

**LEGISLATIVE COUNCIL****Tuesday 13 September 2011**

The **PRESIDENT (Hon. R.K. Sneath)** took the chair at 14:19 and read prayers.

**ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL**

His Excellency the Governor assented to the bill.

**APPROPRIATION BILL**

His Excellency the Governor assented to the bill.

**STATUTES AMENDMENT (BUDGET 2011) BILL**

His Excellency the Governor assented to the bill.

**LEGISLATIVE COUNCIL VACANCY**

**The PRESIDENT (14:21):** I lay on the table the minutes of the assembly of members of both houses held this day to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Paul Holloway.

Ordered to be published.

**MEMBER, NEW**

The President produced a commission from His Excellency the Governor authorising him to administer the oath of allegiance to members of the Legislative Council.

The President produced a letter from the Clerk of the assembly of members notifying that the assembly of members of both houses of parliament had elected Mr Gerard Anthony Kandelaars to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Paul Holloway.

The Hon. G.A. Kandelaars, to whom the oath of allegiance was administered by the President, took his seat in the Legislative Council, in place of the Hon. Paul Holloway (resigned).

**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) (14:25):** By leave, I move:

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

Motion carried.

**PAPERS**

The following papers were laid on the table:

By the President—

Members of Legislative Council Travel Expenditure, 2010-11  
Register of Members' Interests, June 2011—Registrar's Statement  
Ordered—That the Statement be printed (Paper No. 134B)

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

Reports—

Government Boards and Committees Information—Listing of Boards and Committees by Portfolio, 30 June 2011  
Preventative Detention Orders, 2010-11  
Report on the Adelaide Metro Bus Service Contacts—Report to Parliament  
Regulations under the following Acts—  
Births, Deaths and Marriages Registration Act 1996—General  
Community Titles Act 1996—General  
Criminal Law Consolidation Act 1935—  
General—Emergency Workers  
Medical Termination of Pregnancy

Development Act 1993—Open Space Contribution Scheme 2011  
Expiation of Offences Act 1996—General  
Public Corporations Act 1993—  
    Education Adelaide  
    Playford Centre  
Recreation Grounds (Regulations) Act 1931—General 2011  
Road Traffic Act 1961—  
    Miscellaneous—Emergency Workers  
    Miscellaneous—Road Trains—Expiation Fees  
Security and Investigation Agents Act 1995—General  
Subordinate Legislation Act 1978—Postponement of Expiry 2011  
Succession Duties Act 1929—General  
Trustee Act 1936—General  
Approval to Remove Track Infrastructure pursuant to Non-Metropolitan Railways Transfer Act 1997  
Declarations pursuant to Section 74B(9) of the Summary Offences Act 1953—1 April 2011 to 30 June 2011  
Flinders Ranges Council—Heritage Development Plan Amendment for Interim Operation  
Naracoorte Lucindale Council—Heritage Development Plan Amendment for Interim Operation  
Peterborough Council—Heritage Development Plan Amendment for Interim Operation  
Wakefield Regional Council—Heritage Development Plan Amendment for Interim Operation

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

Regulations under the following Acts—  
    Building Work Contractors Act 1995—General  
    Fair Trading Act 1987—Pre-paid Funerals Code of Practice  
    Liquor Licensing Act 1997—Dry Areas—Long Term—  
        Aberfoyle Park  
        Ardrossan  
        Barmera  
        Loxton  
        Port Elliot  
    Travel Agents Act 1986—General

By the Minister for Government Enterprises (Hon. G.E. Gago)—

Codes of Practice under Acts—  
    State Lotteries—Code Alterations—  
        Advertising—Notice No. 1  
        Responsible Gambling—Notice No. 1

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

Codes of Practice under Acts—  
    Casino—Code Alterations—  
        Advertising—Notice No. 1  
        Responsible Gambling—Notice No. 1

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

Dental Board of South Australia—Report, 2009-10  
Report of actions taken by SA Health following the Coronial Inquiry into the death of Mrs Maureen Watkins  
Regulations under the following Acts—  
    Explosives Act 1936—General  
    National Parks and Wildlife Act 1972—Hunting—General  
    Sewerage Act 1929—General  
    Waterworks Act 1932—General

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

- Corporation By-laws—  
 Adelaide Hills—  
   No. 1—Permits and Penalties  
   No. 2—Moveable Signs  
   No. 3—Local Government Land  
   No. 4—Roads  
   No. 5—Dogs  
   No. 6—Cats  
   No. 7—Bird Scarers  
 Burnside—  
   No. 1—Permits and Penalties  
   No. 2—Moveable Signs  
   No. 3—Local Government Land  
   No. 4—Roads  
   No. 5—Dogs  
   No. 6—Waste Management  
 District Council By-laws—  
 Mallala—  
   No. 1—Permits and Penalties  
   No. 3—Roads  
   No. 5—Moveable Signs  
 Mount Gambier—  
   No. 6—Taxi Regulations

#### LEGISLATIVE REVIEW 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) (14:37):** By leave, I move:

That the Hon. Gerry Kandelaars be substituted in place of the Hon. Paul Holloway (resigned) on the Legislative Review Committee.

Motion carried.

#### NATURAL RESOURCES 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) (14:37):** By leave, I move:

That the Hon. Gerry Kandelaars be substituted in place of the Hon. Paul Holloway (resigned) on the Natural Resources Committee.

Motion carried.

#### SELECT COMMITTEE ON DEPARTMENT OF CORRECTIONAL SERVICES

**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) (14:38):** By leave, I move:

That the Hon. Gerry Kandelaars be substituted in place of the Hon. Paul Holloway (resigned) on the Select Committee on Department of Correctional Services.

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) (14:38):** By leave, I move:

That the Hon. Gerry Kandelaars be substituted in place of the Hon. Paul Holloway (resigned) on the Select Committee on Harvesting Rights in ForestrySA Plantation Estates.

Motion carried.

**SELECT COMMITTEE ON MARINE PARKS IN SOUTH AUSTRALIA**

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:39):** By leave, I move:

That the Hon. John Gazzola be substituted in place of the Hon. Paul Holloway (resigned) on the Select Committee on Marine Parks in South Australia.

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) (14:39):** By leave, I move:

That the Hon. Gerry Kandelaars be substituted in place of the Hon. Paul Holloway (resigned) on the Budget and Finance Committee.

Motion carried.

**QUESTION TIME****POLICE HEADQUARTERS**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:41):** I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about working conditions at the new police headquarters.

Leave granted.

**The Hon. D.W. RIDGWAY:** SAPOL is now moving into its new police headquarters at 100 Angas Street. The soon-to-be removed Premier Mike Rann announced in March 2009 that the government would lease the building and taxpayers would fund the \$38 million fit-out. The government called the building 'state-of-the-art to ensure it meets the needs of the South Australian police'.

Both the Premier and the police minister boasted about the \$100 million building's five-star energy rating. They said, 'We make no apology for providing up-to-the-minute facilities for our dedicated police.' In fact, the government further claimed that the Department for Transport, Energy and Infrastructure had worked on the fit-out. Given that his portfolio of industrial relations means representing the interests of public sector employees, my questions to the minister are:

1. Does he acknowledge that the police and of course the civilians who work with the police who attend crime scenes including murders, house break-ins, road deaths and suicides should have access to hot showers at work after their shift?
2. Does he acknowledge that access to hot water at the handbasins in the work environment is a matter of employee conditions as well as a health issue?
3. Has he been informed that this \$100 million energy-efficient building does not have hot water at all handbasins and showers?
4. Does he believe that this multimillion dollar building should be able to deliver that hot water where and when it is needed?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:43):** I would like to thank the member for his very important question. These issues were aired on TV a few nights ago. I will be looking for a report into this and I will be discussing it with the Minister for Police, so I will take the question on notice and get back to you.

**LIQUOR LICENSING**

**The Hon. J.M.A. LENSINK (14:43):** My question is to the Minister for Consumer Affairs. Does the minister support a proposal from the Australian Association of Convenience Stores to the Productivity Commission to sell alcohol at its premises?

**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) (14:43):** I believe that the honourable member is referring to a submission that has gone to the Productivity Commission submitted by a group that

represents convenience stores which includes service stations, the 7-Eleven's and suchlike, plus a range of other retail outlets.

I have had a look at the submission very briefly. The submission does not go into a great deal of detail around the issues of concern around liquor licensing, and it is a very curious submission given that here in South Australia retail outlets are already able to apply for a liquor licence and if they meet certain conditions—and part of that may be a public need test and a public interest test—then they are able to achieve a liquor licence.

In terms of how long they can trade for, they have access to that. There are standard trading hours that come with a liquor licence, depending on the type of venue, and if venues seek to extend that then there is the ability to make an application for a licence extension, right up to 24 hours, as we well know, not that there are many of those.

I am not too sure exactly what the issues are. As I said, their application does not go into any detail of the issues that they see as being barriers to the current provisions, given that, as I said, here in South Australia liquor retail outlets already have access to the provision of being able to apply for a liquor licence. So long as they pass all of the tests and the standards that have been put in place they can be granted a licence. That is my understanding, anyway.

### LOCAL GOVERNMENT CODE OF CONDUCT

**The Hon. S.G. WADE (14:46):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to codes of conduct.

Leave granted.

**The Hon. S.G. WADE:** Former deputy mayor of Tea Tree Gully council, councillor Lucas Jones, was elected to council on an election campaign bankrolled by the Shop Distributive and Allied Employees Association. Councillor Jones has recently been found to be in breach of the City of Tea Tree Gully's code of conduct for the third time.

The councillor was stood down from the deputy mayor position after he was found guilty of breaching the code of conduct in April 2011. He was stood down from all council committees from July to October of 2011 following the outcome of a second investigation. Councillor Jones still claims that he has done nothing wrong.

The Tea Tree Gully council resolved on an action plan for councillor Jones that included a personal development program, costing up to \$10,000, and has repeatedly instructed councillor Jones to formally apologise for his actions. In addition, the council has continually asked councillor Jones to contribute \$1,000 towards the cost of the investigations of the Local Government Governance Panel, funded by ratepayers.

In April 2011, the Local Government Association general meeting supported calls from the Tea Tree Gully council for a review of section 63 of the Local Government Act, to provide councils with greater information and clarity regarding the content of required codes of conduct and granting greater powers and legislation to investigate and sanction elected members who breach the code of conduct. My questions to the minister are:

1. Does the minister think that local government codes of conduct are adequate, given that a member of a council can repeatedly breach the codes but retain their position on council?

2. Has the minister undertaken a review of section 63 of the Local Government Act, as requested by the Local Government Association?

3. Does the minister consider that councillor Jones's behaviour is befitting an SDA-endorsed candidate?

**The PRESIDENT:** The question asked the minister for an opinion on a couple of occasions. The minister does not have to respond to that part of the question, if he does not wish to. The honourable minister.

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:48):** Thank you, Mr President. I understand that Tea Tree Gully council member, councillor Lucas Jones, has recently been found to have breached the council's code of conduct for the third time. I understand that the Tea Tree Gully council has referred four complaints of breaches of code of conduct by councillor Jones to the Local Government Governance Panel.

The panel has, as I understand it, investigated three complaints and provided reports to the council. The fourth matter was not proceeded with by the panel and was referred back to the council. The council has considered the reports from the governance panel and has resolved on an action in each case.

This has involved directing councillor Jones to apologise to relevant people, to undertake a personal development program and training and to remove him from council committees for a specified time. The council has also requested councillor Jones to compensate the council for a portion of the cost of the investigations and the personal development program. Councillor Jones was removed from his position as deputy mayor in April 2011 by resolution of council.

As I have previously advised the council, it is a priority of mine, and I have had quite a significant number of discussions with the Local Government Association, because I do not believe that the code of conduct, as currently exists, provides adequate provisions to prevent what you would say is bad behaviour by councillors.

It is my intention, with the Local Government Association, to release a discussion paper in the near future looking at various mechanisms and tools to provide to local government to be able to handle issues in the council from a very early stage, instead of letting them develop into major issues. I look forward to working with the Local Government Association; it has been very keen to work with me to handle this issue.

### RIVERLAND SUSTAINABLE FUTURES FUND

**The Hon. CARMEL ZOLLO (14:50):** I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Riverland.

Leave granted.

**The Hon. CARMEL ZOLLO:** The minister has previously told the chamber about the importance of local solutions to regional development. I expect this is of particular importance in an area such as the Riverland where economic activity has historically been centred around viticulture, horticulture and agriculture and based on the strengths of the region, its climate and its position straddling the mighty River Murray. The ingenuity and strength of people in the regions is legendary—an example to us all. Can the minister inform the chamber about her recent visit to the area and of recent developments in relation to the Riverland Sustainable Futures Fund?

**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) (14:51):** I thank the honourable member for her very timely question. I have recently visited the Riverland to have a look at a range of projects which have put forward applications to the \$20 million Riverland Sustainable Futures Fund. I have visited there, as you know, Mr President, on a number of occasions in my other capacity but also as Minister for Regional Development. I have to say that each time I go I learn more about this wonderful place. It is looking particularly beautiful at the moment. The river, in particular, is just glorious at the moment. With the long weekend coming up, I encourage anyone who might want to hire a houseboat to spend their long weekend along the Murray. I would encourage them to do so; it is particularly beautiful at the moment.

Members will recall that the aim of that investment in one of our iconic areas is to help leverage investment in the region and facilitate projects that improve infrastructure, support industry attraction and also help grow existing businesses. The fund's focus is on ensuring that the key enablers of the economy are in place to build on the existing strengths of the region and improve its competitive advantages. It is expected that over time this initiative will deliver structural change, population growth and enhanced employment outcomes for the Riverland to fund projects that make a major and sustainable impact on the region.

I was pleased to be able to visit the Airport Road nursery of Plummers Nurseries (Plumco Pty Ltd) to hear directly about their plans to upgrade facilities. This \$1.1 million project which is expected to be staged over three years, beginning this year and scheduled for completion in mid-2014, has been supported by a \$438,000 grant from the Sustainable Futures Fund. This is a well-established Riverland business, which has been operating since 1979 as a wholesale nursery, growing vegetables and supplying locally grown seedlings to growers and retailers. It is a family run, family owned business.

I understand the new permanent and semipermanent buildings and propagation machinery and equipment will enable Plummers Nurseries to produce a large variety of plants. Also, local

production of small seedlings in trays means that the nursery will no longer have to import this type of stock from Victoria and Queensland, obviously providing an economic benefit to the region and making this particular part of the industry more self-reliant. I also understand that producing seedlings in the Riverland means that exports to other states will also be increased which, as we know, is a good thing.

I was also pleased to be able to visit Biological Services Pty Ltd in Loxton. This is a company producing biological control agents for agriculture and horticulture. Biological control agents, as the name suggests, use naturally occurring enemies of plant pest species to fight the bugs and diseases which afflict some of our very valuable crops. The \$245,000 Riverland Sustainable Futures Fund grant awarded to Biological Services is to help to develop technology systems for mass production, packaging, freighting and distribution of their selected biocontrol agents.

This Riverland company has been producing biocontrol agents for the citrus industry since 1976, so it is a well established organisation and has worked to supply the broader horticulture and greenhouse industries. I understand controlling pests such as thrips and whiteflies, etc., that infest really important horticultural crops such as strawberries, capsicum, eggplants, tomatoes, etc. The \$490,000 project is expected to be completed in December 2012.

Whilst visiting the region I also caught up with the Murraylands Riverland RDA, which obviously helps bring these proposals together. It is the organisation on the ground in the Riverland that helps potential applicants access the futures funds. I was pleased to get an update from them about their work in progress, and I am sure the very dedicated staff of the RDA will ensure that I will be seeing further future exciting projects.

#### KANGAROO ISLAND

**The Hon. J.M. GAZZOLA (14:56):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question.

Leave granted.

