governments are in the business of providing services efficiently and effectively. One of the factors towards efficiency is to be able to deliver a service which can be delivered cost-effectively and affordably on a mass scale. In that sense, mass delivery is a check against discrimination. If everyone in the state receives access to a similar service on the same criteria, this mitigates against discrimination. However, postage stamp services can also carry the seed of discrimination if they do not allow for relevant differences. It is discrimination to treat people differently when they are the same. It is no less discriminatory to treat people the same when they are different.

Service providers are engaging in discriminatory practices when they treat people with similar circumstances differently; for example, if a person is excluded on the basis of aboriginality. However, exclusion can also occur when relevant differences are not allowed for. The obvious example is disability. People with disabilities are excluded from services if service providers do not facilitate physical access through measures such as ramps, or communication access through measures such as TTY text telephones. Providing ramps and TTY typewriters is not positive discrimination: it is removing barriers to equal access and equal opportunity.

It is essential that mainstream services such as health, education and transport are flexible and focused enough to meet the particular needs of subgroups within the community. There comes a point where the needs of some groups are so distinctive and/or the risk is so high that mainstream services are not enough. To not provide specialist services is of itself discriminatory. A transport service is discriminatory if there is not a mix of access for elderly people to mainstream transport and specialist transport. Education is discriminatory if it does not provide bridging courses for people who cannot speak English, and so forth.

The opposition is concerned about the mainstreaming of the Second Story services because it would be inappropriate and may be discriminatory to a group of young South Australians at risk, that is, to young gay or gender and sexuality questioning males. We have real concerns that their needs are so distinctive and the risk is so high that a specialist service is vital. Young gay males need to be provided support to clarify their orientation issues and effectively engage in health issues and services targeted at the LGBTI community.

As I said earlier, it is discrimination to treat people differently when they are the same; it is no less discriminatory to treat people the same when they are different. Section 47 of the Equal Opportunities Act 1984 recognises this issue. It authorises special measures intended to ensure that persons of a particular sexuality have equal opportunities with people of another sexuality.

If the government fails to ensure equal access to young gay or gender and sexuality questioning males, it is engaging in discrimination. In assessing the situation, we are aware of the Rann government's lack of commitment to the LGBTI community. The most stark demonstration of that lack of commitment was the abolition of the Gay and Lesbian Advisory Council in 2008.

I would like to reflect on the situation that LGBTI youth face in South Australia at this time. In May 2010 the AIDS Council of South Australia issued a report entitled 'Lesbian, Gay, Bisexual, Transgender and Intersex Health Policy in South Australia: An exploration and jurisdictional analysis'. It revealed some damning statics, and I quote:

- LGBT people are four times more likely to attempt suicide than the rest of the community
- That levels of violence and harassment experienced by LGBTI populations is still a significant issue with a recent study showing 80% of LGBTI individuals had experienced public insults, 70% had experienced verbal abuse, 20% had experienced physical threats and 13% had experienced physical assault.

The report cited a 2004 report by Rogers, which showed that one quarter of the study participants reported they had attempted suicide at some point in their lives.

Through the stellar work of the Hon. John Dawkins and others in this council, we are well aware of the blight of suicide in our nation. According to the ABS 2009 'Causes of Death' report, 22.1 per cent of all male deaths aged 15 to 24 were due to suicide. Similarly, for females suicide deaths comprise a much higher proportion of total deaths in younger age groups compared with older age groups.

In an article entitled 'Wear it Purple to Support Gay Youth at Risk', the samesame.com.au website quotes a suicide prevention Australia report with the following alarming statistics: 38 per cent of gay people have experienced discrimination; 50 per cent have experienced verbal abuse; and, shockingly, 74 per cent of this abuse happened at school. Around 30 per cent of Australian gay teenagers will attempt suicide. In Australia, on average, over 200 young people will suicide this year. Around 30 per cent of Australia's gay teenagers will attempt suicide. Gay teens are 14 times more likely to attempt suicide than their gay peers. Research undertaken by the University of Sydney states:

> The past three decades have produced growing evidence of increased suicide risk amongst same sex attracted youth…Bullying at school is thought to be a contributing factor. In a recent study by Hillier [and others] (1998) of 14-21 year old same sex attracted youth, 46% reported they had been verbally abused because of their sexuality and 16% had been physically abused.

These statistics reveal a situation that demands a response. They represent the loss of hundreds of young Australians and the suffering of many others. We need to be alert to what we can do to reduce that figure in the future. The Rann government has a poor record in terms of listening to the needs of the LGBTI community. I have already referred to the abolition of the gay and lesbian ministerial advisory council in 2008.

Further, ACSA has accused the government of failing to recognise the needs of the LGBTI community in that it has not dedicated a responsible minister, it does not have a ministerial advisory structure, nor does it have a designated departmental unit or dedicated LGBTI health policy/plan/strategy. Once again, this government fails to effectively consult. Whether it is Ward 4G for young people with eating disorders, the Parks Community Centre, or Second Story, the recurring reality of this so-called Labor government is that they are devoid of values and arrogant in their failure to consult.

On 4 May in this place the Hon. Ian Hunter highlighted the risk to the Second Story programs. In this motion the Hon. Tammy Franks gives this council the opportunity to reflect further on this situation. The Second Story is a service provider under the Children, Youth and Women's Health Service. It serves youth between 12 and 25 years and offers a free confidential health service to all that inquire. The Second Story was established in 1986 after the then minister for health visited The Door service based in New York.

In 1994 the Second Story opened a second service at Elizabeth. In accord with its mission to provide confidential health services for young people aged between 12 and 25, the Second Story includes in its priority issues 'those related to mental health, sexual health and substance abuse'. Its priority populations include 'socially disadvantaged young people, young parents, indigenous youth, same-sex attracted young people, early school leavers and young people in secure care centres'. The Minister for Health in the other place has written in response to constituents in the following terms:

> I would like to reassure you that the Inside Out and Evolve projects for same-sex attracted and gender questioning young people will continue to be provided...by the Second Story Youth Health Service.

The minister went on to say:

> The aim of the review is to provide better services, improve access for vulnerable young people and offer holistic health care interventions.

