LEGISLATIVE COUNCIL

Wednesday 14 September 2011

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

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:21): By leave, I move:

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

Motion carried.

BURNSIDE COUNCIL

The Hon. A. BRESSINGTON: Presented a petition signed by 1,630 residents of South Australia requesting the council to urge the Minister for State/Local Government Relations to immediately resume the investigation into the City of Burnside, pursuant to section 272 of the Local Government Act 1999, by Mr Ken MacPherson, and upon completion publicly release the final report.

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:22): I bring up the 29th report of the committee.

Report received.

QUESTION TIME

SECURITY CAMERA FOOTAGE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question about security camera footage.

Leave granted.

The Hon. D.W. RIDGWAY: It was revealed last week that the security camera footage taken in the city on the night the then deputy premier Kevin Foley claims he was a victim of a vicious, unprovoked bashing last November has been wiped.

These are very serious charges, and Mr Foley has made a lengthy statement to parliament about the incident. Mr Foley told the parliament that his character had been attacked. Mr Foley went on to publicly deny the defence's claims that Mr Foley confronted, accosted and attempted to force himself on two young women before the alleged bashing.

The now erased tapes may have cast light on the police minister's movements on the night in question. The police prosecutors are now saying that the tape was erased because of the length of time between the alleged incident and the arrest of the suspect. My questions for the Minister for Police are:

1. Does the minister believe that it is imperative that security tapes not be erased or overwritten until after an arrest and an acquittal or a conviction in court?

2. Has the police minister ever discussed or communicated with the police commissioner, or any other members of the South Australian police force, the question of security footage taken on that night?

3. Should these Adelaide city tapes have been held in secure storage until after the court case had been concluded?

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) (14:26): I thank the honourable member for his questions. I will refer them to the Minister for Police in another place and bring back a reply.

OLYMPIC DAM EXPANSION

The Hon. J.M.A. LENSINK (14:26): I seek leave to make an explanation before asking the Minister for State/Local Government Relations a question about the BHP expansion assessment report.

Leave granted.

The Hon. J.M.A. LENSINK: I understand that there is a whole-of-government report to assess BHP Billiton's EIS and supplementary EIS, which is known as the assessment report, which has been prepared by the Department of Planning and Local Government. It includes environmental assessments from SARDI, among other agencies, and discusses a range of other matters, such as the mine site landing facility service corridors and transport infrastructure. My question is: is the minister aware of whether that assessment report has been completed, and when will it be made public?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:27): I will take that question on notice and get a response to the honourable member as soon as possible.

LOCAL GOVERNMENT ELECTIONS

The Hon. S.G. WADE (14:27): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to the local government elections for 2010.

Leave granted.

The Hon. S.G. WADE: On 1 November 2010, *The Advertiser* reported that almost 200,000 businesses and landlords had been struck off the voters roll for the 2010 local government elections. Across the state, the business and landlord roll fell by 90 per cent. The fall was higher in the metropolitan area. The Holdfast Bay roll fell 99 per cent, from 6,272 electors to 48.

At the general meeting of the Local Government Association held on 29 April 2011, the following resolution was passed:

> That the Local Government Association approach the State Government to seek a review and changes to the Local Government Voters Roll to restore the automatic entitlement of all property owners with the Local Government Elections Voters Roll. That the review include the provision of registered business owners on the Voters Roll and the right for those registered business owners to be retained on the Roll, unless advised otherwise.

My questions are:

1. Does the government support the restoration of automatic enrolment of property owners on the local government voters roll?

2. Will the minister assure the council that the government's support for this proposal will not be withheld to bolster nominal voter participation in light of the state government's Strategic Plan goal to increase voter participation from 31 per cent in 2006 to 50 per cent by 2014?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:29): After each election, the department reviews the voter turnout and participation, and it was no different for the 2010—

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: This is the second day we have had the minister trying to answer and the leader talking over the top of him. We cannot hear the answer.

The PRESIDENT: The Hon. Mr Wortley.

The Hon. R.P. WORTLEY: Thank you, Mr President. After each election, the government does look at the voter turnout and voter participation, and that is currently happening now. We are working with the Local Government Association and, as soon as the appropriate information comes to order, we will advise the opposition.

REGIONAL DEVELOPMENT

The Hon. I.K. HUNTER (14:29): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about recent funding for regional development.

Leave granted.

The Hon. I.K. HUNTER: One of the most difficult areas for government is deciding who or which programs should receive grant moneys. It is a truism that all causes are, in the eyes of the proponents at least, eminently worthy and deserving of funding, often above and beyond what is available. On the counter side, those who have not received support may be naturally disappointed and sometimes critical. I understand the minister has spoken previously about the support for regions offered by the commonwealth government. Will the minister update the chamber on recent funding developments for South Australian regional projects?