**The Hon. J.M. GAZZOLA:** I understand the minister recently attended a community cabinet on Kangaroo Island on 24 and 25 July. Kangaroo Island is an outstanding asset to this state and has developed a well-earned reputation for its quality local produce and as a unique tourist destination. Will the minister update the chamber on the outcome of this important meeting?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:57):** In late July I was fortunate to attend the government's 55<sup>th</sup> community cabinet meeting on Kangaroo Island. With its unique natural heritage and pristine environment, Kangaroo Island is an outstanding asset to South Australia and an internationally recognised premium tourist destination. I was pleased to be able to attend the morning tea in the township of Parndana to recognise and acknowledge the work of local volunteers across a range of fields. I was also fortunate to meet with Kangaroo Island mayor, Ms Jayne Bates, and acting chief executive officer, Mr Andrew Boardman, to discuss some of the local issues and specific challenges they face on the island.

With the growing tourism sector creating significant economic benefits, they also give rise to new and diverse challenges in the region. There is nothing like meeting people face to face to gain a personal understanding of the issues that our councils face across the state. I saw firsthand the island's unique resource recovery centre, where all waste received by Kangaroo Island Council is processed for recycling or disposal. The centre is the hub of waste management on Kangaroo Island. Waste and other materials arriving at the site are sorted into various categories and either prepared for recycling, stockpiled, transported to the mainland or sent to landfill. The centre fulfils its environmental obligations, while also providing a drop and swap recycling facility for household items.

I was also shown firsthand examples of a rural property addressing system that was recently implemented as a joint state/local government initiative. The aim is to provide all occupied rural properties in South Australia with a nationally consistent numbered address. As members would be aware, many properties in our rural and regional areas are located on unmarked roads, which means a property owner must rely on local knowledge and reference points when contacting emergency services personnel. Descriptions of property location can be confusing and lead to time loss and frustration. It is intended that rural property addressing will end the confusion and the ambiguity.

In a staged rollout until 2011 around 55,000 occupied properties in rural South Australia are to be issued with an address and information on roadside signage. Districts with higher emergency service risks and preparedness to proceed were targeted for early rollout.

Members would be aware that in November this year Vivonne Bay will play host to the KI Surf Musical Festival. Last year the commonwealth government invested more than \$2.6 million to upgrade vital infrastructure at Kangaroo Island camping reserves. New facilities such as toilets, powered caravan sites and barbeque areas have recently been installed at Vivonne Bay camping site. The festival, which is the first of its kind on the island, is expected to attract around 3,000 people.

While the council and organisers certainly face a busy time coordinating and preparing for the festival, the benefits of this event to the local economy, as well as the increased profile of Kangaroo Island as a tourist destination to intrastate and interstate travellers, will certainly make the hard work worthwhile.

### BURNSIDE COUNCIL

**The Hon. A. BRESSINGTON (15:00):** I seek leave to make a brief explanation before asking the minister representing the Minister for Police questions about the provision and investigation of the MacPherson report.

Leave granted.

**The Hon. A. BRESSINGTON:** Mr President, as you would well remember, prior to the winter break much of this parliament's time, and in particular the Legislative Council's time, was dedicated to pressuring the Minister for State/Local Government Relations to refer the draft report by Mr MacPherson into the Burnside council to the Anti-Corruption Branch of the police for investigation.

The minister, determined to bury the report, held out for weeks, and it was only when the Commissioner of Police stated in a letter to me made public that he too was pressuring the minister to refer to the report to the Anti-Corruption Branch, that he relented, with the report being sent sometime in the last sitting week. The minister, as usual, was not exactly sure of the detail as to when.

In the following week the police commissioner did a radio interview on ABC 891 in which he confirmed that he had received the report, that it had been provided to the Anti-Corruption Branch, but that no investigation had been commenced due to uncertainty surrounding the suppression order. In the five weeks that have followed, the question of whether the Anti-Corruption Branch could look at the report and if so whether an investigation has commenced has been left unanswered. This ties in with the other unanswered question I previously directed to the Commissioner of Police concerning the limitations that were supposedly placed upon him by Mr MacPherson when he was provided an excerpt of the draft report in accordance with natural justice.

I questioned the commissioner as to whether he sought to be released from the restrictive conditions and, if so, what action he did take on the report and its findings. Unlike the commissioner's earlier letter, his response this time was less than helpful, stating in part, 'I am not prepared to make any further comment at this time.' My questions to the Minister for Police are:

1. How many pages is the report that was provided to the police commissioner by the Minister for State/Local Government Relations?
2. Is the report provided by the minister watermarked, and if so what does it read?
3. Was associated evidentiary material also provided by the Minister for State/Local Government Relations to the police as requested by the Commissioner of Police?
4. Has legal advice been received by the police commissioner concerning the ability of the Anti-Corruption Branch to investigate the alleged criminal acts in the report and, if so, has such an investigation commenced?
5. Did the Commissioner of Police seek to release himself from the confidentiality of the provisional draft report? If so, what action did he take on the report and its findings?

**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) (15:02):** I thank the honourable member for



her questions. I will refer them to the Minister for Police in another place and bring back a response.

#### **PETERBOROUGH COUNCIL DISASTER FUND**

**The Hon. J.S. LEE (15:02):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Local Government Disaster Fund for the Peterborough council.

Leave granted.

**The Hon. J.S. LEE:** As reported on ABC radio yesterday, Peterborough council CEO Mr Terry Barnes raised serious concerns about the long delay in the funding approval and the lack of support from the state government. Mr Barnes reported to ABC radio that the patience of the Peterborough council is wearing thin over the nine-month delay in approving their \$3.1 million claim to repair 80 per cent of the council's road network, which was extensively damaged in last summer's floods. Mr Barnes was told last Friday that the committee has approved their claim and made a recommendation to Treasury. My questions to the minister are:

1. Has the Minister for State/Local Government Relations consulted with the department of treasury about the council's claim?
2. Does the minister believe that the nine-month delay in approving the Local Government Disaster Fund for the Peterborough council is an efficient way to restore the damage of natural disaster affecting the regional community?
3. What assurance can the minister provide to Peterborough council residents and other councils affected by floods that they will get the much-needed funds to fix up the affected areas?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:04):** I thank the member for her very important questions. I heard the radio interview yesterday with the mayor of Peterborough council. I was in Peterborough only a couple of weeks ago with the Local Government Grants Commission giving out local grants. I actually spoke to the Mayor of Peterborough, who at no stage raised the issue with me regarding the disaster fund.

Secondly, the member was talking about a nine-month delay. Let me just make it clear: we got an application from the Peterborough council on about 8 June. When you consider the process we have to go through to allocate money and have an engineer go out there and assess the damage—some councils have good records, which makes it easy; some do not, which makes it more difficult—I say the fact that the Local Government Disaster Fund committee has the Local Government Association CEO on that committee, who would be very versed with what is going on and would have been—

**The Hon. J.S.L. Dawkins:** Who is it?

**The Hon. R.P. WORTLEY:** Who is the CEO? Okay, we will play the games.

*Members interjecting:*

**The Hon. R.P. WORTLEY:** Is this an important issue or not? I'm giving an answer.

*Members interjecting:*

**The Hon. R.P. WORTLEY:** No, I won't even give credibility to your question. I will just make it clear right now that there is not a nine-month delay. We got the application in June; it has been assessed by the Grants Commission. We have had an engineer go out there to assess the damage and a decision will be made very shortly. I will say this about the disaster fund: it has come to my attention, in the 12 or 13 weeks that I have been minister, that there has to be a way of replenishing that fund. This disaster fund has about \$40 million in it, and it is replenished through interest. I have had discussions with the Local Government Association, with Wendy Campana—

**The Hon. T.J. Stephens:** Well done for remembering!

**The Hon. R.P. WORTLEY:** We have agreed to sit down and talk about the future of the disaster fund because there are a number of options and issues that we need to talk about, but there has been no delay. There is a very arduous process to go through and, with accountability, we have an obligation to go through a process. As I said, we only got the application on around 8 June, so there has not been a nine-month delay; it has actually been quite short.

## PROFESSIONAL DEVELOPMENT RESEARCH SCHOLARSHIPS

**The Hon. CARMEL ZOLLO (15:07):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about professional development research scholarships for women in science.

Leave granted.

**The Hon. CARMEL ZOLLO:** As members would be aware, during the last election campaign the state government committed to the development of a promotional campaign to encourage women to access training and employment in high-demand, non-traditional industries such as mining, defence and construction. Can the minister inform the chamber of recent initiatives to encourage women in another male-dominated field—the sciences?

**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) (15:07):** I thank the honourable member for her important question. The member is quite right, I have indeed spoken before in this place about the women at work initiative which sees the Office for Women working with the Department of Further Education, Employment, Science and Technology, and the Department of Education and Children's Services on this important campaign.

A working group comprising members of these agencies meets on a regular basis to progress the women at work initiative. I am delighted that the Office for Women has also been liaising with various organisations that work in these industries. To date, productive discussions have occurred with all three Adelaide universities, the Resources and Engineering Skills Alliance, Defence Teaming Centre, the Royal Institute of Australia, Engineers Australia and Young Scientists of Australia, just to name a few.

The Office for Women recently supported the Science and Information Economy Directorate in the Department of Further Education, Employment, Science and Technology (DFEEST) to develop and host a women in science symposium. This symposium was held at the Royal Institute of Australia (on their premises) on 22 August, and was opened by the Minister for Science and Information Economy (Hon. Jay Weatherill).

I am advised that a panel of four extraordinary women discussed their experiences of working in this field, barriers to women's participation and engaging young women in science, technology, engineering and maths (STEM). The panel members included professors from all three South Australian universities, as well as female scientists working in the industry. The symposium also included an audience discussion on the broader economic workforce issues for the state, with a strong emphasis on women's participation being part of the solution.

Another highlight of the symposium was the acknowledgment of six of our best women scientists, each of whom was awarded a South Australian government professional development research scholarship. The \$15,000 scholarships were open to outstanding early to mid-career female science, technology, engineering and mathematics researchers and are aimed at building women's research reputations through exposure to the international research community.

The winners were: Dr Ying Zhang from the University of Adelaide for research into reducing the adverse effects of heatwaves; Dr Claire Jessup from the University of Adelaide for research into improving the outcomes of islet cell transplantation in diabetes; Dr Rachel Gibson from the University of Adelaide for research into mitigating chemotherapy side effects in the gut; Associate Professor Linda Davis from the University of South Australia for defence radar and communications research; Associate Professor Catherine Abbott from Flinders University for research into the molecular basis of chronic disease; and Professor Bronwyn Gillanders from the University of Adelaide for marine ecology and sustainable fisheries research.

I congratulate all these really outstanding women, and I know everyone here today in this chamber will join me in doing so. I am sure these women will make a significant contribution to the community through their research and act as an inspiration to young women, in particular, who may be contemplating a career in non-traditional industries.

I would also like to briefly mention the government's Science, Technology, Engineering and Maths Skills strategy, referred to as the STEM strategy, which is the responsibility of minister Weatherill as minister for science. A task force of key government staff has been established to progress STEM work and I believe that there should be many future opportunities to allow women to take up training and work in these important areas.

## SUPER SCHOOLS

**The Hon. T.A. FRANKS (15:11):** I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Education, a question about PPP management of the super schools.

Leave granted.

**The Hon. T.A. FRANKS:** As members are aware, six super schools have now been built across the metropolitan area as part of the new schools project. That involved 20 schools and preschools combining to form six new super schools. They are built under a public-private partnership (PPP) agreement and this was established ostensibly to finance, design, construct and operate non-curriculum (most importantly there) and maintain the six new schools. This has probably been great for design, build and maintenance but it is proving to be not such a smart approach for day-to-day teaching and also for community engagement.

My office has been informed that, in some of the new super schools, the PPP arrangements are restricting our public schoolteachers' ability to be interactive and, indeed, cleaning requirements seem to be coming before curriculum demands. In one case, students are required to remove their shoes and wear only socks on carpeted areas. In another, teachers are not able to put students' work or posters or teaching materials on walls, ceilings or any other part of the room not designated as the official noticeboard. Another concern raised was that, without express permission from the PPP business manager or appropriate person, teachers and students may not, in fact, rearrange furniture. So gone are the days of sitting outside to read or hold a lesson enjoying a fine spring day perhaps or being able to move to another class to work in conjunction with it without going through bureaucracy.

Those who read *Indaily* will also be aware that a local Scout group who used the Enfield High School gym for some six years for badminton have been locked out due to 'security reasons'. Even though at that school (the Roma Mitchell Secondary College) the school principal was very keen to give access to that group, she was powerless because it was not agreed to by the school business manager. My questions are:

1. What work has the minister or his department undertaken to ensure that the commercial management of a public learning space does not restrict teachers and/or students from maximising that space for education?
2. What measures will the government take to ensure that community groups, especially those that serve local youth, are able to continue to use the super schools or use the super schools in future?
3. Where a school principal and an assigned business manager are in dispute, how will that dispute be resolved?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:14):** I thank the member for that very important question, and I will take it on notice and refer it to my colleague in the lower house.

## PLANNING AND LOCAL GOVERNMENT DEPARTMENT

**The Hon. J.S.L. DAWKINS (15:14):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about resourcing of the Department of Planning and Local Government.

Leave granted.

**The Hon. J.S.L. DAWKINS:** Over a period of many months, councils across regional South Australia have raised with me concerns about the delays being experienced in the processing of statements of intent and development plan amendments by the Department of Planning and Local Government (DPLG). I understand that a serious backlog of statements of intent and DPAs to be processed by DPLG remains and that there appears to be no priority for the processing of DPAs from areas outside the 30-Year Plan for Greater Adelaide. A number of regional local government associations have made their frustrations about these delays well known to the government by way of correspondence to the Premier and ministers and to officers through their regular regional meetings. My questions are:

1. As a former local government elected member, is the minister aware of the difficulties experienced by many councils as a result of delays in the processing of DPAs?

2. What action will the minister take in support of these councils and the regional LGAs which represent them?

3. Will he ensure that the DPLG has the resources it needs to clear this backlog?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:16):** I would like to thank the honourable member for his important questions. First of all, I do not have any control of the finances of the department of planning.

**The Hon. J.S.L. Dawkins:** No, it is planning and local government.

**The Hon. R.P. WORTLEY:** I am not the planning minister.

**The Hon. J.S.L. Dawkins:** No, but you are the local government minister.

**The Hon. R.P. WORTLEY:** Okay, but I am the—

*Members interjecting:*

**The PRESIDENT:** Order!

*Members interjecting:*

**The PRESIDENT:** Order!

*Members interjecting:*

**The Hon. R.P. WORTLEY:** Mr President, the question was directed to me. I have had discussions with many councillors and I have made it quite clear that, if there are any issues that I can help them with, I would only be too pleased for them to call me and I will try to assist in any way I can. It is a question, to a partial extent, to the minister for planning (Hon. Mr Rau) from another place, so I will refer the question to the planning minister.

#### SAFE WORK WEEK

**The Hon. J.M. GAZZOLA (15:17):** My question is to the Minister for Industrial Relations. Minister, will you update the council on preparations for the upcoming Safe Work Week?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:17):** I would like to thank the member for his very important question. Safe Work Week in South Australia is South Australia's leading annual awareness event for occupational health, safety and welfare. It allows SafeWork SA to provide information and promote safe work practices to help reduce work-related death, injury and disease across Australia.

Since 2005, Safe Work Week and the Safe Work Awards have been a part of the national Safe Work Australia Week program coordinated by Safe Work Australia. The local Safe Work Week is presented by the Safe Work SA advisory committee in partnership with SA Unions, Business SA, WorkCover SA and the government through SafeWork SA. It features a series of relevant high-quality information sessions, together with an awards and scholarship program.

