LEGISLATIVE COUNCIL

Friday 29 July 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:04 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) (11:05): 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) (11:06): I move:

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

Motion carried.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 28 July 2011.)

The Hon. S.G. WADE (11:06): I rise to speak on the Appropriation Bill. I appreciate that I am a tail-end Charlie and thank the government for facilitating my contribution this morning. Being tail-end Charlie, there is little need to add to the critique of the budget overall that has been provided by my colleagues, so I will focus on the aspects of my area of portfolio of responsibility, that is, justice.

The 2011-12 budget shows that Labor does not recognise that our courts are in crisis. Again, Labor is failing to invest in the basic justice facilities that are needed to provide timely justice and to provide appropriate support to victims and other people involved in our justice system.

In his retirement address to a Special Sitting of the Supreme Court on budget morning, Justice Bleby took the opportunity to highlight that the facilities of our courts are the worst in the nation—and I refer to parts of his speech where he refers to the need to upgrade the Supreme Court precinct. He said:

> The home of the highest court in the State is, frankly, a disgrace. It is inefficient to work in; its facilities for staff are appalling; it fails any basic occupational health and safety test for its inhabitants; it is in a sorry state of disrepair; the facilities for counsel and litigants are almost non-existent; it is user-hostile to the disabled on both sides of the bar table; and the ability to be able to provide any sensible degree of court security, particularly in respect of serious criminal trials, is rendered impossible. We cannot even have a Special Sitting in our own court. The premises are widely acknowledged to be the worst facilities of any superior court in Australia. The judges, in their annual report to parliament, without any response, have drawn attention to the state of affairs every year now for the past 11 years...If governments are truly representatives of the people, I think it is a sad reflection on the values of our society that a government will commit $535 million to the development of a sports stadium, with no financial commitment from the supporting institutions who will benefit, while restraints on other spending prevent even adequate resourcing of judicial functions—functions which are at the very core of democratic government.
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> That in turn gives rise to the serious concerns about possible incremental undermining of the rule of law and of judicial independence.

These are very serious words from a very senior judge. I am keen to engage the legal community to fully understand the implications of the lack of funding. The judge's references to undermining the rule of law and judicial independence should be taken very seriously.

Later that day, the budget was delivered and Justice Bleby was destined to be disappointed yet again. The government's response to the courts' infrastructure crisis has been three modest investments. The first is window-dressing a former shop and the latter is driven by occupational health and safety concerns.

First, there is a $1.3 million investment over two years to upgrade the facade of the Sir Samuel Way building. One wonders what will be the impact on delivery of justice services considering we are talking about the facade. There is also an allocation of $411,000 over three years to upgrade the prisoners' lifts and $2.1 million over two years to upgrade security at the Supreme Court and the Port Adelaide, Adelaide and Elizabeth Magistrates Courts.

Justice Bleby stated that the Supreme Court building fails any basic occupational health and safety test for its inhabitants. I found that comment interesting because, in estimates, the opposition questioned the government on this very point. We drew attention to the targets for the 2010-11 budget and the reference to a risk assessment of all buildings in the Supreme Court being completed in that financial year. In response, the Attorney advised merely that the study had been completed and that the study indicated that more work needed to be done. He also said that SafeWork SA has been to the precinct independently and audited the building, and it found that there were no noncompliances. Personally I cannot rationalise Justice Bleby's comments and those of the Attorney-General.

In terms of the investment in the courts, the Attorney-General admitted in the estimates that the government has no plans for a purpose-built superior court facility for the South Australian state courts. The Attorney-General acknowledged the poor state of the courts and said that over time they have to be fixed but in the current budget year, and in the current forward estimates, there is no allocation for that purpose. That was clear in the budget papers; that was not a surprise.

What was surprising was that the government has not even been wiling to do an assessment. The Attorney said to the estimates that there needs to be a good continuing discussion with the courts about exactly what they are looking for over time so that we can consider what can be provided and what elements will need to be provided. The Attorney fleshed this out by raising a series of questions. For example, he said that we need to ask and have proper answers to questions, and I quote:

> ...such as how many courtrooms would one require; what mix of civil and criminal courtrooms would one require; would one require cells, or would there be transport options factored into the thing; what sort of audio-visual material or use would be made of the court; would you have one of these fully computerised courts, with all of the document stuff done? There are all of these issues, and then there are issues about how many courts. Obviously, there are the Supreme Court, the District Court, the Magistrates Court and the Coroner's Court and so on. There are varying degrees of sense in looking at the option of accumulating one or any of those in the same place. So, all of these questions are still questions; they are not answered.

Later, he goes on to say:

> That work is work that is some distance down the track. It is not work that I think would be work that is misplaced.

The Chief Justice supported the need for that sort of work when he spoke about the need for a detailed business case. Again this is in estimates, and he said:

> We really need, as a starting point, the funding for a detailed business case and we have not actually got that money at the moment. That is really step one, before you even have something to present to government. We are trapped in the position of the poor relative. We cannot afford to do the business case without the funding.

The member for Bragg noted in those same estimates proceedings that in the 2011-12 budget there is a business case proposal for the relocation of the core library site in Conyngham Street for the primary industries department. Whilst the department is described in the budget as having had world-class facilities, the government could still find $500,000 to do a business case for a relocation to another purpose-built facility.

Interestingly, the Attorney-General estimated that the cost of a courts' business case would be in the order of $500,000 to $700,000, so, on the one hand, government is looking to relocate a department which apparently is in adequate facilities, and is failing to address a long-term need in relation to the courts. I would stress that is a need to assess the problem. Again, we have a situation where the government seems to be locked in a 'hear no evil, see no evil' position. If you do not do the business case then you will not know how big the ask is.

The Chief Justice suggested at a public address this week that he thought the redevelopment of the Supreme Court site would be in the order of $100 million. I would note at this stage that the government has not even found the money to ask the question how much is needed?

Only this week the Chief Justice reminded us that there are other investment needs beyond the precinct. *The Advertiser* reports that he said that there would be a need for $10 million

to bring the computer systems of the Courts Administration Authority up to standard. Speaking at the South Australian Press Club luncheon on Tuesday or Wednesday (certainly earlier this week), the Chief Justice renewed his call for more funding for the judicial system, branding the Supreme Court facility pre-Victorian and its technology outdated.

The Chief Justice said that he thought the government was ignoring law and order resourcing, particularly in capital expenditure, stating, 'We don't have the funding for innovation and change that I think we need.' He said:

> 15 years ago the courts' IT system was considered an international benchmark. (Today) they're still the same systems and they're...out of date.

The opposition condemns the government for failing to address the crisis in our courts. I also touch on the government's failure to address the need for an improvement to our public integrity infrastructure. This year there is an allocation for $10 million over four years for an ICAC-lite model. This is not an ICAC. The government previously asserted that an ICAC would cost $30 million a year. Its ICAC-lite model will cost around $4 million a year

I note, too, that there is no funding for recruitment or set-up in the current financial year, so clearly the government is not planning to honour its commitment to have the office up and running by 1 July 2012. I also note that, in spite of the spin from the Attorney-General before the budget, the budget continues to refer to a public integrity office. The word 'independent' has not been included.

I would also like to briefly touch on the way the budget undermines justice by cutting standards in key services. For example, in forensic services, the target for the turnaround for DNA crime scene cases with no suspect within one month has been reduced. In 2010-11 the target was 80,000; in 2011-12, the target will only be 50 per cent, so it is from 80 per cent to 50 per cent. In 2010-11, the actual performance was 53 per cent, so the government aims to drop the target to below the current actual. I am also concerned to see that the crime prevention program within the police has been cut by 13 per cent.

In conclusion, I want to briefly reflect on the first 12 months of the Attorney-General's leadership of the justice portfolio. The contrast between the current Attorney-General and his predecessor is stark. The Attorney is clearly interested in the law and has worked hard to rehabilitate the government's relationship with the legal community. I welcome that. We weaken the courts, the parliament and the executive when the parliamentary executive fails to show proper respect for the legal community.

In terms of the office of the Attorney-General, there has been a significant improvement in the relationship with the courts and the profession, but it will take more than a public relations offensive by the Attorney-General to restore the trust of the legal community in the Rann Labor government. In that regard, the recent events have been a test of the Attorney-General's leadership, and he failed them. At a time when the Premier was refreshing his attacks on the legal community and went into a war of words with the Bar Association, at a time when the police minister used parliament to engage in a matter beyond the parliament, at a time when the former Attorney-General used parliament to refer again—

The PRESIDENT: The honourable member is wandering away from the Appropriation Bill.

The Hon. S.G. WADE: The Attorney-General is the head of the Department of Justice, and in that context he has a responsibility as the chief law officer to stand up for the role of advocates in the law and the integrity of the legal processes generally. After all, if the Attorney-General will not stand up for the integrity of the legal system when he is the state's chief law officer, South Australians can have no confidence that he can stand up for them if he ever leads the state.

I would remind the council of the former Labor attorney-general and then chief justice, Len King, writing in the *Australian Law Journal*. As the then chief justice he reflected on the role of the Attorney-General in the following terms:

> ...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 legal institutions through which they are applied.

In the year ahead, in the budget that we are looking at, where the Attorney-General will have custody of the Department of Justice, the Attorney-General has two particular challenges: first of all, to address the crisis in our courts in terms of the infrastructure, and also to step up to the plate as the chief law officer and protect the administration of justice from this government.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: I want to take this very brief opportunity to thank all honourable members for their second reading contributions. A number of questions were asked during the second reading debate. For those questions where information is available, I am happy to take them on notice and bring back a response. As we know, the Appropriation Bill simply authorises the government to spend money, and it is obviously critical for the ongoing functioning of our Public Service and the management of services and amenities in this state. We look forward to the committee stage being dealt with expeditiously.

Clause passed.

Remaining clauses (2 to 8) passed, schedule and title passed.

Bill reported 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) (11:24): I move:

That this bill be now read a third time.

Bill read a third time and passed.

The Hon. G.E. GAGO: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

STANDING ORDERS SUSPENSION

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) (11:27): I move:

That standing orders be so far suspended as to enable the Clerk to deliver the message and the Appropriation Bill to the Speaker of the House of Assembly whilst the council is not sitting, and notwithstanding the fact that the House of Assembly is not sitting.

Motion carried.

BURNSIDE COUNCIL

The Hon. S.G. WADE (11:28): I move:

1. That this council notes community concern that appropriate action be taken in relation to actions of the former Burnside council, councillors, staff and non-elected persons.

2. The Legislative Council therefore refers the following matters to the Ombudsman, pursuant to section 14 of the Ombudsman's Act 1972, for investigation and report as to whether the Burnside City Council has contravened, or failed to comply with, any provisions of the Local Government Act 1999, any other act, or good standards of public administration—

    (a) whether the council's adoption and implementation of policies, practices and procedures between the 2006 election and the 2010 election reflected good administrative practice in the areas of—

        i. the alleged improper use of confidential council information by elected members and by staff of the council;

        ii. the obligations of elected members to act honestly, and with reasonable care and diligence, in the performance and discharge of their official functions and duties;

        iii. dealing with conflict between elected members, and between elected members and staff;

        iv. ensuring a working environment that is free from harassment and bullying;

v. managing the relationship between the council and individual ratepayers; and

vi. any other matter;

(b) the circumstances of the chief executive's resignation and reinstatement in June 2009;

(c) whether the council's meeting practices between the 2006 and 2010 election fulfilled the council's obligation to act as a representative, informed and responsible decision-maker in the interests of the community;

(d) whether improper weight has been placed by elected members or by staff of the council in making any decisions of council on the views and/or influence of a person who is neither an elected member nor a member of staff since the 2006 election;

(e) whether a 'public officer', as defined in the Whistleblowers Protection Act 1993, who engaged with or was engaged by the investigation into the Burnside council, by Mr MacPherson, acted appropriately and in accord with relevant professional codes; and

(f) any other relevant matter.

3. That in terms of section 14(3) of the Ombudsman's Act, this council resolves that the administrative acts covered by this resolution warrant investigation by the Ombudsman, despite the passage of time.

4. Notwithstanding that these terms of reference relate to matters since the 2006 election, the Ombudsman is able to collect evidence that is relevant to these terms of reference that may have occurred prior to the 2006 election.

Allegations of mismanagement, corruption and general dysfunctionality have been pervasive at Burnside council for years.

Members interjecting:

The Hon. S.G. WADE: I hope you can hear me, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: The opposition understands that some of the allegations that were the subject of investigation by Mr Ken MacPherson were brought to the attention of the then minister for state/local government relations, Jennifer Rankine, more than half a decade ago; that is, in 2006. Yet, calls for investigations went unheeded by this government and the problems grew to become the landmark investigation that we know today.

It is hypocritical for the current minister to tell the council that he is going to talk to the LGA about the need to address issues early. The lack of action by the government in the early stages of the Burnside case was one of the major factors leading to its escalation, and was the government's first major failing. Five ministers have at one point or another been responsible for managing the concerns relating to Burnside: ministers Rankine, Gago, Finnigan, Conlon and now Wortley. None of them has given the issues of Burnside the attention they deserved.

The story of Burnside is a story of mismanagement, a story of ministers not taking community concerns seriously, a story of complete disregard for good governance in South Australia. This 'hear no evil, see no evil' approach is typical of the Rann Labor government. The cloud of arrogance is so thick that it is oblivious to the looming fiasco on the horizon.

More than a year of public and parliamentary pressure eventually forced minister Gago to act. On 2 July 2009, she asked the Burnside council to explain itself. Not being satisfied by the council's response, the minister launched an independent investigation, led by Mr Ken MacPherson, on 22 July 2009, under section 272 of the Local Government Act. Of course, we now know that a number of the key documents were dodgy and that a number of the terms of reference given to Mr MacPherson by the minister were invalid. This was the second major failing of the government.

The investigator was due to report in October 2009, just three months after the investigation commenced, but on 13 October 2009 minister Gago announced an extension that had been given for at least another four months and then, four months later, another extension for at least another month. Another two months passed. On 31 March 2010, the minister announced the report was still not yet ready and the period of natural justice was about to commence. A year had passed since the investigation had commenced and still there was no result.

It took until 9 August 2010 before parties named in the report were offered a copy of the report and the natural justice period commenced. It was a story of delay upon delay. This delay raises serious doubts as to minister Gago's scoping of the task and the resourcing of the team. On 24 August 2010, the first copies of the draft report were handed to councillors, council staff and other parties named in the report. They had a mere three weeks to consider the report and seek legal advice. With local government elections about to take place, the natural justice period concluded and the legal action commenced.

What followed was more than nine months of action in the Supreme Court. The report was suppressed. Details began to emerge in the media, serious allegations have been reported, yet still the minister responsible failed to take the concerns seriously. During this time, the Attorney-General sought advice from the Solicitor-General—advice that has apparently been withheld from the current Minister for State/Local Government Relations. Finally, on 28 June 2011, the Supreme Court action concluded. The court had found that it was in the public interest that the investigation proceed but that it do so on revised terms of reference: minister Wortley decided otherwise, and this was the government's third major mistake.

Instead, the minister abandoned the investigation altogether. Without consulting the investigator, he declared the investigation into the 'petty' issues at Burnside, as he called them, closed. The minister did not even bother to read the report. He claims he could not trust himself not to disclose or leak information from the report to the media. The minister simply thought it would blow over if he stuck his head in the sand. His subsequent comments have raised more questions than they have answered. His obfuscation about who has and who has not read the report, his confusion of investigatory, prosecutorial and legal processes, and his apathy towards concerns relating to the investigation, all highlight the failings of this government and its attitude towards corruption.

Needless to say, had South Australia had an ICAC we would not be facing this dilemma. The opposition has been calling for an ICAC for half a decade—almost as long as the issues at Burnside have been disregarded by government ministers. A properly empowered and resourced investigation would have provided a resolution to these matters swiftly and comprehensively. The government is now claiming that issues such as these would be referred to the proposed public integrity office, which is at least 18 months away from operation, but the government's lightweight public integrity commissioner will only be able to investigate matters, where they reach a criminal threshold.

An investigation through the ICAC-lite structure into matters such as Burnside would have left significant issues unanswered. The public, Burnside ratepayers and the local government community want these administrative and systemic issues addressed. The government, through its inaction, has effectively forced the opposition to govern in its absence. We have but one mechanism to deal with such allegations: a reference to the Ombudsman. Of course this matter could have been dealt with years ago, but years of inaction, mismanagement and apathy have let old wounds fester and so the saga continues. The Liberal Party wants to ensure that the matters raised in relation to Burnside council are thoroughly investigated.

Criminal allegations are outside the scope of the Ombudsman's authority. This means a two-pronged approach is necessary. The first needs allegations of criminal conduct to be referred to the Anti-Corruption Branch and not just the Commissioner of Police, as the minister did on Monday. The second is the need for a referral of the report and the materials to the Ombudsman for investigation of administrative acts related to the Burnside council.

The terms of reference presented in the motion today are the same as those originally given to Mr MacPherson with two key differences. The first difference is that the terms of reference have been expanded to include whether a public officer, as defined in the Whistleblowers Protection Act 1993, who engaged, or was engaged by the investigation into the Burnside council by Mr MacPherson, acted appropriately and in accord with relevant professional codes. This is listed under section 5 of the motion.

The whole series of five ministers, but particularly ministers Gago and Wortley having taken most decisions in this matter, would appreciate that a minister's actions are not within the jurisdiction of the Ombudsman and nor are the actions of a minister's delegate such as Mr MacPherson, but certainly we understand that the actions of public officers who engaged or were engaged by Mr MacPherson would be subject to review by the Ombudsman.

The second point of difference from the original terms of reference is the inclusion of a statement that the Legislative Council resolves that the administrative acts covered by this resolution warrant investigation by the Ombudsman despite the passage of time. This is required so that the Ombudsman is empowered by the act through the council's motion to investigate all circumstances of the case that should be investigated, despite being outside the 12-month jurisdiction usually applicable to administrative acts.

Mr MacPherson is known for his thorough approach and that approach, together with the actions of the minister, did lead him to go beyond the valid terms of reference. We are confident that between the Anti-Corruption Branch and the Ombudsman, they will have the jurisdiction to thoroughly investigate the concerns raised. We are confident that this two-pronged approach will give the matters the attention they deserve. South Australians deserve to have confidence that concerns in relation to public probity are properly dealt with.

I do not intend obviously to bring this matter to a vote today and, depending on the discussions with other members, when we resume in September or it may take longer, I just stress that the opposition is open to these terms of reference being improved. The fact of the matter is that the Supreme Court finding has underscored how important it is to make valid referrals to investigating bodies.

We have made our best effort to provide terms of reference that stay within the Ombudsman's jurisdiction and deal with all issues, but if any member of the council or for that matter the wider community wants us to consider amendments to the motion to ensure that they are as effective as possible, that they are comprehensive and that they are robust, we are certainly open to that. Our hope is that this referral will ensure that we can resolve the issues that have been unresolved so that the Burnside community and the wider South Australian community can move forward.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (11:39): I oppose this motion; that will be no surprise. I attended a meeting today of about 30 mayors at the Arkaba Hotel.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: Everything all right?

The Hon. T.A. Franks: Keep going.

The Hon. R.P. WORTLEY: I just might have wanted to join the discussion. I attended a training seminar at the Arkaba this morning as keynote speaker and made a presentation. When I got to accountability and scrutiny I said, 'Does anyone want to hear about the Burnside council?' Not one person required me to discuss it, and mayors are never shy in coming forward.

After, at the tea, I brought up the issue, and the general feeling I got from people is that they want the Burnside issue to move on. They see that the negative publicity on the Burnside issue is tarnishing all local government and they have much more pressing issues to involve their councils than the Burnside issue. They are very happy that the office of public integrity is being established and that I am working with the Local Government Association to look at the Local Government Act regarding giving councils the sort of powers they need, backed up by legislation, to handle the sort of issues that occurred at Burnside right in the very early stages.