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) (14:30): Members may not in fact recall that the Regional Development Australia Fund is a fund of over $1 billion to support infrastructure needs and economic growth of Australia's regions and is designed to leverage state, commonwealth and local government, and private and not-for-profit investments. The fund is a competitive fund, which is available to local government and non-government organisations or consortia, which include businesses.

The first round of this really important fund has recently been announced by the federal government and South Australia, which often receives funding based on the size of its population compared to the rest of Australia, has done extremely well. The distribution this round was $150 million Australia-wide and a total of $15.89 million has been committed to six projects in regional South Australia. They involve a diverse range of initiatives, with investment ranging from nearly $13 million, which the District Council of Lower Eyre Peninsula will devote to upgrading Port Lincoln Airport, to a $2.84 million upgrading of the art centres in the APY lands.

As South Australia's busiest regional airport, Port Lincoln is, as I have previously discussed in this place, a very important gateway and infrastructure supporting economic development and business in the Eyre Peninsula. It obviously has an important role there. The state government has recognised this and committed over $1 million from our Regional Development Infrastructure Fund for transport and electricity infrastructure to support this major upgrade. Now the federal government has come to the party and committed $4.5 million to this facility. The economic impetus for Aboriginal communities created by art centres has been recognised in the commonwealth's commitment of $2.84 million to upgrade and build a new art centre infrastructure in a number of APY communities.

In the Barossa, $4.81 million will go to the Barossa Council to help construct a new shared bicycle and walking path from Tanunda to Gawler and will bolster the region's reputation as a cycle-friendly tourist area. In the Flinders Ranges area just under $1 million has been committed to the Flinders Ranges Council for Energizing the Flinders, which is a green energy infrastructure project to install solar power systems at 10 locations across the Flinders region and 84 solar lights at local community places. That is the RDA involved in the Far North.

Sporting facilities will benefit to the tune of $1.72 million, which will go to the District Council of Streaky Bay to support development of the Streaky Bay Oval precinct. This will include the construction of a new community complex, gymnasium and activities room, and provide synthetic bowling greens. Last but not least, $1.1 million has been committed to a $1.38 million project to be undertaken by Uniting Care Wesley Port Pirie Inc. for the Port Pirie Men's Shed and Community Centre complex and rebuild project. This project is designed to support current and expanded training and employment activities for disadvantaged people and families in the region.

The RDA funds are not just about economic development. Projects are expected to enhance the liveability of the community and the fund's guidelines state that projects must contribute to the development of infrastructure and to economic and community growth. The guidelines provide grants of between $500,000 and $25 million and indicate the projects can be staged to occur over a period of time.

Members may be aware that the second round of this program, in which another $150 million will be made available, has been announced and applications will open in November this year. I would like to take this opportunity to urge communities and businesses to look very carefully through the guidelines so that they can maximise their opportunity for funding—and, of course, all that information is provided online. I congratulate the successful applicants and look forward to seeing these projects come to fruition.

REGIONAL DEVELOPMENT

The Hon. J.S.L. DAWKINS (14:35): I have a supplementary question. What is the state government's attitude to the federal government regional development funding that the minister has just outlined being made available to metropolitan Adelaide?

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) (14:35): I believe I have answered that question in this place before. However, the RDAF structure and funding arrangements are the responsibility of the federal government. As I have said, some metropolitan RDAs were set up mainly as advisory boards, and initially it was not anticipated that they would participate in contributing to the funding grant rounds—obviously through local councils, because they themselves are not eligible to apply for grants.

They have a role in helping process applications and construct roadmaps and priorities for their region, so they do have an important role to play, but initially they were not seen to have this role. The federal government changed its mind about that or, if you like, further developed its policy to include metropolitan RDAs in those arrangements. The federal government has allocated, if you like, every part of Australia; be it city, regional or remote, every part of Australia has been made part of an RDA, and that includes city areas as well.

After the federal government included the RDAs, given that it had made it clear that the allocation of the grant funding was not on a per capita or population basis—and therefore states could not necessarily expect some sort of cap arrangement; it would be based on merit—and also given that metropolitan councils, through their RDAs, would then be eligible to apply for grants, my view was that you would have to be crazy not to pick up that opportunity. If you were invited, you would be crazy not be part of those arrangements, given that they were included in the grant funding arrangement. I understand that metropolitan Adelaide applicants did put in applications—I think Victoria Square was one of them; I cannot recall if they included any others—but I know that Adelaide City Council was unsuccessful in receiving any federal funding under this arrangement.