In addition to Safe Work Week in the metropolitan area, SafeWork SA has been working in partnership with regional business communities to deliver information sessions throughout the year to maximise the total outcome of the Safe Work Week. Already this year, SafeWork SA has presented to more than 1,500 people in regional locations in the lead-up to Safe Work Week. SafeWork SA will also offer on-site information sessions in the metropolitan and outer metropolitan areas from 26 September to 21 October as part of the lead-up to the Safe Work Week. These sessions are free and available to businesses with more than 20 employees and they can nominate a safety topic of their choice.

The official program of Safe Work Week 2011 is now live on the SafeWork SA website, with the key stakeholder groups participating and being invited to spread the word. The program features topical information relating to overarching themes of work health and safety harmonisation and risk management. The majority of metropolitan sessions will again be held at the Education Development Centre at Hindmarsh which proved to be a convenient venue for session attendees in 2010.

The program will offer a week of free sessions in the metropolitan area beginning Monday 24 October 2011 and concluding with the Safe Work Awards on Friday 28 October 2011. In the past, sessions on risk management, plant safety, workplace bullying and a mock trial based on a health and safety issue have proven very popular. This year's highlights include a mock

occupational health and safety dispute, a mock industrial court trial, various sessions on the changing work health and safety laws and a workshop for managing teams in trouble.

SafeWork SA also introduced a further initiative to last year's Safe Work Week: Take 10@10. This year small business in particular can again take advantage of the Take 10@10 safety training materials to run their own in-house safety awareness sessions. This was a standout success last year with over 500 companies using this initiative. The Take 10@10 presentations took wideranging safety messages and advice to an estimated audience of up to 165,000 employees.

This year two new topics have been included in the Take 10@10 training packages, meaning organisations can register and receive a pack of 12 interactive 10-minute safety presentations ready to be delivered by and at the work site at a convenient time to all. The topics covered by this initiative include basic occ health and safety responsibilities, bullying, drugs and alcohol, forklifts, hazard identification and risk management, healthy workplaces, infection control, manual handling, new and young workers, occupational stress, slips, trips and falls, and working hours.

This important online resource will allow SafeWork SA to track the most popular training material in order to better guide development of the program in future years. As mentioned Safe Work Week concludes with the presentation of the Safe Work Awards on Friday 28 October. The awards highlight and reward excellence in occupational health, safety and welfare in South Australia and recognise our workplace safety champions for their achievements and innovation. This year, we saw a record 80 nominations for this year's awards, an outstanding validation of the status as a pinnacle of achievement in workplace safety.

The South Australian winners are automatically nominated for the national Safe Work Australia Awards the following April. In previous years many South Australian winners have gone on to win national awards in their category, and I wish this year's state champions all the best to continue this fine tradition.

I would encourage employers, employees and health and safety representatives from a range of organisations to register for these important free workshops on the SafeWork SA website, including the Take 10@10 training initiative. I would also encourage all members of the house to assist in whatever way they can in promoting this event. Safe Work Week 2011 presents a great opportunity for the community to get involved and help make South Australian workplaces safer.

#### **DOG MANAGEMENT**

**The Hon. R.L. BROKENSHIRE (15:22):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question regarding pit bulls.

Leave granted.

**The Hon. R.L. BROKENSHIRE:** There was a tragic case of a death in Victoria of a young girl mauled by a pit bull dog. Responsibility for investigating and enforcing dog management laws falls to councils. I acknowledge that some passionate dog owners are responsible—most of them—but there are some who are not. Anecdotally, nationwide a huge number of pit bull and similar dangerous dogs are not registered.

My question is: can the minister inform the house of the extent to which local government is on top of this issue and whether it has sought or is seeking government help on this issue in order to prevent a sad tragedy like the one recently reported in Victoria?

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:23):** I do agree that the event with the pit bull was a tragic event. I will take the question on notice and get a response as early as I can.

#### **BACKPACKERS**

**The Hon. T.J. STEPHENS (15:24):** I seek leave to make a brief explanation before asking the Minister for Regional Development, representing the Minister for Tourism, questions about the drop in backpacker visitors to South Australia.

Leave granted.

**The Hon. T.J. STEPHENS:** Figures released last week by Tourism Research Australia show that the number of backpackers visiting this state has dropped by 11,000 in the past 12 months and 15,000 annually since 2007. This dramatic fall corresponds with a 4,000 person

increase in Tasmania and an 8,000 person increase in Western Australia. It is interesting to note that the total backpacker visitors to Australia has remained steady over the last 12 months and has increased by 27,000 annually since 2007, so, using the 2007 figure as a standard, this government has overseen a loss of approximately 40,000 potential visitors to this state and all the dollars that they would have spent.

I have consulted with numerous tourism operators, particularly those in the backpacker market, and they are of the belief that the reality is far worse than the official figures suggest and that the drop in backpackers could be as high as 20 per cent, both in terms of visitors and dollars. My questions to the minister are:

1. Does the minister recognise the seriousness of these figures?
2. What is the minister doing to better market the state to backpackers and young people, both in this country and abroad?
3. Will the minister concede that the government has failed in tourism marketing and is a long way from reaching its target of \$6.3 billion in visitor expenditure by 2014?

**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) (15:25):** I thank the honourable member for his important questions and will refer them to the Minister for Tourism in another place and bring back a response.

#### COSSEY REVIEW

**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) (15:26):** I table a copy of a ministerial statement relating to the Cossey review made earlier today in another place by my colleague the Hon. Jack Snelling.

#### QUESTION TIME

##### GOVERNMENT CONTACT CENTRE AWARDS

**The Hon. CARMEL ZOLLO (15:26):** I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about the national Government Contact Centre Awards.

Leave granted.

**The Hon. CARMEL ZOLLO:** Call centres can often be one of the only sources of contact a person may have with an organisation. The key to success is getting that information provision and timely contact right. Can the minister inform the chamber of Service SA's recent success at a national award for contact centres?

**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) (15:26):** I thank the honourable member for her important question. The Customer Contact Management Association (CCMA) Australia and Asia-Pacific provides a forum where customer contact centre industry organisations and individual professionals across all sectors can interact, having a common goal of contact service excellence.

The CCMA holds an annual awards night to recognise those outstanding performers in the contact centre industry. On Tuesday 30 August, the winners and honorary mentions were announced at the Government Contact Centre Summit Excellence Awards in Sydney. The winners were selected on their achievements, looking at a wide range of judging criteria that are quite complex, in categories such as innovation, outsourcing and customer relationship management.

I would like to take this opportunity to congratulate one of our very own stars in this year's awards. Service SA took out the award for most innovative project. As Minister for Government Enterprises, I am very proud of this wonderful achievement. I may be biased, but to be recognised on the national stage is a real tribute to all of the dedicated staff involved in the One Workforce Project, including those working in the customer service centres right across the state.

Through the One Workforce Project, Service SA has developed a flexible contact centre system that can be physically located anywhere in the state while still being managed centrally.

The technology allows monitoring and reporting on performance in real time, so we know exactly what is happening at the time, which enables Service SA to provide a more efficient and much higher quality service to customers. With real-time monitoring we can be far more responsive to service demands.

As I visit various places throughout South Australia, I often take the time to call into Service SA centres, and I have been able to see for myself just how flexible and valuable this service is. I also note how very busy these offices are. Tens of thousands of people come through these centres, and they process hundreds of thousands of transactions each year. Through the use of web-based technology, Service SA has been able to meet consumers' needs to provide some of the best customer service centres in the nation. This is achieved because they have a strong focus on providing an accurate and timely customer service, invest in people development and facilitate innovative training for staff.

The One Workforce Project cleverly addresses key drivers in delivering customer satisfaction and aligns their people, processes, systems and technology efficiently and effectively. This initiative has allowed Service SA to successfully expand services in regions and also remote locations. What makes this project extraordinary is the degree to which staff from all levels of the organisations have participated in the design and ongoing implementation of these initiatives. I cannot readily recall another government organisation courageous enough to engage staff in the codesign of their performance management system nor can I recall another organisation where the staff have become the leaders in the business improvement practices to such an extent.

In my capacity as Minister for Government Enterprises, I am never disappointed by the ingenious and very strong customer focus and approach at problem solving. As the state government's one-stop shop for government information, it is essential that their systems are accessible, user-friendly and consistent across South Australia.

Service SA is an excellent example of working smarter with less and, despite operating in an environment of tight fiscal restraint, customers and stakeholders are always at the very centre of their planning and implementation. The positive and productive impacts of Service SA's efforts are clearly evident in their outstanding and consistently high customer satisfaction ratings.

When I visit these centres, I like to go around and speak to staff when they are available and also I often just find myself sitting down in the customer service centre. I sit down in the seats where customers are waiting to be served and I chat with them and talk to them about their experience, talk to them about the sorts of improvements they might like to see. I do this reasonably regularly and I am always delighted at the direct feedback that I have received from the public when I move around those centres and engage with members of the public. Of course, I always enjoy meeting the staff firsthand as well.

I commend the hard work and the contributions of all the staff at Service SA from their chief executive right down. They have fabulous leadership at the top, their middle management is strong, right down to their front counter people across all the service centres—they are all to be congratulated because they have all contributed in one way or another in setting such a high benchmark for customer service.

#### EVIDENCE ACT REVIEW

**The Hon. K.L. VINCENT (15:34):** I seek leave to make an explanation before asking the minister representing the Attorney-General a question regarding the Evidence Act and people with severe disabilities.

Leave granted.

**The Hon. K.L. VINCENT:** In June of last year, public revelations by the Health and Community Complaints Commissioner, Leena Sudano, revealed significant concerns about limitations of the Evidence Act when hearing evidence in court from children and people with severe disabilities. Several cases have been brought to our attention which identified this barrier to justice in the current incarnation of this act.

In *The Advertiser* on 30 June this year the A-G pledged to release within two months new draft laws on part 34CA of the Evidence Act. In fact, in the same article he said he was hopeful of having a draft bill done within a month or so. Meanwhile, I have requested an urgent meeting with the Attorney-General on this matter without success. More than three months have passed and we are yet to see any draft amendments from the Attorney-General on the Evidence Act. Meanwhile,

my office continues to be contacted by several constituents who still hit this barrier to justice. My questions to the Attorney-General are:

1. Why will he not meet with me on this matter?
2. After identifying these limitations to the Evidence Act, why has he not produced a draft bill after 3½ months?
3. When will he release a draft bill on this critical issue?
4. Will he also implement better training for police on disability issues?

**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) (15:35):** I thank the honourable member for her most important questions and will refer them to the Attorney-General in another place and bring back a response. I can say that I have been advised and I believe that today amendments to the Evidence Act will be tabled in the House of Assembly. I understand that those amendments go to the issue of the hearsay evidence that can be provided, particularly by young children and some people with disabilities in relation to some sexual assault offences.

It seeks to clarify, if I recall, section 34. When the rape and sexual assault provisions in the act were reviewed, there was a section that the judiciary has said is not operating in the way they believe it was intended. The Attorney has looked into that and has consulted and put forward these amendments to ensure that that part of the act operates in the way the bill had initially intended. That will be very important because it will offer protection to some of our most vulnerable people, and my understanding of how it works is that statements made by very young children can be admissible in court as part of their evidence at a later date if it goes to the integrity of their evidence. Hopefully that will assist in ensuring greater protection of victims of these type of sexual offences and that we are able to pursue perpetrators in the way they deserve.

I understand the Attorney-General has also given significant consideration to evidence provided by those people with severe intellectual disabilities, and that is a matter I know he is deeply concerned about. My understanding—and the advice I have received—is that he has begun some preliminary work with that. I am advised that it involves some very highly complex legal matters that will need to be worked through very thoroughly and comprehensively with a high level of consultation and technical and legal advice.

I understand that that work is underway, but he was not able to have that part of the Evidence Act amended at this point in time. I believe it was his view that, rather than hold up these other important elements involving the hearsay evidence of young children and some people with disabilities, he wanted that to be put through parliament as soon as possible whilst work continued around these other important matters.

This is not, obviously, a portfolio area that I have responsibility for. I am just reporting on advice that I have been given. As I said, I will refer those most important questions to the Attorney and bring back a response.

#### **EVIDENCE ACT REVIEW**

**The Hon. K.L. VINCENT (15:40):** I have a supplementary question. If the bill has indeed been tabled today, and given the number of promises and the amount of talk that has been made about this particular bill in the media, why has it not been circulated and why has there been no pre-tabling consultation made?

**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) (15:41):** I understand that the amendments that have been made seek to restore the intent of the original bill, which did undergo a high degree of consultation and involvement. My understanding is also that the bill will be tabled today and that will give more than adequate time for people to consider it in detail. As I said, my understanding is that the current amendments that are to be tabled today are simply those that address the intention of the original bill.



## ANSWERS TO QUESTIONS

### MOBILITY SCOOTER SAFETY

In reply to the **Hon. J.M.A. LENSINK** (29 September 2010).

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling):** I am advised:

1. Currently, the sellers of mobility scooters are not required to provide any specific advice to consumers.
2. The Office of Consumer and Business Affairs (OCBA) provide a link on its website to the Australian Consumer and Competition Council (ACCC) Product Safety Australia website.
3. OCBA received four complaints relating to mobility scooters in 2009 and a further four have been received so far in 2010. None of the complaints received have arisen from government agencies.

Additional information—Mobility Scooters

In relation to Question 2

The Office of Consumer and Business Affairs provides a link on its website to the ACCC's Product Safety Australia website. OCBA have an agreement with the ACCC that they won't publish information that differs from the Product Safety Australia Website. The publication 'Help cut mobility scooter accidents' invites consumers to contact the ACCC if they have concerns about their mobility scooter.

The ACCC are coordinating a working party which is looking into mobility scooter safety. The ACCC recently published a report into mobility scooter injury data as a result of a commissioned study by the Monash University Accident Research Centre. The ACCC are now working in partnership with stakeholders, comprising industry, health and government agencies, to develop and implement strategies to minimise deaths and injuries related to mobility scooters. This will include the development of a safety standard for mobility scooters. Should such a safety standard be found necessary, it would assist in the regulation of the increasingly common mobility aid.

In relation to question 3

The majority of complaints received by OCBA related to problems such as the scooters not holding a battery charge, minor warranty repairs and change of mind purchases. OCBA advise that product safety issues relating to mobility scooters are referred to the ACCC.

### EDWARDSTOWN GROUNDWATER CONTAMINATION

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (24 February 2011).

**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):** I am advised:

1. I am advised that generally when selling a house a vendor is required to provide a document called a Form 1 to the purchaser of the property. Form 1 sets out certain matters that may affect that specific property.

When the vendor has hired a real estate agent, it is the agent's responsibility to ensure that all the inquiries necessary to prepare Form 1 have been made and to confirm the completeness and accuracy of the particulars contained in the Form 1.

In cases where the Form 1 has not been served, the Office of Consumer and business Affairs may investigate. If found to be inadequate or information has not been disclosed, this may be a breach of the *Land and Business Sale and Conveyancing Act, 1994*.

Contravention of Part 2 of the Act, which includes provisions about the preparation of Form 1, may result in a maximum penalty of \$10,000. Possible civil remedies may include the setting aside of the contract or awarding compensation to the purchaser.

2. The legal position is likely to depend on the facts of each particular case. However, I can generally advise that primary legal responsibility for site contamination lies with the owner of the land.

People who have bought a property which lies over contaminated water should seek legal advice on whether they have a cause for action against the person responsible for the source of the contamination or any other person.

The Environment Protection Authority's responsibilities in relation to site contamination are set out in the *Environment Protection Act 1993*.

The Authority holds certain information about site contamination which it makes public through its public register and through its responses to Form 1 inquiries in relation to properties for which it holds specified records.