So, I will be opposing this motion. I think that to tie up the Ombudsman's resources in something which has dragged on for two years now is a waste of money. I have put in place a situation where the Crown Solicitor's Office will be going through all of the material and if it finds any evidence for the allegations it will be referring it to the DPP, who will then, if there is a need for further investigation, send it off to the Anti-Corruption Branch. I think that is the appropriate way of handling this.

Debate adjourned on motion of Hon. P. Holloway.

DISABILITY CARERS

Adjourned debate on motion of Hon. K.L. Vincent:

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.

(Continued from 6 July 2011.)

The Hon. S.G. WADE (11:41): I rise to speak on this motion moved by the Hon. Kelly Vincent on 6 July 2011. I share the concerns raised by the Hon. Ms Vincent relating to the physical and emotional stress suffered by family carers of people with disabilities and the devastating consequences that can result.

On 22 July 2009, Beverley Ellen Eitzen killed her severely disabled son as a result of her chronic depression. Her son Peter suffered from severe intellectual and cognitive disabilities. Not only did Peter struggle to walk as a child, it was hard to toilet train him and his schooling was extremely difficult. As he grew older he became violent particularly when he was frustrated.

Mrs Eitzen had difficulty obtaining assistance as Peter's disability was non-specific and it was difficult to categorise him. Mrs Eitzen had lived a long and difficult life as Peter's primary carer. In his judgement, Justice Sulan said that Mrs Eitzen became increasingly desperate about Peter's future, and it appears that she became severely depressed but did not recognise that she needed assistance for her own mental health.

Justice Sulan concluded that Mrs Eitzen was suffering from a severe mental illness, being a major depressive episode which had developed over a number of years, after considering reports from three psychiatrists who examined Mrs Eitzen. Mrs Eitzen was acquitted of murder on the grounds of mental incompetence.

The circumstances surrounding the death of Peter Eitzen are extremely tragic; however, they are not unfamiliar. Mrs Eitzen's case is one of many that highlight the severe stress carers of people with a disability live under. More often than not the work of these unpaid carers goes unrecognised and unsupported. The legality of acts is a matter for the courts, but the support of people with a disability and their carers is a matter for the community and this parliament.

In June 2009, the Julia Farr Association produced a briefing paper titled, 'Family members causing harm to their loved ones living with disability'. The paper addresses many of the issues that may be relevant to situations where family members harm or consider causing harm to a family member living with a disability.

It suggests some underlying factors which contribute to the pressures faced by disability carers, the lack of support for families, the concern about the future of loved ones living with a disability, lack of education on disability and the lack of appropriate accommodation for people with a disability. These factors, we are told, have been identified through an examination of cases that have occurred over the past 10 years in Australia and New Zealand.

Regarding the lack of support for families, the paper highlighted one case where a family had been turned down by eight organisations due to the complex needs of their daughter. In another situation, a family could only secure three hours out of the recommended 20 hours of support they required.

It is estimated that approximately 55,600 people living with disability and over the age of 30 are living at home with their parents who are over the age of 70. With the increasing number of ageing parents providing support to their loved ones living with disability, communities and services need to have regard to this challenge.

The Julia Farr Association paper identifies a lack of educational support as an important factor in why family members would consider causing harm to their loved ones living with disability. This was illustrated by a case where a baby was killed by her father when the family was not given immediate support following their baby's diagnosis but were instead sent home in a taxi.

In the cases examined by the paper, where a family member had caused harm to their loved one and had gone through court proceedings, it was found that they had diminished responsibility due to the demands and pressures of their role. This aspect was taken into consideration in determining their verdict, and the usual outcome was a reduced sentence.

The paper goes on to suggest some themes to consider to help reduce the likelihood of carers causing harm to their loved ones. One theme is families accessing sufficient resources to get through their daily lives. I will now quote the paper:

> ...there will always be some limits on the amount of public resources available for people living with disability. Part of the reason for this is that there will always be competing demands for the public dollar. Another part of the reason is that money cannot buy everything in life, for example a genuine sense of belonging within the community, intimate and loving relationships, a fulfilling job, and so on.
>
> If it is accepted that resources are and always will be finite, then it is important that the available funds are used well.

We must then ask ourselves: what can the government and local services do to grow the capacity of communities to be inclusive of people with disability and their carers? Also, can the government demonstrate that it is spending public funds in ways that are delivering genuine outcomes for people with disability and in ways that are not wasteful?

Finally, if it is accepted that people with disability and family members are the best experts on their own lives, their own needs and their own aspirations, is this government giving them the opportunity to buy their own services? These are all important questions posed in the paper and should be considered as we develop appropriate responses to disability issues in our community.

The association considers it unlikely that all people living with disability and their families have access to information about the support available to them. Can the government and local services then demonstrate that it is as easy as possible for people to access the information they need? Also, has the government and local services successfully built networks with, and supplied information to, other people who may be involved with people living with disability and family members?

Another theme explored by the association is families growing their capacity to be successful as families. It is not helpful to assume that families must struggle if a family member lives with disability. Following the idea that families learn together and grow together, assistance should be provided so that families can make that journey successfully. We must ask how our government and local services are helping families to link up with other families in similar situations. Is the government offering planning support to every family that needs it?

Family members should be supported to plan for the future of their loved ones after they have gone. Considering the increasing number of ageing parents caring for children with disability, it would seem only logical that such support is provided. The association recognises that some family members cannot envisage anyone else taking on the primary support role once they are gone. It is also possible that, given the demand in more immediately fragile situations or crises, many ageing families are not known or adequately planned for by the government.

To assist people living with disability and their families to plan for the future, it is important to ensure that the planning is person-centred. This means that it is properly focused around a particular person's circumstances, needs and aspirations. It also needs to operate in the context of an ordinary, valued life.

A number of different methodologies are available to support people with disabilities and their carers in this task. This approach helps people, helps build the person's place in the community and helps the community to welcome them. As I said earlier, it is not just about services, but also reflecting on what is possible not just what is available. Questions should then be raised as to whether the government or local services assist families to undertake authentic person-centre planning, and how extensive and reliable is the information the government has about ageing family members who are providing support to people living with a disability.

These are all important questions which have been raised by the association and which, I believe, are also raised by the Hon. Kelly Vincent's motion. Again, I commend her for this motion

as it is a part of her ongoing work to provide strong, clear advocacy for people with disabilities, and I indicate that the Liberal Party will be supporting the motion.

The Hon. T.A. FRANKS (11:50): I speak today on behalf of the Greens in support of the Hon. Kelly Vincent's motion regarding disability carers. As the honourable member has so eloquently expressed, the situation regarding Beverley Eitzen and the death of her son, Peter, is one of unbearable tragedy, not least because of the circumstances immediately surrounding his death. While our minds may leap to horror at the thought of a mother killing her own child, there are factors in this case that this government must address head-on and, perhaps, take partial responsibility for.

Human instinct teaches us to value life and to endeavour to protect it. As a compassionate society, we have put in place measures and legal guidelines to ensure that we provide protection to those who may be unable to protect themselves. This government has seen debate rage over euthanasia of terminally-ill patients and has consistently upheld the view that human life is precious, yet it does not seem to put its money where its mouth is when it comes to those living with a disability and those caring for them.

The government has determined that terminally-ill patients who are of sound mind—if not body—are not allowed to elect a dignified death because we as a society apparently value human life. Please do not misunderstand me: this is not a debate about euthanasia—it is a horrifying idea to muddy the idea of informed consent euthanasia with that of disability activism. But the fact remains that we have set a precedent of legislating to protect human life, and the evidence, particularly in the case of disability and carers, suggests that we do not follow through with this.

There can be no question that becoming a carer to a family member when no professional training has been undertaken and very little support is provided is one of the most challenging tasks a person could ever face. People living with a disability and in need of care deserve the utmost protection of the law because they are amongst our most vulnerable, yet the absence of both financial and emotional support provided to carers, especially of severely disabled persons, results in a system in which true South Australian heroes are being abandoned to a situation that even the most stalwart and compassionate of people would find challenging.

As the honourable member pointed out in her motion, one of the glaring problems of the Eitzen case was that 16-year-old Peter suffered from a disability that had no clear diagnosis. This resulted in Peter being declared ineligible for services, despite the fact that it was, as the member stated, medically accepted that he had the mental capacity of roughly a two-year-old child. But the mind of a two-year-old-child in the body of a teenage boy, a body that will continue to develop while the mind remains stationary, results in a potentially explosive combination that was experienced daily by the Eitzen family, particularly Beverley as Peter's primary carer.

The production of testosterone and other male hormones is evident enough in young men without an intellectual disability. Without the cognitive ability to process and manoeuvre the changes to his internal world, Peter's frustration expressed itself in violent outbursts that would often leave family members injured and property destroyed. The pain of caring for someone you love as they experience this trauma is hard enough, even with the aid of outside organisations.

Beverley Eitzen was a mother and a carer for her son whose disability had no clear medical term; because of this, our system declared him to be ineligible for services and thus Beverley ineligible for support. The vast majority of South Australians could not possibly understand what it was like for Beverley Eitzen to approach every day with the confusion of feeling both enormous love and trepidation for her son. Found to be suffering from a major depressive episode at the time of Peter's death, we can only presume that the pressure of being abandoned to a solo carer's path had taken its toll on her as well.

It is a tragedy beyond belief that Peter died at the hands of his own mother. No-one can think to state otherwise. But, before we cast judgement on Beverley Eitzen, let us remember that she was a woman who cared for her son every day for 16 years despite being abandoned by the system that she and countless others like her significantly helped to relieve. This is no ordinary case of maternal homicide. There is no benefit to be had in casting judgement here today on whether or not Beverley Eitzen is guilty of murder because her situation is, of course, unique. Yet, it is not that uncommon. It is not unusual for people to slip through the cracks when it comes to disability services and support.

Currently, there are countless carers throughout Australia performing work that significantly lessens the strain on government and government coffers, yet they receive little support and scarce

financial aid. We do not know how many others may be close to the breaking point that Beverley Eitzen found herself in, but of this we can be certain: there are others. In large part, this is due to the way we categorise those qualifying for government services. As the honourable member noted, disability services are granted on a diagnosis-based rather than a needs-based consideration.

This is something that must be changed. It is absurd and insulting that we need to neatly categorise disability bases based on rigid diagnoses. Although it was medically evident that Peter Eitzen had the mental capacity of a two year old, the fact that no defined diagnosis was available to him effectively placed him outside the reach of appropriate services that could have been valuable and vital not just to him but also to the mental wellbeing of his mother and carer, Beverley.

Disability is not something that starts and ends with a medical definition. We are seeing problems within this sector now because we continue to treat disability as a condition rather than a way of being. As any person living with a disability or their carer can attest, it is not defined by formal names but by the reality of day-to-day living. There was no diagnosis for Peter Eitzen's disability and therefore he was considered ineligible for services, but what diagnosis would have been needed for Eitzen and others like him to qualify? Do they need to look disabled to satisfy our understanding of what disability is? Must there be a named syndrome that we can apply to them? Must they be physically incapacitated in some way? Logic tells us that this is not true.

What is true is that Beverley Eitzen was left to care for a severely disabled son who lacked the mental capacity to understand his actions but not the physical capacity to enact them. Beverley developed a major depressive disorder as a result of devoting her time, care and love to a situation in which no person operating alone could possibly hope to succeed. Without the emotional and financial aid owed to her as a carer helping to alleviate the burden of care from the government, Beverley and her son hurtled toward a situation nothing short of irreversible but so tragically avoidable.

The fact is that Beverley is not alone in bearing the guilt of Peter Eitzen's death. It is the system that has failed her; and it is us, the government, that has failed in our duty of care to support and value those South Australian heroes who demonstrate every day what it is we continue to base legislation on—the fact that we value human life. It is time for us to do away with protocol that sees us granting access to services based on diagnosis rather than need. Carers are not just undervalued in our society: they are all but ignored. Despite the fact that they perform one of the most selfless and important jobs that a supposedly compassion society has, we give them very little support while expecting them to keep up their end of the bargain.

The Greens support the Hon. Kelly Vincent's call for the government to take immediate action to increase support, including mental health checks and respite for carers and unpaid carers, so that we can say that we have truly done all that we can to avoid tragedies like Peter Eitzen's death. A simple step, of course, would be to offer support for a national disability insurance scheme, the proposed model operating on a needs basis and providing access to whole-of-life support services and schemes.

Additionally, of course, we need to not only have our carers charter (which I am pleased to say we do have) but we need to make that a living document. We need to back it up with actions rather than just words. We need to have mental health checks provided to carers. We need mental health first aid in our community. We need all of us to be empowered to address mental health issues when they arise. We have a responsibility to help carers like Beverley Eitzen. We have a responsibility to look after people like her son Peter. We need to change the system so that it works for people, not against them.

Yes, there must be checks and balances, but these cannot be based on the strict guidelines of a diagnosis. People living with a disability cannot be neatly divided into categories for our convenience. Their needs are varied and individual but above all they are needs, and we need to lend and enable more support and services for carers and those who have a disability not just because it is the hallmark of a civilised society to do so but because we must ensure that we do everything in our power to avoid another tragic circumstance like that of Peter Eitzen's death.

The Hon. A. BRESSINGTON (12:00): I also rise to support the motion of the Hon. Kelly Vincent, and to commend her on her consistency and persistence in bringing forward issues of the disability sector. I would like to start with two quotes: first, 'societies are judged by how they treat their most vulnerable', and, second, 'societies get the government they deserve.'

There is no doubt in my mind that we have an entire generation of people who believe that this is how government has always been, that this is how these systems have always been run. I

can speak from personal experience in saying that that is not true. I had an older brother who had severe spina bifida, and when he was born my parents were basically told that he would never be any more than a vegetable. But he proved them wrong, although by the age of 14 he had had both of his legs amputated to the hip because of recurring instances of gangrene.

However, my parents never once had to fight for a service for him. In Queensland, he was able to go to a respite centre called Montrose where they provided him with education, living skills and support. He could go there for a month at a time and then come home for two weeks to be with his family. He received the medical attention he needed and my parents got the education they needed to be able to care for him in the best way possible.

I also had a niece who was born with craniosynostosis, which is where the skull does not expand with the brain. She lived for 18 months. Again, my sister did not have to struggle for services with this little baby. She did not have to struggle for the support that we are seeing parents struggle for now.

I would like to make the point that just after the death of Peter Eitzen hit the news I was contacted by a person in the community who had tried desperately to support this family, the mother and the little boy. I was told that in a very short period of time—from memory I think it was in a two-week period—Beverley Eitzen had contacted the former minister, Jay Weatherill, six times begging for help, and was told that there was nothing that could be done. After hearing this from the minister himself, or from his office, that there was nothing they could do to help, no wonder this mother had a breakdown, or a mental condition at the time, feeling so desperate, isolated and hopeless that she felt there was no other option—no other option for her, her family or her son—other than to put an end to this and suffer the consequences.

We can stand in judgement—and many people do—when we hear about parents, mothers, taking the lives of their children, but in this particular case I agree with the Hon. Tammy Franks that this falls in the lap of the government and its one-size-fits-all approach, its diagnosis versus needs approach to disability and mental illness. One size fits all has been proven time and time again not to work, and at some point in the policymaking and criteria setting of assessment for conditions such as we are discussing here today, the penny has to drop with government that the state is comprised of real people, real human situations, and running the state like a corporation is not workable. The people deserve better from their government.

I have no doubt that when the government responds to this motion we will hear how much the government has put into the disability sector, what reforms they have made, and how hard they have worked to move forward to support the community. In actual fact, we hear that all the time, and it is getting to be like water off a duck's back, because if the reforms that you make and the trouble that you go to are not hitting the mark, why bother? Why bother?

If you are not going to listen to the needs group that is saying what it is they need to be able to cope and you are not going to recognise that there are many conditions that we cannot diagnose that would come under the umbrella of a disability, and be able to take some sort of elasticity and pliable approach to offering support for these children and their families, then do nothing, because this whole approach of appearing to do something quite frankly is wearing thin with many people.

We need to develop policies and approaches that do address the problems and do hit the mark and do actually produce outcomes. I am sure some of us in this chamber remember what the word 'outcome' means. Not too many of us, perhaps. In saying that, we also have to understand that situations with families that could once provide the support for parents with children with disabilities have changed dramatically. Everybody is busy. We have a situation now where mostly both parents in a family work, which means that the brothers and sisters, and nieces and nephews of the people dealing with these children with disabilities are all working full-time and raising their own families—quite a different situation to what it was some 40 years ago.

That means that the people dealing with these problems are even more isolated than they were. It is on government's shoulders to get this right and to get it right soon, because this is not going to be an isolated incident. I remind members that some months ago I raised the exact same issue about a condition that was undiagnosed or unrecognised in South Australia called PDD-NOS. That turned into a football between federal and state government, not about what this state government could do to ease the burden of parents with children suffering from that particular disorder; no, 'It is not our responsibility, it is the feds and we are having a ministerial council

discussion on this and we are going to wait and see what the federal government does.' Not good enough!

On that note I leave this. As I said, I commend the Hon. Kelly Vincent for her persistence. I hope and I know that she will continue to do this, and one day maybe guilt and shame this government into taking its responsibilities to the people seriously.

The Hon. CARMEL ZOLLO (12:08): I rise to respond on behalf of the government. I know I am joined by all in the chamber in acknowledging that the circumstances of the death of Peter were a great tragedy to the Eitzen family. I also take this opportunity to reinforce the Hon. Kelly Vincent's commendation of the Carer Wellness Centre in the Adelaide Hills for its support to the Eitzen family.

It is a very sad story and one which highlighted the fragility any of us could suffer in trying circumstances. I am certain that no-one in the chamber wants to turn this into a political event. Let me say, the state government supports the intention of this motion, if not the exact wording. Having said that, a number of claims have been made which the government feels should be explained in greater detail.

For some people, the term 'intellectual disability' is the full extent of any diagnosis. In 70 per cent of individuals there is no known cause for intellectual disability, which was the case with Peter, as mentioned by several members already. Suggesting the government leaves families without support due to a lack of official diagnosis is not correct. For the benefit of members, I also wish to correct the record that services for children eligible for disability services are allocated under specific guidelines.

To ensure resources are delivered to those in greatest need, consideration is given to a range of vulnerable indicators. This includes homelessness, access to services, age, health, capacity or age of carer, family situation, impoverished environment and isolation. If there is no specific diagnosis, then children are classified as having global developmental delay and are able to access services. In all country areas, including the Adelaide Hills, Disability Services funds Community Health to provide early intervention for children with global developmental delay.

In relation to carers, a lot of effort has been made to improve services across the state, but we also recognise there is more to be done. Carers are men, women—sometimes even children—from all walks of life who make enormous sacrifices to care for other people, most often family or loved ones. When someone has a mental illness, has a disability, becomes sick or frail, carers selflessly step in to look after them. Plans are delayed, paid work is missed, relationships can be put on hold, and the carer's own health and wellbeing might also be at risk as a result of their caring role. Caring can be an isolating experience.

We also acknowledge that carers often start their caring role with little or no warning. However, the one thing that is a certainty is that whenever or however someone takes on a caring role, they need and deserve support. They need easy access to services and information about what help is available. They may also need training, as well as physical and emotional support. They need all these things long before they reach crisis point.

Carers require services that are accessible, affordable, flexible and responsive to their needs and their loved ones. The state government recognises the significant demand for disability and mental health services. Funding for disability services—yes, as the Hon. Ann Bressington said, we will be placing this on record, and I am going to—has been increased again this year. The 2011-12 state budget contains $56 million in additional funding for services to people with a disability over the next four years. This is on top of an additional $70.9 million over four years committed in the 2010-11 state budget.

The government also announced, in December 2009, an injection of an additional $31 million over four years to give disability services extra capacity to respond directly to families currently struggling with caring for a family member. The funding is being used to provide more respite and day options services, personal support and therapy services to prevent crises and improve responses to emergencies. It will also provide more than 162,000 hours of support each year to more than 250 South Australian families.