Federal minister Simon Crean is seeking to incorporate all metropolitan RDAs into this new structure, and he has written to me informing me of that. It is his prerogative to do that if he wants, and I have accepted that arrangement. He has also sought funding from South Australia to the metropolitan RDAs, and I have said that currently the state government does not have any funds to contribute to the metropolitan RDA. We have the office in the northern suburbs and the Office for the Southern Suburbs so we believe that we provide significant funding and other opportunities for business development and investment in the metropolitan area. At this point in time cabinet has decided that we will not be giving any additional funds to the metro RDA.

FINANCIAL ASSISTANCE GRANTS

The Hon. J.M. GAZZOLA (14:40): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about Financial Assistance Grants.

Leave granted.

The Hon. J.M. GAZZOLA: I understand that every year the South Australian Local Government Grants Commission makes a series of recommendations to the commonwealth government for the distribution of the Financial Assistance Grants to local government bodies. Minister, will you update the council on the Local Government Grants Commission 2011-12 recommendations to the commonwealth government and subsequent outcomes?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:41): I thank the honourable member for his important question. Last month I was pleased to be able to advise the Hon. Simon Crean MP (federal Minister for Regional Australia, Regional Development and Local Government), details of the commonwealth Financial Assistance Grants and supplementary local road funding to be provided to local government authorities in South Australia for 2011-12. I was also pleased to advise the Hon. Anthony Albanese MP (federal Minister for Infrastructure and Transport) of the recommended distribution of the special projects component of the commonwealth Roads to Recovery grants to local governments in South Australia, also for the year 2011-12.

The Local Government Grants Commission's recommendations for the distribution of commonwealth Financial Assistance Grants to councils for 2011-12 were last month endorsed and approved by Simon Crean MP. Grant allocations for South Australia for 2011-12 are made up of

$145.8 million in Financial Assistance Grants; $16.2 million in supplementary local road grants; and $4.3 million for the special projects component of the Roads to Recovery grants. A further $24.1 million will be allocated by the commonwealth directly to councils under the Roads to Recovery grants. A total of $190.4 million will be allocated to local governing authorities in South Australia during the year 2011-12.

As members would be aware, the commission is responsible for making recommendations to the minister on the distribution of untied commonwealth Financial Assistance Grants to local governing authorities in South Australia in accordance with state and federal legislative requirements. By way of background, the Financial Assistance Grants are divided into two components: general purpose and identified local roads grants. To calculate the general purpose grants, both the capacity of councils to raise revenue and their expenditure needs relative to the average or standard council are assessed. Greater funding is directed to councils with less capacity to raise revenue from rates or where services cost more to provide for reasons outside the council's control.

In 2011-12 general purpose grants to South Australia are estimated at $109.5 million, an increase of 3.83 per cent from 2010-11. The local roads grants are estimated at $36.4 million, an increase of 4.28 per cent over 2010-11. Furthermore, the Local Government Grants Commission recommendations for the distribution of the special projects component of the Roads to Recovery grants were last month approved and endorsed by the Hon. Anthony Albanese MP. These recommendations were made to the commission on the advice of the Local Government Transport Advisory Panel. Unlike the Financial Assistance Grants, these grants are tied and are made available under the terms and conditions set out in the Roads to Recovery Act 2000.

I am pleased to advise the chamber that the District Council of Kimba, the Rural City of Murray Bridge, the City of Onkaparinga, the City of Holdfast Bay, the City of Playford, the District Council of Mount Remarkable and the District Council of Orroroo Carrieton all received grant allocations for specific projects under the special projects component of the Roads to Recovery grants. The Roads to Recovery program is of enormous assistance to local governing bodies, and I commend the commonwealth government for continuing this important initiative.

Additionally, the state and local government sectors were very pleased to be advised by the federal government's announcement to extend the supplementary road funding grants program from 2011-12 to 2013-14. Once again, the South Australian Local Government Grants Commission supplied a recommended distribution to be considered by the commonwealth government. These recommendations were accompanied by a summary of project details for the special local roads component.

The supplementary local road funding program has been an enormous assistance to all local governing bodies in South Australia and has also gone some way to securing a more equitable share of local road funding for South Australia. I commend the chair of the Local Government Grants Commission, Ms Mary Patetsos, along with commission members Mr John Ross and Ms Jane Gascoigne. Their ongoing commitment and hard work are very much appreciated.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (14:45): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations questions regarding the investigation into the former Burnside council, which I refer to as the Burnsidegate affair.

Leave granted.

The Hon. J.A. DARLEY: On 6 July, in response to questions concerning the draft MacPherson report, the minister stated:

> I have not read the report. I did not need to read the report for me to make my decision, as simple as that.

In response to a question from the Hon. Ann Bressington on 26 July, the minister said:

> The commissioner has sent me an invitation inviting me to forward a copy of the draft report, which I have done.