3. The application of these principles will depend on the facts of each individual case and the actions of individual vendors and agents.

### EDWARDSTOWN GROUNDWATER CONTAMINATION

In reply to the **Hon. M. PARNELL** (24 February 2011).

**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):** The Minister for Environment and Conservation has been advised:

1. The Marion Council was advised by the Environment Protection Authority about groundwater contamination on the former Hills site at Edwardstown in 2009.

### WASTE LEVY

In reply to the **Hon. J.S. LEE** (10 March 2011).

**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):** The Minister for Environment and Conservation has been advised:

1. The Environment Protection Authority (EPA) is reviewing regulatory practices in South Australia and in other States to determine the best way to combat illegal dumping. This review, which will include consultation with key stakeholders, including the Local Government Association, will recommend strategies to deal with illegal dumping and will be finalised by the end of this year.

Zero Waste SA (ZWSA) implemented a knowledge based system in 2009 called the 'Zero Waste Environmental User System' (ZEUS) which helps to facilitate monitoring, analysis and reporting on waste management data.

ZEUS currently stores data on illegal dumping, household hazardous waste and farm chemicals, container deposit data, litter data, landfill data, grants and incentives.

Access to ZEUS is offered to all councils. As more councils use ZEUS to capture illegal dumping incidences, the Government may be able to better determine any impacts caused by an increase in the waste levy in relation to illegal dumping. The Government has also committed to a review of the waste levy, which will consider the potential risk of increased incidence of illegal dumping.

2. Waste levy revenue is used to fund a range of programs. Half of the revenue is automatically directed to the Waste to Resources Fund, which is a fund set up to focus solely on the Government's zero waste objectives and programs administered by ZWSA. Five percent of the revenue is also automatically directed to the Environment Protection Fund, which is a fund set up to support administration of the Environment Protection Act 1993.

There have been many valuable projects funded—for example, major metropolitan and regional infrastructure and incentives for councils to improve kerbside recycling systems.

The levy has also provided support for business and industry to reduce waste and introduce improved waste management practices, as well as having been directed at leading edge

school educational projects, litter reduction and free household collection services for hazardous waste including e-waste.

### MARINE PARKS

In reply to the **Hon. D.G.E. HOOD** (5 April 2011).

**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):** The Minister for Environment and Conservation has advised:

1. There is broad scientific consensus about the effectiveness of marine park sanctuary zones in fostering marine biodiversity conservation. The Government's marine parks program has been informed by the work of world's best practice local, national and international marine science.

2. No.

3. No. The resources required to undertake management activities will be identified and allocated once marine park management plans are finalised.

### HEALTH CARE FOR IMMIGRANTS

In reply to the **Hon. A. BRESSINGTON** (7 April 2011).

**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):** The Minister for Health has advised:

1. A patient is not identified within hospital data on the basis of type of visa held. For this reason, it is not possible to provide this information.

2. This is a matter for the Commonwealth Government, and I suggest the Honourable Member contact the Commonwealth Minister for Immigration and Citizenship about this matter.

3. The Private Health Insurance Ombudsman, on behalf of the Department of Immigration and Citizenship, undertook a consultation specifically on the development of minimum private health insurance requirements under subclass 457 visas in early 2009.

4. State and Territory Ministers wrote to the Commonwealth Minister for Health and Ageing in early 2011 asking that the Minister write to the Commonwealth Minister for Immigration and Citizenship on their behalf to seek a solution to this matter. The Commonwealth Minister for Health and Ageing has since written to the Minister for Immigration and Citizenship.

5. Information about debts to public hospitals incurred by non-Medicare eligible patients who are holding a temporary visa, without private health insurance, in South Australia is not routinely collected and held in any central data system.

### HOLLOWAY, HON. P.

**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) (15:41):** I move:

That this council notes the retirement of the Hon. Paul Holloway and his meritorious service to the parliament and this state as a minister of the Crown and as a long-serving member.

It is with great pleasure and also a sense of sadness that I rise to my feet today to speak to this motion. I believe that there are very few people who can leave this place knowing with absolute certainty that they have done great work, and also know with equal certainty that the benefits of that effort will grow into brilliant fruition for many years to come. Paul Holloway can leave here knowing that sense of certainty, because Paul has left behind a unique legacy which includes laying out the groundwork for South Australia's future prosperity.

Through the 30-Year Plan for Greater Adelaide he has given us a structure that outlines how South Australia's physical and social infrastructure will grow over the next three decades. Through his work on developing South Australia's mining industry, he has given us a stable economic foundation that will make these and many other dreams tangibly achievable.

It is a common and rather tiresome criticism of politicians that we only ever think in the short-term political cycle. Paul Holloway is a wonderful example of a masterful politician who is the exact opposite to that. Paul is and always has been a long-term thinker, a big picture thinker. The daily merry-go-rounds and the media circus that often pass for political life I believe have had very little impact on Paul. Instead, over 12 ministerial portfolios and 27 parliamentary committees, Paul has systematically and tirelessly worked to bring about an economy that will sustain this state and its people for many years into the future. He has understood both the broad sweep and the detail of how South Australia works, and has given deep thought to how our state can make the very best of the choices that we have before us.

By way of illustration of the consequences of Paul Holloway's work, by late last year South Australia had a record \$80 billion worth of projects underway, with almost half generated in the minerals and resources area. This success has been facilitated by the state government's Plan For Accelerating Exploration or PACE, which was very much a project of Paul's.

This program of well-targeted and comprehensive support for mineral exploration has helped fuel record levels of mineral exploration and has created a climate of certainty for long-term investors. In 2002 South Australia was home to four major operating mines; today there are 16 that are approved, with around 30 more in the development pipeline. Between 2002 and 2009 exploration in South Australia increased more than sevenfold. Paul Holloway has played an absolutely pivotal role in these stunning figures. The mining industry recognised this when, in 2008, he was named as an official Mining Legend—the only Australian politician ever to be accorded such an honour.

Paul's career in politics has taken a somewhat convoluted path. As a science graduate with a first-class honours degree in electrical engineering and an economics degree from the University of Adelaide, he has impressive technical qualifications. During his studies he won the Australian Society of Accountants Prize for Accountancy (1984)—it counts for a lot, really, about Paul, doesn't it?—the IBM Prize for Economic Statistics (1985), and the Economic Statistics Prize (1985). Paul held the House of Assembly seat of Mitchell from 1989 to 1993. In September 1995, Paul was chosen to fill a Legislative Council casual vacancy and was elected deputy opposition leader in the upper house in 1997. In 2002 he was elected leader of the government in the Legislative Council and appointed minister for agriculture, food and fisheries and minister for mineral resources development.

Paul has also since held portfolios of police and small business, and until recently he was the government upper house leader, minister for mineral resources development, minister for urban development, planning and the City of Adelaide, minister for industrial relations, and minister assisting the Premier in public sector management—he has had some very senior responsibilities. Principled, diligent, safe and wise, Paul has a reassuring and slightly old-fashioned way about him. He has often said he plays with a straight bat, and that old-fashioned air about him disguises a razor-sharp intellect and a very strong, iron-clad political nerve.

There are some things that we will probably never know about Paul, such as the mystery of his fondness for Johnny Cash, the enigmatic country singer otherwise known as The Man in Black. Paul will, no doubt, take with him a few enigmatic secrets of his own, such as how he was able to remain standing through the endless series of toasts at official banquets on overseas trips to strengthen relationships on behalf of the state's mining industries. Anybody else might have crumbled under the strain, but I understand Paul did a sterling job, and did us proud.

There is a deep streak of toughness there that is only occasionally revealed, and then there is his uncanny ability to anaesthetise overwrought journalists with his powerful grasp of policy detail: it is a brave journalist who takes on Paul Holloway. The willingness to get on top of tough assignments and see them through has been a hallmark of Paul's career.

As fisheries minister in 2002, Paul had the difficult and controversial task of withdrawing commercial fishing licences from the River Murray as part of the Lewis compact. In fact, so controversial was this process that it resulted in a censure motion directed at Paul, and I know Paul considers that particular censure motion a badge of honour to be polished and treasured because it represents a triumph over entrenched interests that all the evidence indicated needed to be changed, and history has shown that he took the correct stand on this matter.

As attorney-general in 2003, Mr Holloway took the Nemer decision to cabinet in a context that had ignited public passions and that, too, required a cool head and a very steady hand. As minister for urban development and planning he initiated the implementation of the planning and

development review, including the 30-Year Plan for Greater Adelaide, which exposed him to the brunt of harsh media questioning and, really, hate campaigns. These are but a few of the many examples of Paul's coolness under fire. His reputation was built on being a minister prepared to push through tough decisions because he believed that they were in the state's long-term best interests.

Paul has always been prepared to take on entrenched self-interest, despite the public and private flak that came with taking such principled stands. We shall miss him, his generosity of spirit and his wise counsel delivered in that trademark sideways fashion that we all know—more of a gentle, thoughtful musing (sometimes very mumbled, I have to say)—or slightly concealed pearls of wisdom were more his style rather than direct in-your-face advice.

I know that all sides of this council have benefited from his insights and his generosity of spirit. I feel that I can say on behalf of us all that he will, indeed, be missed. It says much about the man that he did not want me to say anything upon his departure on the last day of his parliamentary sitting. He would not let me do a motion then, so I am very pleased to have the opportunity to do it today.

We will miss all the qualities that I have outlined that made him such a successful politician but we will also miss him as a colleague and a friend. On behalf of everyone I thank Paul deeply for his brilliant contribution to this place and to this state. I hope he leaves us knowing how well he has earned our deep respect and our good wishes and I expect we will see and hear more of him in whatever path he follows in the next phase of his life.

**Honourable members:** Hear, hear!

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:52):** I rise to be one of several speakers from the opposition to second the motion and endorse the comments of the Leader of the Government. Like the Leader of the Government I was disappointed that, on the last day before the winter break, we did not get a chance to say farewell to Paul Holloway. Mr President, I heard you call an end to whatever the debate was and I raced down the stairs to see the Hon. Paul Holloway disappearing through that door and the session was adjourned. I was a little disappointed because I think it is always fitting at that time. However, I am delighted that the minister has moved this motion to enable us to have the opportunity to do so today.

The Hon. Paul Holloway was one of very few politicians who was lucky enough to get a second chance. He was the member for Mitchell and was a casualty of the big swing to the Liberal Party in 1993 but he was given a second chance by the Labor Party and came in here in 1995. It is fair to say, certainly from my perspective (being a country resident at the time and following state politics reasonably closely) I am sure he worked very diligently here, but he was certainly not somebody you saw in the media very often, especially in country areas. He may well have had a higher profile here in Adelaide but certainly not in country areas, and I did not really know much about the man before I was elected in 2002.

It is interesting to note that the Hon. Gail Gago brought up the issue of licences for river fishers and I think that is where I saw Paul Holloway. I take a different view from the Hon. Gail Gago. I think it was something that the Hon. Paul Holloway realised, as leader of the government and as part of the compact with Peter Lewis, that he had to deliver on, but I think he did feel uncomfortable that there were families in the gallery who were probably losing their livelihoods and I certainly think that he felt for those people. I remember that they were up in the gallery for some time, and I could sense that Paul was uncomfortable in doing something which his party had agreed to and which had to be done as part of the compact. I think he often did some of the, shall we say, dirty work for the government, with probably little reward from his team for that.

I always found him to be very fair and pretty cool most of the time. From an opposition point of view we could always tell when we had Paul agitated because he would button his jacket up, he would shift his glass around, he might adjust his pencils—

**The Hon. J.M.A. Lensink:** Put his finger up.

**The Hon. D.W. RIDGWAY:** —put his finger up and every now and again he would get a look on his face and from that we could tell we had finally got under his skin that day. It did not happen very often, but buttoning his jacket up on a hot day in the middle of November or in February was always a fair indication that we had got under his skin.

I think he has certainly discharged his duties, in whatever portfolio he has been responsible for, very diligently. From a media perspective, from an opposition point of view, we always try to

look at areas where we can find a weakness in the government. The Hon. Mr Holloway rarely, if ever, gave us an opportunity with a poor media performance. He was, I think, seen as a particularly safe pair of hands.

I would also like to pay tribute to his wife, Wendy, who I had the pleasure of seeing at a number of functions. You do not often see the opposing ministers' wives, but she was often there supporting Paul. She was delightful to spend an evening with and to chat with. I am also reminded of—this is the only one that I am aware of, but I am sure there are others—a transport-orientated development tour, I think, a couple of years ago, where former minister Holloway and minister Conlon attended. My understanding is that Paul's wife, Wendy, attended as well and she actually participated in the whole tour—asked questions, took notes and really embraced what the tour was about. As members would recall, I received a lot of information about that tour from participants, but there was nothing negative about the Hon. Paul Holloway or his wife in the discharge of his duties and her support of him.

I think it is important because politics is a pretty thankless job and it is pretty tough on families. I think it is important that we acknowledge the contribution that our wives, husbands, partners and families make to our public lives.

While the current planning minister may have a different point of view to the Hon. Paul Holloway, I was disappointed for the Hon. Paul Holloway and the Hon. John Rau that any disagreements they have about the work that Paul did as minister were aired in the public domain recently. I think that was poor form, and I was disappointed that the Hon. John Rau would do that at a public forum. Whatever disagreements they might have behind the scenes, I thought that was poor form because I do not believe that Paul Holloway deserved criticism in the public forum.

The planning reforms that the Hon. Paul Holloway pushed through, I think, will stand South Australia in good stead. As the opposite of Paul for the last five years now as the planning shadow, I have always tried, where it was sensible, to support the initiatives that the government put forward. To the Hon. Paul Holloway's credit, he actually acknowledged the contribution that some of us have made in supporting some of those reforms, and I think that is a mark of the man himself. Very few ministers, and probably very few shadow ministers, ever acknowledge their opposite number, but I do thank him for that on a number of occasions.

In mining, as the Hon. Gail Gago mentioned, Paul has a Legend in Mining. I do not know whether that means he is old and fossilised or whether he is a rare gem. I am not quite sure what it is.

**An honourable member:** A rare gem.

**The Hon. D.W. RIDGWAY:** He must be a rare gem, a precious gem. I will be reminded that every February, after the Productivity Commission report was handed down, a member of the government would have a Dorothy Dixier on the police statistics. It was like clockwork. Every February, the Hon. Paul Holloway would have a Dorothy Dixier and, of course, once we were awake to that, we would always have a response to that or a supplementary question.

I was delighted one day, as we walked out of this chamber to have a cup of coffee, when Paul turned to me and said, 'Oh well, Ridgy, you will use statistics when you are minister just like I was using them today.' So, I was delighted to think that we could have a little bit of a laugh about it and I was also pleased to think that he does see me as being a minister at some point in the future. So, with those few words, I wish the Hon. Paul Holloway and his wife, Wendy, and their family all the very best in their retirement.

**The Hon. CARMEL ZOLLO (16:00):** The Hon. Paul Holloway and I go back to when we were both staffers in the commonwealth parliamentary offices located in what was then known as the AMP Building. I am not sure whether it is still known as that; I don't think it is. He was working for Ralph Jacobi MP and I for Chris Hurford MP. They were exciting times leading up to the election of the Hawke government, with a great deal of policy work being undertaken at that time.

Also, being Adelaide, with nearly everybody likely to have some connection or other, Paul was known to my husband and me through being at university with one of my husband's brothers. Whilst Paul is known as having fiery and passionate moments, especially with some members opposite whom I shall not name, he is in the main respected for being considered, balanced and intelligent in all his endeavours. I think he is a thinker and cautious by nature.