At the moment, there are 213,700 carers in South Australia; 60,000 of these are primary carers. Carers in South Australia make up almost 13.5 per cent of our population, with primary carers making up 28 per cent of our caring population. In addition to state funding, in 2010-11, the jointly commonwealth and state-funded Home and Community Care (HACC) program provided

approximately $11.2 million for respite to carers of older people and younger people with moderate, severe or profound disabilities.

The Adelaide Hills Wellness Centre received $283,300 in funding to deliver services to almost 250 recipients during 2010-11. The South Australian Carers Recognition Act 2005 and the Carers Charter came into operation on 1 December 2005, and the state government is working closely with the commonwealth government to deliver the National Carer Strategy. Both are significant in relation to recognising and raising awareness of carers across our nation. The Department for Families and Communities works closely to ensure that, where carers are seen at risk of mental illnesses (such as depression or anxiety), they are referred to appropriate healthcare professionals, often with the assistance of SA Health.

The circumstances of the Eitzen family are extremely sad, indeed. I am told that the commonwealth, Disability SA and non-government agencies delivered respite services and support both in and out of the home to the family. I have no doubt, however, that the support provided by family members was incredibly important, but the assertion that this was the only support provided, I have to place on record, is not accurate. Nevertheless, a terrible tragedy occurred that will no doubt impact on this family well into the future—for the rest of their lives. That is why this government has made delivery of vital services to families dealing with disability a priority. I again place on the record that the government supports the intention of this motion.

The Hon. K.L. VINCENT (12:17): I would like to begin by thanking all honourable members who contributed today: the Hon. Ann Bressington, the Hon. Carmel Zollo, the Hon. Stephen Wade, and the Hon. Tammy Franks—forgive me if I have missed anyone. I think we can all agree that it has all been of quite a high standard.

I would like to echo a few words that we have heard here today. They are words that I often hear in my day-to-day work: turn down, shut out, frustrated, disappointed, screaming out for help and feeling like no-one can hear you. These are sentiments that I hear echoed every day and that I think, even though not enjoyable, we should all hear until changes are made to make those words unnecessary in our day-to-day lives. As the Hon. Ms Franks put it, what has happened to the Eitzen family is an unbearable tragedy and insulting to our society, but the really unbearable tragedy, I think, would be if this government did not take immediate action to stop this from happening to another family. As I said when introducing this motion, it is only a matter of time before it does.

I would like to reiterate the fact that just after a story on the news (not about the Eitzen family but, in fact, another family who went through the same situation previously) my office phone rang and it was a constituent, who also happens to be a dear friend of mine, who told me that she and her friends—who are also family carers—had made a pact that, if one of them was diagnosed with a terminal illness, the others would make sure that their child went first because they truly believed that their child would be better off dead than on the doorstep of this government. While that is a very emotive statement, coming from the mouth of a family carer I think it really means something.

We have heard a lot today about the importance of caring for family carers, not just parents but brothers, sisters, cousins, grandparents and anyone else who is undertaking this incredibly important and onerous role. Of course, this motion is not just about that: this motion is not just about stopping carers from harming people with disabilities, it is about providing all people with the building blocks to a safe and fulfilling life. This motion is about human rights.

Imagine waking up every morning with the first thought in your head being, 'I wonder whether I'm going to get through the day today, both physically and mentally,' or perhaps even worse, thinking to yourself, 'Can I really face going into the bedroom next door and telling my child that I can't take care of them anymore?' This is the real unbearable tragedy—that we are expecting our families in our society to go through this.

We have heard from the Hon. Ms Franks about the importance of a national disability insurance scheme. As I have previously, I would like to reiterate to this government the fact that I believe it inevitable that the government makes the decision to move towards a national disability insurance scheme. At present, it is often said (and I certainly echo this, I think, very clever use of words) that it is a postcode lottery for people with disabilities in South Australia and, indeed, in other states: what you get can often depend on where you are, and that is simply not right; human rights know no bounds, particularly not geographical bounds.

I have, since introducing this motion, met with Dr Maria Tomasic, who I mentioned in my speech when moving this motion. She is one of the psychologists who dealt with Ms Beverley Eitzen after she made the tragic decision she did towards her son's life while she was suffering her episode of mental illness. Dr Tomasic echoes and supports my call for instating mental health checks and home visits with psychologists at a time when a person with disability is also getting a visit from their caseworker.

Dr Tomasic has indicated to me that she would echo my call for a psychologist to visit with that caseworker every three to six months to check up on the family. So that just goes to show that this is not just me sitting here having a whinge, whine and a carp; this is something that the psychiatry profession itself is behind, recognising the importance and the ramifications of such visits.

As the Hon. Ann Bressington said, people often think that the government simply takes care of people with disabilities. I can tell you that people are, indeed, shocked when I tell them the simple fact that 20 per cent of people in Australia are living with or caring for someone with a disability. This just goes to show that we are not campaigning actively enough around the far-reaching impact of disability and the need for change in this area if the general public is this unaware. This needs to be change also.

The Hon. Ms Bressington also used the word 'begging'. Again, this is another word I hear often in my day-to-day work; in fact, not just in terms of the government but directly to me. I hear the words, 'Kelly, I am begging you,' and that is not right. People should not have to beg to get enough oxygen to survive the night, they should not have to beg to get a weekend of respite to get a rest from their violent child with autism. No-one should have to beg for these basic things which provide us with a basic standard of living.

Ms Bressington also talked about government reforms in disability and the rhetoric associated with them nowadays being something like 'Water off a duck's back' and 'Why should we bother?' Well, I think I have already reiterated why we should bother. We are not talking about a cute little disability issue here that impacts only a small group of people: we are talking about the future of our society and we are talking about human rights.

Of course, we have also heard from the Hon. Ms Zollo that there was no known cause for Peter Eitzen's intellectual disability. But there certainly was a cause for his death, and that was the lack of support provided to him and his family. We have heard that children without a more well-known or generic diagnosis are often given the label of 'global developmental delay'. My understanding from what I have heard from constituents in this regard is that children with this diagnosis are still eligible for fewer services than those with the more well-known and well-understood conditions such as autism. I am heartened somewhat to at least hear the Hon. Ms Zollo acknowledge that we have a long way to go. We certainly do so.

Motion carried.

OLYMPIC DAM EXPANSION

Adjourned debate on motion of Hon. M. Parnell:

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.

(Continued from 6 July 2011.)

The Hon. P. HOLLOWAY (12:25): The Hon. Mr Parnell is seeking support for a motion that he has put forward that seeks assurance by this government that all waste management practices for Olympic Dam expansion, including the management of surplus ore and tailings, meet or exceed world's best practice. By using the resources of in-house and independent third-party experts the South Australian government already ensures that mining operations conform to world's best practice principles, including waste management practices. As such, the government is committed to ensuring that all aspects of an expanded Olympic Dam also conform to these principles.

Best practice includes two key components: best practice environmental standards and best practice regulations, which ensure that relevant and appropriate standards are set and are enforced. The operational parameters and regulatory practices and procedures for any mining project should be site specific, taking into consideration environmental, social, and economic aspects. In his speech, the Hon. Mr Parnell talked about the Ranger uranium mine, and I would

point out that that mine is located in a region that is very different from Olympic Dam with respect to geology, geography, rainfall, ecology, etc. The point is that we need to make sure that our practices are relevant and appropriate to the circumstances.

Regulation in Australia has been based on a set of principles rather than fixing a set of practices for particular technologies. This has led to outcomes-based regulation which has been practised in South Australia and has been proven an effective and efficient process in this state and in Australia. Through this process, environmental outcomes are established. This involves consultation between the regulator, the mining company and other stakeholders. This approach is different from the regulatory process that occurs in the United States and other countries, where a more prescriptive regime applies, and is not considered to be best practice for Australia.

A prescriptive approach does not encourage innovation and assumes a 'one size fits all'. This outcomes-based approach has been fundamental to the assessment and approval of South Australia's new mines, enabling the state to go from four operating mines in 2004 to 17 operating mines as of this month following the recent approval of the Peculiar Knob iron ore mine near Coober Pedy.

I would now like to make reference to the proposed Olympic Dam expansion. As everyone would be aware, the Olympic Dam expansion project is undergoing collaborative environmental assessment by the Australian, South Australian and Northern Territory governments. The environmental impact assessment process has been extensive and rigorous. The EIS process, prescribed under the Development Act 1993, is a most rigorous process for assessing major developments within the state. There are some general principles that underpin best practice regulation and mining in South Australia, and indeed Australia, including:

1. comprehensive characterisation of the development;

2. consultation with all stakeholders;

3. identification of all risks;

4. plans to achieve best practice in environmental outcomes;

5. decisions are science based, transparent and publicly available;

6. rigorous monitoring with strong corrective or enforcement action; and

7. mine operator is required to demonstrate capability and resources to ensure best practice.

There are a number of procedures in place to ensure a thorough assessment is conducted including the production of joint guidelines by the South Australian and the Australian governments; a 14-week extended consultation period on the draft EIS extent from the standard period of six weeks; preparation of a supplementary EIS of the proponents' response to the submissions; and preparation of assessment reports in each jurisdiction based on the finalised environmental impact statement, and drawing on the combined technical expertise of all three governments.

In South Australia, the assessment is being undertaken as a whole of government process using the expertise of the Environment Protection Authority, PIRSA Minerals and Energy Resources, Department for Water, and Department for Environment and Natural Resources, to name a few of the key agencies. Coordination of the environmental impact assessment process in South Australia is being undertaken by the Department of Planning and Local Government with assistance from the Olympic Dam taskforce.

As I have said before, the environmental impact assessment process has been comprehensive and rigorous. For example, following the consultation process for the draft EIS, specialist staff from government agencies spent in excess of 1,500 hours undertaking an adequacy check of the draft supplementary environmental impact statement. This work was in addition to the extensive resources employed to review and make submissions on the draft EIS. There is now an extensive whole-of-government effort in South Australia and also in the other jurisdictions in the final assessment and preparation of the assessment reports for consideration and decision by the respective governments.

In assessing the project, the draft EIS prepared by BHP Billiton, the submissions received during the public consultation process and the supplementary EIS prepared by BHP Billiton in response to the submissions received will all be considered. It is inappropriate to get into the details and specifics of the issues raised by the Hon. Mr Parnell as these are currently under

consideration through the comprehensive assessment process. The final decision is not just the responsibility of this government; separate decisions will also be required from the Australian and Northern Territory governments.

In South Australia this government may approve or reject the proposal or approve it with conditions. In addition, some matters of detail may also be reserved for a later decision; that regularly happens with such projects. The proposed expansion of the Olympic Dam operation is a project that is important to the future of this state. The environmental impact assessment process has been thorough and comprehensive and has been based on well-established principles for assessment and regulation. These principles have proven to be an effective and efficient process in South Australia.

On this basis the government does not support the proposed resolutions. This government has nothing to apologise for. We do not need resolutions like this to tell us that a project of this significance should be thoroughly and properly assessed: it is and it will be.

The Hon. J.M.A. LENSINK (12:32): I rise to place some comments on the record in relation to this motion and indicate that the Liberal Party will support the motion, but I will make some comments in which I will point out some of the mischief in the mover's speech. It is actually calling on BHP to do what it has already said it is doing, and I note that the honourable member made that comment in his speech of 6 July, in which he quoted the President of the Uranium Customer Group of BHP Billiton, Mr Dean Della Valle, and it is worth repeating these comments as follows:

> 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.

Further, the honourable member quotes the Chairman of BHP Billiton, Mr Jac Nasser, who had also made those sort of commitments, saying:

> 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.

Furthermore, in the supplementary EIS, BHP itself says in that document—and I quote from section 29.7 in relation to the 'Review, update and continuous improvement of the environmental management framework':

> The Olympic Dam operation currently implements an ISO 14,001 certified EMS Environmental Management System, which provides a robust tool for environmental management and monitoring, ensuring legal and other requirements are met and facilitating ongoing checking, revision and improvement. The EMS would be revised and updated to ensure the requirements of the expansion project, the outcomes of the environmental impact assessment and the EIS commitments and approval conditions were captured.

Further, in section 29.9, 'Environmental reporting, transparency and independent verification', it states:

> BHP Billiton currently communicates the environmental performance outcomes of the Olympic Dam operation publically in the annual environmental management and monitoring report. BHP Billiton also specifically reports against the objectives of the EM program to the relevant South Australian government agencies...These annual reports are available for downloading via the PIRSA website.

Because I have mentioned the mischief, I would like to refer to some of the advice we have received that raises several issues: best practice, which I have touched on; waste management practices; the tailings; the issues and concerns that he has raised with acidity; and overburden and surplus ore. I will touch on those issues.

Further comments in relation to best practice are that the advice that we have received is that the standards specified in the various acts and regulations that apply to Olympic Dam have been adopted as the minimum standard at the existing operation. BHP Billiton's objective is to exceed these minimum requirements by adopting lead practices in mining and minerals processing.

In relation to waste, there were comments again. I note that the former minister, who preceded me, the Hon. Paul Holloway, also touched on the issue of the Ranger mine, which I certainly understand has quite different geological issues and other things, which make comparisons difficult. The advice we have had is that the EIS demonstrated the ability to reduce impacts for risks and tailings storage to acceptable levels for the specific environmental conditions.

As to tailings and backfilling, the advice I have received is that to backfill the open pit, as the Hon. Mr Parnell has suggested, would take approximately the same time as the original mining operation—that is, between 40 and 100 years—and would re-expose the material that was already encapsulated within the rock storage facility (RSF) and the tailings storage facility (TSF). Not only would the cost of such an exercise be prohibitive but it would significantly increase the predicted environmental impacts, particularly greenhouse gas emissions, by operating electric rope shovels and a haul truck fleet. The proposed tailings storage facility has been designed to meet or exceed the Australian National Committee on Large Dams (ANCOLD) stability requirements for tailings dams. The EIS analysis indicates that the proposed tailings storage facility will remain stable even following a one in 10,000-year magnitude earthquake.

In relation to the acidity issues, the advice I have received is that geochemical test work for the EIS to characterise potential seepage quality from the RSF overall found that the RSF and LGS would be net acid consuming, and therefore seepage is expected to be neutral and not acidic, as opposed to the Hon. Mr Parnell's suggestion that an acidic leachate would be generated. Both the LGS and RSF would be built on a benign material base so that water coming into contact with reactive material would have to travel through overburden material, which has a high acid neutralising capacity and an ability to attenuate any dissolved metals naturally before it leaves through the base of the facility.

On the final matter, which is the overburden, the advice I have received is that the Hon. Mr Parnell has suggested the use of a vegetated limestone cap for the TSF. The EIS outlines that vegetation growth on the TSF would be discouraged in order to mitigate the potential for plant roots to uptake metals that may expose native fauna and stock to risk while grazing.

While I have this opportunity, I would also like to make some comments in relation to some mischief, I think, that the honourable mover has made in relation to comments made by my leader on the issue of the desal plant. In a media release fairly recently, the honourable member says:

> Recently on ABC radio, Ms Redmond said that the nearest cuttlefish to the outfall pipe for the proposed BHP Billiton desalination plant at Pt Lowly will be 3kms away, with 10kms to the main cuttlefish breeding grounds.
>
> Yet, BHPB Uranium President Dean Dalla Valle has said the pipeline will be only 800 metres from the nearest point of cuttlefish breeding grounds.
>
> 'The Opposition Leader has a huge responsibility to get her facts straight on an issue as important as this one,'...

The facts of the matter are that the actual pipe is 800 metres long, not 800 metres from the nearest cuttlefish breeding grounds and that the end of that pipe is three kilometres from Black Point or Weeroona Bay and 10 kilometres away from Backy Point, which are the two main cuttlefish breeding grounds. My leader's statements do not deviate from the facts in any way, and I believe that in her interviews she has clearly stated that the outfall would be some three kilometres and 10 kilometres, respectively, from the cuttlefish areas.

I do note the time frame for approvals of this project. Obviously, we have been through the EIS, and the SEIS was released on 13 May. There is a process, internal to government, which members on this side of the house will not have access to until that has been completed. I note that a whole-of-government report to assess the EIS and SEIS (known as the assessment report) is being prepared for ministerial and cabinet consideration as required under the Development Act.

The Department of Planning and Local Government is coordinating this assessment report, and SARDI is one of the key agencies working on the report. Through that process a number of matters will be discussed, including all the environmental issues as have been raised, and that there are also concurrent processes which are taking place with the federal government and the Northern Territory government.

The time frame relating to this is that by December this year those three governments will be expected to deliver approvals with conditions. There will be negotiations on an indenture act governing the management of the area, which is something that will obviously come to this place to be considered. By March next year, the BHP board is to vote on whether the expansion will proceed. Following that, there will be the expansion of Roxby Downs, the building of the Hiltaba Village and commencement of removal of the overburden. In the meantime, there are ongoing discussions.

This is diverting a little bit from the subject (because the topic of the motion does not discuss the desalination issue), but I note that the fishing industry has released a report entitled 'Scientific Assessment of BHP's Supplementary EIS of a Proposed Desalination Plant for the Upper

Spencer Gulf'. Ongoing issues will continue to arise, but I note that the company itself is working towards satisfying these matters and we look forward to those continuing discussions.

The Hon. M. PARNELL (12:42): In rising to close debate on this motion, I would like to thank the Hon. Paul Holloway and the Hon. Michelle Lensink for their contributions. I will briefly respond to some of the issues that were raised, firstly, by the Hon. Michelle's Lensink who, despite the very clear and unambiguous wording of the motion which calls on the 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 practice, suggested that there must be some mischief in it. There is no mischief in this motion: it is straightforward.

The Hon. J.M.A. Lensink: No, it was just your speech that was mischievous.

The Hon. M. PARNELL: I acknowledge that the Hon. Michelle Lensink said that they will be supporting the motion. She has interjected that the mischief, as she saw it, was in my remarks rather than in the motion itself, and it is those claims that I want to address briefly now.

I reflect on the notion of the cuttlefish and the distances that were quoted in the media by the Leader of the Opposition. I point out to members that, when it comes to the outlet pipe, we are talking about a diffuser situation. We are not talking about a very lengthy pipe with all of the outflow coming from the very end of that pipe. The fact that it is 800 metres and the fact that the cuttlefish are right along that area of coast I do not think lets the Leader of the Opposition off the hook. I note that the Hon. Michelle Lensink talks about this new concept of the main cuttlefish breeding grounds as opposed to the whole of the area where the cuttlefish are to be found.

At the end of the day, I feel that the Greens' response to the incorrect information that the opposition leader relied on was a fairly gentle one. It was an invitation for her to get her facts straight and to reconsider her position. That is not a courtesy that is often returned by the opposition. If they believe the Greens have been in error in some way, then it is usually a fairly brutal response—'Those Greens don't know what they are talking about.'

So, I am disappointed that the opposition has taken it that way. I do, again, invite the Leader of the Opposition to get her facts straight on the location of both the outlet pipe and the cuttlefish, and urge her to talk to the scientists, including Jochen Kaempf and others, who have raised and continue to raise serious concerns about the location of that plant.

In relation to the Hon. Paul Holloway's contribution, it is quite remarkable because, of course, his entire contribution was to agree with everything that is in the motion, but the government's line, and we are used to this now, is, 'Of course we are going to do what you ask for in the motion, but we are not going to vote for the motion because you have asked for it.' That was effectively the tenor of the government's response. I am sure the government will not want to divide on this, because it really is a fairly churlish response in a way, but I want to respond to some aspects of it.

The former minister referred to an outcomes-based approach. I say to the government, yes, but if we get this wrong the outcome will be an absolutely appalling toxic legacy for the environment and for future generations. So yes, let us talk about outcome-based approaches and let us make sure we put the right rules and procedures in place to make sure that we do get the outcome that we want, and that is to avoid this long-term toxic legacy.