However, I am concerned, in the context of the minister's reassurances, to read minutes from the Inside Out and Evolve—Peer Educators' meeting on 4 April 2011. In those minutes it reads:

- The Second Story shall be focusing on more 'vulnerable' groups rather than same-sex attracted. The 'new service target' will be: Aboriginal, guardianship of the minister, young parents, 'vulnerable' young people.
- 'Drop-in group' and 'peer education' services for same-sex attracted youth will be cut and redirected to counselling services.
- There shall still be possible group opportunities in the future, but not with a same-sex attracted focus.
- There shall be no more individual 'drop-ins' and same-sex attracted youth will have to go through a rigorous and inappropriate assessment process to determine if they are 'vulnerable'.

- If Inside Out and Evolve clients wish to still access services then they're forced to undergo an assessment process to determine whether they are 'vulnerable'.

I note the limited assurances that the minister has given about the continuation of services, including those referred to by the Hon. Michelle Lensink, but I remain concerned that hidden behind those words seems to be a clear trend to mainstreaming services and, as I indicated earlier, mainstreaming services for vulnerable target groups can be, in itself, discriminatory.

A major issue arises in the assessment of vulnerability where we have fragile and potentially uncertain young people with concerns regarding their sexuality, or potential sexuality, having to attend a clinical assessment to prove their vulnerability. I would ask the council to consider the implications of having to ask an at-risk young person, potentially already lacking in confidence, to face a clinical assessment to evaluate their vulnerability.

The opposition is very concerned the potential mainstreaming of services within Second Story may discriminate and may fail to provide adequate services to all those who need it. The Hon. Ian Hunter states that the Minister for Health has had a strong support for programs in the past. My question is: what has changed? Why is the minister not acting to provide clear reassurance that appropriate specialist services will be maintained?

In questioning the government's plans for Second Story, I do not merely want to defend the status quo. I have real concerns about the lack of support for young gay people beyond metropolitan Adelaide. The issue is not one that solely affects those in the city. Former Australian human rights commissioner Chris Sidoti stated in a speech in 1999:

> Lesbian, gay and bisexual young people in rural areas are severely disadvantaged. They experience the stigma associated with homosexuality, the disempowerments common among young people and the difficulties of contemporary rural life. Research also shows that, in the face of these difficulties, they often receive less than adequate support from families, schools, youth services and the broader community.

In a paper published in 2003, K. Quinn of the University of Adelaide made the following observations:

> During the last nine months of the 2001-02 financial year, the SA Gay and Lesbian Counselling Service received 1,517 telephone calls...Of the total number of calls, 186 were from rural callers (12.3 per cent) of which 28 were from rural women (15 per cent) and 158 were from rural men (85 per cent). Although rural callers were considerably fewer than urban callers, the percentages are important when the call content is considered. Most urban callers sought local venue information, however; rural callers predominantly sought guidance about health and relationship issues and general support.

The opposition supports the motion, but we also call on the government to reassess the services it delivers to rural and regional South Australia. The best option available would be to implement thorough, specialist services to assist with the needs of LGBTI young people across the state. Doing so will reduce their need for future services as they age.

Given the alarming prevalence of teen suicide and other health issues amongst the LGBTI community, it is vital that we move to a place where this state provides services to all those citizens who need it, and not discriminate by providing generalist services in response to a specialist need. I indicate my support for the motion.

The Hon. K.L. VINCENT (17:56): I wish to place on the record my brief but strong support for the Hon. Ms Franks' motion, and to thank her for bringing it to the attention of the council. I will not take up too much time of the council as I wholeheartedly agree with the comments the Hon. Ms Franks made to this motion when she introduced it on 8 June, and I know that there is little point in rehashing her sincere sentiments.

As the Hon. Mr Wade has already pointed out, discrimination is something that plays a big role in my work, but I will not touch on that too much given that we have already had that covered. However, I would like to point out that I hope that there is a time when programs like Evolve and Inside Out are no longer needed.

I hope that in our lifetime we will be able to see a day when discrimination against people who are same-sex attracted and/or gender or sexuality questioning no longer exists. When that is the case programs like those run by the Second Story will be able to be put to rest. Unfortunately, it is clear that that time is not now. Discrimination is still rife out there and it is heart-wrenching for same-sex attracted people or gender or sexuality questioning people to be vilified because of who they are or who they love.

I have made speeches to this effect previously but I cannot say it enough. There is never a good reason to marginalise a healthy, consensual, loving relationship regardless of who the parties of that relationship might be, and there is never a good reason to belittle someone because of who they perceive themselves as.

These are basic individual rights that we should all be free to exercise and enjoy without feeling the weight of social stigma; and, to that end, I would like to mention how horrified I was at hearing the anecdotes the Hon. Ms Franks told when she introduced this motion regarding violence towards same-sex attracted people and/or couples. I know that it is a hackneyed phrase, and I would hope that it goes without saying to every person in this place, but violence is never a solution to anything.

To me, violence towards someone on the grounds of their sexuality, violence with the idea that we can bash a person's sexuality out of them, is just as archaic as the idea that we could scrub the colour of someone's skin off, or that we could get rid of a headache by drilling a hole in our head, as was the ancient Egyptians' belief.

It is because these rights—that is, the right to be who you are and to be with the person you love—are so basic and so core to our ability to function as people that there is such terrible damage done when these rights are violated. When you are told that it is wrong to love the person you love or wrong to be who you are it is, of course, hard to carry on, regardless of how much self-esteem you may or may not have. Unfortunately, the voices of others can play a big role in how we see ourselves.

This is exactly why the Second Story programs are so important. By giving people a place to explore their sexuality and gender safely, and offering the opportunity to share the weight of discrimination and the joy of self discovery with others, the Second Story is providing a truly life-affirming service—and potentially lifesaving as well, as we have already heard. Without this service some of these young people would feel like there was no place to turn and no-one who wanted to share their pain.

As Ms Franks says in this regard, one-on-one counselling cannot replicate the value of the current Second Story model, and that is why group support should be retained and encouraged as an integral part of the programs offered. I believe that for as long as discrimination exists this kind of program should exist too, and for that reason I strongly support this motion.