At the same time, I know that the only quiet thing about his views would have to be his voice—sotto voce—and at different times some people in politics have come in for a fair amount of

shellacking. I certainly will miss those discussions. I noticed that earlier many of his former staff members were here and some are still here, and I am pleased to see that they were here and still are here because I suspect they will miss some of those discussions as well.

I was very pleased to have the Hon. Paul Holloway already in parliament when I was elected in late 1997. We were in opposition and he was a great person to have around and always happy to offer some sage advice at different times if asked. His political career has been a distinguished one. The Hon. Gail Gago has already placed on record that distinguished career with him holding, as we know, several senior portfolios.

I was pleased to be working with him for several years as a parliamentary secretary in PIRSA portfolios. It gave me the opportunity to learn a great deal in relation to the agribusiness sector in South Australia and to expand my knowledge of regional South Australia. I was then especially pleased to join him as a minister in this chamber and work with him at that level. He was the leader of government for the entire time that he was a minister—some nine years—and responsible for steering the government's agenda. I know we would all agree that he did a great job.

As we have heard from several people, he is respected in the mining sector for driving the government's pro-mining agenda. He was the architect of the government's PACE scheme, and the 30-year plan in particular is also a great credit to him. At the time of his resignation, the Premier paid tribute to him, and I particularly think the words he used should formally be reiterated in this chamber:

Paul Holloway is a unique combination of wise counsel, safe pair of hands and strong reformer. His planning reforms lay down a strategic charter for orderly growth and development for decades to come. His initiatives in mining, to drive exploration and investment, have seen a quadrupling of the number of mines in SA with many more to come including what will become the world's biggest. Many thousands of new jobs for a hundred years...that's why the mining industry presented him with the 'Mining Legend' jacket and SA has been cited as Australian and world's best practice for many of our initiatives. Paul's intellect, decency and loyalty have won him widespread respect.

I thought it was worthwhile reiterating those comments in this chamber. On a personal level, I will miss his friendship and often different humour, not unlike mine. Sometimes people would call it black humour, but I am not certain about that, but I do wish the Hon. Paul Holloway well in all his future endeavours.

As we heard from the Hon. David Ridgway, it is our partners who are also always there in the background. I hope that the Hon. Paul Holloway, his wife, Wendy, and family now have the opportunity to spend more time together and do all those things that life in politics does not always allow one the time to do.

I think that everyone here would agree that the Hon. Paul Holloway has left a tremendous legacy of new initiatives and hard work. The Hon. Gail Gago mentioned his fortitude for toasts. I think she may have been referring particularly to 'gan-bei'. So, to the Hon. Paul Holloway I say, gan-bei—the Hon. Jing Lee knows what I am talking about—and well done.

**The Hon. J.S.L. DAWKINS (16:05):** I share the sentiments of the Leader of the Government. I am pleased to support this motion but there is also a little bit of sadness because it brings to an end a long period of service to this chamber by the Hon. Paul Holloway. I have had the privilege of knowing Paul for a very long time. I first met Paul in 1985 when I was working in the commonwealth parliamentary offices, but not in the AMP Building, it had then moved to the Commonwealth Bank Building. I think the Hon. Carmel Zollo had moved to an office outside of that complex by that stage, which a lot of federal members were starting to do.

However, I went there to work in a part-time capacity for the then member for Wakefield, Neil Andrew, who went on to become the Speaker of the House of Representatives some significant number of years later, and Paul was working for Mr Ralph Jacobi, the much loved member for Hawker. Some people have never heard of the seat of Hawker, but we certainly had the federal seat for a long time and it was a pleasure to know Ralph Jacobi.

I enjoyed working with a range of people in that building at that time. It was totally different to what we see today. A lot of the federal members only had one staff member and so they would get together and help each other. Labor staff would help Liberal staff send out a newsletter, or vice versa, I think. It was a different time.

Also working in that building at that same time were some other personalities that Paul will remember very well. We had the current member for Croydon, the Hon. Michael Atkinson, working

there, also a former member for Playford and former senator, John Quirke, the former member for Napier and former senator, Annette Hurley, and, of course, the now premier of New South Wales, Barry O'Farrell, who was there working for Senator Tony Messner. So, you can imagine that there were some interesting people on the 12<sup>th</sup> and 13<sup>th</sup> floors of the Commonwealth Bank Building.

I did not have a lot to do with Paul after that. In 1988, Neil Andrew moved his office to Gawler and so I did not see as much of Paul. I was aware that he was successful in gaining preselection for the seat of Mitchell. I did bump into him on at least one occasion, and I think probably more than that, in the 1989 election because I did a bit of work for the Hon. John Olsen, former premier, in his then capacity as leader of the opposition.

I did a bit of advance party work throughout that election and I bumped into Paul once or twice during that time. He has probably forgotten that. It remains in my mind because the Liberal Party got well over 52 per cent of the vote but fell one seat shy of office, in a very close result. While I did not see much of Paul for a number of years, I was aware of the fact that he lost his seat in 1993 but was then elected to fill a vacancy in this place in 1995. When I came here in 1997, he was the deputy leader of the opposition, and that has been spoken about, but what has not been mentioned is that in that period, for some significant period of time, the Hon. Carolyn Pickles was unwell and unable to take her place in here for some months, I think, so the Hon. Mr Holloway filled in that position as acting leader for some time.

Throughout his time in the parliament, he has, in opposition as a backbencher in the lower house and, of course, as a minister and leader of the government, and just in his role as a member of the Legislative Council, always demonstrated that he was a decent man who had strong principles, but I will always remember the fact that he always had time to speak to colleagues or staff in this building, whatever was happening. Whatever issues were happening, Paul was always willing to smile and speak to people. I think that is a lesson for a lot of people who go into politics that we have to work with people from all sides of the parliament. We have to work with all of the people who support us in this building and it does not cost anything to be pleasant to all those people.

I am pleased to say I call Paul Holloway a friend. I think one of the things a lot of us learn when we come into these places is that you do make very good friendships across the political divide. I wish him all the best in the next stage of his life. It was a pleasure to be a colleague.

**The Hon. J.M. GAZZOLA (16:12):** I rise to support the motion, obviously. The Hon. Mr Holloway was a great help to my staff and I when we first arrived in February 2002. He was most helpful in steering us around the place, and we had a bit of a chuckle about some of the traditions and practices in this place. I congratulate him on his career in the Legislative Council. He was a good leader, one of our best ministers and a loyal ASU member, and we were always very proud of him. We all appreciated his intellect, his experience, good humour and his humility.

I wish the Hon. Paul Holloway, Wendy and family best wishes for the future. I also wish to thank the Hon. Paul Holloway on behalf of the 300,000 recreational fishers for his part and work in banning nets along our coastline. Thank you, Paul—and tight lines.

**The Hon. J.M.A. LENSINK (16:13):** I rise to indicate support for this motion. I am bearing in mind with my remarks that, as he is no longer a member of this place, he is denied a right of reply and I respect his civilian status. It was the worst kept secret that the Hon. Paul Holloway was to retire, and I am sorry that we did not get a chance to make these remarks before he did because then we could have paid him out and he could have rebutted that.

Be that as it may, he has been described several times as a safe pair of hands, and I think that is how he is viewed generally, which is a compliment. He was certainly always across his brief, a good performer in here in spite of the fact that, yes, he was passionate to the point where we could wind him up at times and probably enjoyed that sport more than he did at times, but he certainly never said anything silly when he was in this place, and I think that is a great credit to him and to his capacity as a minister. He has obviously held some very senior roles, and I think it is safe to say that he has had a distinguished career in this place. He was a worthy opponent, and we wish him well.

**The Hon. R.L. BROKENSHIRE (16:14):** I also rise to support this motion. I am disappointed that I am having to speak today because I would have looked forward to the Hon. Paul Holloway remaining in this parliament until the end of this term because of the capacity and the way that the Hon. Paul Holloway always has gone about his work, from a strategic point of view for the government. This government has come through a lengthy term in office, and now they



start to reinvigorate with some newer members in the ministry. I would have thought that there would be a huge advantage in having the very wise head of the Hon. Paul Holloway in that cabinet room.

I watched with interest the Hon. Paul Holloway in 1993 because Mitchell was a seat that had to be won to win government, and of course Mitchell was lost but that had nothing to do with a lack of effort by the Hon. Paul Holloway. As many have said, historically in a marginal seat when the swing is on the swing is on, and it was not a reflection in that district of the capability and capacity of the Hon. Paul Holloway but simply that when it is going south it goes south, which is why you always want to try to get a very safe seat.

For the benefit of the Labor Party, which is now clearly historically documented, he was given an opportunity in 1995 to come into the Legislative Council. I have watched with interest a similar situation with myself also having had the privilege of serving in both houses. It was interesting in 2002, the week before the election, when you never take anything for granted, I actually thought we were going to get over the line in that election when I was with the then government. I was in the refreshment room as a minister trying to get some lunch early afternoon and Paul was there also. Paul said to me, 'Well, one of us is going to be very busy in a week, Robert, and one of us is going to have a year off.' We smiled and chuckled.

Of course it was several days before either of us knew what was going to turn out with that event, but as fate has it I went down and the Hon. Paul Holloway went into the ministry. I went into an opposition position, but watching the Hon. Paul Holloway from there right through to his retirement you would have to say he has an exemplary minister, an outstanding member of parliament, and he has been able to work with all sides of the political spectrum, and Family First has certainly always enjoyed its opportunities to have discussions with Paul on bills. Once Paul said yes to something, he stuck with that, and that is really important as a minister and as leader of government with respect to the business of the government in the parliament.

As many have said, Paul is an intellectual. I agree with the now Leader of the Government that he was sometimes a little bit hard to hear, a little bit of mumbling, but after sitting in here for a few months you did start to understand what he was saying. I congratulate also his replacement, and I am sure he will be a very good participant in this house. Like the Hon. David Ridgway said, I have also noticed Wendy, his wife, supporting him over those years. The partners do not get recognition. They put up with a lot and go without a lot. I know what his family would have gone through in his years as minister and they need to be commended too.

In conclusion, I do not think we will see the end of the Hon. Paul Holloway as I noticed recently that he is part of a multi-partisan consultancy consortium now, and I am sure we will see that consortium banging on our doors as they do their business out in the CBD and other areas. With respect to mining, I understand why he was made a legend for mining. I tried to move some amendments in this place when we had the mining bill and we got one up. I wanted to see more equity for farmers, but battling for the government and his directions he held a very strong bat and no wonder the mining industry gave him that reward as a legend.

I finish by saying the other thing that has not been said so far: the hardest yards that had to be done on behalf of the government always seemed to go to the hand of the Hon. Paul Holloway, planning in particular. When we look back through history, whether or not we agree with planning decisions, certainly Paul Holloway got through a lot of planning approvals that cabinet directed him to, and I do not think many ministers would have been able to achieve what he achieved. Congratulations for his input and I wish him and his family a long, healthy and successful future.

**The Hon. T.J. STEPHENS (16:20):** I rise briefly to wish the Hon. Mr Paul Holloway a long and happy retirement. I am thrilled that the Hon. Paul Holloway is moving into private enterprise. Sometimes I looked across and wondered whether he would have made a much greater contribution to his own personal and family wealth if he had been out in private enterprise many years ago. I would not say that lightly, and I mean it in all sincerity.

Paul Holloway was a warrior for the Labor Party. Quite often, those of us on this side did not agree with his party's agenda, but he fought the good fight for his beloved Labor Party. It does not mean we respect him any less. In fact, one of Paul's great qualities was that we could have a pretty heated session in here and he seemed to shake it off reasonably quickly, and you could always have a conversation with him in the bar. He was always quite reasonable and he was always very balanced. I have met Paul's wife, Wendy, a number of times, and I hope that Paul and Wendy have a long and happy life, and I thank him for his service to this parliament.

**The Hon. D.G.E. HOOD (16:21):** I will be brief, as the Hon. Mr Brokenshire was the main speaker on behalf of our party in acknowledging the service of the Hon. Mr Holloway, but I do want to put it couple of brief things on the record, if I may. I think the first thing that I remember—I am speaking as though he has already gone, but I know you are here, Paul—and I think fondly of the Hon. Mr Holloway was the assistance that he gave me personally when I was a new member, in particular with the significant trees legislation that did end up passing in this place; indeed, it passed the other place as well. I am hopeful that the regulations will be finalised soon and that we will see that bill come into effect. I understand that that is the case.

It was the Hon. Mr Holloway who really deserves the credit for the passage of that bill. Members here would know that situation. It was a government bill, of course, and re-presented by me as it lapsed in this place. I want to place on record my sincere thanks to the Hon. Mr Holloway for that. Without his help that simply would not have happened, and I think it will be a terrific initiative once it is finalised. It was a very odd situation. You might remember that it was my bill when it was moved for the second time, yet the Hon. Mr Holloway took all the questions from the chamber as it was originally a government bill. I understand that it is the first time that has happened in this place. It is something that I will always remember and be grateful for.

The second thing I want to say—and this is meant in the most sincere way possible—is that the thing that all of us think about the Hon. Mr Holloway is that he brought a sense of dignity to politics, a sense of decency to what we do in this place. I think all of us at times can learn from that. It is something that I saw consistently in him and that I will always respect.

Finally, if I can just say that we have had a look at your voting record, Paul, and if you ever change your mind, we will have you, mate; you're welcome back. Congratulations, Paul, and we sincerely wish all the very best.

**The Hon. A. BRESSINGTON (16:23):** I am going to be very brief, because my dealings with the Hon. Paul Holloway since 2006 have been quite limited. However, I would like to make a comment that in this chamber and at any time that I have had any dealings with the Hon. Paul Holloway you could never, ever question the level of respect that he has for the job and for other members in here and his dedication to the job that he was doing.

He was always a polite person. As another member said, if you had a disagreement with him he seemed to shake it off pretty quickly. I hope that the Hon. Paul Holloway and his family have time now to enjoy life as it is meant to be, rather than life in politics. I hope that this place can maintain some of the dignity and respect that he brought while he was here.

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:24):** Paul was a great colleague, a great leader, a tower of strength, and a great mentor. I would like to wish Paul and his wife, Wendy, the best. They are two lovely people; you could not meet a greater couple. They are wonderful people. I hope you enjoy the rest of your life travelling and enjoying life. I wish you all the very best.

**The PRESIDENT (16:24):** I too would like to support the motion. I came in here when Paul was in opposition. Whether he was in opposition or government, he worked hard and has done a wonderful job as far as the Labor Party goes. He has also not only been a wonderful minister and been responsible for many, many jobs in South Australia that have been created through the mining and planning areas but he is also a wonderful human being. I have found him never to get too excited. I think most of Paul's tactics were learnt after watching *The Castle* about seven times over the years. He has always done things, like they did in *The Castle*, with wonderful principles and not getting overexcited—no grandstanding, no nonsense.

That is how Paul comes over to me: he was never a grandstander, he did not suffer nonsense, and as a minister I think Paul made the finals every year. Congratulations, Paul; well done. We will sadly miss you around here but I am sure you and Wendy will have a wonderful time travelling. In the next few years I hope to run into you at some barramundi creek, and we will cook one on the bank or something.

Motion carried.

#### ELECTIVE SURGERY

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:26):** I table a copy of a ministerial statement relating to elective surgery results made earlier today in another place by my colleague the Minister for Health (Hon. John Hill).

**RIGNEY, MR M.**

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:26):** I table a copy of a ministerial statement relating to the passing away of Mr Matthew George Rigney made earlier today in another place by my colleague the Minister for Aboriginal Affairs and Reconciliation (Hon. Grace Portolesi).

**NATURAL RESOURCES MANAGEMENT (REVIEW) AMENDMENT BILL**

In committee.

(Continued from 3 May 2011.)

Clause 2.

**The Hon. A. BRESSINGTON:** The reason that I would like to make a contribution on clause 2 is that it talks about the day that this act will come into operation and be fixed by proclamation. I have heard on the grapevine that, if the government sees that it is not going to make progress with this bill, it will actually be pulled.