One of the reasons for my bringing this motion on as I have, and bringing it on now, is that we do know that the commonwealth and state governments are considering their response to the environmental impact statement and supplementary environmental impact statement and that we will be getting some decision from both the federal and state governments in the near future. My very real fear is that there is no indication so far that they have understood the full implications of what it is they are about to approve.

The environmental impact statement that the Hon. Paul Holloway referred to was described by him as comprehensive and rigorous. Well, comprehensive? It is not just a question of size. Size does not matter in this context. What we are talking about is the biggest document ever produced in the history of this state, but it is woefully lacking in relation to some very important details—in this present case, in relation to waste management.

There is another matter—and I will not debate it now, obviously—in that it is also incredibly deficient in terms of the economic possibilities of processing here in South Australia, rather than exporting most of the jobs to China. The environmental impact statement and the supplementary EIS are neither comprehensive or rigorous while they leave these important issues unresolved.

We know ultimately that this parliament will get to revisit these issues when we debate the indenture legislation. I hope that, in that debate, we will not need to find ourselves in the position of having to fix the mistakes and to plug the holes that the government has left by not requiring the most rigorous environmental conditions, as we expect them to shortly approve this project.

The motion before us is no more or less than what it says. It is urging the government to ensure that world's best practice is met or exceeded. Despite the government wanting to technically say that, whilst they agree with it, they do not want to support the motion, I am confident that the rest of this chamber will see that this is just a common-sense motion that is deserving of support today.

Motion carried.

RUNDLE MALL

Adjourned debate on motion of Hon S.G. Wade:

That by-law No. 6 of the Corporation of the City of Adelaide concerning Rundle Mall, made on 10 February 2011 and laid on the table of this council on 22 February 2011, be disallowed.

(Continued from 22 June 2011.)

The Hon. M. PARNELL (12:50): This is a motion of disallowance of by-law No. 6 of the Corporation of the City of Adelaide concerning Rundle Mall. It is fair to say, I think, that this particular by-law has quite reasonably attracted a great deal of attention and debate in the community because it goes to something that is fairly fundamental in our society and that is the right to free speech, but it also goes to another fundamental right that we have and that is the right to not be unreasonably harassed especially when you are in a public space.

The question before us is: how do we balance those two rights and has the City of Adelaide got it right in its by-law? The Greens do not believe that the council has got it right and we will be supporting the motion of disallowance but, in doing so, we do not want to give anyone the impression that some of the behaviour of street preachers in Rundle Mall and in other places in the city is appropriate.

We have seen some of these people behaving in a very aggressive way in disrupting other lawful protest by other groups in the community. I do not believe that these people deserve any special favours but, having said that, the right of people to express their views in our society is a very important right. One of the difficulties that the Greens have with these particular by-laws is the fact that they are selective and that they do identify certain forms of communication as requiring special treatment.

It is always a judgement call as to what types of spruiking people find offensive. Some people, for example, might be happy to hear someone exhorting them through a megaphone how to live a better life and what is required of them to achieve a higher spiritual state. Some people might find that very reasonable. Other people might find the exhortation to buy shoes or shirts or suits or whatever through a megaphone in Rundle Mall offensive, so there really is a judgement call that is made there.

On balance, when the Greens have weighed up these different competing human rights—the right to free speech and the right not to be harassed—our invitation to the City of Adelaide is to go back to the drawing board and rewrite these rules so that they actually do a more thorough job of balancing those competing interests and, in particular, we would urge them to rewrite these rules in a way that does not particularly identify certain forms of communication, because I am sure many members here have attended Rundle Mall and other public places with rallies exhorting people to take a position on a certain topical issue, and we want to make sure that we treat all forms of behaviour equally.

Having said that, I appreciate that it would be possible for the council to simply come back with the same regulations and for the government to regazette them. I hope they do not do that and I would also like to put on the record the Greens' acknowledgement that it has been a difficult task for the City of Adelaide to try to balance these competing interests. As I have said, I am not convinced they have got it right just yet but we urge them to come back with something else.

The Hon. K.L. VINCENT (12:54): I wish to briefly explain why I will not be supporting the Hon. Mr Wade's disallowance motion today. While I certainly understand and share some of his concerns and also appreciate the time he has taken to discuss them with me, I am afraid that I can still see the merit of enacting these regulations. My decision on this matter has been helped by

discussions I have had with representatives from the council which have clarified some of my concerns.

My major concern with this by-law is one that I of course share with the Hon. Mr Wade. Clause 3.1 makes it an offence to annoy, offend or interfere whilst in Rundle Mall or its vicinity. The Hon. Mr Wade has pointed out that this is a highly subjective clause and its enactment might lead to all kinds of behaviour being punished simply because one member of the public finds it annoying, and the Hon. Mr Parnell has pointed out some examples.

I entirely agree with the Hon. Mr Wade's point on this. Luckily, so does the Adelaide City Council and it has agreed to remove this clause from the by-law. I have received an assurance in writing from the council that this will happen and to my knowledge the Legislative Council has also received a similar assurance.

The Hon. Mr Wade is also concerned, I believe, that section 2.19 of this by-law is discriminatory. The Hon. Mr Wade says that the singling out of religious preachers in this section impacts upon freedom of religion. I have to admit that I can certainly understand and respect his point, to some extent.

When I spoke to the council representatives about this concern they assured me that the by-law would not be used to stop all people from expressing an opinion on religion. It would only be used to prevent people who were preaching in an aggressive and/or derogatory manner such that they were upsetting businesses or consumers in the mall precinct.

I am a little suspicious of this intention to apply a law unevenly and was not particularly reassured by this explanation. However, the council has already told me that it was its intention, once this by-law passed, to set up designated preaching areas in the Rundle Mall vicinity, which would allow anyone of any religious belief to preach whenever and however they liked. There is also written confirmation of this intention included in the aforementioned letter from the council.

This is, I believe, a good solution. It is my personal view that everybody has the right to believe what they want to believe, as long as they do not manifest their beliefs in any manner which encroaches on the happiness, freedom or safety of others. People also have the right to enjoy our mall and to go about their daily business without being badgered or burdened by others' beliefs.

Certainly, if you walk down the Rundle Mall at the moment it is not uncommon to be accosted by someone who is keen to call you a sinner, or much worse, and malign you for not having the same beliefs as them. Of course, the person doing the name calling in this situation is entitled to their beliefs, but everyone is entitled not to be harassed or abused when they have just popped out to the mall on a wintry morning to buy a new pair of woolly socks.

If the preachers were given a defined space in which to do their preaching then they would have the chance to express themselves, and others would have the chance to listen to the preacher if they should wish to do so, or alternatively just go about their business without echoes of eternal damnation floating above their heads. This is, I think, the least that we can hope for, and anyone who wanted to engage in a good strong religious debate would know where to go.

On the condition that these designated preaching areas are set up and that clause 3.1 is deleted, I am happy for this by-law to be enacted. I will not be supporting this disallowance. However, it is important to point out that I have, just this afternoon, been given an assurance from the Hon. Mr Wade that the council is intending to re-word the by-law once enacted. I look forward to seeing what changes are made and how we can make this important by-law workable without encroaching on the civil liberties of this great state.

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

[Sitting suspended from 13:00 to 14:18]

MEDIA, PRESIDENT'S INSTRUCTION

The PRESIDENT (14:18): For the benefit of the press in the gallery, especially those in charge of the cameras, the photo that appeared in today's *Advertiser* is just not on. Instructions have been given to photographers that they are not to take photographs of people in their seats, only those who are standing and talking. So, you will either stick to those instructions or find yourself barred from the gallery. The person who took that photo yesterday will not be in the gallery today.

Members interjecting:

The PRESIDENT: Order!

PRINTING COMMITTEE

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): By leave, I move:

That the Hon. Carmel Zollo be appointed to the committee in place of the Hon. Russell Wortley (resigned).

Motion carried.

SELECT COMMITTEE ON DISABILITY SERVICES FUNDING

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) (14:22): By leave, I move:

That the Hon. Ann Bressington be substituted in place of the Hon. Russell Wortley (resigned) on the committee.

Motion carried.

SELECT COMMITTEE ON HARVESTING RIGHTS IN FORESTRYSA PLANTATION ESTATES

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) (14:22): By leave, I move:

That the Hon. Ian Hunter be substituted in place of the Hon. Russell Wortley (resigned) on the committee.

Motion carried.

BUDGET AND FINANCE COMMITTEE

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) (14:23): By leave, I move:

That the Hon. Carmel Zollo be substituted in place of the Hon. Russell Wortley (resigned) on the committee.

Motion carried.

QUESTION TIME

BURNSIDE COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): My question is to the Leader of the Government and Minister for Regional Development. Has the minister read the draft MacPherson investigation report, excerpts of the report or a summary of the report?

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) (14:24): It is just pathetic, Mr President. I have well and truly been on record categorically stating that I have never received the draft report. I have not read the draft report. I have not been briefed of any of the contents of the draft report. I do not know how many different ways I can say it. The real question is: how many of the honourable members opposite me have read or know the contents of the draft report? How many of them are in contempt of a suppression order? That is the real question.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:25): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question in relation to Burnside council.

Leave granted.

The Hon. S.G. WADE: On Wednesday 27 July, the minister, in response to a question from the Hon. Ann Bressington in relation to the Borick advice, said:

I rely on crown law's legal advice in matters like this. I understand that the honourable member has sought her own legal advice, but that does not undermine my confidence in the Crown Solicitor's department.

I ask the minister:

1. Did the minister receive legal advice from the Crown Solicitor's Office before his ministerial statement on 6 July 2011?

2. Did any legal advice received prior to 6 July 2011 address the issue of whether he had the legal authority to terminate the investigation under section 272 of the Local Government Act?

3. Has the minister sought legal advice on the legal opinion provided to the Hon. Ann Bressington by Mr Kevin Borick QC which concluded that the minister does not have the legal power to terminate a section 272 investigation?

4. If the advice on Mr Borick's opinion has been received, what is the conclusion of that advice?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:26): Every decision I have made has been based on advice, including legal advice. I have not, at any stage, sought legal advice on the advice given to the Hon. Ms Bressington. I do not need to. I have full confidence in the crown law office, so I see no need. My advice is: what I have done is correct. That is my advice.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:27): I have a supplementary question. Has any legal advice received by the minister explicitly confirmed his power to terminate an investigation under section 272 of the Local Government Act?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:27): Every decision I have made has been made on legal advice.

Members interjecting:

The PRESIDENT: The minister can answer the question any way the minister wishes. I suggest you go back through *Hansard* and find out how some other ministers have answered questions over the years. The Hon. Ms Lensink.

SHOP TRADING HOURS

The Hon. J.M.A. LENSINK (14:27): I seek leave to make an explanation before directing a question to the minister—

Members interjecting:

The PRESIDENT: Hon. Ms Lensink, you might want to start again. I did not hear anything.

The Hon. J.M.A. LENSINK: Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order, the honourable minister and the Hon. Mr Ridgway!

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before directing a question to the new Minister for Industrial Relations on the subject of shop trading hours.

Leave granted.

The Hon. J.M.A. LENSINK: The Tourism and Transport Forum, which is Australia's peak tourism body and includes members such as the SA Tourism Commission, Adelaide Airport and city hotels, has attacked Adelaide shopping hours, saying, 'The Tourism and Transport Forum has asked the Productivity Commission to deregulate shopping hours in Rundle Mall,' and it wants the federal government to overwrite the state government laws. My questions to the minister are:

1. As the new minister for this portfolio, will he consider relaxing the city's shop trading hours?

2. Why is Adelaide treated differently to the Glenelg tourist precinct?

3. Will the government cooperate with a Productivity Commission inquiry?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:29): After an extensive review of shop trading hour laws in 2007, the state government endorsed the recommendation that the current trading hours should be retained.

It is considered that they strike a satisfactory balance between the competing interests of the various sectors of the retail industry and the larger interests of the community. The government will continue to put in place special arrangements, where justified, for shop trading hours at the appropriate times of the year.

An exemption request was approved for Target Australia Pty Ltd to authorise 13 Target stores within the metropolitan area to trade from 9pm until midnight on Thursday 21 July 2011 in conjunction with their annual toy sale. In 2011 ANZAC Day, 25 April, fell on Easter Monday. On 8 July 2010 the former minister announced that Easter Tuesday, 26 April 2011, had been declared a special public holiday for 2011. The special holiday on Easter Tuesday resulted in an extended long weekend, and had implications for shop trading hours.

On 19 March 2011 the government announced the special shop trading arrangements that would apply over the Easter/ANZAC Day extended long weekend. A closure notice was issued under section 5A of the act, requiring shops within the ambit section of 13(5e)—that is, hardware, furniture, floor coverings, motor vehicle spare parts and accessories stores—to remain closed until 12 noon on ANZAC Day. Non-exempt shops in the central shopping district, the Adelaide CBD, were able to apply for exemptions to authorise trading between the hours of 11am and 5pm on Easter Tuesday 26 April.

A number of exemption applications were received for trading over the Easter weekend, including shops within the central shopping district. Temporary exemptions were approved for the Rundle Mall precinct, Target Centrepoint store, and the Coles supermarket in Grote Street from 11am until 5pm on Easter Tuesday, 26 April. Additional hours of trading were also approved for the proclaimed shopping districts at Millicent for Easter Saturday and Minlaton for Easter Saturday and Easter Tuesday. Applications for retailers in the metropolitan area to trade extra hours over Easter were declined. These included special circumstances applications from Westfield Marion, the National Age Swimming Championships at the new aquatic centre, and the Harbour Town tourist destination.

Hours for which non-exempt shops could open over the Easter long weekend, subject to the granting of individual exemptions, were as follows:

- Thursday 21 April 2011—open until 9pm;
- Friday 22 April 2011—closed;
- Saturday 23 April 2011—open until 5pm, metropolitan only;
- Sunday 24 April 2011—closed;
- Monday 25 April 2011—closed;
- Tuesday 26 April 2011—closed, CBD by exemption 11am to 5pm;
- Wednesday 27 April 2011—open until 9pm.

Partially exempt shops were required to remain closed on Good Friday, but could have traded from 9am until 5pm on every other non-trading day. However, the former minister issued a closure notice requiring partially exempt shops to remain closed until noon on ANZAC Day. Exempt shops could have traded without the restriction over this period; however, as in previous years, these stores were requested to voluntarily close until 12pm on ANZAC Day.

SHOP TRADING HOURS

The Hon. J.M.A. LENSINK (14:33): You did not answer any of my questions. I have a supplementary question arising from the answer, nevertheless. Has the minister confirmed that the shop union is still the tail that wags the Labor Party dog?

Members interjecting:

The PRESIDENT: What has that got to do with the answer? The Hon. Ms Zollo.

UPPER SPENCER GULF

The Hon. CARMEL ZOLLO (14:33): I seek leave to make a brief explanation before asking—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: —the Minister for Regional Development a question about the Upper Spencer Gulf industry hub.

Leave granted.

The Hon. CARMEL ZOLLO: We have heard about the impending expansion of mining and mining exploration in our state and the numbers that are quoted in terms of the size of ore bodies. The value of these products is very large. It looks like it will be of great benefit to our state in the years to come. However, mining on such a large scale will have an impact on communities and requires planning and adjustment. My question to the minister is: how is the government assisting business and communities to plan for this economic development?

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) (14:34): I thank the honourable member for her important and timely question. Indeed, the developments in mining and exploration, which we see reported in the business pages of our papers, are in some cases on a very large scale.

This is indeed a very exciting time for South Australia. Perhaps never before have we had so many opportunities for economic growth, largely generated by the resource opportunities in regional areas. This opportunity also holds some challenges. If we do not take full advantage of developing jobs and investment from the mining industry value chain, South Australia will be poorer for it. We must capture this opportunity, and much of that capture will be in regional areas.

The Upper Spencer Gulf is in a unique geographical position, but it also has many other advantages—for example, a willing and capable workforce, local infrastructure and, above all, a passion for building a better community and economic future. One of the key features of our approach will be to engage with the communities of the Upper Spencer Gulf very early in the process. The government is aware that communities and businesses will need to plan and adjust to take best advantage of this particular bonanza. That is why at the very last election the government committed $500,000 to undertake a heavy industry hub feasibility study for the Upper Spencer Gulf.

The study will identify how South Australian industries can maximise their involvement with the mining and energy sectors. The study will be conducted in two parts. Stage 1, worth $200,000, will identify the benefits of establishing a heavy industries hub or hubs in the Upper Spencer Gulf region. Stage 2 will deliver an investment strategy and business case for the region, to assist in the development of the manufacturing and service sector focused on the mining opportunities in the Upper Spencer Gulf.

The study is a specialised exercise and requires specific expertise, and therefore an open tender process has been used to put the opportunity to the market. I am pleased to be able to announce that the tender for stage 1 of the study has been to a consortium of KPMG and GHD. I am advised that their experience and relationships with mining and services companies, including as a financial and sustainability auditor of the developer of South Australia's largest mine, BHP Billiton, means the consortium is extremely well placed to do this work.

One of the important elements in the study will be to obtain a high level of response and ensure good industry engagement so that high-quality information is gathered to support the study. Once stage 1 is completed—and I understand that work is due to finish in early 2012—the information gathered will be used to create the investment strategy and business case, which will guide investment into the area. The study aims to determine the needs of future mining and major development projects in the Upper Spencer Gulf and the capacity of local industry to meet those needs.

Stage 1 will deliver the following: an Upper Spencer Gulf investment attraction strategy and business case for heavy industry hubs; a gap analysis of future needs of mining and major developments in the Upper Spencer Gulf and the current capacity of industry to meet those needs; capability development and investment opportunities; and identification of opportunities for greater coordination across the three levels of government in relation to infrastructure, planning and, of course, workforce development.

I congratulate the winning consortium and look forward to seeing the results of this study.

UPPER SPENCER GULF

The Hon. J.S.L. DAWKINS (14:38): I have a supplementary question. What action will the government take to upgrade Yorkeys Crossing, the unsealed alternative route for heavy transport to the National Highway 1 bridge in Port Augusta, as called for by the City of Port Augusta?

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) (14:39): If the honourable member had been listening to my response, he would see that within that study there is opportunity to look at other infrastructure needs to ensure the development of these opportunities is supported.

UPPER SPENCER GULF

The Hon. J.S.L. DAWKINS (14:40): I have a supplementary question. Has the minister ever travelled over Yorkeys Crossing?

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) (14:40): To the best of my knowledge, no. I may have. I have travelled that region quite extensively, but whether I have actually passed over that particular crossing, I am not absolutely sure. But I can reassure the member that I have travelled extensively throughout that area and am certainly very involved in assisting the region to maximise their opportunity in terms of mining and energy resource development—and that is the crux of this, because by generating income into the area, sustainable industries into the area, that in turn assists with generating the wealth and affluence of that area. So, there is more there to be spending on roads and a whole heap of other support infrastructures, services and amenities, and that is what this government is focused on.

The Hon. J.M.A. Lensink: You are focusing on keeping your own jobs. That is all you're focused on.

The PRESIDENT: Order! The Hon. Ms Lensink will suffer in silence.

The Hon. G.E. GAGO: We are focused on ensuring that these regions are on the front foot and are well equipped, well supported and resourced to absolutely maximise every opportunity coming from the mining and industry resource sector.

UPPER SPENCER GULF

The Hon. J.S.L. DAWKINS (14:41): I have a further supplementary. Will the minister assure the house that she will visit Yorkeys Crossing between now and when parliament resumes?

Members interjecting:

The PRESIDENT: Order!

The Hon. R.L. Brokenshire: Out of order, sir.

The PRESIDENT: Yes, both sides of the house are out of order. They are wasting your question time, the Hon. Mr Brokenshire. You should tell them to be quiet.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (14:42): I seek leave to ask the Minister for State/Local Government Relations questions in relation to Burnside council.