The Hon. I.K. HUNTER (18:01): It has fallen to me to put on the record the government's response to the motion before the council in the name of the Hon. Ms Franks. The Minister for Health, John Hill, from the other place met with Mr Mark Fuller, Dr Jane Edwards and Mr Ian Purcell AM, former chair and members of the Gay and Lesbian Ministerial Advisory Council, on 8 June and gave a clear indication that funding levels to the Second Story Inside Out and Evolve projects would continue. The minister has also given the same commitment in a number of letters to interested correspondents, including to this speaker.

The pressures resulting from discrimination, stigma and bullying can be significant contributing factors to poor health outcomes for gay, lesbian, bisexual or transgender young people, including the risk of suicide, self-harm, drug abuse and homelessness. Being same sex attracted or gender-questioning is not in itself a risk factor for suicide, self-harm and poor health, as noted by the Lesbian, Gay, Bisexual, Transgender and Intersex Health Alliance. This can be a particular issue for younger people who may not seek help due to lack of accessibility to mainstream services or confidentiality concerns.

The National Rural Health Alliance 2009 has noted that a national study on same sex attracted young people concluded that homophobic abuse had a profound impact on young people's health and wellbeing. Young people who have been abused fare worse on almost every indicator of health and wellbeing than those who have not. Young people who have been abused feel less safe at school, at home, on social occasions and at sporting events. Those who have been abused are more likely to self harm, to report a sexually transmitted infection and to use a range of legal and illegal drugs.

Partnerships between agencies and sectors are required to effectively address broad issues of discrimination. School, community and health services and youth and recreational organisations need to work together with young people, community members and families to reduce the isolation of young people who have been the target of discrimination and abuse and prevent it in the future. Anti-discrimination policies and strategies are required to ensure accessibility of all services for same-sex attracted young people.

Well run peer and group support programs are effective in addressing social isolation, empowering young people to develop strategies to address discrimination and bullying and to strengthen self-identity and confidence. These outcomes can be gained through programs run by a range of organisations including school, health, youth and community programs.

The Children, Youth and Women's Health Service, Adelaide Health Service and Country Health SA provide a range of mainstream and youth-specific programs accessible by young people, including local partnerships to support access to services, health information and referrals, and access to health services which address the health impacts of discrimination.

The health services required to address sexual and mental health issues can include a mix of advocacy, brief interventions, counselling, peer support, group work and clinical services, depending on the needs of the individual young person. The Second Story is the youth health service of the Children, Youth and Women's Health Service, while Shopfront Youth Health and Information Service and Southern Primary Health Marion Youth are provided by Adelaide Health Service. These are primary healthcare services designed specifically for young people of between 12 and 25 years of age.

All services are designed to be accessible to vulnerable young people with diverse sexuality, ethnic background, gender, age and family status, through staff selection and training, design and delivery of promotional materials, location and accessibility of services, and service delivery methods. In this sense, the service acts as a gateway into the health system for young people who are less likely to access mainstream services.

In addition to provision of the Inside Out and Evolve projects, the Second Story also undertakes health promotion and prevention work to address discrimination and promote positive images of same-sex attracted young people with local schools and community agencies in northern and southern Adelaide. This work has been successful in raising awareness of the needs of same-sex attracted young people and educating the public about the effects of discrimination and how to address it.

The Second Story is a member of the Northern Alliance Against Homophobia in Schools and the southern task force against homophobia, which also has a focus on schools. These groups have membership of a variety of government and non-government agencies across a range of areas, including health, education and policing.

The Inside Out and Evolve projects for same-sex attracted and gender-questioning young people will continue to be provided and developed by the Second Story youth health service. As the minister has advised in both the aforementioned meetings and numerous letters, funding for these programs will continue to at least the same level. As part of the service planning for the Second Story, the Inside Out and Evolve projects will be brought in line with national best practice. For example, the health needs of same-sex attracted teenagers will be looked at separately to those of young adults.

Service planning is being undertaken by the Second Story to further develop a service model based on the philosophy and approach of comprehensive primary health care, which gives consideration to the social, economic and political context of young people's lives. The Second Story will provide a continuum of care within the social health model that includes physical, social and emotional wellbeing and not just the absence of disease. In this approach, young people are identified as experts and involved in the process of determining their own health outcomes, with resource support from the service provider.

Service changes currently being planned by the Second Story youth health service will take into account the diverse health needs of same-sex attracted young people. The Second Story is developing a more responsive, flexible service with reduced barriers to access. The service will be more responsive to the diverse vulnerabilities of all young people, including those who are same-sex attracted, through provision of health information and referral, health assessment and a wide range of health services.

The types of services available will increasingly reflect the health needs of the young person. The Second Story will provide an increasingly wide range of youth-focused, flexible and responsible services, inclusive of health information, referral, drop in, outreach, brief interventions, group programs, counselling, clinical services and community activities to meet the diverse health needs of vulnerable young people. With those few remarks, I indicate that government members are supporting this motion.

The Hon. A. BRESSINGTON (18:08): I rise briefly to indicate my support also for this motion. There are a couple of points I will make. I agree with the comments of the Hon. Ian Hunter when he said being a member of the LGBTI group does not necessarily meet the criteria for a mental illness, suicide or whatever, but this gets back to the point of how we as a society deal with, relate to, communicate with and accept people who are different—well, different to us but not different to them. I have not prepared anything for this, so if I put my foot in my mouth I apologise for it beforehand. The political correctness of it all sometimes is a bit much.

The point I am making, though, is that I have experienced this in my own family with a niece and nephews who have been same-sex attracted and have not been able to come out and tell their parents that this is the direction that they thought they were going in. One of my nieces—and I will use another name—named Sharon shared her feelings with one of her friends at school, and was not as great a friend as she thought.

A week after she shared the fact that she thought that she may be lesbian she was gang raped by four of the boys in the school, with the message going to her during the rape that she needed to know what she was missing out on. She never spoke of that experience when it happened. As I said, she had not been able to talk about this with her parents, so she carried that around with her for six years. She actually ended up a heroin addict and was in gaol by the time she was 21, with two children, I might add, and her life was in tatters.

If as a society we can prepare families for the fact that this may happen, and we can put information into schools that is effectively accepted by other members of the school community (namely, other students), we can go a long way in preventing lives being destroyed and people contemplating suicide as the only answer.