In response to questions the following day, the minister further indicated that a copy of the draft report had been prepared for the Commissioner of Police on Friday 22 July and forwarded to the commissioner on Monday 25 July. My questions are:

1. The minister has stated on a number of occasions that he has not read the report. Does this mean that the minister does not possess a copy of the draft report?

2. Could the minister advise whether any of his staff possess a copy of the draft report, regardless of whether or not they have read it?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:47): I thank you for your question. In relation to that component, no, none of my staff have a copy of the report. Why have I not read the report? In hindsight, I can see that some of the comments I made in reference to the suppression order were maybe not as clear as I would have liked them to be, and I thank you for the opportunity to provide some further clarity on this issue.

I don't think it would be prudent of me to read the report, not only because there is a suppression order that remains in force but also because the court's judgement rendered some of the terms invalid. It would be like reading a half-finished novel with some of the chapters removed. In the light of these circumstances, it would be difficult to remain objective, given the incomplete nature of the report. It is also worth remembering that the draft report was never destined for the minister's desk. While on my feet, there seems to be a great desire to carry on with the Burnside issue. I have terminated it, and that is the end of it as far as I am concerned. Where you want to—

Members interjecting:

The Hon. R.P. WORTLEY: That's not a problem. Where you want to take this is your responsibility. I would like to make one thing clear: this investigation was not into the government but into a council in a Liberal-held area. There was no gain by me to terminate the investigation, as if there is some sort of conspiracy.

The Hon. D.W. Ridgway interjecting:

The Hon. R.P. WORTLEY: No, I don't. There we pick it up. I terminated it regardless. I terminated it because it was in the best interests of the state of South Australia and the taxpayers. Secondly, there seems to be some failure for people to understand the enormity of the Supreme Court's decision, which ruled three sections of the terms of reference—

The Hon. J.M.A. Lensink interjecting:

The Hon. R.P. WORTLEY: Will you be quiet and let me speak? Do you want to hear this or don't you? They don't, and that is the very issue with all this. The only person in this debate who cares about the people of Burnside is myself. The only person who cares about Burnside is myself. I would like to ask the question: just say I was prepared to spend another $2 million or $3 million to complete the report, and a report came back to me, what would I be expected to do with it? The only power I have is to sack the council. The reality is that the old council on which this investigation was launched is gone. It is an absolute nonsense. By all means go where you want with this. I have terminated the investigation, and it will go no further as far as I am concerned. It is the Burnside council who is going to suffer in all of this, and it is going to continue to be tarnished with what happened with the previous council. If that is what you want to do, by all means but, as the minister, I will not spend one more cent on this investigation.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (14:50): If neither the minister nor his staff have a copy of the draft report, could the minister advise when, where and how a copy of the draft report was obtained on Friday 22 July? Did you or any member of your staff request a copy of the report from Mr MacPherson personally? Did you, a member of your staff or anyone, to your knowledge, access Mr MacPherson's computer, or that of any of his staff, to obtain a copy of the report? If so, was this done with or without authorisation?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:50): I will answer the question. None of my staff have copies of that report and none of my staff would have gone into Mr MacPherson's computer. Once again, the conspiracy theories are coming about by some of the Independents. It is great to have all care and no responsibility. I find the question outrageous, for a start. The only person in this debate who shows any respect for the law of this state is myself, because I have a complete respect for the decision of the Supreme Court, unlike many others in this debate.

WORKCOVER CORPORATION

The Hon. R.I. LUCAS (14:51): I seek leave to make a brief explanation before asking the minister representing the minister who was trusted with the responsibility of looking after WorkCover a question.

Leave granted.

The Hon. R.I. LUCAS: Just over a week ago, Mr Alex Mericka won a significant legal victory against WorkCover SA. Justice Trevor Olsson found for Mericka in his claim against WorkCover. He was critical of the way Mericka's case had been handled through WorkCover's authorised claims agent at the time, FAI, and the state manager, Ruth Mitchell, whose evidence the judge repeatedly said lacked credibility.

Put simply, Mr Mericka had accepted a payout of about $100,000 when Justice Olsson said that the amount was 'very small and manifestly inadequate' given the expected figure was more like $495,000. Justice Olsson was also critical of Stephen Lieschke, an ex-principal of the law firm, Lieschke and Weatherill, and said that he did not provide competent professional advice to the client, who was confused and in a poor mental state when he signed the documents.

Justice Olsson said that Lieschke, now Deputy President of the Workers Compensation Tribunal, had failed to give Mericka emphatic and unequivocal advice that accepting the payout was ill-advised. He also said:

> The inevitable conclusion to which I am driven is that [Mericka] did not ever receive either competent financial advice or competent professional advice.