Leave granted.

The Hon. J.A. DARLEY: Can the minister advise whether any staff members employed by the Burnside council at the time of the MacPherson investigation received a part copy of that draft report as part of the natural justice process? In particular, will the minister advise whether any of the following individuals were given part copy of that report: former CEO, Neil Jacobs; former acting and now current CEO, Paul Debb; Manager of Development and Regulatory Services, Anthony Rowe; Acting General Manager of Planning and Infrastructure, Simon Bradley; Manager, Assets and Capital Works, Kevin Delaney; and, lastly, former tree management officer, now Acting Manager of Open Space and Environment, John Draper?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:43): The independent investigator sent that report out in the course

of the natural justice process. He was independent. I was never consulted on who it was sent to, and it was not my role to know who it was sent to. So, his question is no.

REGIONAL COUNCILS

The Hon. P. HOLLOWAY (14:43): My question is to the Minister for State/Local Government Relations.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Will the minister explain how the state government is better communicating and liaising with regional and country councils?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:43): I am pleased to advise that the Department of—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: I am pleased to advise that the Department of Planning and Local Government has appointed regional liaison officers to forge closer links with country councils. The purpose of the regional liaison officer is to establish an ongoing point of liaison and contact between government and councils, as well as the significant regional bodies such as the natural resources management (NRM) boards and the Regional Development Australia boards. This will assist councils to fulfil their core responsibilities and engage fully with a wider policy agenda by facilitating a consistent flow of information and support between government and the councils.

The establishment of a regional liaison officer system creates a direct and immediate point of contact between the department and the local government sector by formalising a relationship between councils, regional or local government associations and a departmental officer. This will result in an improved conduit for information for individual councils and better identification of issues within local government on a regional basis.

Key responsibilities of a regional liaison officer will be: attendance at regional Local Government Association meetings; maintaining regular contact with individual council members within the regional Local Government Association; identifying any need for greater information or assistance from government on planning and local government issues; and promoting stronger links between regional local government associations, the RDA boards and the NRM boards.

This system of liaison with councils will support existing policy and implementation priorities both within the department and across government by: encouraging South Australia's country councils to understand and implement regional planning priorities; improving sector-wide governance structures that will support councils in fulfilling current responsibilities and meeting increased future challenges; and complementing processes underway for infrastructure planning across South Australia.

DESALINATION PLANT

The Hon. M. PARNELL (14:45): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for the Environment and Conservation, a question about the Port Stanvac desalination plant.

Leave granted.

The Hon. M. PARNELL: The 2008 environmental impact statement for the Port Stanvac desalination plant refers on a number of occasions to the minimum dilution value of the salty brine discharge from the plant of 50:1. This is the minimum dilution requirement for the discharge at the edge of the 100-metre mixing zone. The state government's own departmental assessment of the EIS in 2009 reinforces the same species protection trigger value specifying that:

> In conclusion, should the project be approved it is recommended that conditions ensure the final diffuser location and design achieve the Environmental Objectives and Performance Criteria outlined in the EIS, including a minimum dilutions of 50:1 at the seabed, which includes the subtidal reefs.

Yet, when Flinders University marine expert Dr Jochen Kaempf attempted to verify the dilution criteria in the actual operating licence granted to the operators of the Port Stanvac desalination plant by the EPA in 2010, he discovered that it had, in fact, been significantly lessened. He found

that the dilution values were significantly lower by a factor of 1.7 or up to 3.8 times than originally assured by the proponents and the state government. Essentially, the water to be discharged could be at least twice as salty as what we were led to believe in the original EIS. This means that the operating licence is much softer than initially promised with the consequence of a substantially increased risk of environmental harm. My questions to the minister are:

1. Why are the EPA operating licence conditions for the Port Stanvac desalination plant significantly weaker than what were promised in the environmental impact statement for the project?

2. What confidence can the citizens of South Australia have in the EIS process if a critical environmental protection measure is negotiated down only after all public consultation opportunities have lapsed and the approval has been given?

3. What precedent does this watering-down of species protection trigger factors set for other desalination projects in state waters, including the proposed BHP Billiton plant at Point Lowly?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:48): I thank the honourable member for his question and I will take it on notice and relate it to the minister.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas, do you want to have a go? See what you can do.

SA LOTTERIES

The Hon. R.I. LUCAS (14:49): I seek leave to make a brief explanation before asking a question of the Leader of the Government about the Lotteries Commission privatisation.

Leave granted.

The Hon. R.I. LUCAS: On 23 February this year I put a series of questions to the minister about the sale or privatisation of the Lotteries Commission. In her response the minister denied any knowledge of members of her staff being involved in any discussions about the sale or privatisation of the Lotteries Commission since the election. The minister promised to bring back an answer as to whether any officer of the Lotteries Commission had been engaged in any discussions about the possible sale or privatisation of the Lotteries Commission. At the end of July, we still have no answer from the minister to that promised response. Members would be aware that, in the May budget, the government announced the privatisation of the Lotteries Commission.

Industry sources have provided information to the Liberal Party indicating that, in the period culminating in 2008-09, the Lotteries Commission had commissioned ABN AMRO, which is now known as RBS Morgans, to undertake a scoping study of the national gambling market and options to respond to the increasing market risk.

The ABN AMRO report included a valuation of the Lotteries Commission. I am told that that valuation which was included in that report was just over $200 million, which is significantly below the levels being currently speculated in the national financial media. The real intent and substance of the ABN AMRO report was referred to briefly in deceptive terms in the Lotteries Commission annual reports for 2007-08 and 2008-09. I am told that the total costs were spread or hidden over two financial years and were referred to under the title of 'Independent strategic assessment'. Nowhere in the two annual report is there a reference to the total cost or to the fact that a valuation of the commission had been included in the work of ABN AMRO.

When this issue was raised a few days ago, the minister denied that this report had considered in any way the issue of the sale or privatisation of the Lotteries Commission, even though, as I said, it has been confirmed that a valuation of the commission was included in the report. My questions to the minister are as follows—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. Gago: He makes it up as he goes along.

The PRESIDENT: Order! The Hon. Mr Lucas.

The Hon. R.I. LUCAS: Just waiting for the interjections to stop, Mr President.

The PRESIDENT: So am I.

The Hon. R.I. LUCAS: My questions are:

1. Is it correct that the ABN AMRO report included a valuation of the Lotteries Commission of just over $200 million and, if privatisation or sale options were not being considered, why did the ABN AMRO report include a valuation of the Lotteries Commission?

2. Has the minister read the ABN AMRO report and, if not, when was she first briefed on the ABN AMRO report?

3. What was the total cost of the ABN AMRO report?

4. Given that the government announced the Lotteries Commission privatisation in May of this year, does the minister still maintain that she knew nothing about the government's impending decision when I asked her the question on 23 February of this year?

5. Does the minister now have an answer to the question I asked of her on 23 February?

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) (14:53): Indeed, this is just so typical of the muckraking and snide innuendo that we regularly experience in this place from the Hon. Rob Lucas.

At a time when there was very significant change in the Australian gambling industry, the SA Lotteries Board commissioned a report to help identify opportunities for more satisfactory financial returns to the government from our lotteries. People might recall the time when the Golden Casket in Queensland was in the marketplace. Those moves had significant implications right across all of Australia in terms of lotteries, because lotteries operate on block arrangements: corporations and partnerships between the states.

That sort of move had significant implications. ABN AMRO was commissioned by SA Lotteries to review its position in the gambling market and to consider future directions. I am advised that SA Lotteries revenue growth in 2006-07 was below 1 per cent, and the real growth in SA Lotteries sales and return to government was projected to remain flat over the forward estimate period. So you could see that it was a most prudent time for SA Lotteries to be doing commissioning work, some analysis and evaluation of their position, and looking at strategic options.

Generating ongoing revenue growth was challenging as products continued to mature and alternative gambling products took market share. ABN AMRO provided several strategic options for SA Lotteries' consideration. It looked at things like the status quo, business reform strategy, defensive strategy, a broader geographic market with some products, new products and new markets. It also looked at alliances and acquisitions. It would be prudent for any organisation operating in a competitive market to seek advice about its options for future growth. As I have put on the record before, the ABN AMRO report did not address the sale of SA Lotteries.

The Hon. R.I. Lucas: Did it include evaluations?

The Hon. G.E. GAGO: The report did include evaluations.

The PRESIDENT: I wouldn't respond to interjections, minister.

The Hon. G.E. GAGO: Mr President, I am not prepared to talk and discuss most of the material in that report.

The Hon. R.I. Lucas: Why would you value it if you are not looking for a sale?

The Hon. G.E. GAGO: That is just ridiculous. I have just gone through that. Considering the honourable member is a former treasurer, I fail to grasp that he does not understand why that might be relevant for the sorts of considerations that I have already outlined. I can go through it again. They looked at several strategic options: they looked at status quo, business reform strategies, defensive strategies, some geographical marketing of new products, broader geographical markets with products, new markets, alliances and acquisitions.

Part of their formulating strategic pathways forward was understanding where they stood at a particular time. Of course, an evaluation would be part of that analysis. No wonder he is a former, failed treasurer—a former, failed treasurer—he clearly does not understand the importance of these things. A former, failed treasurer who never delivered a budget that was in surplus, he only ever delivered deficit budgets so, clearly, he does not understand the significance of these things.

The Hon. R.I. Lucas: That's a lie.

The Hon. G.E. GAGO: Well that's what I'm advised, anyway. As most of the material in this report was an internal working document to provide for strategic analysis and assistance in terms of where opportunities might be, and options to move forward, obviously, I am not prepared to discuss evaluations. I have already discussed the context of SA Lotteries at that time, which was low, and I can absolutely assure members that the position of SA Lotteries has shifted significantly since then, and one only has to look at its annual reports to see that.

Obviously, I am not prepared to discuss anything in this place that clearly might prejudice our negotiations in relation to new lease arrangements. The honourable member should know that. If he really had any business acumen he would not be asking that question in this place, because he knows it could prejudice the government's position, and we could end up costing the state—costing taxpayers—millions of dollars.

Obviously, we are going to promote SA Lotteries in its very best light, as the honourable member should be doing. If he was really a responsible member in this place he would be doing exactly the same thing and making sure that we get the biggest return possible for the people of South Australia.

In terms of the cost, I had the cost figures, but I just cannot put my hand on them, so I will take it on notice.

The Hon. R.I. Lucas interjecting:

The Hon. G.E. GAGO: There is no secret, none at all. The accountability, the fact that the report was conducted, was included in our annual report. It is no secret. I am happy to take that on notice and bring back a response. As I said, it is no secret. In terms of the question the Hon. Rob Lucas asked some months ago, whether either my office or the SA Lotteries officers had entered into any discussions or negotiations with any organisations prior to the election in relation to the sale of lotteries—

The Hon. R.I. Lucas interjecting:

The Hon. G.E. GAGO: That is the question you asked. It's in *Hansard*.

The Hon. R.I. Lucas interjecting:

The Hon. G.E. GAGO: Well, go check *Hansard*. That was the question. I can absolutely with confidence say that neither my office nor SA Lotteries have initiated or encouraged discussions with any company about the sale of SA Lotteries. That was the question asked and that is the answer that I have given.

Members interjecting:

The Hon. R.I. LUCAS: A supplementary question—

The PRESIDENT: It's not your turn.

The Hon. G.E. GAGO: I haven't finished yet.

The PRESIDENT: The minister hasn't finished yet. We are just waiting for your behaviour to improve, the Hon. Mr Lucas. The honourable minister.

The Hon. G.E. GAGO: Yes, my understanding is that that was the question the honourable member asked in *Hansard* some time ago. I will double-check that, but I am pretty confident that he did ask that question of lotteries and my officers. Nevertheless, in relation to my reading the report, yes, I have read the AMRO report. I think I have answered all the questions on the matter of costs. In relation to costs, it is no big secret. It would be around the cost of any consultancy to do a business analysis, but I am more than happy to bring back that figure to the place in an expeditious way.

SA LOTTERIES

The Hon. R.I. LUCAS (15:03): A supplementary question arising out of the minister's attempted answers—

The Hon. J.S.L. Dawkins: 9½ minutes of nothing.

The PRESIDENT: Order! If the honourable member got nothing out of that, perhaps he was not listening. Mr Lucas has a supplementary.

The Hon. J.S.L. Dawkins: 9½ minutes.

The Hon. G.E. Gago: Well, he asked five questions, for God's sake. What do you expect?

The Hon. J.S.L. Dawkins: You didn't answer any of them.

The PRESIDENT: You are wasting a lot of our time today. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: When was the minister first advised by Treasury or the Treasurer that the government was contemplating the sale or privatisation of the Lotteries Commission, which was eventually announced in the May budget this year?

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) (15:04): We have not discussed privatisation. What we have discussed is sublease arrangements, so the answer is no, we have not discussed privatisation. I think what the honourable member means, what he is trying to ask me, is about sublease arrangements, and they were in discussions in the lead-up to the budget preparation in relation to cabinet's considerations and discussions.

SA LOTTERIES

The Hon. R.I. LUCAS (15:04): By way of supplementary question arising out of the answer, is the minister indicating that she was not advised by Treasury or the Treasurer until after 23 February this year about what she describes as a subleasing arrangement for the Lotteries Commission?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:04): I do not know the date. As I said, we had discussions in the lead-up to the budget papers and consideration by cabinet, but I do not know what dates they are.

SA LOTTERIES

The Hon. R.L. BROKENSHIRE (15:05): As a supplementary to the minister, can the minister rule out the privatisation being sold to Coles or Woolworths, and what will the minister do to ensure that small newsagents, particularly in rural areas, are not, as a result of this, losing very important cash flow?

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) (15:05): We are not privatising, as I have already said; we are entering into sublease arrangements. So, I can assure the honourable member that we are not going to privatise, that we are entering into subleasing arrangements. Indeed, our agents that sell our tickets are very important partners in this, and we value them very highly. That is why the government has put a series of protections in place to assist our agents through these transition arrangements.

In relation to the Coles supermarket, I think what he is trying to ask me is: can we make any guarantees, under the sublease arrangements, that sales will not be extended through supermarket chains, whereas currently they are not? I think that is the question that the honourable member is—

The Hon. R.L. Brokenshire: Yes.

The Hon. G.E. GAGO: It's sad, isn't it, Mr President, when I have to articulate their questions for them and then answer them. Anyway, not to worry, it is Friday. They are obviously very tired. The bottom line to that question is that, currently, the lotteries operates on equivalent to a commercial basis. They enter into arrangements with agents that are commercially viable. There

has to be a good business case to extend the selling arrangements to newsagents. As we know, not all newsagents are agents for Lotteries, only some are, and only those that can put up a good business case and are commercially viable.

It is clear under current arrangements that extending it to supermarkets is not commercially viable for Lotteries, otherwise they would have done it already. I guess the case I am putting is that, if the agents continue to be commercially viable and run good businesses, that is their best security in terms of the long term. It means that they are then going to be well placed to continue operating as agents into the future.

In terms of newsagents, I know that some have expressed concerns around these licensing arrangements, and I know that the government has put a number of things in place to ensure certain protections to assist in their concerns. The government has given some assurances. We have given assurances around the issue of intellectual property being associated with SA Lotteries, that the product brand will stay with government ownership and that contracts for all agencies will be reset to five years from the date of transfer to the private operator. Five years is a reasonable tenure for the transition to occur and for agencies to be able to demonstrate their case. There will also be an option to extend their licence contracts after that, an also current commissions paid to agents for the sale of SA Lotteries' games will be maintained, so we have locked that in for them as well.

The Treasurer has made it very clear that the government will do all it can to maximise the economic benefits to the state and protect agents' business interests and also growth opportunities.

SA LOTTERIES

The Hon. T.A. FRANKS (15:09): Supplementary arising from the original answer: the minister cautioned the former treasurer against prejudicing the value of this asset. Will she similarly caution the current Treasurer for also prejudicing the value of this asset, as reported in *The Australian* on 10 June, when he said:

> We are one of the last states to retain the lotteries in public ownership. It's an asset that retains some risk in...its value—

and he alluded to the competition from online gambling—

The PRESIDENT: Order!

The Hon. T.A. FRANKS: —diminishing this asset's value.

The PRESIDENT: Order! Sit down. The honourable minister will ignore that. The Hon. Mr Hunter.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

The Hon. I.K. HUNTER (15:10): I seek leave to make a brief explanation before directing a question to the Minister for Gambling regarding amendments to the Gaming Machines Act.

Leave granted.

The Hon. I.K. HUNTER: The social effect of gaming venues is often analysed with a tool called the social effect test. The intention of the Gaming Machines (Miscellaneous) Amendment Bill 2010 was to create better and more responsible gambling environments, and to reduce the risk and the costs associated with the gaming machine regulatory framework. Will the minister outline to members of the chamber how the revised social effect tests is expected to operate?

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) (15:10): I thank the honourable member for his most important question. I am advised that a new approved trading system for gaming machine entitlements has been introduced under the Gaming Machines (Miscellaneous) Amendment Bill 2010. The Independent Gambling Authority is responsible for the social effect inquiry process and principles which, in combination, provide the social effect test.

A proponent who seeks a gaming machine licence has to conduct a social effect inquiry. Under the amendments, changes will be made to the current social effect test which will improve and strengthen the test. I am advised that the existing social effect test has three major components to it: the statistical local area describes local community stakeholders who are

identified as having an interest in the applicant and the premises, listing the responsible local council and the main organisations which provide social and educational services to the people who reside in the local community.

This document will also identify relevant infrastructure such as roads, railways, major buildings and open spaces. It will include a risk analysis of how premises will be managed, including arrangements for identification of possible problem gamblers; arrangements to inform and enforce customers and their families; and to facilitate access to informal, voluntary self-exclusion and formal barring. There will then be a period for community stakeholders and the applicant to respond to community concerns.

The amendment brings the social effect certificate assessment process forward so that it can occur before costs associated with the development and liquor licensing applications have been incurred. The government has anticipated an increase in applications for new gaming machine sites as a consequence of the removal of the $50,000 fixed price on gaming machine entitlements.

I am advised that experience in other jurisdictions has revealed that unless the social effect of gambling is taken into account early in the regulatory process for a site, the question will tend to overshadow other licensing and developmental processes which are not designed, obviously, to deal with that.

The social effect inquiry process mandates a structural approach to community engagement to ensure that relevant stakeholders are given the information necessary to understand the proposal and to ensure that the applicant engages in a dialogue prior to commencement of formal licensing proceedings.

A social certificate will have a validity period of 18 months that can be extended with the commissioner's approval if appropriate. It is designed so that the issues are well defined at the start of proceedings, and the applicant is able to adapt the proposal to meet community concerns. The authority consulted comprehensively, actively seeking out stakeholders and holding a hearing prior to formulating the regulatory notice which is now gazetted and in force.

It is necessary and appropriate for the commissioner to not only consider the gaming venues currently in operation but also those venues that have a legal right to operate in the foreseeable future. By identifying the presence of gaming on the site as the potential issue of most critical concern and dealing with that at the outset, the process reduces the development process risk to applicants and reduces red tape and costs for proponents.

FAMILIES SA

The Hon. D.G.E. HOOD (15:15): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question regarding Families SA.

Leave granted.

The Hon. D.G.E. HOOD: I am on record as supporting the recent government announcement to increase funding for child protection by an extra $69.1 million over the next four years. It is a statement I do not back away from at all. It is a good move.

However, in allocating that extra $69 million over the next four years to the crisis services of alternative care and reunification services, unfortunately they are failing to address a 23 per cent or $2 million cut to the Family and Community Development Program. It appears as though the government is focusing all of its attention on crisis programs, at the expense of preventive and early intervention programs, by making this $2 million cut.