We ran a group to accommodate same-sex attracted people in our Drug Beat program. The reason those people were there was, first, they could not talk to their family and, secondly, they had been abused and bullied at school and it had affected their entire life. They were using drugs to forget that pain and to try the best they could to cope with their life as it was because of those traumas.

I can tell you that working with the families of these young people and getting the families to accept that, no matter what, they were still their children and that they still had feelings and ambitions, and they wanted to have the right to a good existence just like every other person in the community, went a long way to allowing repair of family relationships and a shift in dynamics that was forgiving. That is something that is quite often ignored in this debate—the fact that forgiveness by family members and how they treat the messages they send is so very important to full acceptance. For gay, lesbian, bisexual people, gender-questioning people, who they are is not their sexuality; it is their values and beliefs and the way in which they aspire to live their life.

I know for a fact that group counselling is very therapeutic and very effective. Not only is it a way of a person sharing their life experiences and their traumas but it is also a way of hearing that their life experiences and traumas sometimes are not that much different from those of other people, that they are not a one-off, one-only person who has been treated in a discriminatory, unkind or abusive way. Group therapy is very good for helping young people or any person to reconcile trauma and put it in its place, and that is that it is the ignorance of other people that has caused their trauma, not actions, sexuality or anything else. This is about society's way of coping with what it does not understand.

I am the first one to admit that I do not understand homosexuality. I do not know why it happens, but I do not have to know. I do not have to go into the genealogy of it, whether it is nature or nurture or all of that. The fact is that so many young people are coming to the conclusion that they are gay, lesbian, bisexual, or whatever. If it is real to them, it is real, and we just have to learn to accept that. We have to learn to integrate people, as best we can, into our society and give them all the help we can when we can when they are vulnerable.

One thing that was highlighted, or is of concern to me, is that the Hon. Ian Hunter said, in his response, that the funding has not been cut. I do not think that is the issue with this motion. The issue is that the criteria for people to access these services are going to be tailored down, if you like, and that will mean that some people who need these services are not going to fit the criteria and therefore are going to be left without the support they need.

I have a huge problem with the government approach—not just this government, but governments in general—where we try to turn human conditions into clinical conditions. It has

always been the view of myself and counsellors from the organisation Drug Beat, that if you continually tell people that they are broken then eventually they will believe it.

There is nothing that will indicate to a person that they are broken any more than having them go for clinical assessments for a condition that needs nothing more than a little tender loving care, an ability to share and care with other people and an ability to connect. They are not clinical conditions and do not require clinical assessment.

In closing, I would like to say that we are constantly told that a one-size-fits-all approach does not work, yet with the streamlining by this government of services to vulnerable groups in our community, it is an indication that it does believe that one size fits all and that: it is our way or the highway. I think that needs to be changed within this government.

As I have said before, the Hon. Mike Rann promised to reconnect and re-engage with the community. These vulnerable groups are where we need to start, and let community groups do what community groups do best, that is, deal with their target groups with best practice. If they can show outcomes and they are saving lives then why does the government believe that it needs to micro-manage every aspect of what is going on out there in the community and, frankly, stick its nose in where it is not wanted and where it is not needed?

With those few remarks, I indicate my full support for this motion and I hope that Second Story is allowed to continue to offer the services that it has been offering to the target groups and achieving those successes, and that the government will just keep out of it.

The Hon. T.A. FRANKS (18:17): I would like to thank those members who made a contribution: the Hon. Michelle Lensink, the Hon. Ian Hunter, the Hon. Kelly Vincent, the Hon. Stephen Wade and, of course, the Hon. Ann Bressington.

I am heartened that the government has indicated support for this motion, although I am not completely convinced, given that just a week ago we did not know whether or not the drop-in group would in fact be meeting in this calendar month, that the support and funding continuing at the same level, which was never the issue here, will ensure that the peer education, the support and the drop-in group aspects of this program are kept.

I echo the Hon. Michelle Lensink's concern that perhaps we are getting a few weasel words, in terms of ministerial assurances, or perhaps the minister is getting a few weasel words fed to him from his departmental advisers. I do not think this move has actually been driven by this government. I understand that it is coming from parts of the Second Story service or the Child and Youth Health services rather than the government in terms of direction, so I am heartened that the government is very supportive of this.

I look forward to hearing in future weeks from those involved in the program that it has in fact continued, but I would note that they have been living with a lot of uncertainty, not knowing from week to week whether or not this program would go beyond 30 June. It is, again, an example in the Department of Health, and under the stewardship of the Minister for Health, where a decision has been made and then the consultation has been undertaken: whether it is Ward 4G, Second Story or things like the Keith Hospital, it seems to be an ongoing issue in the area of health and this government. I think that perhaps Consultation 101 might have to be put on the agenda for a future Labor Party caucus meeting.

I note that 'GLBTIQ', 'same-sex attracted' and 'gender questioning' are terms that we do not find in our State Strategic Plan. I am heartened to hear that they are still in the *youth*connect, Office for Youth, documents, but again, I echo the Hon. Michelle Lensink's concern that the Minister for Youth was not even informed of this issue prior to the undertaking of the moves. Yet, in her *youth*connect strategy, GLBTIQ is specifically mentioned in that plan, so both on that aspect and also on the fact that it is a key youth program overseen by this government, you would have thought that the Minister for Youth would have some stake in this and certainly at least be consulted. If she has not been consulted, then goodness knows what level of information the young people involved in this service got.

With that, I thank members for their support. I am glad that this motion is looking to pass this council. I certainly hope that the assurances that we have do not dissolve into weasel words, though.

Motion carried.

CHILDREN'S PROTECTION (RIGHT TO RECORD CERTAIN CONVERSATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 May 2011.)

The Hon. S.G. WADE (18:21): I rise to indicate that the opposition supports the Children's Protection (Right to Record Certain Conversations) Amendment Bill 2011, although we will be engaging in discussion on amendments as the bill progresses. By way of background, the Hon. Ann Bressington introduced the Children's Protection (Recording of Meetings) Amendment Bill on 26 May 2010. There were two key elements of that bill, in particular, one requiring Families SA to record meetings with clients and another element where clients were authorised to record meetings with Families SA.