The judge said that he found it somewhat remarkable that Lieschke, knowing about Mericka's fragile mental state, had not acted more robustly on his behalf. Justice Olsson said:

> What was said to [Mericka] was patently not sufficiently comprehensive to enable him to make a truly informed decision as to whether or not to consummate the proposed redemption, particularly bearing in mind his emotional and psychiatric conditions at the time.

Justice Olsson said that Lieschke had seemed to be more concerned about the legal after-effects of the signed agreements rather than the propriety and desirability of whether Mericka should have signed them at all, and there is further criticism of Mr Lieschke's actions in relation to that.

The soon-to-be premier, Mr Weatherill, also gave evidence in that case. In the statement made by Mr Mericka, he said, in a question put to Mr Weatherill—this is from the transcript:

> He then recounts that you were flicking through some documents and you started to read the documents. His evidence is that he told you—

that is Mr Weatherill—

> that he'd already read the documents a few times and asked you—he just wanted to know what they meant, and that you replied that you weren't here for that: 'You need to see your own solicitor. I've been only asked to read these documents to you,' and that you continued to read the documents out loud, 'and when he finished'—that is, when you finished, you said to Mr Mericka, 'That's it. Now I really must be off,' and stood up to signify that the appointment had come to an end.

Further on in the transcript of the hearings, Mr Mericka put the question to Mr Weatherill, 'Did you say that you've got some recollection of seeing me or do you not?' Mr Weatherill says, 'No.' Question is, 'Okay.' Answer, 'I have no recollection of seeing you.' Mr Weatherill's evidence is that he cannot even remember meeting with Mr Mericka and, therefore, was unable to answer a significant number of further questions in relation to his actions and advice on this important case. Given the transcript of the evidence and those findings of Justice Olsson, my questions to the minister are as follows:

1. Given the decision that has been taken in relation to this case, what does WorkCover propose to do for the many other injured workers who were treated similarly by WorkCover and their agents over those previous years and subsequent years as well? In particular, has WorkCover decided to appeal the judgement and has there been any discussion with the minister about whether the government supports WorkCover appealing this particular judgement?

2. What has been the total cost to WorkCover so far in fighting this long case?

3. Has WorkCover conducted and provided to the minister an estimate of the number of other potential cases that might be covered by the terms of the decision and judgement by

Justice Olsson in the Mericka case, and, if so, what is that number and what are the costs and implications to WorkCover if this particular judgement stands and applies to many other injured workers?

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) (14:57): I thank the honourable member for his questions and will refer them to the Hon. Jack Snelling in another place and bring back a response.

ROYAL ADELAIDE SHOW

The Hon. CARMEL ZOLLO (14:57): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the Royal Adelaide Show.

Leave granted.

The Hon. CARMEL ZOLLO: Consumer and Business Services hold the important responsibility of product safety oversee, the protection of consumers by ensuring compliance with relevant laws, including national mandatory safety standards and the Australian Consumer Law. Can the minister provided the chamber with information regarding product safety and inspections of show bags and other products at the recently held Royal Adelaide Show?

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) (14:58): I thank the honourable member for her most important question. I am delighted to report to the council that this year we had a wonderful success with regard to consumer satisfaction and safety at the Royal Adelaide Show, which has now drawn to a close.

Each year children, and families, from the city and country travel to the Wayville showgrounds, having saved their pocket money and been on their best behaviour for their parents so that they might be able to select their favourite show bags and toys and choose their favourite rides.

Consumer and Business Services has the important responsibility of conducting safety inspections on products and toys that are contained in show bags and sold on stalls at the show, and also those given away as prizes. This is a preventative measure to ensure that novelty items and toys are safe for consumers and comply with safety standards before they go on sale.

Officers from the Product Safety Unit of Consumer and Business Services work together with officers from similar units across Australia to inspect the products contained within show bags and at a range of stalls as suppliers tend to move across Australia selling their wares at each of the state's big show days. Suppliers provide CBS officers with National Association of Testing Authorities accredited products test reports for each product, and officers conduct further testing where needed. This streamlining of the process has made it possible to examine each of the products more thoroughly and added to the overall confidence that products do not slip through under the radar, so to speak.

I am advised that this year 236 show bags contained 1,346 products which were inspected for compliance with the Australian mandatory standards and bans. This year, CBS officers focused on show bags for children under the age of three, ensuring that there were no particularly small pieces that would be easily broken off and pose as a choking hazard. Officers also paid particular attention to goods for babies and young children, looking for items which have previously been banned, including yo-yo balls, suction tongue studs and flammable children's nightwear.

I am pleased to advise that there were in fact no breaches detected by our officers in any of the products examined this year. This is in line with results from safety regulators in other states, which has demonstrated that it has been a record year for safety—something that we obviously strive to achieve every year. Inspectors also looked at a range of stalls in sideshow alleys and pavilions throughout the show and found no other items on offer in breach of mandatory safety standards.