I have been approached by one welfare group in particular that is very concerned about this and raised a number of issues which I would like to briefly put to the minister, in particular in relation to the $2 million cut in funding. The first concern they have raised is that it will greatly reduce support to thousands of disadvantaged families, young people and communities across the state. It will greatly reduce the number of community centres and early intervention and prevention services, potentially eliminate or diminish the support of peak bodies, and weaken infrastructure of non-government organisations and their capacity to provide programs for the disadvantaged.

It will actually cost the government more money, according to this organisation, in the long term, through having to provide more future crisis services because of the people not being helped through this program. It directly contradicts most criteria defined in the sustainable budget

framework, particularly financial sustainability and, finally, it directly contradicts state government policies, including the SA Strategic Plan, the DFC's strategic plan, the Stronger Together agreement with non-government organisations and recommendations of the 2003 child protection review. My questions to the minister are simply:

1. Is the minister aware of the research which shows that for every $1 invested in early intervention in this area and prevention services it saves something like $7 later on in the process?

2. In light of this, will the minister reconsider this decision?

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) (15:17): I thank the honourable member for his most important questions and will refer those to the Minister for Families and Communities in another place and bring back a response.

SOUTH AUSTRALIAN SPORTS INSTITUTE

The Hon. T.J. STEPHENS (15:17): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Recreation, Sport and Racing, questions about funding cuts to the South Australian Sports Institute.

The PRESIDENT: About which cuts?

The Hon. T.J. STEPHENS: Funding cuts; not land cuts. Not traditional land cuts: funding cuts.

Leave granted.

The Hon. T.J. STEPHENS: Members would be aware of funding cuts the government has made to SASI programs. I have held a number of meetings with industry people and the heads of state sporting governing bodies. Many are concerned that, without the SASI programs, they will struggle to develop upcoming stars of the future.

The Minister for Recreation, Sport and Racing has stated that the money will go directly to the governing bodies to run programs themselves. It has failed to address the logistics of the situation. SASI provides for the development of youth sport at a separate facility which has a common support and admin department. These extra services—which are strength and conditioning coaches, physiotherapy and admin, to name a few—will now have to be paid for by the governing bodies, rather than being covered generally at SASI and shared by all sports.

The reality is that, in order to cover the cost of developing our future stars, governing bodies will need to pass on these costs to those participating. This includes the cost of interstate and international trips. Unfortunately, the more talented a young athlete is and the higher and more he or she will play, the more costly it will become. My questions to the minister are:

1. Does the minister agree with the funding cuts to SASI programs?

2. Without government subsidies, does the minister agree that sporting participation will exclude many South Australian families?

3. When did it become Labor Party policy to exclude low-income families from having their children participate in elite sporting programs?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:19): I thank the member for his very important questions. I will refer those to the Minister for Recreation, Sport and Racing and seek an answer as soon as possible.

BUSINESS REGULATION

The Hon. CARMEL ZOLLO (15:19): I seek leave to make a brief explanation before directing a question to the Minister for State/Local Government Relations.

The PRESIDENT: On what subject?

The Hon. CARMEL ZOLLO: On government regulation of business.

Leave granted.

The Hon. CARMEL ZOLLO: I understand the federal government recently announced that the Productivity Commission will be looking into the role of local government as a regulator.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.J. Stephens: When was 11 to 7 not a spanking?

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: The Hon. Terry Stephens does get very excited, doesn't he? Shall I start again?

Members interjecting:

The PRESIDENT: Order!

The Hon. T.J. Stephens interjecting:

The PRESIDENT: The Hon. Mr Stephens, it's a good job I don't allow the press to put their cameras on people who are sitting down talking nonsense. The Hon. Ms Zollo.

The Hon. CARMEL ZOLLO: Thank you, Mr President. I will continue. I understand the federal government recently announced that the Productivity Commission will be looking into the role of local government as a regulator. Can the minister advise what role the state government will play in forming the study?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:21): I thank the honourable member for her question. I am pleased to advise the council of an important national study to be undertaken by the Productivity Commission which will be of great significance for local government and the business community. The federal government has recently announced that the Productivity Commission will carry out a benchmarking study which will examine the costs to business of regulation within and between local government jurisdictions.

As part of the study, the Productivity Commission will identify the nature and extent of local government's regulatory responsibilities, including the extent to which local governments implement and enforce national, state and territory policies and where these responsibilities are likely to impose material costs on business, and significant variations in the distribution of these responsibilities between jurisdictions.

It will also develop indicators and use them to assess whether different regulatory responsibilities and the way these responsibilities are exercised have a material effect on the cost of local government regulation on business and identify best practice local government regulatory approaches that have the capacity to reduce unnecessary costs incurred by business while sustaining good regulatory outcomes.

I understand that following initial consultations with governments, business organisations and other interested parties, the Productivity Commission will publish a discussion paper. This paper will contain further information about the study and seek input from participants on how the commission might best proceed in benchmarking the performance of local government authorities in their exercise of regulatory responsibilities. The commission will present its final report to government in July 2012.

As part of its initial consultation process, the Productivity Commission will be taking submissions in Adelaide in late July. A senior officer of the Department of Planning and Local Government will be meeting with the commission at that time. The federal Minister for Regional Australia, Regional Development and Local Government (Hon. Simon Crean), in announcing this project, said that this benchmarking study is a timely exercise as it will improve the capacity of local governments while meeting the government's commitment to the business community to keep the costs of doing business to the minimum.

Local government has a direct bearing on the productivity outcomes of the nation, and this study will be valuable in identifying the impact of its regulatory activities on business. Virtually all businesses deal with local government regarding their regulatory obligations in a wide range of areas from food safety to development assessment. By identifying best practice regulation, this study will help spread effective and innovative regulatory practices among local government and shape future reform initiatives in this area.

SA LOTTERIES

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) (15:24): I would just like to take this opportunity to put on the record, because I said I would deal with it expeditiously, that the cost of the ABN AMRO report, I have been advised, was $390,000, GST included.

GILBERT, MR R.

Adjourned debate on motion of Hon. A.M. Bressington:

That the Legislative Council condemns the slur against the then Burnside city councillor, Mr Robert Gilbert, by the member for Newland in the House of Assembly on 14 October 2010 and calls on the member for Newland to correct the record through an apology.

(Continued from 18 May 2011.)

The Hon. P. HOLLOWAY (15:25): I rise to oppose this motion. There are two grounds for my doing so. If any member of the public believes that they have been aggrieved or in some way slandered through any comments made in parliament there is a method with which they can address their grievances, and that is to go to the appropriate house to seek to have a response incorporated in *Hansard*.

It is my understanding in this case that the motion of the Hon. Ms Bressington refers to former councillor Gilbert of the Burnside council. It is my understanding, and I checked this morning with the Speaker of the House, that no such request has been made to the House of Assembly that there should be any redress under the appropriate standing orders of the House of Assembly. That is the appropriate way in which such grievances should be addressed. That has not been the case in this situation.

The second reason is, and perhaps a more important reason, that it is completely inappropriate that one house of parliament should be judging the members of the other house and what they say. It is a longstanding tradition that members of this house should be accountable to this house. Similarly, members of the House of Assembly should be accountable to the rules of their house. If they say things that people feel are inappropriate then it is up to that house to deal with them. Similarly, if any member of this house makes statements which members want to challenge there are longstanding methods with which to deal with them.

It is completely inappropriate that we should be passing judgement on comments made in the other house of parliament on a particular matter. Just suppose that we were to set this precedent. There are two things that would come of that. First, if we set the precedent where we pass judgement on everything that is said in another house the first problem is that we would probably have little else to do with our time, we would be completely absorbed with having to deal with everything that was said.

I put the challenge to every member of parliament: if they want to support this motion then what they would have to do is check the facts relating to the case. Is that what members of parliament should be doing? Should we really be spending our time reading comments made in another house to try to pass judgement on them? Of course not. It is absolutely ludicrous that we should be doing so. That is why there is a longstanding tradition that we do not pass judgement on what is said in another house.

If the person who is the subject of the complaint feels aggrieved they can either take advantage of the methods that are available to them to deal with it in the appropriate way through that house, or the Hon. Ms Bressington has put the case of councillor Gilbert on the record. That should have been the end of it. She is entitled to do that. If any member of the public, if they ever read *Hansard*, is concerned about these matters they can read the Hon. Ms Bressington's account, they can read what was said and make their own judgement.

What should not happen is that members of this house are put through the exercise of adjudicating, as this motion requires us to do, on the merits of statements made in the other house. Frankly, I have far better things to do than to try to pass judgement on those sorts of comments that are made.

As members of parliament, we are provided with parliamentary privilege. We have an obligation to use that privilege wisely, and if we do not do that then there are appropriate forms of

the house that can be taken to address that. What we should not be doing is spending our time in this parliament passing judgement on what is said by members of another place.

So, it would set an extremely bad precedent. If we were to go down this track, if we were to support this motion and require members in another place to make an apology, can you not imagine what would happen? The other house, if it wanted to, could start to move motions condemning people like the Hon. Ann Bressington. It is a stupid idea. That is why, with 750 years of parliamentary tradition, we do not go in for such stupid things.

I am not really interested in the merits of the case, for or against councillor Gilbert. That is not really the issue. It is up to members of parliament to raise those issues, if they wish. Councillor Gilbert has the means to defend himself. It is not the role of this parliament to stand in judgement on what other members of parliament say; otherwise, it would really turn this council into a bigger farce than it is already becoming.

The Hon. S.G. WADE (15:30): I rise today to speak on the Hon. Ann Bressington's motion and to address the comments made about a former councillor of the Burnside City Council, Robert Gilbert, by the member for Newland in the other place. Many of my points are similar to those of the Hon. Paul Holloway, but I hope my tone is distinctly more respectful.

The motion before us asserts that the honourable member for Newland abused parliamentary privilege by making unsubstantiated allegations against Mr Gilbert regarding his conduct at a meeting of the Burnside council. The opposition respects the Hon. Ann Bressington's strong defence of Mr Gilbert, consistent as it is with her recurring concern to protect individual rights and the little people against institutional unfairness. However, for the reasons I am about to outline, it is the view of the opposition that it would be inappropriate for these concerns to be dealt with by a motion in this council.

First, we should be circumspect in criticising the use of free speech in this place of all places. Parliamentary privilege should not be used lightly. It is granted to us as parliamentarians so that we might engage in free and fearless debate. From time to time, the wise use of these freedoms is challenged, but it is primarily the responsibility of each house of this parliament to ensure that any abuse is dealt with.

Regardless of the merits for or against the member for Newland's statement, this council needs to be careful not to usurp the responsibility and the authority of the other place in disciplining its own members. Secondly and related, I understand that Mr Gilbert is entitled to address the House of Assembly to clear his name, and I think the Hon. Paul Holloway indicated that that is his understanding as well. Whether or not he chooses to exercise that right is a matter for him.

Thirdly, the Hon. Ann Bressington defended Mr Gilbert at length in her speech after moving this motion and has put on the public record her views about the intent behind the member for Newland's statements and allegations against Mr Gilbert. For the above reasons, the opposition feels unable to support the motion; however, the opposition's position should in no way be taken to agree with the member for Newland's comments. As I said previously, it is simply a matter of it being inappropriate for us to deal with a member of another place.

I also believe that the opposition's position is made stronger by the fact that we now have on the *Notice Paper* a motion moved by myself on behalf of the opposition for matters relating to the Burnside investigation to be referred to the Ombudsman. In that context, Mr Gilbert is one of a number of people whose actions were looked at by the MacPherson investigation so, in our view, it is not appropriate or helpful for this council to comment favourably or negatively on the guilt or innocence of Mr Gilbert or any other person who might be part of that investigation. We cast no aspersions on Mr Gilbert; we simply consider that it is not appropriate for the council to consider this motion.

The Liberal Party has consistently called for the investigation to be completed so that all allegations can be dealt with accordingly with regards to due process, and our position on this motion is consistent with that approach.

The Hon. M. PARNELL (15:34): I believe that the member for Newland was completely out of line when he launched his pre-election attack on Burnside mayoral candidate councillor Robert Gilbert back on 14 October last year. I believe that his attack was unfounded, unfair and unparliamentary. I think that it brings no credit on the member for Newland, and I believe that he should apologise. I do not propose to go through all of the misinformation, the untruths and the scurrilous innuendo that is contained in the member for Newland's speech in the other place

because I think that the Hon. Ann Bressington has summarised that very well and made the case for why the member for Newland should apologise.

I will just say that one of the most telling features for me in the member for Newland's attack on councillor Gilbert was that he chose to rely on discredited character evidence in support of his politically-motivated conclusion that the voters of Burnside should not vote for such a bad person. When I say 'discredited character evidence', I particularly refer to the repeating of allegations under parliamentary privilege that were found by the District Court to be without foundation, and the substantial award of damages to councillor Gilbert in a 1999 defamation action shows why that is the case.

I would also say that I have met councillor Gilbert on a number of occasions over the years. I do not profess to know him well, but I will say that I have always been impressed with his dedication and his commitment to the people he was representing in Burnside. The Hon. Paul Holloway refers to alternative methods available for correcting the record if people feel dissatisfied. As I understand the procedures in the other place they are similar but not identical to the process that we have here, namely, that members of the public who feel they have been defamed or otherwise unfairly dealt with in a contribution by a member of parliament have the ability to seek to have correction—or at least their point of view—incorporated into the *Hansard*.

Whilst that may be available here, I do not think it is entirely adequate, and that is why I am pleased that the Hon. Ann Bressington has put this matter on the agenda today for debate. In circumstances such as these, I think that it is important that members have the opportunity to put their views on the record, and that option is not available simply using the formal right of reply provisions in the sessional or standing orders.

The next matter to consider is the appropriateness of members of one house of parliament formally censuring a member of the other house of parliament. I think that the answer is that it is appropriate if that other member is a minister—a member of the executive. That is actually a key part of our role as members of parliament: holding members of the executive to account for their decisions and for their behaviour.

However, I do not think that it is an appropriate approach in relation to non-executive members of the other house. Here in the Legislative Council we value our independence, and the members of the other place no doubt do as well. That is why I do not think it is appropriate for the motion as introduced to be formally passed, notwithstanding that I agree with both the basis of the motion and the action proposed, that is, an apology from the member concerned.

As I have said, I think that the member for Newland should apologise. He will know that because he will read the *Hansard,* Mr Gilbert will know it, too, because he will read the *Hansard* and the public will know it because it is now on the permanent record.

The Hon. R.L. BROKENSHIRE (15:37): First, I understand why the Hon. Ann Bressington has moved this motion, and had the Hon. Ann Bressington not moved this motion then the way the structure of the parliament is right now someone would have no way currently of being able to get on the public record the facts and also to defend a situation which, to me, was totally out of order by the member for Newland.

Just very quickly, but I think importantly, I think that things have changed for the worse with respect to the introduction processes for new members of parliament over the last 10 years or so. Prior to that there used to be some convention that you would be mentored, instructed and supported in the way you went about your business in parliament, but it appears that the government does not seem to be mentoring newer members when they are coming into the parliament.

I think that is one of the reasons why the honourable member for Newland was totally out of order in using parliamentary privilege to cast a slur, at least, on someone who I have met and worked with on several occasions and who I find is a very honourable, open and accountable person. Perhaps it was done because the member felt they owed someone else in their party a favour before an election. Maybe that was the reason it was done.

I was always warned that you use parliamentary privilege with the utmost caution as a member of parliament and should not turn it into an opportunity. The community outside calls this place 'coward's castle', and I think we are on a slippery slope if we abuse parliamentary privilege. Parliamentary privilege is there for members to be protected when, in the course of the business

and the work that they are doing on behalf of the state, they need that protection for the best interests of the state.

The Hon. David Wotton went through this with me very thoroughly, and also the Hon. Trevor Griffin and other experienced members clearly told me that you do not use parliamentary privilege to attack individual people who have no recourse. That is why, from that point of view, I very much support the Hon. Ann Bressington in raising this issue in the house.

The member for Fisher (Hon. Bob Such) in another place has on occasion said that he believes there should be some process set up within the parliament so that if there is a deliberate unfair attack on an individual that person can write to the house in which the attack occurred and, with an absolute majority of members supporting that letter, be given the right to come before the bar of the chamber and put their point of view. Frankly, I think the member for Fisher makes a lot of sense because that would stop some of the stuff that we have seen in recent years.

From that point of view I think I have made it pretty clear as to how I see it, and it would be my advice to the member for Newland to write to former councillor Gilbert and apologise. That said, convention has taught me that we cannot support motions where members are involved in another place. In this instance, this member is not in this house: this member is in the House of Assembly. For that reason, I support what the Hon. Paul Holloway has said and therefore cannot support the motion.

The Hon. A. BRESSINGTON (15:42): Probably surprisingly, I also agree with the determination of the Hon. Paul Holloway that it is not this house's place to be forcing any action on members of the House of Assembly. However, that still does not condone the conduct of the Mr Tom Kenyon and the defamatory and slanderous comments that he made about Mr Gilbert—using no other than his Appropriation Bill speech to do that.

I notice today in this place, and rightly so, Mr President, that you directed the Hon. Stephen Wade to get back on track with appropriations business during his speech. As I said, so he should. It is your job to direct members from the chair. Maybe perhaps the Labor Party should be educating their president on what appropriations business is in the other house, but that is for your party to sort out because, certainly—

The PRESIDENT: That is the Speaker.

The Hon. A. BRESSINGTON: Sorry, the Speaker, whatever she is called. Perhaps there should be education on what appropriations business really means in the House of Assembly. I am sure it does not differ too much from what it means here.

There is a basic flaw here, and we have citizens who basically have no faith in the fact that, if they were to put in a submission for a right of reply, under the requirements of the House of Assembly, it would not get past the committee: it would be rejected. That is a sad indictment on the level of faith that our citizens have in the processes of this parliament to allow them a right of reply. It is my understanding—given that the Hon. Tom Kenyon delivered his speech, as the Hon. Mark Parnell pointed out, post election of the Burnside council, and the fact that he was a mayoral candidate—that he felt quite confident that his submission to the standing orders committee would actually be rejected, so it would not be heard on the floor of the house.

As I said, it is a sad indictment of the confidence citizens have in the representation they are getting from members of the parliament. Another sad thing is that they feel they have to come to a member of the upper house to be heard and to have their case put. It really does not say much at all for government in the lower house, and what the people of this state truly believe is lacking in our so-called democratic processes.

I would have thought it would be just common decency, now that members of the Labor Party in this chamber know what Mr Kenyon said, and how he managed to get that information onto the public record, onto the floor and into the house via an Appropriations Bill speech, using parliamentary privilege to do it. I challenge Mr Kenyon to go out on the front steps and repeat what he said—as we are so often challenged in this place, when we are speaking the truth. Go out on the front steps and say it; get yourself a megaphone, go out there, repeat the speech word for word and open yourself up to be sued for defamation. I bet he would not do it.

I also want to mention conventions. We always fall back on conventions and on how we must uphold conventions in this place. I wonder how convenient that is, on some occasions. I also wonder, when we have a government that only respects conventions that suit the government on the day at the time, how useful they are. How real are they? Are we not inviting anarchy when we

are prepared to only pick and choose, and cherry pick those conventions that suit the government of the day?

In saying that, I offer my apology to Mr Gilbert on behalf of other members of the South Australian parliament that we would abuse this privilege and that we would slander a man and destroy his reputation and character in such a way for nothing other than what I believe were political reasons.

The Hon. R.P. Wortley: You did it to me yesterday; what are you talking about? You are a bloody hypocrite.

The Hon. A. Bressington: You do it to yourself.

The PRESIDENT: Order!

Motion negatived.

WEIGHT DISORDER UNIT

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

That this council—

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

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

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

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

(Continued from 9 February 2011.)

The Hon. S.G. WADE (15:48): I rise to indicate Liberal Party support for the motion, as amended by the amendment of the Hon. Ann Bressington. In doing so I indicate that my wife is an academic and clinical psychologist who specialises in eating disorders.