As a result of discussing our concerns with the Hon. Ann Bressington, this bill has resulted. The redrafting of the bill that resulted from those discussions was substantial and a fresh bill was required. I would indicate the opposition's deep appreciation for the Hon. Ann Bressington's constructive engagement on these issues. The issues that she raises are significant and need to be addressed, and working through practical problems, I believe, has led to a better bill.

Under the Children's Protection (Right to Record Certain Conversations) Amendment Bill 2011, participants at meetings would have the right to record meetings with Families SA. Families SA would not have any responsibility to record meetings; the resource concerns with previous bills have therefore been overcome. The bill before us adds protections for the department in terms of requiring copies of the recordings to be made available to the department at the request of the chief executive.

As the records are increasingly likely to be made in digital form using mobile phones, PDAs or digital recorders, the cost of recordings is not likely to be great. The bill provides limitations on the distribution of recordings in particular to protect the child and any child protection or criminal investigations. The opposition welcomes the fact that section 57A(4)(e) narrows recipients of the recordings to exclude the media.

Again, I return to the point I made about constructive engagement. I particularly want to acknowledge the work of the Hon. Ann Bressington and her office, particularly Ryan Hidden, and also the constructive way that the Hon. Kelly Vincent has discussed a range of issues with us as well. I think it is becoming more and more stark in this council that crossbench and opposition members are able to constructively engage on remedies for shared concerns which is leading to better legislation.

It seems that this government, after nine years, is incapable of thinking that any idea that does not come from within its own caucus is worthy of consideration, which is testament to the fact that this government has reached its use by date. I almost feel as though we are getting to the situation where the crossbench and the opposition MLCs are beginning to craft the future and that this government is so tired and so dysfunctional that it cannot conceive how things might be.

Nonetheless, we will persevere. We will be patient with governments when they stamp their feet in the other place, in relation to government bills in particular. I certainly commend the Hon. Ann Bressington for bringing this bill before us, highlighting a very legitimate concern. I commend the bill to the council. I look forward to the committee stage.

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

The Hon. D.G.E. HOOD (18:29): I rise to indicate Family First's strong support for this bill, as introduced by the Hon. Ann Bressington. In my time in this parliament, I must say that I have seen fewer bills that I support more strongly than this one. This bill will allow clients of Families SA to record certain interactions with Families SA. The honourable member has noted that there will be many legitimate reasons for conversations to be recorded. Some clients fear false allegations, some fear that commitments made during meetings will fall through, and others fear that they will not be believed if they complain about a particular employee's conduct or the conduct of the meeting.

As the honourable member has also noted, there are those who simply want to keep a record of discussions and, in my view, there is nothing wrong with that. Family First is quite willing

to support this sensible proposal. Indeed, my former colleague the Hon. Andrew Evans—as was his title at the time—was an advocate for a similar proposal, and he raised the concept in this place during his time here.

One question without notice asked by the former member and my colleague is recorded in *Hansard* towards the end of 2006. Mr Evans indicated that he regularly heard concerns of discrepancies in recollections of conversations between Families SA staff and their clients and made the insightful point that SAPOL and Transport SA interviews are regularly recorded.

Andrew Evans quite rightly noted that Families SA interviews often occur in the context of deciding whether or not a child should remain in its parents' care, and that the impact of the removal of a child is indeed more significant than the consequences of a police prosecution in some cases, giving some weight to calls for the recording of interviews.

At that time, the former member asked what procedures were then in place and whether mandatory electronic recording of interviews would be rolled out, with copies of interviews provided to all parties. I believe that this was an important question at the time; however, unfortunately, I find no response in *Hansard*.

This bill goes some way to addressing some of the former member's concerns and provides, in its one operative clause, that a person may make an audio or audiovisual recording of a conversation between themselves and a person employed or engaged by the department. There is also a right to record interviews between the person and a child over the age of 10. In both cases, the person must inform the other party that they intend to record the conversation.

I commend the honourable member for certain safeguards she has placed in the legislation, namely, that the department cannot treat a person unfavourably on the grounds that the person has made a recording. However, if a person makes a recording they must, if requested to do so in writing by the Chief Executive, provide a copy of the recording at no cost to the department within seven days. Further, there is a confidentiality provision that precludes a person from making the recording available to the public.

The honourable member recently withdrew a similar bill to this one, which instead put the onus on the department to make the recording. To make it clear, this bill instead gives the option to persons being interviewed by the department to make the recordings. So, it puts the ball in the court of the interviewee rather than the department itself.

My plain view is that recording of interviews already occurs in many cases. I understand that many persons who have dealings with Families SA record those conversations secretly because they are concerned about the consequences should their statements be misconstrued, or simply to keep an accurate record of commitments made during the meeting. In some cases, the individual caseworkers may be quite happy for the person to record the conversation, but this bill formalises that option as a right for all interviewees.

I indicate strong support for this proposal which, as I mentioned before, has been raised previously by Family First in this place. I think that, if this is actually implemented, it will go some way to alleviating tensions that unfortunately sometimes arise between caseworkers and parents. As I say, we indicate our strong support. I am aware that there are amendments, and we are favourable to those as well.

The Hon. CARMEL ZOLLO (18:33): I respond to the honourable member's proposed legislation on behalf of the government. On Wednesday 26 May 2010, the Hon. Ann Bressington introduced the Children's Protection (Recordings of Meetings) Amendment Bill and, on 23 March 2011, she withdrew the bill. As we know, the Hon. Ann Bressington has now introduced the Children's Protection (Right to Record Certain Conversations) Amendment Bill for an act to amend the Children's Protection Act 1993 in the Legislative Council on Wednesday 4 May this year.

A number of aspects of the previous bill have been removed; however, the key intent of providing the right for parents to have recorded conversations relating to child-protection matters remain. This bill seeks to insert a new section in the act—section 57A. Proposed section 57A will enable a parent or guardian to make an audio or video recording of any conversation in relation to a child-protection matter between: themselves and an employee of the department; a child of whom the person is a guardian and an employee of the department; and themselves and a child of whom they are a parent or guardian.