I am trying to save us some time in here by informing the council that I believe that this bill should not proceed, and the reasons that I have for that are many. Our farmers and food producers are coming out of a period of poor seasons and are under enough pressure without adding further strains through government over-regulation through this particular bill. We can tell by the number of amendments that are being proposed to this review that we are making an effort to try to stick together a piece of bad legislation.

This is not working for farmers; it is not working for food growers. We have to take notice of the huge amount of contempt in our community against these initiatives. I was at the meeting in Strathalbyn where there were about 1,200 people, with hundreds of people turned away because there was not enough room in the hall. On that night there was an almost unanimous decision made by farmers with a show of hands that, if they were going to be forced to meter their dams, they would go to gaol before they would have their dams metered.

Primary producers in this country have saved our economic butt in Australia more than once and now they are being told that they must do more with less. Our farmers are being told that they will have to meter their dams; they will have to retrofit overflow bypass valves to their dams; they will be told how many head of stock they can run on their farms; they will be told that they need to fence off creeks that flow through their properties (at significant cost); be told they cannot have redfin perch in their dams and, if they do, they can be fined up to \$125,000; be told that they are not allowed to maintain the health and function of their dams as they have done forever; and be told that they must plant on their properties prickly acacia bush (otherwise known as kerosene bush) and, as a result, if a bushfire occurs they will not be able to claim the damage on their insurance.

NRM officers say that is necessary to prevent kangaroos and livestock from damaging creek banks. In other words, this barricade will prevent stock from drinking water from the creeks that run through farming properties. The latest piece of information that I have received is that NRM officials could have the power to demand to see the financial records of farmers, which has usually been reserved for the Australian Taxation Office.

We know that the NRM plans to expand and that, through its levies, this is actually going to cost farmers around \$38 million. This is a bureaucracy that, since inception in 2004, has grown rapidly as the respective boards seek to exert greater and greater control over farmers in their catchment. This is while PIRSA's influence and support for farmers wanes, with rural offices closing around the state as it seeks to become entirely cost-neutral to government. The various natural resources management boards are filling the vacancies. This is what happens when you give a bureaucracy a blank cheque, which we have effectively done by allowing natural resources management boards the right to set their own levies.

I am assuming that other members in this place are not aware of the existence of what is known as Agenda 21, or the implications of that international agreement, because it has never been mentioned in this or the other place. I implore members to research this and unravel the bureaucratic babble and doublespeak to decipher the true intention of what is already being enacted incrementally. This policy is written with as much flair as was the Copenhagen Agreement. Our Labor prime minister admitted that he was not familiar with the language and did not understand the content. It took a former policy adviser from the UK and a number of others from

outside of government to explain to the people of Australia what that particular treaty would mean to the sovereignty of this great nation—and so it is with natural resources management.

I have a description here of what Agenda 21 actually means and it is not a pretty picture at all. We are enacting these particular policies through direction from the United Nations. We signed an agreement in 1992 in Rio at the Earth Summit. It was signed by prime minister Paul Keating and his government of the day. What we have basically done is committed to enacting United Nations policy in this country to restrict our farming and rural communities, our rights as citizens to live the life that we have known. Sustainable development does not mean anything like it sounds, let me assure you all. This is something that people must be aware of. We are being dictated to by the UN as to what is best practice for our farming.

This is from afar and it is not based on farming methods but on sustainability of the environment. Nowhere in that particular document is the welfare of human beings a concern of theirs. We are looking at a shrinking rural community. The rights of food producers and food growers are going to be trampled on and taken away.

I went to an event called Feast or Famine last week with the Hon. Bob Katter, and I can tell you that these initiatives are going to do nothing to enhance our ability to feed the world or even ourselves. I am asking that members of this house give due consideration to the fact that we have a farming community that is absolutely ready to rebel in force. They just simply are not going to take these restrictions and regulations that are being thrown at them.

As I read last night, in the United States now farmers have already had to deal with all these restrictions and they are walking off the land (as are our farmers) in droves. Very soon, they will be required to have licences to operate their farm machinery because their farm machinery is going to be reclassified as heavy machinery. Under those regulations, they will also be required to undergo random drug testing and to fill out quite extensive logbooks for the use of that machinery while they are working on their farms. Is this really where we want to go in Australia—to make it as hard as possible for farmers not only to produce food but to turn a profit?

I say it is time for us to take a step back and to consult with farmers on what we could and could not do better. We know that our farmers use world-grade technology and that we are known to produce clean green food in this country—and that is a testament to our farmers. They have kept up with the times. Expecting them to do more with less is an unreasonable expectation.

We are always dealing with floods and droughts in this country and I think it is also a testament to our farmers that, with the extreme weather conditions that we have in this country, we have never had to face a famine. We have never ever been short of food in this country, even with the extreme weather patterns that we face decade after decade. That has to tell us that our farmers know what they are doing. They know our environment, they know our climate and they know how to produce food and do it well.

I am asking members to please consider the worthiness of this bill to progress any further and become enacted at any point in time. If it does go through, I will be supporting the amendments of the Hon. John Darley.

**The Hon. R.P. WORTLEY:** Once again, we have to suffer the conspiracy theories of the Hon. Ann Bressington. There has been quite extensive consultation regarding the review of the act that led to this bill. There are a few vocal people in the Mount Lofty Ranges who have some problems with it. We understand that but, like any bill, you will never satisfy everyone 100 per cent. To save time, we need to consider where we are going with this bill, so I would like to report progress.

Progress reported; committee to sit again.

### COMMERCIAL ARBITRATION BILL

Adjourned debate on second reading.

(Continued from 28 July 2011.)

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:40):** I understand there will be no further speakers in relation to this bill. By way of concluding, I would like to thank those honourable members who have contributed to the second reading debate and I thank them for their contribution and their support. I look forward to dealing with this expeditiously through the committee stage.

Bill read a second time.

Bill taken through committee without amendment.

**The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:42):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

### **STATUTES AMENDMENT (DIRECTORS' LIABILITY) BILL**

Adjourned debate on second reading.

(Continued from 26 July 2011.)

**The Hon. S.G. WADE (16:43):** I rise to speak on the Statutes Amendment (Directors' Liability) Bill 2011 on behalf of the opposition. The Attorney-General (Hon. John Rau) tabled this bill in the House of Assembly on 23 March 2011. The bill amends some 25 acts which impose personal liability on individual directors for alleged misconduct of corporations of which they are directors.

Directors are subject to a wide range of responsibilities and potential personal liability under state legislation and regulations. In many cases, directors can be found liable simply by virtue of their position, regardless of their actions. Mr John Colvin, Chief Executive Officer of the Australian Institute of Company Directors, has said:

...the existing plethora of liability laws is stifling business, investment and job creation. They are anti-business and a drag on Australia's prosperity now and in the future.

In early 2010, the Australian Institute of Company Directors conducted a survey regarding the impact of legislation on directors. The survey involved 623 directors from a range of sectors. It found that the burden of laws imposing personal liability on directors is having a serious detrimental impact on key aspects of economic performance.

In particular I will highlight the following findings of the survey. More than 90 per cent of those surveyed said that personal liability of directors had an impact on optimal business decision-making or outcomes. Sixty-five per cent said that this risk of personal liability had caused them or their board to take an overly cautious approach to business decision-making either frequently or occasionally. Almost a third said that they had personally declined an offer of a directorship primarily due to the risk of personal liability. More than 64 per cent said that they were seriously concerned about being subject to criminal and civil penalties as a director.

The key findings of the survey show, and I quote the report of the Australian Institute of Company Directors:

The burden of legal risk being confronted by Australian directors is stopping qualified people from taking up board seats and causing others to leave through resignation or retirement. In this environment the balance of risk and reward is so tilted that it is not surprising that many experienced and highly qualified directors are asking, 'Is it worth it?'

The imposition of criminal liability on directors is open to a very wide range of circumstances. More than 700 state and territory laws, including 89 to 99 South Australian laws, hold directors liable simply because of their position, even where they may not have had any personal involvement in a breach. Further, Mr Colvin noted:

There appears to be little recognition by governments that the current liability laws are an economic disincentive and can have a real impact on investment and jobs. They can affect decisions about whether existing operations are expanded, whether new projects go ahead and where they are located.

There is no question that reform in this area is long overdue. This bill is bringing about much needed change to legislation, which is apparently discouraging aspiring directors, our next generation of business leaders. 'This is not just about directors' self-interest,' as Mr Colvin highlighted, 'It is about everyone's prosperity.'

The bill is the next step in the reform of directors' liability provisions. In response to a request from the Council of Australian Governments in November 2009, the Ministerial Council for Corporations agreed on a set of principles by which all jurisdictions will audit their legislative provisions that deal with personal liability on company directors.

In broad terms, the effect of the principles is that statutes should not routinely create criminal liability of directors for the offending of a company. The bill adjusts the liability in light of the council's guidelines.

Within the 25 acts the following types of offences are applied: the first class of offences are where the director is an accessory to the offence. Directors should only be criminally liable if the director was an accessory to the offence, even if the director failed in due diligence. In that case, the liability provision is removed from the act or is not applicable to the relevant offence and the general law of accessory liability applies.

The second class of offences are offences of vicarious liability. For more serious offences that directors should be vigilant to prevent, the law holds directors criminally liable subject to a defence of due diligence which the director must prove, as is the case now. To hold directors liable helps to deter offending by the company in such cases.

The third class of offences are what are deemed to be moderately serious offences. In a number of cases, however, a middle ground has been taken because the offence is of this nature. In those cases, the director will only be criminally liable if the prosecution can prove that the director: firstly, knew or ought reasonably to have known that there was a significant risk that an offence of this type or kind might occur; secondly, was in a position to influence the company's action in relation to this type of behaviour; and, thirdly, failed to exercise due diligence to stop the company from offending. All of these are matters to be proved by the prosecution.

Under this bill, 17 acts remove the liability of directors unless they are an accessory to the offence, while eight acts still maintain personal criminal liability of a corporate officer for the misconduct of the corporation.

The bill proposes to place an onus on individual conduct. Where liability is justified, the principles specify that directors should properly be held liable either where they are a party to the offence or where they have been negligent or reckless in relation to the offending.

In effect, this bill will remove the excessive liability burden imposed on company directors in a number of acts and allow boards to get on with their real job of making good business decisions and generating investment and jobs for Australians. The bill will also help to reduce the fear that is stopping qualified people from taking up board positions. There are no justifications for the current approach which, in our view, puts undue burdens on law-abiding and diligent directors.

The opposition has received representations from the Australian Institute of Company Directors. Following those discussions, the institute has indicated that they will give further consideration to the provisions of the bill. Once the opposition has received further advice from the institute, we may well feel the need to introduce amendments to improve the bill. We certainly intend to do that, giving members plenty of time to understand the implications of those amendments.

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

### **EVIDENCE (DISCREDITABLE CONDUCT) AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 26 July 2011.)

**The Hon. S.G. WADE (16:51):** I rise on behalf of the opposition to address the Evidence (Discreditable Conduct) Amendment Bill 2011. The bill amends the Evidence Act 1929 to allow a criminal court to hear evidence of the prior acts and convictions of an accused. As the law currently stands, evidence of bad character or criminal conduct not related to the charge cannot be admitted without being subjected to the exclusionary rule and the R v Pfennig admissibility test. The Pfennig test has been heavily criticised as being technical, complex and too restrictive. It raises the bar too high and can, in effect, exclude highly reliable and probative evidence.

In South Australia, there have been some high-profile cases relating to propensity evidence. In particular, members would recall the case of Frank Mercuri. Frank Mercuri was acquitted in 1998 for the 1993 stabbing murder of Shirree Turner at an Oaklands Park reserve. After the acquittal it was revealed that Mercuri had previously been convicted of the stabbing and attempted rape of a woman in Victoria in very similar circumstances to Ms Turner's murder.

Victims' advocates argued that this information should have been put before the jury at Mercuri's trial in South Australia. However, this evidence as well as evidence of Mercuri's 48 prior

convictions, which included crimes of similar facts, could not be presented at his murder trial under South Australian propensity laws. Without the evidence of the prior offending, Frank Mercuri was acquitted of Shirree Turner's murder by a Supreme Court jury in 1998. After being acquitted he went on to kill another woman, Rosemary Deagan, in 2007 before committing suicide himself.

As a result of the case, the Hon. Dennis Hood introduced the Evidence (Propensity Evidence) Amendment Bill in October 2009 following approaches by the Turner family. He submitted that the bill used similar wording to the Victorian Crimes Act 1958 and would increase the prospect of propensity evidence being used.

Reform in this area is not without risks as evidence may unfairly prejudice the jury against the defendant. As David Hamer put it in the *Criminal Law Journal*, the risk is that 'evidence showing a defendant's propensity for reprehensible behaviour may be given too much weight and the jury may convict on an insufficiently strong case'. I share the concerns of legal experts who consider that the introduction of legislation should be done with great caution to avoid jeopardising an accused's right to a fair trial. Mr Ralph Bonig, the President of the Law Society, has highlighted this concern by saying, 'the danger is that if you just introduced this similar fact or propensity evidence just for the sake of it...that may influence a jury or judge (and) that goes against the presumption of innocence.'

Fundamentally, it is important to stand by the time-honoured principle of the law of England and Australia expounded in *R v Ball* that you cannot convict a man of one crime by proving that he had committed some other crime. Defendants should not be convicted on bad character or on the fact that they have been guilty of a similar crime in the past.

At the 2010 election, the Australian Labor Party promised to amend the Evidence Act to 'codify and improve the law as it deals with similar fact evidence, propensity evidence and evidence of uncharged acts'. This formed part of the Labor Party's serious crime policy 2010. A press release of 7 March 2010 entitled 'Labor crime policy targets serious offenders' read in part:

Premier Mike Rann, in releasing Labor's serious crime policy, says that as part of the raft of reforms the government will overturn the notion that juries are not entitled to hear details of an offender's past prior to conviction.

It went on later in the release to say:

A re-elected Rann Labor government will change the law to allow juries in appropriate cases to hear evidence of relevant prior criminal behaviour and offending by the accused.

However, less than a year later the Attorney-General stated:

The election commitment does not overturn or displace this principle [that you cannot convict on one crime by proving another] as much as it modifies it in order to arrive at a fair and workable model.

Clearly in the Premier's March press release the Labor Party had committed specifically to overturn and change the law in this area, yet less than a year later the Attorney-General specifically disputes that the government is doing that. I believe there is currently confusion and uncertainty in the common law about the admissibility and use of this type of evidence. Legal principles are important; however, I accept the amendments are appropriate to clarify the common law as it applies in South Australia.

A number of jurisdictions have attempted to clarify the admissibility of propensity evidence. In Western Australia the Evidence Act makes propensity and relationship evidence admissible if the court considers the significant probity value outweighs the risk of an unfair trial and 'fair-minded people would think that the public interest in adducing all relevant evidence of guilt must have priority over the risk of an unfair trial'.

In Victoria the Crimes Act 1958 makes propensity evidence admissible if it is relevant to the facts in issue of the case under consideration if the court considered it is just to admit the evidence despite its prejudicial effect. The broad drafting of the provision permits evidence of past crimes or discreditable conduct, even if it is unrelated to the current offence, as long as the judge thought it was relevant and just to do so.

In the context of these and other provisions I accept that the South Australian formulation encapsulated in this bill is cautious and appropriate. My consultation with lawyers has highlighted to me their sensitivity to the need to protect legal rights, and I share their concern. I am of the view that this bill strikes an appropriate balance and does not unnecessarily lower the threshold for the receipt of evidence in South Australian courts.