I am advised that one of the reasons for these very pleasing results has been the large increase in penalties under the new Australian Consumer Law, which was introduced in South Australia earlier this year. The penalty for supplying goods that do not meet mandatory safety

standards or are banned has increased from $10,000 to $1.1 million for companies, and $220,000 for individuals. We believe that this has had a significant impact.

The increase in penalties and the cooperation demonstrated by compliance officers across the states I think has acted as an excellent incentive for traders to provide safe and compliant products for consumers. I commend the work of the product safety officers, and I am confident that, through their ongoing diligence, this year's show was a great success for all South Australians and a safe experience, particularly for the children.

ROYAL ADELAIDE SHOW

The Hon. J.M.A. LENSINK (15:02): As a supplementary question, can the minister advise whether she has had a response as yet from the federal minister in relation to allegations of the catering contractors and their uncompetitive practices impacting on stallholders' food prices?

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): Yes, the Hon. Michelle Lensink raised this issue in this chamber some time ago. These matters fall within the portfolio responsibilities of the ACCC, and some time ago I referred the matter to the Hon. David Bradbury, who is the parliamentary secretary to the Treasurer.

I also took the liberty of writing to the Adelaide Event and Exhibition Centre's board of directors, raising the concerns that the Hon. Michelle Lensink raised here, and made sure that the board of directors was also aware that I had sent this correspondence on to the Hon. David Bradbury. At this point in time, I am not aware of receiving any response from the federal member nor, I believe, have I received a response from the Adelaide Events people, so I look forward to that.

POLLUTION MONITORING

The Hon. M. PARNELL (15:04): I seek leave to make a brief explanation before asking a question of the Minister for Industrial Relations, representing the Minister for Environment and Conservation, a question about air and water pollution monitoring.

Leave granted.

The Hon. M. PARNELL: Currently in South Australia many businesses rely on external private companies to undertake air and water quality monitoring of pollution from their premises. This monitoring is often a legal requirement of EPA licensing. These private monitoring companies are typically accredited with the National Association of Testing Authorities (NATA).

NATA is a not-for-profit company operating as an association owned by its members. All NATA accredited organisations are members of the association. In the absence of independent EPA testing, these monitoring companies occupy a huge position of trust, and they play a very important role in maintaining air and water quality in our communities.

It was very concerning to hear on 31 August this year the ABC's *PM* program report that the Queensland Department of Environment and Resource Management was investigating a monitoring company accused of misreporting air quality data. This investigation resulted from a whistleblower in the company, who reported that shortcuts were routinely taken and that workers in the firm pretended to conduct testing but instead were fabricating their findings.

The issue of verification of pollution monitoring data is an issue that has been raised with me many times over the last 15 years I have worked in this area. For example, 12 months ago, I chaired a public meeting in Port Adelaide, with many of the residents who attended expressing a great deal of frustration at what they regarded as the inadequate action by the EPA and the lack of independent verification by the EPA of pollution from local industry, such as the Adelaide Brighton Cement factory. Residents also wanted the EPA to do more, yet the EPA's capacity has been hard hit with government budget cuts. My questions are:

1. Is the minister aware of any reports of falsification of testing data by air and water quality monitoring companies operating in South Australia?

2. Does the company at the centre of the investigation in Queensland also operate in South Australia and, if so, for which companies and in which communities?

3. What auditing of company-supplied testing is done by the EPA to verify the data?

4. What assurances can the minister give that the air and water quality monitoring of industrial activities done in South Australia is completely accurate 100 per cent of the time?

The PRESIDENT: Before the minister answers that, for the benefit for the Hon. Mr Kandelaars, who is new in this place, the explanations given by the Hon. Mr Lucas and the Hon. Mr Parnell were bordering on the lines of being longwinded because brief explanations are called for. The honourable minister.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:07): I thank the honourable member for his very important questions, despite the fact there was a longwinded explanation. I assure the honourable member that I will refer this to my colleague the Hon. Mr Caica in another place and get a response to him as soon as possible.

SOUTH AUSTRALIAN VISITOR AND TRAVEL CENTRE

The Hon. T.J. STEPHENS (15:07): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Tourism, questions about the new South Australian travel centre on Grenfell Street.

Leave granted.

The Hon. T.J. STEPHENS: When I recently visited the new premises of the privatised South Australian travel centre on Grenfell Street, I noticed a sign on the wheelchair lift which said that it would be ready to transport customers in a few weeks. Since then, I have learnt that the lift is now operational.

In order to get those customers in wheelchairs down to the basement level, where the travel centre is situated, the customer must be locked in the wheelchair lift to go up one set of stairs to get to the first level in order to catch a conventional lift down to the travel centre. Similarly, people with prams wanting to get travel information must ask for assistance to carry their prams up a half-flight of stairs to the lift to come down or, alternatively, to save time the pram can be carried down a full flight of stairs to the basement.