Eating disorders can have a severe impact on the sufferer. Anorexia nervosa has the highest mortality rate of any psychiatric disorder. Eating disorders are surprisingly prevalent, and 23 per cent of young Australian women are reported to have had disordered eating in the past 12 months. The presence of disordered eating can lead to significantly lower quality of life than that experienced by healthy women for at least nine years after it appears.

Last year the government announced its intention to close the weight disorder unit, otherwise known as Ward 4G, at the Flinders Medical Centre and transfer the eating disorder beds to other psychiatric facilities, being the Margaret Tobin Centre and the Boylan Ward at the Women's and Children's Hospital. Ward 4G has developed its services over the past 30 years, and no doubt will continue to evolve. However, evolution does not occur as a result of dictatorial pronouncements by health ministers captured by health bureaucrats.

This decision is a case study of what happens when bureaucrats and politicians focus on saving money in health services without talking to health professionals, consumers and those who care for them. Under the government's original proposal, adult patients were to be transferred into the Margaret Tobin Centre, the acute psychiatric ward at FMC. Adolescent patients, who had previously accessed Ward 4G, would be refused entry to the Margaret Tobin ward, and no alternative service was to be provided. Eating disorder patients were to be placed in the same areas as patients with active psychosis.

The clinicians in the weight disorder unit opposed this idea; the clinicians in the Margaret Tobin Centre opposed this idea; academics and therapists opposed it; people with a lived experience of an eating disorder and their families opposed it. None of these people were consulted about it. This was a cost-saving measure against all clinical and consumer advice.

This lack of consultation on sensitive mental health issues related to vulnerable subgroups I find offensive. To treat those with eating disorders in the Margaret Tobin Centre would be against international best practice and national recommendations and would increase the risk of psychological, physical and sexual trauma to vulnerable patients, who are often (but not exclusively) young women or girls between the ages of 15 and 23 years. The Women's and Children's Hospital is also currently inadequately resourced to deal with adolescent eating disorder patients and only treats patients under 18 years of age.

On 5 April 2011 minister Gago, the Minister for the Status of Women and a former minister responsible for mental health, said:

> I have visited Ward 4G previously, and it certainly is not an ideal therapeutic environment for the treatment and management of eating disorders. It is part of a complex that shares a ward and, currently, at one end of the ward are patients that can have serious mental illnesses, so it is quite a challenge currently to manage those two sets of clients within a single ward, albeit one set of patients seem to be at one end and another at the other. It is not an ideal therapeutic environment.

These statements are untrue. The other patients at Ward 4G do not suffer serious mental health conditions. In my view this is not mere political spin; it tends to stigmatise. There is a range of mental health issues with a range of levels of acuity. The other beds in Ward 4G are dedicated for people with gambling problems and with anxiety. The other beds in the Margaret Tobin Centre are for the treatment of very ill patients, including people with active psychosis.

To suggest that relocating patients from Ward 4G to the Margaret Tobin Centre is likely to reduce the risk to patients is to generalise the challenges of mental health patients and to stigmatise people with gambling and anxiety disorders. The fact is that gambling and anxiety disorders do not normally present with psychosis and neither do eating disorders. Ward 4G is a more appropriate collocation of services.

Flinders Medical Centre offers an integrated treatment service for people with eating disorders, ranging from intensive care for acute medical issues to naso-gastric re-feeding on medical and paediatric wards and moving to psychiatric, psychological and nutritional care as well as family support on Ward 4G. This integrated care across a general hospital environment would be lost if patients were treated at the Margaret Tobin Centre. This could result in fatal consequences, given the complex physical and psychological treatment requirements of eating disorders.

Following a strong media campaign in November and December 2010, a rally was held on Wednesday 9 February 2011 at Parliament House to protest the closure of Ward 4G. A drive collecting signatures on a petition was also held at Westfield Marion and along popular beach spots. The petition was presented to parliament with over 2,500 signatures. After this significant community backlash, the government was forced to initiate a review of eating disorders in South Australia. I do not commend the government for that. Consultation before the event would have avoided a lot of unnecessary pain for sufferers, their families and those who support them.

I recently had the privilege of co-hosting with the Hon. Ann Bressington and the Hon. Tammy Franks a parliamentary briefing by three members of the working party that supported that review. (My wife was one of those members.) Basically, all three welcomed the outcomes of the review and the government's commitment to increase funding for eating disorder services. However, they also shared a significant concern that the government proposes to put the bridging services in the wrong setting.

The government model focuses on each end of the spectrum—acute services and community services—but there is no credible transition path between them. Vulnerable young women coming out of an acute phase of anorexia typically need weeks of live-in support during recovery, and this support needs to be provided near an ICU unit.

The Hon. Ann Bressington is moving an amendment to update the Hon. Tammy Franks' motion to reflect the shared concerns of stakeholders presented at the parliamentary briefing. The Liberal opposition welcomes the amendment and will be supporting it. The amended motion offers an evidence-based path to develop eating disorders services in South Australia without taking unnecessary risks. It is important that we maintain the pressure on the government to ensure that Ward 4G is not closed in the absence of implementation of a comprehensive statewide strategy. As I said, the opposition will support the amendment to the motion and the motion as amended.

The Hon. A. BRESSINGTON (15:55): I move to amend the motion, to leave out paragraphs 3 and 4 and insert new paragraphs, as follows:

3. Welcomes the Minister for Health's 2011 reassessment of the original decision on the proposed move of Ward 4G to the Margaret Tobin Centre and the Boylan Ward at the Women's and Children's Hospital;

4. Welcomes the minister's review of eating disorders services, the plan for statewide services proposed by it and the allocation of additional funding;

5. Notes the concern of consumers and clinicians at the proposed model's transition from acute care to community care, in particular, the lack of a dedicated tertiary hospital bed-based unit to support recovery to a medically stable condition;

6. Urges the minister to retain a dedicated hospital inpatient unit without placing sufferers of eating disorders on a general medical ward for the duration of their hospital treatment and to ensure that consumers receive comparable care within the community residential treatment facility, with sufficient safeguards to monitor deterioration in their condition; and

7. Calls on the government to develop an implementation plan which—

   (a) rolls out the range of proposed community services;

   (b) further reviews the structure and function of the current tertiary hospital bed-based unit as clear data relating to the impact of the new services becomes available; and

   (c) engages state and national expert review panels to oversee implementation of the proposed statewide plan outlined in the report in both the immediate and longer terms.

I rise to support the motion of the Hon. Tammy Franks in relation to eating disorders services in South Australia and providing accessible and effective treatments to sufferers. At the outset, I wish to congratulate the honourable member, health professionals and the public for raising awareness of consequential health concerns of shifting the Ward 4G Weight Disorder Unit to the Margaret Tobin Centre, a general psychiatric facility at Flinders Medical Centre, as was originally proposed by the Minister for Health.

It is their protest that led to Ward 4G maintaining a valuable service for at least another year whilst decisions on where another inpatient facility will be placed. It is abundantly clear that due to the nature of eating disorders placing vulnerable young women and sometimes men on a general psychiatric ward with, at times, aggressive and psychotic individuals was blatantly ill thought out, unethical and potentially dangerous.

South Australia for too long has suffered from inadequate facilities for the treatment of eating disorders, with only one non-government organisation providing support—Anxiety Compulsive and Eating Disorder Association (ACEDA)—Ward 4G and the Women's and Children's Hospital, which provides a very limited service for children with eating disorders. I will mention each of the services briefly, what they do and some of the issues that accompany them.

ACEDA is a non-government organisation located on South Road at Everard Park which provides information, counselling and weekly support groups for people with eating disorders and a friend and carers group once a month. This service requests gold coin donations from its attendees in addition to receiving funding from the state government. They often host guest speakers and has group activities for members. ACEDA is a great organisation and takes a positive approach to helping those with eating disorders by offering these services. Correctly, it does not focus on individual stories which can harbour eating disorder traits, and attendees of the support groups are discouraged from exchanging information on how they lose weight or other unhelpful commentary.

The Women's and Children's Hospital offers services to sufferers of eating disorders on the adolescent ward, a general medical facility for teenagers, and does not have a specific program for children who suffer from eating disorders. Being on a general medical ward, sufferers of eating disorders share the ward with children enduring other diseases and disorders. The emphasis on the Women's and Children's Hospital towards eating disorders has been to medically restabilise a patient and then discharge them as quickly as possible. In some cases, a psychiatric appointment is given; however, sufferers experience lengthy waiting times between appointments.

Boylan Ward, the psychiatric facility for teenagers, tends not to admit children for eating disorders unless there is a co-morbid condition which requires mental health attention or if a child continually presents for admission with an eating disorder and requires more intensive and specialist care. I find it hard to understand why they would delay psychiatric care and, instead, hope that they do not return with an eating disorder before addressing mental health concerns.

As usual, we tend to do things back to front. It is well understood that eating disorders are both physical and psychiatric conditions—not one or the other—as sufferers engage in disordered

eating for multiple reasons, whether it is a body image issue, a problem in the home or a co-morbid disorder such as depression or other psychiatric condition.

Ward 4G opened in 1977 and was initially a general psychiatric ward which specialised in the treatment of eating disorders. Due to the establishment of the Margaret Tobin Centre and the subsequent relocation of general psychiatric patients, the ward now facilitates six eating disorder specific beds with two of these allocated to the six-week program and the remaining for the two-week program. Sorry, I have to have a drink.

The Hon. T.J. Stephens: Me too!

The Hon. A. BRESSINGTON: Not your kind of drink. There are another four beds which are allocated for specific disorders such as gambling, anxiety and sometimes personality disorders. It is my understanding that all patients who occupy these beds are screened for compliance and behavioural issues and, if it is felt by the health professionals that an admission would be disruptive to the ward environment, then an alternative placement will be found. Additionally, several years ago, the surgical unit was established on the other half of the ward, which hosts patients in hospital for day surgery.

Since the introduction of surgical patients onto the ward it is my understanding that health professionals have felt the need to continually justify the Weight Disorder Unit's existence, fearing that SA Health was intent on eventually closing the ward and just needed a good reason to do so. This fear was borne out by continual funding cuts. Consequently, the services offered to patients and patient experiences with the ward have been affected. The experiences of patients are not due to these issues but rather to the limited services, such as inpatient programs which fell victim to budget cuts.

I will not suggest Ward 4G is perfect; the reality is that it is a psychiatric facility, not a holiday camp. It is prone to the same problems as the general mental health field and, for those who are severely ill, it is not a pleasant place and not a pleasant experience. It is not desirable to be confined to a bed, to have exercise and walking restricted and to have limited access to visitors. However, this government has cut these services, waited for the resulting complaints and, having created their reason, sought to justify moving the service in reliance on patients' negative experiences: problem, reaction, solution.

What the government did not count on was the huge community backlash to the announcement of moving Ward 4G from its current location to the Margaret Tobin Centre, a general psychiatric facility. A planned rally was held on the steps of Parliament House on 9 February 2011 which was successful despite the health minister announcing strategically a week prior, on 1 February 2011, that he would be conducting a statewide review into eating disorder services.

I believe the Minister for Health felt intimidated by the amount of coverage this specific mental health disorder had received which, as one health professional stated to my office, was the largest coverage for a specific mental health issue they had ever seen in their career. It is truly inspiring to see the public engage in full force against a reckless decision to close South Australia's only primary hospital treatment facility for eating disorders. It took guts and bravery for those people to stand on the steps and talk about their experiences living with an eating disorder and the fact that Ward 4G provided them with a lifesaving service.

The review announced by the minister resulted in a model of care report, which was originally scheduled to be released in April but was not released finally until 22 June 2011. Given that Ward 4G was originally slated to be closed on 1 July 2011, the delay in releasing the report caused extreme anxiety to those suffering from eating disorders, especially those on a waiting list for treatment in Ward 4G.

Understandably, the delay in the release of the report led to concerns that the closure might be proceeding regardless, Thankfully, this was not the case. I believe this report contains some extremely good ideas; namely, more information for general practitioners, education, promotion and prevention, on top of a dedicated community residential facility, which will offer sufferers a 24-hour, monitored, six to 10-week program and a three to five day program. I am also supportive of the recommendation that a psychiatrist take primary responsibility for eating disorder patients at the Women's and Children's Hospital. However, it must be said that little detail accompanies these great ideas.

Additionally, the proposed model of care does not address a very important issue regarding the gap between acute and subacute patients in the community. The Minister for Health has assured the community that Ward 4G will not go to the Margaret Tobin Centre, but he has not indicated where these people will be treated when they require hospitalisation. Are they going to be re-fed on a general medical ward and then placed in a community facility? For those who do require hospitalisation, placing them in a general medical ward would create the same complications the government was complaining about in the first place, such as mixed wards and hostility towards sufferers. There is also an undeniable risk of disease and bacteria in this setting.

Also glaringly absent in the report is what is to become of Ward 4G. How the report could fail to provide clarity on the future of 4G is astounding, given that it was the issue that sparked the protests by the community and health professionals and led to the commission of the report.

I note that the mover of the motion was hopeful that the Blackwood Hospital site could be utilised as a treatment centre. However, as we have since learnt, this is unlikely due to its sale to a buyer that specialises in musculoskeletal disorders. The report itself suggests no other locations. I believe 4G should remain as the acute inpatient facility, on top of the additional services that have been proposed in the report.

As I have discussed, attempting to integrate eating disorder patients on to general medical wards addresses none of the issues for which 4G was going to be relocated in the first place. South Australia needs to retain a dedicated facility for the treatment of eating disorders, whether in hospital, in the community or as an outpatient. To close 4G to these patients would only create a need for another such facility—and let's not forget the debate we had before about funding and services for people with disabilities. For God's sake, let's make sure that what we do actually hits the mark and produces a positive outcome for the sufferers of eating disorders.

In recognition of the need to retain a dedicated hospital inpatient facility and also recognising that events have progressed since the introduction of the report, most notably the decision by the minister not to move 4G to the Margaret Tobin Centre and the Boylan Ward at the Women's and Children's Hospital, I had drafted amendments I intended moving to the motion. However, on approaching the mover, I learnt that I was not alone in having this plan, with both the Hon. Stephen Wade and the Hon. Tammy Franks also proposing to move amendments to the motion text. In consultation with these members, mutually agreed amendments have been decided upon, which I have already moved. In essence, the amendments commend the minister, but I am not going to go into that because I have already done it. I have done this back to front—a lot like the government.

As I previously said, I think some of the ideas contained within this report are fantastic and a real step forward for consumers and carers in South Australia. However, it is yet to be seen whether these recommendations will be implemented as envisaged and what is to happen to 4G. It is my hope that the concerns I have raised about the hospital services can be addressed sooner rather than later so that we can avoid further pubic and professional anxiety about the future of eating disorder services in South Australia. I commend the motion to the house.

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

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE (TERMINATION OF PREGNANCY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 October 2010.)

The Hon. I.K. HUNTER (16:11): I rise to oppose this bill—a bill I consider to be offensive, condescending and, at best, insincere. As the Hon. Dennis Hood first outlined in this place on 27 October 2010, this bill would require a pamphlet be given to every woman seeking a termination outlining so-called alternatives for their consideration. On the face of it, you could argue that that is an innocuous enough measure, and you could also think that it does not go much further than we already do. But do not be fooled. I say to honourable members: do not be fooled. It is part of a strategy that has been used here in Australia and around the world, and I will come to it presently.

It is important to understand the background on this issue if we are to understand the motivation behind this sort of legislation. In 2007, the Australian Election Study found that 57 per cent of Australians support the right of women to have an abortion 'readily when they want one', while another one third support abortion in 'special circumstances'. Only 4 per cent of respondents opposed abortion under any circumstances. Most recently, the *Medical Journal of*

Australia published a study in July 2010 that found a clear majority of Australians believe that abortion should be 'lawful without question' in a woman's first trimester and 'lawful depending on her circumstances' in the second trimester.

The bill before us today once again highlights Family First's paternalistic and patronising approach to women's rights. Family First has a history of attempting to chip away at women's rights to control their own fertility, body and health. Most recently in South Australia, the Hon. Robert Brokenshire's Consent to Medical Treatment and Palliative Care (Parental Consent) Amendment Bill was one such attempt, a sneaky bid to stop teenagers accessing safe, medically supervised abortions.

I note that this particular bill was singled out for praise by the Australian Conservative website in its review of SA Family First's achievements in 2010, such as they are. This same website, Australian Conservative, recently ran an article praising this current bill, with the headline 'Family First bill aims to wind back abortion in South Australia.' Let me repeat that, as it is important in understanding how Family First narrowcasts its messages: 'Family First bill aims to wind back abortion in South Australia.'

I would also like to draw the council's attention to a recommended link found on SA Family First's own website. I believe this recommended link reveals something of Family First's motives and campaign tactics for this debate. The Family First website recommends a link to another website called Human Rights for Unborn Children. It states:

> Human Rights for Unborn Children is a grassroots advocacy group, made up of everyday Australians, campaigning to protect the rights of unborn children. In a society where there are more rights for animals, trees and the environment than for unborn children, we know it's time to make a stand.

The contact details for this group simply list a postal box address in Clare, South Australia.

The Hon. A. Bressington: How terrible.

The Hon. I.K. HUNTER: The Human Rights for Unborn Children's website suggests, the Hon. Ms Bressington, and I quote, that 'women often choose abortion because they view adoption as a fate worse than abortion'. The website calls on people 'to take a stand against abortion after rape or incest without apology', and I repeat 'to take a stand against abortion after rape or incest'. The website goes on in quite graphic detail, and honourable members can check out the rest of the website if they dare.

It would be understandable if the ordinary person assumed that Family First held similar views to those highlighted on the Human Rights for Unborn Children website. After all, it is a recommended link on the Family First website. As we know, most Australians do not subscribe to Family First's patronising and paternalistic ideology. The majority of ordinary Australians support a women's right to control her own fertility, and that includes access to contraception and abortion. While a woman seeking an abortion should be offered counselling, that counselling should be non-directive, non-compulsory and non judgemental.

Family First's bill implies that women who seek an abortion have not considered all the options available to them, that they need to be walked through their personal decision-making processes. This suggestion is utterly offensive and ultimately unhelpful in reducing the number of abortions that take place, which is after all the stated aim of this bill. If Family First were really sincere about wanting to reduce the number of abortions taking place, then they would stop the guilt trips and concentrate on initiatives that have been proven to reduce abortion rates around the world: better sexual education and better access to contraception.

Family First need to understand that abortion rates for individual countries do not reflect just the sexual behaviour of people; rather they reveal the level of comprehensive sex education and effective contraception available to citizens. It is no coincidence that those nations that do provide comprehensive sex education and effective contraception to their citizens are the countries with the lowest abortion rates. That is why US teenagers have higher pregnancy rates—birth rates and abortion rates—than adolescents in other developed countries.

So let us be clear: this notion of requiring directed information to women who seek an abortion is simply a thinly veiled attempt at shaming women. Increased access to sex education and contraception are the proven tools that we should be using to address this issue. So, the question needs to be asked: why aren't Family First demanding these initiatives? Anti-abortion campaigners, conservatives and Family First members are smart enough to recognise that abortion is so widely accepted in Australia that simply declaring their complete opposition is politically

ineffective. So they try to make the process of getting abortion more and more restrictive, by introducing legal restrictions, such as compulsory counselling, for example.

I note that the tactics being used by Family First are similar to those used by conservatives both interstate and overseas. I will take a brief moment to reflect on recent comments made by the Reverend Fred Nile, leader of the Christian Democratic Party and member of the New South Wales Legislative Council. The Hon. John Gazzola groans, but bear with me. I believe that Reverend Nile's comments echo the tactics being used here by Family First with this bill. Following the recent state elections in New South Wales, Mr Nile confirmed to the Daily Telegraph that he would raise abortion in parliament as a priority. He said:

> I would like it to be banned, but that is like raising a red flag to a bull. I would like to see abortion laws refined so either women will be shown an ultrasound of their foetus before the procedure, as they do in some parts of America, or they have to see a councillor once they make the decision.