However, that mere fact leaves open the question of whether or not the Labor Party has honoured its election promise in this bill. From the comments of the Attorney-General I believe they have broken their election promise to overturn and change the law in this area. So, as we wait for the enthronement of premier Jay Weatherill, we will watch with interest at what other parts of the Atkinson/Rann law and order heritage will be jettisoned by the incoming premier Weatherill and Attorney-General Rau. Having made those comments, the opposition supports the bill.

**The Hon. A. BRESSINGTON (16:58):** I rise very briefly to indicate my support for the Evidence (Discreditable Conduct) Amendment Bill, which from my reading and the advice I have received I understand is simply codification of the existing common law concerning propensity evidence. Everyone to whom I have spoken concerning this bill has been keen to tell me about their initial concerns following the Premier's sound bite announcement in March 2010 in the lead-up to the election. Many in the legal profession saw the potential for the bill, based on this announcement, not only to encroach on the rights of defendants but also to expose victims or prosecution witnesses to having their past conduct put to the jury.

Based on the announcement many saw an already convoluted area of law becoming more confusing. However, having since seen the bill, all have concluded that the bill before us is a retreat from the Premier's suggested reform and now simply codifies (or as one member of the legal profession put it, eloquently codifies) the common law and hence has their support. The bill also has the support of the Joint Courts Criminal Legislation Committee which, as the Attorney-General proudly quoted, states:

The simplicity of the bill stands in stark contrast to the present mess. We think it has merit. There is nothing in the wording which requires further comment.

Having had no concerns raised with me by any of the usual interested parties, the bill has my support.

**The Hon. D.G.E. HOOD (17:00):** I rise to indicate Family First's support for this bill. As the Hon. Mr Wade pointed out, two years ago I introduced a private member's bill into this place entitled the Evidence (Propensity Evidence) Amendment Bill 2009, which sought to do similar things to the bill before us today.

I had been approached by the family of Shirree Turner asking me to introduce a bill in parliament regarding the use of propensity evidence in criminal trials. As I recounted at the time, Shirree Turner was, unfortunately, murdered in an Oaklands Park reserve in 1993. A repeat offender by the name of Frank Mercuri was charged with the offence. At the time he was charged, Mercuri was serving a prison sentence in Victoria for the stabbing of another person in similar circumstances.

However, as I noted at the time, under current South Australian propensity laws, this evidence and the fact that the defendant had been convicted on 48 prior occasions for other offences, including violent crimes with very similar facts, could not be used in his murder trial. Without the evidence of the prior offending, Frank Mercuri was acquitted of Shirree Turner's murder by a Supreme Court jury in 1998. After being acquitted he went on to kill another woman, Rosemary Deegan, before committing suicide.

As I noted then, it was a tremendously sad and frustrating case. Following the trial, one witness actually sent a letter to the Attorney-General. This is a witness from the trial who sent a letter to the Attorney-General, which I have mentioned previously. I would like to read the letter in full. It is not particularly long, but I think it is significant. It states:

I am writing to you to urge you to look at changing the laws regarding similar fact evidence or propensity law.

[In fact] I am writing about the Shirree Turner case. I was a witness in the case against Frank Mercuri and was not allowed to say what sort of person he was or what sort of crimes he had already committed. I was actually told that if I said anything bad about Frank's character or about the kind of crimes he committed previously, I would be in contempt if court and possibly jailed myself.

I understand that everyone needs to have a fair trial when they go to court accused of a crime, especially if it is a serious crime. However, the kinds of crimes that Frank had committed and was actually in jail for at the time of his trial were almost identical to the circumstances of Shirree's death, yet the jury was not allowed to hear it. WHY? I would understand this if the only previous crimes he committed were robbing banks, stealing cars, etc., but a lot of his crimes involved brutalising, attempted rape and attempted murder...of young women like Shirree Turner.

I realise that there was not a lot of forensic evidence in the case, but there was obviously enough evidence for the Magistrate system to go forward and trial the case. I also realise that a lot of the witnesses in the case were hostile and changed their stories. I was one of the witnesses and was probably not as helpful as I could have been,



or wanted to be. (I could give you reasons for this, but I am not making excuses for myself—at the end of the day, I am alive and able to live my life while Shirree and others do not have that luxury). I am far from being a saint, both then and now, but I wanted to do the right thing then and I certainly want to do the right thing now.

I still don't understand why the facts about Frank could not be brought up in court to try to get some justice for Shirree's family. To start with, the case was not going to be based on much in the way of forensic evidence. I would have assumed that Frank's wonderful traits and attributes to women would at least have been mentioned in passing. Why was Shirree's name dragged through the dirt, but Frank was made out to be the most wonderful man in the world? Why was Shirree's family subjected to all of this, having to listen to what a hero and boon to humanity that Frank was made out to be, while Shirree's every bad decision was held up to scrutiny? How is that justice?

Please, please, please rethink the way the law works in cases like this, where similar crimes have been committed by a person on trial for the same sort of crime. If the jury that tried Frank had maybe just one of those facts about him, Rosemary Deegan and perhaps others we don't know about could be alive today.

That is the end of the letter, Mr President, but I think you would agree it is a very pertinent letter and very emotional and absolute common sense.

I was happy to put this particular issue on the agenda for the Turner family a couple of years ago, having brought it to the parliament's attention by the way of a Family First bill and also in correspondence to the attorney-general. I would like to take this opportunity to thank the former and present attorneys-general for listening to these concerns on this issue and for moving to improve the law in this regard.

The Attorney-General has now stated his acknowledgement that the present law is overly restrictive, complex and unsatisfactory. In my view, it is also contradictory in some parts. Perhaps our most comprehensive legal commentary, the *Laws of Australia*, makes the comment that 'it is not possible at present to formulate a clear High Court position' on the issue of propensity. Indeed, as I have noted on a number of occasions, the case law with respect to propensity evidence is difficult to reconcile.

One case has ruled that 'a strong degree of probative force' is required before propensity evidence can be adduced. On another rule, the evidence must have 'a really material bearing on the issues to be decided'. In another case it was decided that the evidence needed to be of 'such probative force in the instant case that it would be an affront to common sense not to admit it', or be so probative that there is no 'rational view of the evidence test that is inconsistent with the guilt of the accused'. This bill gives our judiciary a clear framework to resolve issues relating to propensity. The current system, I believe, is failing the people it seeks to protect.

Looking at this bill in more detail, a number of specific reforms have been flagged. On the one hand, offenders are protected from the inference that prior offending implies guilt by requiring a judge to issue specific jury directions on the limitations of propensity evidence: this is appropriate. Victims and the jury, on the other hand, will nevertheless hear that evidence, with the so-called no rational inference test being revoked. Evidence that would currently be inadmissible under the rule in *R v Hoch*, a current proceeding relating to collusion between alleged victims, will now be admissible. Yet the bill will not go so far as to repeal the so-called time-honoured law of England and Australia that you cannot convict a man of one crime by proving that he has committed some other crime.

Offenders, clearly, should not be deemed guilty of one offence due solely to their conviction of a prior offence. Under current common law provisions, however, as laid out primarily in the case of *R v Pfennig*, if a reasonable view of the propensity evidence can be taken as consistent with innocence, the evidence must be excluded. Certainly, this particular precedent requires amendment. Accordingly, and as the minister has noted, the bill endorses the position outlined instead in the *Nieterink* case; that is, that the evidence of discreditable conduct can be admitted for a specific and limited purpose, such as to establish the background or context of the alleged offences or to shed light on the relationship between the parties.

Section 34P, in particular, is inserted to allow propensity evidence if the judge is satisfied that the probative value of the evidence admitted for a permissible use substantially outweighs any prejudicial effect it may have on the defendant and to act as circumstantial evidence of a fact in issue. Section 34R, in balancing this provision, requires a judge to explain to the jury the limitations on the purpose to which the evidence can be relied upon. This is entirely appropriate.

We therefore believe that this bill appropriately deals with the need to fairly deal with offenders and at the same time allow juries access to certain propensity evidence in order to make their decision. The Attorney-General has noted that the current law is excluding cogent and reliable evidence of past misconduct. There has been an acknowledgment that the present law in this area

is in need of major reform. We agree with those concerns, and we welcome this bill and again thank both the former and present attorneys-general for listening to not only Family First concerns but also those of the victims of crime, with particular relevance to the matters before us today.

I indicate Family First's support for this legislation. We are not aware of any amendments at this stage. This is overdue and we are pleased to see it before this place.

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

#### **DEVELOPMENT (BUILDING RULES CONSENT—DISABILITY ACCESS) AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 27 July 2011.)

**The Hon. K.L. VINCENT (17:09):** I rise today to speak with some scepticism about a bill which most people, and I think probably most of all this government, would expect me to be overjoyed about.

This bill is a piece in the accessibility puzzle which our society is only just working out is worthwhile putting together. The first step was the provisions in the Disabilities Discrimination Act which provided for accessibility. Then there was the recent revelation of the Premises Standards which actually looked at practical ways to make the ideals enshrined in the discrimination act happen within the building code. It is a little unsettling that there was a time lapse of about 17 years between these two steps but, as we all know, most things in the world of government progress move slowly—and especially on disability rights. Now we are looking at what is basically a state level replication of the Premises Standards where we are adjusting the Development Act to make way for these standards of accessibility.

I do not want to be too cynical—I will say that from the outset—and I am very pleased that progress is being made but, unfortunately, we are still dealing with the case of too little too late when it comes to accessibility in Australia. I understand that accessibility measures can be financially burdensome especially for small businesses and the like, but it is necessary to make these changes, and the sooner we as a society realise the importance of it, the better. Think of it as being similar to food hygiene standards in business—sometimes costly, sometimes requiring retrofits but always worthwhile for public good. Unfortunately, 'worthwhile' is not usually a word we hear in conjunction with 'accessibility'.

More often than not businesses will say things like, 'Sorry, but it's just too hard.' I have a million anecdotes to illustrate this fact but I will tell you a recent one just quickly. I arrived at a pub a few months ago to see a friend's band play. I had been to this pub before and I knew the accessibility was not great. There is a step at the front door which means I have to go through a locked side gate to get into a back door. There is also no accessible bathroom. However, I wanted to support my friend so I was prepared to work with what little the venue had.

I arrived and politely asked the man at the front door to allow me in the side and he wandered off to find a manager, leaving me in the cold. When the manager arrived he greeted me with the words, 'You can't go to the bathroom you know.' I am sure it was not his intention to sound quite so rude and exclusive but, unfortunately, that was the impression I got; the impression that he would rather I just did not come in at all. I talked him around but his attitude is exactly the kind that people with disability face every day. It is too hard to allow us to get into shops, cafes, bars, schools and workplaces. That means it is too hard to make society truly inclusive of people with disability.

To some extent this bill is an attempt by government to force the arcane 'too hard' attitude out of our society, and I appreciate that to a large extent, but it is a pretty weak attempt. For one thing, this bill says that there will be some exemptions from having to conform with the new access standards, so that is concerning. I am sure that these exemption requirements will be akin to those contained within the Premises Standards which have set a fairly high bar. However, we must begin to wonder about what kind of message we are sending when it is so clear that it will still be okay for some buildings to be inaccessible.

This leads me to another issue which arises from particular methods in this bill used to enforce accessibility standards. The requirements outlined here will be expected of new buildings and will be applied to old buildings which are being upgraded or modified but, as you can imagine, this leaves any number of other older buildings to stand for years and years without having to

change a thing. That means that those buildings will continue to be out of reach for many people with disabilities.

Further—and I thank the Hon. Mr Parnell for bringing this point to my attention—there could be problems when a building which may have been built for one function, say, as a private residence, is retasked for another use such as becoming a retail store. If there were no physical modifications made in this retasking then it is possible that the building owner will not bother to apply for a development approval meaning that, once again, the accessibility measures will be bypassed.

All of these issues I have mentioned are not really to do with this particular bill but rather problems with the Premises Standards themselves and how they have been incorporated into the building code. It is a code which the bill mostly harks back to for its meaning. These standards, which were assented to at a federal level after much public consultation, have failed to address these issues. Unfortunately, that is something we cannot provide a solution for in this place.

However, in the interest of informing members, I would like to point out that it was not out of ignorance that these issues were left untouched. There were around 146 submissions to the committee responsible for the Premises Standards and many of those submissions brought to light serious problems. While we can accept perhaps the need for exemptions and even the lack of inclusion for older buildings to be a compromise between business and disability submissions, there are some other things that should never have been compromised.

For example, submissions that focused on a lack of emergency exit facilities for people with disabilities seem to have been sidelined. If you think about it, if there were a fire in this place and we were advised against using the lift in the building, what would I do, just for example? Similarly, if an alarm was sounding in the workplace of someone with a hearing impairment while they were the only person working late, they would not hear it and thus would not have the chance to save their own life.

These matters were brought to the attention of the committee but apparently were not addressed in the Premises Standards. Also not addressed in any form in the standards was the need of people with multiple chemical sensitivity, despite submissions being offered on this. For these people, who can be hospitalised from exposure to certain common chemicals, there is no help. These are just examples of the way that these Premises Standards and this bill do not go far enough to provide true accessibility, not just for those with what are readily understandable disabilities but all people in this state.

In short, this bill is not the solution to the accessibility issue in Australia. It is one step and a narrowly conceived step at that. There is a lot further to go and we need to make progress faster than in the past, particularly in light of the fact that this population is ageing and therefore acquiring more and more disabilities at three times the rate at which it is growing. We should be looking to countries like England where, at great public cost, they are working to make more than 65 tube stations totally accessible. Such contrasting efforts simply make Australia look apathetic.

I will support this bill, of course, but I urge other members to join me in recognising that accessibility is still shamefully marginalised in a country as rich as Australia and hope that we all understand that there is much more to be done in the future to improve the quality and scope of documents like the Premises Standards. I look forward to working with the government and all other members to ensure that this happens.

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

#### **CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 28 July 2011.)

**The Hon. K.L. VINCENT (17:18):** This is yet another bill from a government that wants to be seen as being tough on crime, but, unfortunately for the government, it would seem that coming up with a workable solution to crime is the only thing that is proving to be really tough. My concern about this bill is great, both in gravity and quantity, and it is worth noting that, as usual, I am not alone in being alarmed and angered by this government's heavy-handed, reactive, rather than proactive, approach to crime, particularly drug-related offences.

I have received correspondence from the Law Society which outlines its objection to this bill for various reasons. I understand that the Liberal Party will also be opposing this bill on similar grounds.

My concerns with this bill are as follows. Firstly, and perhaps most importantly of all, the punishment proposed in this bill—that is, taking away an offender's assets, such as property or cars—does not relate at all to the offence committed. I believe that there is a fine line between protecting and educating people and crushing them with overprotection, and I believe that there should only be room in this chamber and in this parliament for government to introduce consequences that relate as directly as possible to offences committed.

Our government is supposed to help the people of this state to grow, develop, progress and flourish. This government is not here to flex its muscles and do as it pleases with the power it has been given by the people it is supposed to serve. This measure is solely punitive and therefore is irresponsible and intolerable. As the Law Society itself suggests, if the government believes that the current punishments in place for this kind of crime are not sufficient, it should look at measures such as lengthening the gaol sentences pertaining to these offences instead of coming in in a blind rage striking every which way like a school bully in a sandpit.

The measures proposed under this bill are also, in my opinion, too highly variable. It is a tenet of the law that everyone should be treated equally, and the fact that some people could lose more assets than others as a consequence of the same crime severely undermines this fundamental principle. If our government wishes to uphold the basic principle that all people are deserving of the same rights and enjoyment in life, then logically it must be prepared to apply the necessary negative aspects of the law equally too.

Of course, this bill is also heavy-handed in the sense that it is not only those who have committed an offence under it who would be punished. The loss of a home, property or car could have serious impact on the offender's immediate family for instance. Given the nature of the offence, family members, particularly children, may not even be aware that the offender was involved in drugs.