The system is highly impractical and highlights the shortcomings of the new premises. The government must assume that wheelchair-bound people and people with prams have all the time in the world to spend at the South Australian visitor information centre and that spending 20 minutes trying to get in and out of the place is justified in order to obtain information or a pamphlet or two. My questions are:

1. Does the minister think the system is adequate?

2. Why wasn't a ramp considered as part of the disability access refit, given that the premises had to be refitted in order to be accessible to those with a disability, which has now been shown to be grossly inadequate?

3. Why was this building chosen as the site of the state's primary tourism information centre?

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) (15:09): I thank the honourable member for his questions. I will refer those questions to the Minister for Tourism in another place and bring back a response.

CRIMINAL INVESTIGATION (COVERT OPERATIONS) ACT

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) (15:09): I table a copy of a ministerial statement relating to the Criminal Investigations (Covert Operations) Act 2009 made by the Hon. John Rau.

QUESTION TIME

WORKPLACE HEALTH AND SAFETY RESEARCH GRANTS

The Hon. I.K. HUNTER (15:09): I direct my question to the Minister for Industrial Relations. Will the minister provide the chamber with the details of grants now being offered for research into workplace health and safety?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:09): I thank the member for what is a very important question. Recently, I announced a new round of scholarships to supplement ongoing research into the prevention of workplace injuries and illness in South Australia. To increase the momentum of high quality work, health and safety research in South Australia, SafeWork SA is offering new funding through the Work Health and Safety Supplementary Scholarships. Applications are now open for the 2011 Work Health and Safety Scholarships, and a total of up to $70,000 has been made available through two scholarships this year in what will be an annual program.

The scholarships are designed to encourage PhD or Masters candidates to focus their research projects on prevention of work-related injury and illness. As such, only applicants who have already been approved to pursue a higher degree by research will be eligible. The ultimate purpose of the Work Health and Safety Scholarships is to support South Australia's Strategic Plan target 2.11: a 40 per cent reduction in workplace injury from 2002 to 2012, through the Occupational Health and Safety Research Strategy for South Australia, by encouraging the conduct of research aimed at preventing work-related injury and illness.

The successful researchers will be able to access the workplace injury and illness claims data, currently used by SafeWork SA, to assist with their projects. The Work Health and Safety Scholarship will pay $10,000 a year for the duration of the HDR scholarship. For example, the total value of the Work Health and Safety Scholarship for a 3½-year PhD is $35,000.

Applications will be assessed by the SafeWork SA Research Committee, which is a subcommittee of the SafeWork SA Advisory Committee. The SafeWork SA Research Committee has members representing employees and employers, as well as three South Australian universities, SafeWork SA and WorkCover SA. The scholarships will be administered by the university at which the research is being undertaken, with appropriate progress reports being forwarded to SafeWork SA.

The funding builds on the $412,000 already available this year through the Work Health and Safety commissioned research grant program and small grants for innovative practices of up to $50,000 each. SafeWork SA also offers grants in support of large research projects that are co-funded by the Australian Research Council. This research is critical to improving and expanding knowledge in South Australia on workplace safety.

The more detailed this base of research knowledge becomes, the more effective we can be in devising targeted programs to reduce workplace harm. We also envisage being able to share these research findings with other jurisdictions, potentially expanding the benefits of safer and healthier workplaces beyond South Australia. The deadline for applications is Monday 7 November 2011 and details are available on the SafeWork SA website.

MIFEPRISTONE

The Hon. D.G.E. HOOD (15:12): My questions, directed to the minister representing the Minister for Health, are:

1. Is the minister aware of media reports an application has been made to the Therapeutic Goods Administration for approval to market the drug mifepristone (or RU486 in Australia)?

2. If such approval is given, would it not be a requirement under section 82A(1) of our Criminal Law Consolidation Act 1935 that any administration of the drug for the termination of pregnancies is required to take place in hospital?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:13): I thank the member for his very important question. I will refer that to my colleague the Hon. Mr Hill, health minister, in another place and get back to you as soon as possible.

BUSINESS CONFIDENCE INDEX

The Hon. J.S. LEE (15:13): I seek leave to make a brief explanation before asking the Leader of the Government a question about business confidence in South Australia.

Leave granted.

The Hon. J.S. LEE: The Sensis Index, released on 6 September, shows business confidence in South Australia is at its lowest level since the State Bank collapse of the early 1990s. The author of the report, Mr Singh, said that 'the business confidence indicator is now negative, and this is the weakest result we've seen for South Australia in the 18-year history of the report'. Small business support for the Labor government is at its lowest level during the quarter, with less than one in 10 businesses now believing that the government's policies support the sector.