As the government understands it, consent by DFC staff will not be required, only that the parent/guardian informs the employee or the child of the intent to make a video or audio recording

of any meeting. If the child is under 10 years they do not need to be notified of the intent to record. It would be unlawful for a departmental employee to treat a person unfavourably on the grounds that a recording has been made, and, if the chief executive requests in writing a copy of the recording, the person who made the recording will be required to provide a copy at no cost to the department within seven days.

This bill proposes that a copy of the recording could be made available to a member of parliament, to an employee of the department or to a person acting as an advocate in relation to a child the subject of the recording, other than a person acting in their capacity as a journalist. The potential for breaches of confidentiality are obvious.

The Hon. Ann Bressington suggests in her speech that recordings could be used as evidence in court, in complaints against the departmental employees and to support parents to obtain further independent psychological opinion. Since coming to power in 2002, the Rann government has reformed the state's child protection system. The government has been committed to keeping our most vulnerable children safe and building a system underpinned by respect and collaboration where all those involved have natural justice, a right of reply and processes are transparent. I am advised that these elements are embedded in the child protection system and this proposal not only goes against those principles but undermines them.

I am advised that the proposed legislation exposes children to the risk of publication of detailed information about their life, their family and involvement with a child protection agency by parents seeking to obtain support to keep a child in their care or to deny allegations that have been made. This type of action could result in disastrous consequences for the child immediately and in the long term. It would not protect children but would expose them.

There is a clear concern by the government that, when a recording occurs between a child and a parent or guardian where abuse or neglect has been alleged, there is real risk of coercion of that child when a parent or guardian is making the recording. Any such recording can discourage the candour of participants, and there is the concern that children could be led, manipulated or effectively silenced by the recording process.

The government believes that the quality of recordings and the reliability of the custody of recordings cannot be assured under this proposed legislation, nor can the recording be protected from editing by the parent or others. The integrity of such recordings is clearly at risk. The intention to provide such recordings as evidence is obviously flawed. Subsequently to suggest that such recordings be used as evidence in court, in complaints processes against staff and as a basis for further psychological assessment is inappropriate and could contribute to delays in making timely decisions.

I am advised that, as well as being unsafe for children, these amendments are simply not necessary, given no law is needed to facilitate this. Existing law already enables parents to ask for permission to record a meeting and/or to communicate information from the recording with permission. The Listening and Surveillance Devices Act 1972 establishes the rights and liability of parents to record a conversation with an employee of the department and/or to communicate or publish information from the recording. The parent can already record any meeting or conversation with an employee of the department with the knowledge and consent of all participants. It would be an offence to covertly record a meeting or to publish or communicate the material without the consent of all parties.

In her speech to the chamber the honourable member infers that the termination of any recording under this bill by a departmental employee could be viewed as unfavourable treatment of the parent or guardian, the obvious concern being that, if a child is becoming distressed by the interview process and a departmental employee determines that it is appropriate to end the interview, there is an inference that this could be deemed unjust treatment of the parent. In these instances the employee must always act in the best interest of the child.

Fundamentally, sections 3 and 4 of the Children's Protection Act 1993 establish the safety, wellbeing and best interests of a child or young person as paramount considerations. It can never be the aim of the Children's Protection Act 1993 to protect those suspected of child abuse or neglect. This would introduce a basic compromise to the central purpose of this act.

The assertions of the honourable member regarding the unbalanced nature of the act and of Families SA as focusing solely on the child without regard for the parents and family are incorrect. Fundamental principles underpinning the act establish that where safe and possible, it is

best to keep a child with his or her birth family and that if the child cannot stay with their birth family they at least stay connected to them.

Although the department must always consider the child's needs as paramount, clearly there is also consideration of the emotional and psychological wellbeing of the parents. For example, through the Stronger Families, Safer Children program, the government has supported more than 1,363 children, many to keep living safely with their parents and some to reunite with their parents.

Through this initiative, non-government organisations (NGOs) work in partnership with Families SA to offer families a wide range of supports to achieve the outcomes of stabilising and supporting families so that they are in the best position to care for children in a safe environment. Interventions provided include parenting skills development; counselling; children's services, schools and education related assistance; links to community networks and services; and practical structured in-home support.

On behalf of the government, I make the following comments. I would encourage all those present not to support the proposed bill on the grounds that this legislation is not necessary, because parents can already record conversations with consent. The bill is not well conceived because it will not achieve one of the key intentions the honourable member outlined in the Legislative Council, namely providing sound evidence.

The Minister for Families and Communities, whom I have spoken to about the case raised by the honourable member in her contribution, does not, obviously, wish to say anything that would potentially embarrass the family referred to by the honourable member in her speech of 4 May. The minister cautions members from going down this path. The government believes that honourable members tread a very fine line by coming into this chamber and giving details of specific Families SA cases, particularly when talking about a relatively small community like Whyalla. I am sure the member would agree that it is very easy to give details that would identify, embarrass and potentially prejudice someone in a small community.

The government asks honourable members to remember that a safety agreement put in place around a child is primarily about making sure that child can stay with their family. Although the involvement of Families SA is kept to a minimum, the department does have a responsibility when people are in circumstances of distress to first and foremost protect and ensure the safety of that child.

The government believes that the bill also runs counter to our intentions to protect and care for children and their families as expressed in the current Children's Protection Act 1993. This bill could expose children the act is designed to protect to unacceptable risks due to possible breaches of confidentiality, and to potential trauma and coercion from the recording process. Indeed this process could intimidate children and inhibit them from telling their stories about neglect or abuse that may be happening to them.

The Hon. T.A. FRANKS (18:43): I rise on behalf the Greens to support this bill put before us by the Hon. Ann Bressington, and to commend her for having put up a previous bill, realising that there was further work to do and bringing back a much improved version before us today. I also commend the input that she has had from the opposition—I think the Hon. Stephen Wade in particular—and the Hon. Kelly Vincent from the crossbenches in improving this bill. I indicate that we will look supportively on the amendments being moved by those two members.

This Children's Protection (Right to Record Certain Conversations) Amendment Bill, an improvement on the Children's Protection (Recording of Meetings) Amendment Bill, enables meetings to be recorded, not by Families SA staff, but by either parents or guardians, those being in some sort of interaction with Families SA. That means that the department bears no cost for this. In this day of technology, where people can film such things or record such things, either with or without pictures, on their mobile phones, it seems a relatively cost neutral advance in terms of improving the functions of Families SA, and certainly the outcomes for those who find themselves in the unfortunate position of dealing with Families SA.