I can see the government coming back on this point and saying, 'Well, what are you saying, that we can only dish out punishments that don't affect anyone's life in any way?' Of course this is not what I am saying. Having a family member in gaol is obviously going to have very severe and tragic consequences for more than just the person serving time. At least, though, having a loved one in gaol does not mean families going without a car to get to work or school or, worse still, being left without a home to live in while dealing with the emotional anguish that is bound to be caused by this kind of situation.

I am in no way implying that lengthening the gaol term for offences committed under this act would be easy on individuals and families, but at least this form of punishment results in the least possible harm to those who have not actually done anything wrong. I reiterate my belief that punishments for crime should relate as strictly as possible to the offence itself and have minimal effect on those who have not committed the offence.

The law has two duties when it comes to offences such as this: punish the guilty responsibly and protect the innocent entirely. I believe that this bill subverts both of those duties, but, of course, the issues with the bill do not stop there. We also have a problem in that there is currently no right to appeal once a court has decided to confiscate an offender's assets under legislation such as this. This not only compounds the effect that the confiscation of assets could have on an offender and their family but it also compounds the affront to law that this bill represents.

I would go on to suggest that this bill also has the potential to perpetuate the cycle of poverty and severely impede an offender's rehabilitation. How is a person supposed to get away from the poverty and desperation a lifestyle involving drugs can often lead to if they do not have so much as a roof over their head? We must ask further: how does the government expect a child of such a person to have the best opportunity to benefit from life if they are disadvantaged through this confiscation system? It is just so terribly ill-conceived and offensive to the notion of social equity.

I am in no way condoning 'the drug lifestyle' but I do believe in the right to rehabilitation and I fear for the effect that not having access to the most basic tools for rehabilitation may have on a recovering person's life. I fear that desperation may then lead them back into crime and start the cycle all over again, and while I do not condone this lifestyle, I do condone human rights for

everyone and this bill is treating drug offenders like they are inhuman and do not have any rights at all, and this is a position I simply cannot support.

In short, this bill does not punish responsibly. It does not protect innocent people sufficiently, and for this reason it does not have my support. However, I am willing to consider some of the technical amendments to this bill which are being introduced by the Hon. Mr Stephen Wade, and for that reason I will allow it to go into committee.

**The Hon. A. BRESSINGTON (17:25):** I rise to indicate that I also will not be supporting the government's Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2011. My main concern, as it is for the Law Society and others, is the lack of nexus between the offence committed and the assets received. Unlike the existing tools available to the state to chase proceeds of crime, this bill requires no demonstration that the property to be confiscated was or even was most likely purchased with illicit drugs or illicit gains, it just assumes this to be the case. Coupled with a lack of appeal rights or judicial discretion, the lack of nexus crosses the line, in my opinion, of what should be available to the state.

Further, I consider the existing Criminal Assets Confiscation Act, coupled with the Serious and Organised Crime (Unexplained Wealth) Act, which I support, to be sufficient to target the illicit proceeds of crime, and in particular proceeds from illicit drugs. No attempt was made to suggest otherwise by the minister when introducing the bill, and while the briefing provided by the Attorney-General, for which I thank him, was some time ago, it is my recollection that no attempt was made to justify the necessity then, either. Rather, it was suggested that this bill would make it easier: an insufficient excuse, given how far it goes.

I also hold serious concerns, as do others, about the potential for innocent parties, particularly offenders' spouses and children, to have hardship forced upon them by the actions of another. It is certainly true that in some cases offenders do not involve or even inform their partners of their offending and yet these law-abiding citizens face severe punishment and hardship through the consequences of their partner's actions.

While I am sure that the government would have us believe that the bill is intended and will only capture the few Mr Bigs of the drug world, a term I have heard often used and rarely seen an outcome to, the reality is that our courts are filled with citizens facing charges for involvement in the drug trade. Many are facing charges that fit in the commercial bracket, meaning that once this bill is enacted they will face automatic bankruptcy. We should be under no illusion that only a handful will be affected. Nor should we be under the delusion that these offenders are facing lengthy gaol terms, as the Mr Bigs title suggests.

For some time, my office has kept abreast of actual sentences imposed for various offences, from paedophilia through to cultivation, manufacture and sale of illicit drugs, via the sentencing remarks on the [courtssa.gov.au](http://courtssa.gov.au) website. On the latter, it is hard not to conclude that suspended sentences are the norm.

Looking at the four distinct commercial drug offences currently on the site, three resulted in suspended sentences, with the offenders entering into good behaviour bonds of varying lengths. On reading the sentencing remarks, I would suggest that none fall into the category of the Mr Bigs.

In the fourth case, four offenders were involved in the sophisticated large commercial cultivation of cannabis and were discovered with some 259 plants and over 50 kilograms of cannabis. Each offender pleaded guilty, however, one attracted additional charges for a firearm also discovered on the site, and hence received a longer term of imprisonment. Two others received 10 months non-parole and the fourth a suspended sentence and good behaviour bond of two years.

The point to be made is that these offenders are at the highest end of the scale and yet most walk free from court with a good behaviour bond. This, to me, is where we, as a parliament, should be focusing our attention if we truly desire to punish criminals and deter would-be offenders. I ask: where is the deterrent when one can expect to only receive a suspended sentence?

However, instead of seeking to ensure that offenders receive terms of imprisonment proportionate to the seriousness of their offending, or even larger fines, as many of the offences provide for, the government, instead, is chasing assets that may very well not be linked to the proceeds of crime.

The comparison between a court imposed penalty—be it imprisonment or a fine—that is a direct consequence of the offending and what the government proposes in this bill highlights, at

least to my mind, the lack of nexus that I spoke of earlier. While the government does not seek to go as far as its Western Australian counterparts, where those convicted lose everything including the family home, it is my fear that the known excesses of the Western Australian scheme—which, again, was sold as targeting the Mr Bigs—will be experienced here.

An example is the case of Mr David Davies (aged 81) and Mrs Florence Davies (aged 77) who are now renting the home they owned for 40 years from the government. Allegedly, unbeknownst to them, their son was storing a commercial quantity of cannabis in the ceiling cavity of their home. The son pleaded guilty to drug trafficking charges and is currently serving, I believe, a sentence in prison. Mr and Mrs Davies were also convicted of drug trafficking, I understand, for aiding and abetting their son's offending as it was not believed they were not aware of the cannabis in the ceiling. Unlike their son, they received a 16-month suspended sentence for their involvement.

Additionally, as a result of being declared a drug trafficker, all of their assets were automatically confiscated and transferred to the state, including the family home which Mr Davies had built himself. The Davies were by no means wealthy and, given their meagre assets, could hardly be said to be living a lavish lifestyle on the proceeds of crime, yet they were ensnared in the net intended for the Mr Bigs. Due to public pressure, I understand the property is now being rented back to Mr and Mrs Davies at peppercorn rent for presumably as long as they intend to live there.

Do we really wish to see such an example here? It is possible to conjure a thousand scenarios in which one mistake, one bad debt to the wrong person—or indeed one selfish and stupid progeny—could see a person bankrupted by the state. While I do not seek to excuse any involvement in the illicit drug trade—and, of course, I seek to limit the availability of illicit drugs—I believe we can do so without crossing the line, which this bill well and truly does.

Despite not supporting the bill, I will be moving an amendment that seeks to limit the bill's scope to those who it can be reasonably presumed have made sustained and significant income from the production or sale of illicit drugs. It does so by restricting the invocation of the automatic confiscation to those who are convicted on a third occasion of a serious drug offence rather than a single serious drug offence or three prescribed drug offences as the bill currently provides.

As I have stated, I believe existing legislation to be sufficient but, if the bill is to proceed, then there should be little doubt that property seized is the proceeds of criminal activity. Short of inserting a test that links the assets to the crime, similar to that which already exists in the Criminal Assets Confiscation Act 2005 (and hence is pointless doing so), by limiting the bill to offenders who have been convicted on three separate occasions of a commercial drug offence, my amendment ensures that it would be reasonable to assume that in most (if not all) cases the offender is deriving a sustained income from illicit drugs.

I also believe my amendment to better reflect the election policy upon which this bill is based which stated that the bill would 'attack repeat drug offenders' and 'targets high level and major drug trafficking offenders'. My reading of the policy sound bite sentences suggests that both quotes are discussing the same category of offender. Accordingly, by restricting the bill to repeat commercial offenders my amendment gives effect to this commitment.

I would like to say that over my years in drug treatment and rehabilitation I came across many instances of young people who had been conned, while they were using drugs, into growing a crop hydroponically in their shed to pay off a debt. It was meant to be a one-off deal to pay off their debt and walk away from it. All of those people that I speak of—and I would say there would be 18, from memory—went on to become drug-free and to this day, five to seven years later, they remain drug-free, disconnected from the drug culture, and have found themselves jobs, gone into education, have reconnected with their families and have basically got on with their lives.

If this bill was in place and it applied to them, they would have had a struggle to get through their recovery and to build a life for themselves, all because of one stupid mistake, one stupid decision, to try to clear up a debt or overcome an apparently insurmountable hurdle at that particular stage of their life. I am sure every member in this place can relate to the fact that young people make stupid decisions, but to be punished for it via bankruptcy by the state, which would be almost a life sentence for some of these people, I do not see the need for this to apply to that group of people.

If our job here is about making police work easier, then we are in real trouble, because at the moment we have a government that appears to believe that what is mine is mine and what is yours is mine as well when I feel like it or when I choose. We have had the same proposal about the confiscation and crushing of monkey bikes, even though when people bought those bikes they

were not illegal at the time. People will be punished for making judgements prior to what we as legislators pass as law later down the line.

To me this bill is so over the top. We could do so much better and so much more to make a dent in the drug scene than what is being proposed in this bill. That said, my amendment does not address my concerns, particularly about the lack of nexus between the asset seized and the crime committed, hence why, regardless of its passage, I will not support the bill. However, I encourage members inclined to support the bill to consider my amendment so as to avoid South Australians being confronted with their own version of the Davies example.

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

### **LEGAL SERVICES COMMISSION (CHARGES ON LAND) AMENDMENT BILL**

Second reading.

**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) (17:38):** I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends s18A of the *Legal Services Commission Act 1977* (the Act) to confirm the status of the Legal Services Commission's statutory charge over land under the *Real Property Act 1886* and so remove potential impediments to the recovery of legal-aid costs secured by such charges.

Case-related funds are an important source of funding for legal aid. Legal-aid costs to the current value of \$4.7m are secured by charge under s18A, and the amount is increasing.

Section 18A creates a statutory charge that the Commission make take over land to secure the payment of a legally-aided person's contribution towards legal aid. It allows the Commission to notify the Registrar-General of a charge over land so that it is noted on the title. The Registrar-General registers that notice by entering a memorandum of charge in the register book or register of Crown leases. The intended effect is to make the title of every registered proprietor of the land subject to the charge and to give notice of the Commission's interest to anyone considering acquiring an interest in the land.

Section 18A also provides that if there is a default in payment of the contribution, the Commission has the same powers of sale over the charged land as a mortgagee would have under the *Real Property Act 1886* in respect of a mortgage when there has been a default in payment of the principal.

The Commission's practice is to let the charge remain over the title indefinitely until the property is re-financed, further mortgaged, transferred or sold or until the owner dies. Until then, payments towards legal aid costs are not usually required.

However, uncertainty about the status of the charge may impede the Commission's ability to recover the costs secured by the charge when it is sold by the holder of another interest registered on the title. The purpose of this Bill is to remove that uncertainty.

The doubt arises from the fact that despite the purpose of s18A—that the charge be treated as an interest registered under the *Real Property Act 1886*—the recording of the memorandum of charge by the Registrar-General does not, of itself, amount to registration of the charge under the *Real Property Act 1886*. This has resulted, on occasion, in disputes over the Commission's entitlement, under the *Real Property Act*, to a share in the proceeds of the sale of the charge land by a prior registered mortgagee or encumbrance. Continuing uncertainty may diminish the effectiveness of the charge.

One way of dealing with the problem would be to legislate to permit the Commission to secure legal assistance costs by registering an encumbrance over the land under the *Real Property Act*, rather by imposing a statutory charge under the Act. This would be administratively burdensome for the Commission and the additional fees and costs would increase the amount owed by the legally-aided client.

Another solution would be to make the Commission's charge a first charge, giving it priority over all other registered interests regardless of the date of registration. But there are no compelling public policy reasons for giving this particular charge, as opposed to charges created under other legislation, that priority.

The solution taken by this Bill will clarify the intention of Parliament that the statutory charge be taken to be a registered interest on the title and as such to have a priority with respect to other interests that is consistent with the scheme of registration in the *Real Property Act*. The amendments will ensure that:

- the statutory charge, once noted on the title, has the priority of an instrument registered on the title under the *Real Property Act*;

- when there is a default in payment of the contribution secured by the charge, the Commission has the powers of sale of a mortgagee under the *Real Property Act* and in selling the charged land is governed by provisions in that Act relating to mortgagee sales; and
- the statutory charge is to be treated as an encumbrance registered under the *Real Property Act* for the purposes of the allocation of the proceeds of sale when the charged land is sold by someone other than the Commission.

The amendments will have retrospective effect. They will apply to the charged land whether the charge was created before or after the commencement of the Bill. Without such a transition provision, there would be an inconsistency in the priority rules for mortgages registered after a statutory charge, depending on whether they are registered before or after the commencement of the amending legislation, and that this might cause confusion in years to come.

The legal effect of the charge will be apparent on the register. In addition, the Commission will ensure that its written notification of a charge to prior registered mortgagees or encumbrancees will refer to the legal effect of the charge, and the Registrar-General will advise Lands Titles Registration Office clients about the legal effect of the Commission's charge by issuing a 'Notice to Lodging Parties'.

In summary, these amendments will remove impediments to the recovery of contributions towards legal-aid costs that are owed to the Commission and are secured by a charge over land. There will no longer be any doubt that:

(a) the holder of an interest registered before the noting of the charge on the register who sells the charged land will be legally obliged to pay the Commission, from the proceeds of sale, the amount secured by the charge in the priority of distribution set by s135 of the *Real Property Act* as if the charge were an encumbrance under that Act, and deal with any surplus remaining after paying amounts currently due under the charge in the manner described by s135A of that Act; and

(b) when a later registered mortgagee or encumbrancee sells the land, the transferee will take it subject to the Commission's charge, unless that interest has been discharged by payment from the proceeds of sale.

The Commission estimates that the enactment of these amendments will result in an annual 5 per cent increase in the average amount of legal-aid costs secured by charge that it recovers.

I commend the Bill to Members.

#### Explanation of Clauses

##### Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

##### Part 2—Amendment of *Legal Services Commission Act 1977*

4—Amendment of section 18A—Legal assistance costs may be secured by charge on land

Section 18A of the Act provides for legal assistance costs to be secured by a charge on land. This clause amends the section—

- to provide that the charge will be taken to have been presented for registration at the time the notice of the charge was lodged with the Registrar-General (thereby ensuring that the charge can be given an order of priority as against other registered interests);
- to ensure that the provisions of the *Real Property Act 1886* relating to a sale by a mortgagee would apply to a sale of the charged land by the Commission; and
- to ensure that sections 135 and 135A of that Act will work properly in relation to the charge if the charged property is sold by some other party who is the holder of a mortgage or encumbrance over the land.

##### Schedule 1—Transitional provision

The proposed amendments are to apply in relation to charged land whether the charge was created before or after commencement of the amendment.

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

### **CRIMINAL LAW (SENTENCING) (SENTENCING CONSIDERATIONS) AMENDMENT BILL**

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

At 17:39 the council adjourned until Wednesday 14 September 2011 at 14:15.