Very familiar sounding tactics. It is no coincidence that they should be familiar. These are exactly the same tactics currently being used by conservatives, republicans and tea party enthusiasts in the United States, with a spate of state and federal legislation currently being debated, all designed to complicate the abortion process and restrict women's access to health services.

I note that similar legislation—similar in spirit—to this Family First bill has recently been introduced in about 16 American states. Just this week in North Carolina members of their state house voted to override Governor Perdue's veto of the Abortion—Woman's Right to Know Act, which requires a doctor—I say again, 'requires a doctor'—to give a woman an ultrasound prior to an abortion procedure and to describe her foetus in detail, including the size of organs and limbs, whether she wants to hear it or not. The act dictates that if a woman refuses to view the ultrasound images or listen to the foetal heartbeat, the doctor must record and keep her name on file for seven years. That is what legislation in the US is attempting to do.

The bill also stipulates that the woman has to wait 24 hours before having an abortion, which forces her to make multiple trips to a clinic. The act also requires the physician to hand the patient a document—sound familiar—that says that she is terminating the life of a separate, unique human being. When Governor Perdue vetoed the bill on 27 June, she said physicians must be free to advise and treat their patients based on their medical knowledge and expertise and not have their advice overridden by elected officials seeking to impose their own ideological agenda on others. Her criticism can be directly levelled at this Family First bill. This is the road down which conservative politics is travelling, and this is the path Family First would ideally have us take here in South Australia.

Family First members are fond of using the slippery slope argument when opposing progressive legislation. Well, here is their slippery slope. First, you require the doctor to give a woman a leaflet and next you require the doctor to give her an ultrasound of her foetus. Start with forcing doctors to show women maybe ultrasounds, photographs, pulses, heartbeats—where will it end? That is their slippery slope.

I recently had the opportunity to see some of the Congress debate on an anti-abortion bill and was struck by comments made by representative Bruce Braley from Iowa. Representative Braley opposed their bill, stating, 'If you remember only one thing about this bill, remember this: it is a solution in search of a problem.' He goes on to say:

> Don't be fooled by this bill...The debate is about whether politicians sitting in Congress—

or the Legislative Council—

> should dictate the personal, private medical decisions of the American people. It aims to impose intrusive government rules on personal medical decisions. The bill's supporters don't want abortion, any abortion, to be legal in the United States, and so they are adding as many bureaucratic rules as they can come up with...And that is why I ask my colleagues to reject this bill.

Let me be clear: these sorts of political tactics are not pro-life, they are anti-women. They want to control women's choices in the mistaken belief that they know best. Any legislation that aims to exert ideological influence over a woman's reproductive choices is attempting to control her choices, and it is not about informing her and trusting her to make her own decisions. This bill is a thinly veiled attack on a woman's right to make her own decisions, and for that reason I strongly oppose this bill.

The Hon. J.M.A. LENSINK (16:21): I rise to indicate some personal remarks in relation to my views on this particular piece of legislation. I advise the Legislative Council that this is a

conscience vote for Liberal members. We are a broad church and we represent a range of views, and I will put my personal views, therefore, which is no reflection on what any of my Liberal colleagues may believe.

I note from the honourable mover of this particular bill that it proposes that information be provided to women who are seeking an abortion with a view to providing them with alternative options of adoption and foster care. As might be expected of a member of Family First—and I would be, quite frankly, surprised if they were not pro-life—he makes that case quite straightforwardly. He says he is in the pro-life camp and that other members may be in the so-called pro-choice camp. He then makes a comment that 'Few people will ever change their mind on the rights and wrongs of abortion.'

I am one person who has changed their view on this particular issue. As a young person growing up in a conservative Catholic household, I thought abortion was wrong always. However, this ignores the reality of the situation that many women find themselves in. I think most of us would prefer that abortion was a last resort, but it is part of a very important range of options so that women are the people who have the ultimate choice over whether they should have children or not.

What I find disappointing in the honourable mover's remarks is the complete absence of any discussion about family planning and contraception, and I trust that he is not intending to wind that back. The preceding speaker talked about this being a slippery slope. I hope that in his summing up remarks he confirms that that is not to be wound back. There is a very important role for good education and sexual health services, which would mitigate the number of so-called 'unwanted pregnancies'. I think that term should be 'unintended pregnancies'.

A woman's control over her reproduction was described by the late, great Dr David Tonkin. He described the pill in the 1950s and 1960s as the final leveller. As he was speaking to the predecessor to our equal opportunity legislation, or the bill that he introduced, which was the first in any jurisdiction in Australia, he said:

> The biological restrictions on women's activities have been largely overcome with the development of family planning techniques. One might say the pill has proved to be the final leveller.

I think that is very important. We can take that for granted in our Western country which has had access to good quality family planning and to safe abortion clinics for some time. I do believe that is supported by the vast majority of Australians.

I would encourage people to google an organisation called The Girl Effect, which looks at the situation in developing nations. It is recognised by the United Nations and other organisations that study these things that, if we can provide young women and girls with control over contraception and family planning, it will lead to much less poverty in those nations. As women and girls are provided with an education, they are able to contribute to economic prosperity, whether in a developed nation or a developing nation. In this website it is looking at the latter and how that drives down poverty in those nations. Otherwise, quite frankly, without access to those services, women and girls would live a life of abject poverty.

The provision of information may, on the face of it, appear to be harmless. Without thinking through all the implications of this particular bill, one may reach that conclusion. Quite frankly—and I am not putting it in the same terms as the previous speaker—this is dog whistling. This is all about abortion and what this chamber thinks about abortion. I am concerned that there may be further attempts which are an attack on the battles that have been won in the past on behalf of women to, ultimately, make sure that they have control over their fertility, family planning and contraception, etc.

In pondering this issue, I tried to think of other areas which could be broadly described as being in the health sector where we prescribe what sort of information is provided to clients. I did not come up with many. One that I did think of, because it has been a particular debate that I—

The Hon. A. Bressington interjecting:

The Hon. J.M.A. LENSINK: Well, informed consent in that respect. One that we did look at in quite a lot of detail in the lead-up to the 2006 election was in relation to autopsies. In that case we had a situation where pathologists were performing procedures on the bodies of loved ones and so forth and the families had no idea. There was a complete lack of transparency (in many cases those family members were completely unaware), and it was that lack of transparency and breach of trust which led us to try to prescribe—unsuccessfully, I might add; it has been an ongoing battle

that I have been having on behalf of certain families, but I will not get distracted into that particular area.

It highlights that in that situation we have vulnerable families who deserve to have access to information and not to be kept in the dark. However, I am wondering, in this instance, as the preceding speaker said, what is the issue that we are seeking to correct? Is the mover of the motion suggesting that general practitioners or medicos are deliberately withholding information from their patients? Are they not telling them what the options are—particularly because every doctor has to take the Hippocratic oath: 'First, do no harm.' I do think that in some ways this bill is a reflection on the entire medical profession.

There is a lot of reference to teens, and I would like to quote one of the comments made in the mover's speech. He says:

> Many abortions, it seems, are due to women being pushed into the process by someone, whether it be a partner or some sort of conveyor-belt type mentality in some institutions, or simply a lack of knowledge of the alternatives.

That, and many other things, are quoted. I would appreciate some sort of reference because I think that information would be challenged. As I said, there is a lot of reference to teens. Young people are certainly the most technological generation, which is to be expected, yet this bill implies that women do not know how to access this information themselves. Indeed, to me, it implies that women are somewhat illiterate, they are intimidated or they need a nudge to do the right thing. That offends me and I will not be supporting this bill.

The Hon. P. HOLLOWAY (16:30): I rise to put the government's position on this particular bill. Perhaps I could firstly say that, of course, in relation to the subject of abortion, generally the ALP has had a long-held view that it is a conscience issue for members. However, in relation to administrative matters—which, essentially, is what this bill is about—of course, the party does take positions on it. In this particular case, I can indicate that the government will be opposing this bill, essentially because it unnecessarily legislates what largely occurs in any case.

The Consent to Medical Treatment and Palliative Care (Termination of Pregnancy) Amendment Bill 2010 proposes that, before any treatment for the termination of a pregnancy, the medical practitioner must ensure that the patient has been given a pamphlet which contains information with respect to the option of having the baby adopted, including general information about the processes involved, and information with respect to the option of having a baby placed in foster care.

Ninety-three per cent of terminations occur in metropolitan public hospitals. The source I use for that is the Pregnancy Outcome in South Australia 2008 Annual Report. Information provided by these hospitals and other relevant public health services via pamphlets and websites, include information about the options available, including continuing the pregnancy and becoming a parent and continuing the pregnancy and placing the baby for adoption or alternative care, that is, foster care. A number of resources are made available, including links to pregnancy and parenting organisations, including the Adoption and Family Information Service, and the Pregnancy Advisory Centre publishes a Continuing Pregnancy resource.

The doctor-patient relationship is at the heart of the Criminal Law Consolidation Act 1935 which, of course, is the relevant section in relation to termination of pregnancy. The patient confides to two medical practitioners who are able to determine the woman's circumstances and make a professional judgement.

In addition to the current requirement to see two medical practitioners who can offer counselling, a range of counselling services are available, including the South Australian Pregnancy Advisory Service, public hospitals undertaking the terminations, the 24-hour National Pregnancy Counselling Hotline and SHine SA. Support After Fetal Diagnosis of Abnormality (SAFDA) provides support for people before and after the termination of pregnancy, following the diagnosis of an abnormality. SANDS SA (the Sudden and Neonatal Death Support) offers support to people who have suffered the death of a baby anytime from conception through to after birth. This includes miscarriage, neonatal death, stillbirth, ectopic pregnancy and genetic/medically advised termination. Finally, counsellors in private practice also provide those services.

As indicated above, a range of counselling services that include the information as proposed under this amendment is already provided by the metropolitan public hospitals, where the majority of the terminations of pregnancy occur. So, for these reasons, the government opposes this bill.

The Hon. K.L. VINCENT (16:33): Given that it would seem this debate is going ahead today, I wish to place my position on the record. If nothing else, I feel that this bill serves as a good reminder to us that sometimes issues that seem simple at first can actually turn out to be the most complex.

The general concept of this bill, that is, informing individuals and couples of their options when it comes to pregnancy, is something that I do support, but I must say that I am concerned that the way this bill is structured might mean that the information given out could be more hindrance than help. I am not, and I do not believe that anyone is, pro-abortion, but I make no secret of the fact that I am pro-choice on the issue of abortion, and it is in this context that I raise my concern about this bill.

The Hon. Mr Hood stated, when introducing this bill, that he believed that there is 'no such thing as an unwanted pregnancy'. I believe what he meant was that there is always someone out there, be they a foster or adoptive parent, who is ready and willing to take care of the child. This may well be true. I do hope so. However, whilst I would not dare to insinuate that the Hon. Mr Hood is lacking in biological knowledge by any means, I would make the point that a child and the pregnancy from which that child results, though intertwined, are two separate things—two separate experiences, if you will.

Pregnancy, as I am sure we are all aware, is one of the most life-changing and all-consuming experiences a person, a couple or a family can go through, and much of the time this is a wondrous thing. However, there are also many circumstances which may mean that a pregnancy is not going to be embraced and enjoyed by the woman and others involved: instances, for example, where the pregnancy is the result of rape; instances where the mother is very young or where carrying out the pregnancy is almost certain to put the health or even the life of the mother in serious jeopardy; or, less extreme but still relevant, an instance where the woman simply does not want to be pregnant and finds the change in and disruption to her body burdensome and terrifying, rather than enjoyable.

I am fortunate in that I have not been in any of these situations, so I would not dare to speak for these women who have, but I do suspect that it would be asking a lot of them, to say the least, to expect them to go through what could be potentially lifelong physical or mental anguish for the good of someone else getting a baby out of it. Indeed, some women and families do choose to do this, and I applaud their bravery, but at the end of the day this is far too complex and subjective an experience for it not to be up to the individuals involved. For these reasons, I disagree with the Hon. Mr Hood's assumption that no pregnancy is unwanted, and it concerns me that his intention for this legislation is built on that foundation.

I have further concerns about this bill in that, while I believe that distribution of honest, impartial and informative pamphlets about pregnancy options is a good idea, I do not believe that this bill sets out how this distribution must be done in enough detail to ensure that a woman will not feel pressured about her choices. The bill states that a woman must be given the information about options 'at the time of personal examination by the medical practitioner who will be performing the termination'.

Clearly, this implies that the information will be distributed once the woman has already decided to have an abortion. I entirely object to this, as I think a woman who has already made the decision to have an abortion might feel that her doctor thinks she is doing the wrong thing if said doctor begins informing her of her options at this late stage. This worry of mine is further compounded by the fact that this bill does not specify that abortion must also be listed as an option in the pamphlet, so it is hardly putting all the choices on an equal footing.

If the proposed information could somehow be distributed at an earlier stage in the process of decision-making, I would be much more inclined to consider this bill. I understand that there have been conversations around that issue, and I look forward to seeing the results of them but, as the bill stands, it is far too vague and under-detailed to reassure me that there is no possibility that it could be used to intimidate or shame a woman out of having a termination. I will never use my vote to support a measure that could lead to such an appalling curtailing of choice.

Indeed, I would suggest that if the Hon. Mr Hood wants my help in lowering the number of abortions performed in South Australia, he should introduce legislation that addresses the reason for most abortions. Most abortions, I would argue, are a result of unwanted pregnancies. If the Hon. Mr Hood can reconcile himself to the existence of such pregnancies, then maybe we could work together on implementing a more thorough and effective safe sex education program

throughout the community. That way the people who do not want to get pregnant will know how to avoid it, and they will not need to even consider the option of abortion.

To me, that would be an effective and ethical way of lowering the abortion rate, but somehow I unfortunately suspect that the Hon. Mr Hood might not be interested in supporting this method, just as I am not interested in supporting his, as a woman, as a person and as a human rights activist.

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

PORT AUGUSTA, MOVEABLE SIGNS

Order of the Day, Private Business, No. 47: Hon. R.P. Wortley to move:

That the Corporation of Port Augusta By-law No. 2 concerning Moveable Signs, made on 22 February 2010 and laid on the table of this council on 11 May 2010, be disallowed.

The Hon. I.K. HUNTER (16:40): On behalf of the Hon. R.P. Wortley, I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

ELECTRICAL PRODUCTS (ENERGY PRODUCTS) AMENDMENT BILL

In committee.

Clauses 1 to 14 passed.

Clause 15.

The Hon. A. BRESSINGTON: I move:

Page 11—

Line 9 [clause 15, inserted section 11(6)]—Delete 'Subject to subsection (7), a' and substitute 'A'

Lines 13 to 36 [clause 15, inserted section 11(7)]—Delete subsection (7)

As I argued in my second reading contribution, I am not comfortable extending the power to authorised officers under this act to demand information and documents at the expense of the fundamental common law right against self-incrimination, not to be confused, as the minister did, with self-discrimination.

In discussing my amendments with crossbench members, it is apparent that many determine whether we so empower authorised officers on a case by case basis specifically on the nexus between the power and the threat to public safety. While I do not necessarily disagree with this position, I make the point that we do not bestow these powers upon our police despite the very real probability for serious incidents or tragedies to be prevented.

As such, whether authorised officers have powers commensurate to royal commissioners becomes a threshold question of whether the power is reasonably needed to address, and I quote the Hon. David Ridgway, 'an imminent risk to public safety'. While I accept that this power is limited to section 8 of the act and as such will only be used in relation to safety incidents, I submit the power does meet the threshold outlined. This is largely because the regulator already has available to it the greatest power of all: the power to order the supplier to recall or take remedial action to ensure the safety of a product under threat of penalty, a power which we are enhancing by providing immunity to the crown, provided the power is exercised in good faith which, to make clear, will embolden the regulator to be more willing to recall suspected faulty energy products.

Further, any example in which the government can argue that an authorised officer may need these powers to protect the public, I suggest that the supplier already has the legal duty to assist authorised officers with any safety concerns. If a tragedy has occurred—as in the example used by the minister in another place—the supplier, being made aware of the safety issue, has a common law duty to every customer who has installed the energy product. To avoid a potential lawsuit, it is in their best interests to cooperate.

As I am aware, because the power is limited to unsafe energy products, many members believe the threshold to have been met and, as such, I do not have the support of the council. I will not continue to prosecute my case. I will, however, repeat my position of yesterday, namely, that we are being asked to extend to authorised officers powers that traditionally reside with royal commissioners and the like.

The Hon. S.G. WADE: I do not intend to speak for long because the Hon. Ann Bressington has summarised well the Liberal opposition's position. We have very strong concern about the increasing use of the provisions which remove the privilege against self-incrimination. We also have a related concern about the increasing use of authorised officers.

We share with apparently all crossbench members the view that one needs to balance the impact on safety and the impact on legal rights. On this matter for judgement, apparently the Hon. Ann Bressington has found that most of the crossbenchers have come down in favour of the removal of the privilege. As a Liberal opposition, we are disappointed about that because, having gone through the process ourselves, we thought that this was a case that did not justify removal.

It is not just that the reason has the word 'safety' in it that it suddenly becomes a carte blanche for the removal of a legal right. In that sense, I am reminded of the discussion we had in this council in relation to the South Australian Public Health Bill. We did not accept that, just because you had an emergency health need, legal rights needed to be abolished. So, we will continue to make a case-by-case judgement. We certainly do not take the view that safety overrides all other factors.

We certainly agree with the Hon. Ann Bressington that that primary recall function and the reasonable suspicion provisions already in the act gave sufficient confidence that safety issues could be addressed and that it was not justified to remove the privileges against self-incrimination. We are disappointed that other members of the council did not come to the same conclusion but, as I understand it, the Hon. Ann Bressington will not be dividing. We just want to put on record that we believe she raised a very significant issue worthy of consideration, as our shadow minister in the other place indicated.

The Hon. M. PARNELL: The Greens will not be supporting the amendments.

The Hon. R.P. WORTLEY: The government does not support the amendments. These amendments apply to the proposed modification of the privileges against self-incrimination. What the government proposed to become section 11(7) of the act is designed to achieve the highest possible level of public safety. The issue that the government is aiming to address arises when unsafe appliances have been sold. The technical regulator has power under section 8 of the act to prohibit the sale or use, or both, of unsafe appliances. Unfortunately, it is has often been difficult to gather information regarding how many of the unsafe products have been sold and to whom because the privilege against self-incrimination has been used by persons who fear that, by providing the information, they might incriminate themselves of an offence against section 8.

It is important to note that under the clause the privilege is only modified after a prohibition of sale and/or use of an appliance has already been issued by the Technical Regulator under section 8 of the act. The maximum penalty for a breach of section 8 is $10,000, and no term of imprisonment is prescribed. Once the sale or use of an unsafe appliance has been prohibited, it is important to trace purchasers of the product where ever possible so that relevant warnings be given directly to the purchasers.

It is proposed that the trader will be required to provide information, such as a list of customers who have purchased an unsafe appliance. It will however not be possible to use the information provided as evidence against the trader if the trader is a natural person or a director of a body corporate. Where the information is provided identifies purchasers of the appliance, any evidence from those purchasers would not be used in a prosecution.

In recent times there have been instances of small traders who have bought batches of unsafe or otherwise non-approved appliances from overseas via the internet and then sold them to their customers. This has occurred, for example, with respect to hair straighteners and aquarium heaters. The privilege prevented investigations from being completed.

In summary, the bill strengthens public safety whereas the amendment would have the effect of undermining it.

Amendments negatived; clause passed.

Remaining clauses (16 to 21), schedule and title passed.

Bill reported 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) (16:55): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LEGAL SERVICES COMMISSION (CHARGES ON LAND) AMENDMENT BILL

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

At 16:55 the council adjourned until Tuesday 13 September 2011 at 14:15.