I note that in the inquiry into Families SA both advocates such as Freda Briggs, an advocate for child protection, and staff of Families SA said that, when records of Families SA can go missing and files may be altered, a measure such as this would go some way to ensuring that not only are children's rights protected but also staff rights are protected.

I certainly disagree with the representations by the government that this would do harm to children and lead to children being coerced to give evidence in a particular way. That potentially happens at the moment. If we had a physical audiovisual or audio recording of it, it might actually be even easier to spot if, in fact, that was the case.

Then again, this government assures us it has it all in hand in terms of child protection in this state, yet it voted firmly against the Hon. Ann Bressington's bill that Families SA staff who suspected a crime was being committed against a child be required to report that crime and that instance to the police.

Given that the government has so strongly opposed that very simple measure, I take their assurances that they have an absolute commitment to child protection in this state with a very large grain of salt. With that, the Greens again commend those members who have brought this bill before us and indicate that we will be supporting both the bill and the amendments.

The Hon. A. BRESSINGTON (18:47): I would like to thank all members for their contributions to this bill and for their indicated support. I would also like to thank the Hon. Kelly Vincent and the Hon. Stephen Wade for being prepared to consult with me on the amendments they were proposing, and I will indicate now that I am supportive of both those amendments.

In response to the government's response, I honestly do not know what planet this government is living on. They come into this chamber and say, 'Child protection—we've got it all right. We don't need to be amending the legislation to ensure that parents have a right to defend themselves against allegations of abuse or neglect.' I have 600 examples where parents have claimed that they have been falsely accused, and I would say that probably 20 per cent of those I take with a grain of salt: but, out of the others, there is certainly a case to answer.

What people do not understand, I think, is that there is no recourse for parents who have been falsely accused. There is no recourse for parents who get on the wrong side of their counsellor and who are then treated with absolute disrespect and disdain and set upon. They are literally set upon by these people who claim to be professionals. They cannot take them to a court of law. They cannot have any hearing about the way that they are treated and have any sort of legal mechanism in place for them to be able to get their children back.

In the cases I have dealt with, these parents who have been set upon are the ones who the social workers rush to get an 18-year order on these kids. That means that once that 18-year order is in place no magistrate in this land and no minister is ever going to revoke that 18-year order, so those kids are lost to their parents for life.

Government members have stood up and said that amendments were made in 2002 which led to respectful, collaborative, open and transparent procedures to be in place to protect these vulnerable children, but let me tell you that there are hundreds of people out there who would absolutely laugh at that.

I do not know whether or not this government is aware, but the number of Facebook pages and websites that have been set up to expose the unprofessional and, I believe, criminal conduct of some of these social workers, is enormous. People are being heard one way or another. Tension is rising. I warned this government last year about people believing that this government has declared war on its constituents, and I tell you that child protection is the main issue. We could take steps to improve it. If this government has got it so right, why does every member in this chamber have so many people complain to them about the conduct of Families SA?

If everything was rosy in Adelaide those complaints would be at a minimum, but I know that members of government, members of the opposition and crossbenchers are all approached by parents who believe that they have been wronged and who have lost their children for life—for life. We come up with a simple way to show that some of these parents are actually telling the truth; that is, they have been treated with disdain and they have been treated in an unprofessional manner. The cases are being built against them and fabricated, but what does the government do? It says, 'No, no, it doesn't happen.' Well, it does; it does happen and it is time that we woke up and got this right.

The government also stated that it would not be appropriate to use these recordings in court. Do you know what? The Hon. Kelly Vincent has moved an amendment that if these recordings are tampered with in any way that it would be an offence, and I certainly agree with that. What other defence does a parent have when social workers go into the Youth Court, make allegations, have reports done—some people have up to five or six psychological reports ordered

on them because the first four or five do not give the social worker the evidence or the outcome that they want, so they just get another one. They keep going and going until they get the report from the psychologist who is prepared to be intimidated by the social workers and told how to write the report. They find one who will do it and that is used in court.

Those social workers cannot be cross-examined on the reports or the evidence they have put forward to the court for the removal of a child. How does that work? How is that justice? The initial intention of these recordings was not that it could be used as evidence in court, although it could be.

The initial intention was to bring to the attention of the minister and the chief executive that recordings are showing that false allegations are being made against parents about their conduct, their threatening conduct towards social workers, and that parents actually have a point of negotiation, something that they can take to a member of the minister's staff and say, 'That social worker has treated me unfairly. An accusation was made that I threatened him or her in this particular meeting. Here is the recording. Can you see it? I didn't do it.'

The other thing is that I have been in meetings, as I said before, where parents have requested that they have the right to record and the meeting has been terminated. Why would that be? Nothing to hide, nothing to fear, I say. The government also says that its ultimate goal is to keep children safe.

I remind members about the three children, runaways from the department, who I had in my office the week before last. They ran away from their residential care because they were being abused, because their rights were being abused, because they were being physically abused and because they were being sexually harassed. One of these kids was 10 years old—a little girl—and guess what her aspiration was? To run away and be put into Magill because in Magill she had a cousin who would look after her.

What a great job you guys are doing in keeping these children safe. A 10 year old dressed like a 19 year old, in the care of the minister, smoking and wanting to go to Magill. That is her life aspiration because she is not safe under the guardianship of the minister. She is not the one and only. I have brought cases in front of this council, on many occasions, of children being abused and neglected in care. We talk about the parents being accused of abusing and neglecting their children—God forbid that they should have a right to defend themselves. They cannot do it in court, and these recordings would be the only mechanism open to them to be able to defend them, to keep their children.

The greatest harm we can do to a child is remove them from their family. One of those three children who came to me two weeks ago was one boy of 13. He had no idea of extended family. He has been completely cut off and isolated. He did not know his sister's last name because she had married since he had been taken into care. She lived up there somewhere. An aunty and an uncle expressed a desire that they would look after him rather than him go into care. He did not know their last name; he did not know their address—completely isolated from their family.

There may be good reason for that, but the fact that these children are so disconnected from their family, from their loved ones, is a crime in itself. If this government believes that it has got it all together with respect to child protection, why are these children being isolated? Why are they being shuffled from one place to another? Why is there not an assessment and evaluation process in place for these residential services—not to interview the workers, to interview the children. Get their side of the story.

Was it not us in here who said, 'We're sorry we didn't believe you; we're sorry we didn't listen to you.' We are doing it again. I will repeat that in this place until either I am not here anymore or I drop dead doing it. We are not listening. We are not taking the steps necessary to improve this system. We are complicit in protecting a sick, sick agenda in a dysfunctional and toxic organisation that needs to be flushed out.

The minister cannot think of anything to do to fix it. She is at a loss. She is held to ransom by her own workers, but will she take suggestions? No. Any minister who is afraid that her workers are going to do her in because she makes amendments to the child protection act that they do not like should not be minister. This minister and the minister before her both said, 'This department needs to be levelled.'

The PRESIDENT: Order! The Hon. Ms Bressington should be summing up, not making another second reading speech.

The Hon. A. BRESSINGTON: I am nearly finished. I am responding to the comments of the government, Mr President, that are misleading and misrepresentative of how this system is actually working.

The PRESIDENT: I am concerned about the staff. We have gone an hour over time.

The Hon. A. BRESSINGTON: I am finished. With all of that, it is all on the record before. I will shut up, I will sit down, but—

The Hon. S.G. Wade: Come back after dinner. I am happy to come back after dinner.

The Hon. A. BRESSINGTON: You are happy to come back after dinner?

The Hon. S.G. Wade: Yes.

The Hon. A. BRESSINGTON: All right, then I will continue.

The PRESIDENT: What are you going to do?

The Hon. A. BRESSINGTON: I am going to continue. Members are quite happy to come back after dinner and move this into committee. I am sick of this. I am sick of the fact that this child protection system is touted as being successful. We are pouring in millions of dollars—bad money after bad money and nothing changes. I was assured by the minister when the current chief executive took over that the world would spin in a different direction. Well, guess what? It is not, and kids are still falling through the cracks and kids are still being removed from families when they should not be.

Children are still being left in families where they should not be, and that tells me that there is no political will to fix this, and one of these days I am going to find out why. I am going to find out why there is that lack of will. Who is behind this dysfunction and what power do they have to drive this agenda of breaking down families? Children are a meat market out there. They are on the street—

Members interjecting:

The Hon. A. BRESSINGTON: Excuse me, but if members are suffering from hearing the truth, then we have got a sad situation in this place. These kids are a meat market out there; they are open to predators. They are being picked up, they are being abused. We are seeing the content of the Mullighan inquiry repeating itself—history repeating itself—because we have this minister and the past minister who were too gutless to take on a department that wants the status quo to remain.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. S.G. WADE: I move:

Page 3, after line 17 [clause 4, inserted section 57A(4)]—After paragraph (d) insert:

(da) to a parent or guardian of the child the subject of the recording; or

This is a simple insertion for the list of persons who are able to receive a recording under subsection (1) to include parents and guardians. As I said in my second reading contribution, I think the Hon. Ann Bressington has done an excellent job in presenting this bill.

The opposition is still of the view that it would benefit from enhancement. We thought it was important to ensure that even if a parent or guardian was not a participant in a meeting they would be entitled to receive a copy of the recording. I understand that the mover finds this amendment agreeable and I commend it to the committee.

Amendment carried.

The Hon. K.L. VINCENT: I move:

Page 3, after line 21 [clause 4, inserted section 57A]—After subsection (4) insert:

(4a) A person must not tamper with a recording made under subsection (1).

Maximum penalty: $10,000.

(4b) In proceedings for an offence against subsection (4a), it is a defence for the defendant to prove that he or she did not intend to mislead any person.

I think I need to explain myself a little bit. There has obviously been a bit of confusion as to exactly what it is that I am moving today, and I apologise for that and thank the committee for its patience.

My amendment centres around the idea of the possibility of recordings made under the bill being tampered with, which became of great concern to me in conversation with both the Hon. Ms Bressington and her office, and my own office. Originally, I had intended to move two or three other amendments which members would have seen today, which not only made it an offence to tamper with recordings made under this bill but also provided such that if one party were making a recording under the bill the other party would also be obligated to make its own.

I would have thought this would be relatively simple—with the advent of modern technology we can record things on our mobile phones, iPods, MP3 players and so on—but I am advised by the Hon. Ms Bressington that there was some discussion around this when the original draft of the bill was introduced and it was decided that, unfortunately, that provision was physically impractical. So, I have withdrawn that but have, obviously, stuck with the idea of addressing the issue of tampering with evidence.

I have been in conversation with the Liberal Party and the Hon. Mr Wade today, and I thank them for that. They have drawn to my attention their concern about the fact that my previous amendment may have, in fact, made it tempting for parties to tamper with evidence made given that, if one recording were tampered with, it would make both recordings inadmissible as evidence in a court. Obviously, that is not something we want. We do not want people to be tempted to do something as wrong as that. Mr Wade has assisted me in amending my amendment, for which I thank him very much.

It now stands simply so that tampering with evidence made under this bill will be an offence. There is obviously a penalty for that—a maximum of $10,000. There is provision so that, if a defendant can prove that they did not wish to mislead any person, I think that would mean that they did not intentionally tamper with the evidence, so then their rights are covered too. I see this as a very simple and sensible amendment and I would encourage honourable members to join me in supporting it.

The Hon. S.G. WADE: I indicate that the opposition will be supporting this amendment. Rather than have the Hon. Kelly Vincent apologise that a range of amendments leads to a situation where things are not neat, I think that is just part of the craft of legislating. It actually means that we have to sit and grapple with potential amendments. On behalf of the opposition, I thank the Hon. Kelly Vincent for taking our concerns seriously and coming up with an amendment that we think addresses the mischief that she identified but does not leave open the risk that we saw.

The Hon. A. BRESSINGTON: I am also supportive of the amendment.

The Hon. T.A. FRANKS: The Greens are also supporting the amendment.

The Hon. J.A. DARLEY: I will be supporting the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. A. BRESSINGTON (19:08): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 19:09 the council adjourned until Thursday 7 July 2011 at 14:15.