In addition, NAB's Monthly Business Survey for August also reveals that South Australian business conditions suffered the highest fall in Australia last month. The report further reveals that there are now more small businesses in South Australia that are worried about their business prospects. My questions are:

1. With the Sensis Index report and NAB's business survey showing South Australia's economy is facing a perfect storm of adverse conditions, can the government explain why under their watch business confidence is at an all-time low in South Australia?

2. With less than one in 10 businesses now believing that the government's policies support the sector, what measures will the government introduce to address the challenges facing businesses?

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) (15:15): I thank the honourable member for her question. The responsibility for matters relating to business, trade and industry is not mine; it belongs to a number of ministers in the other place. The business component of my portfolio relates to the way consumers interface with business rather than with the businesses themselves. Minister Koutsantonis, for instance, is responsible for small business so I will refer those elements of the questions to him, and I will refer the trade and industry elements within the questions to minister O'Brien.

Most of my responsibilities relate to problems consumers have in their relationships with businesses; I deal with that particular policy area. However, I will say couple of things in a general way, given that I am not responsible for these policy matters. I think it is the height of hypocrisy for honourable members to sit across from me and bemoan the position of small business when, in another place, the Liberal opposition refuse to support an important piece of legislation that is about supporting small business. This government was committed to putting in a new commissioner and office to assist small business, but what happens? The Liberal opposition voted it down; they failed to support it. So it is the absolute height of hypocrisy for them to sit over there and pretend to be interested at all in small business.

The reason the Liberal opposition voted down support for that really important initiative to assist small business and support the growth and integrity of small business is because they only support the big end of town. They do not give a flying leap about small business, which is one of the backbones of our economy. They only support the big end of town so they don't want the interests of small business enhanced, they don't want that part of our sector to burgeon or grow; they want to keep as much advantage as possible with the big end of town. It is the absolute height of hypocrisy.

BAROSSA VALLEY REGION

The Hon. CARMEL ZOLLO (15:18): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Barossa Valley.

Leave granted.

The Hon. CARMEL ZOLLO: The minister has often reported to the chamber on her plans for a series of visits to regional areas. Can the minister advise the chamber of one of her recent visits?

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

Government Enterprises, Minister for Gambling) (15:18): I thank the honourable member for her important question—

Members interjecting:

The PRESIDENT: The opposition should suffer in silence.

The Hon. G.E. GAGO: —and the opposition, for its obvious enthusiasm to hear my answer. In mid-August this year I had the pleasure of visiting our state's wonderful Barossa Valley. Following the region's settlement over 150 years ago it has certainly become one of the world's renowned high-quality wine regions. More recently, we have seen the Barossa become one of South Australia's premier tourist destinations.

On my visit I took time to meet with some of the region's other horticulture businesses. For instance, I met with the owners of SA Mushrooms based at Waterloo Corner. Nick and Nat advised me that South Australia's mushroom industry has been quite an achiever over the past four years, and over the past 12 months has achieved particularly strong growth. This started out as a small family business. I understand their father was a greengrocer, and his sons went on to build this exceptionally successful business.

I understand that the growth in the mushroom market means that now 86 per cent of South Australia's households are regularly putting mushies on their plates, and we export our top-quality mushrooms to Victoria and Western Australia. During my visit to the mushroom facility I saw first-hand how these hardworking South Australians are beating interstate competitors in delivering what is absolutely magnificent local produce. They have many plans for further advancement and development, and I look forward to watching their progress over the years.

I also had the pleasure of meeting the general manager of d'VineRipe and touring their $65 million truss tomato facility at Two Wells—spectacular glasshouses there. In February 2010, d'VineRipe was awarded $500,000 from our Regional Development Infrastructure Fund to assist in the improvement of electricity and water infrastructure. During my visit, I saw how this investment is supporting d'VineRipe's continuing success in the Barossa. After opening the new glasshouse facilities in February this year, they are now expecting to double production to 10,000 tonnes per year and employ another 100 full-time equivalent workers. With their own ingenuity and the aid of our infrastructure grant, d'VineRipe has come to be a very important player in the Barossa horticulture industry.

Later in the day, I visited the facilities of J.T. Johnson and Sons in Kapunda. This company is a 100 per cent family-owned South Australian business which has been operating since 1923. It is in the business of hay export and pelletised stock feed production, and it is not only servicing Australia customers but are also exporting throughout Asia and the Middle East.

During my visit to the Barossa, I not only saw how the region was progressing but I also met with RDA Barossa to hear its plans for ensuring success in the future. RDA Barossa plays a key role in fostering the region's economic growth and helping to point the way through its Regional Roadmap. It provides assistance to local businesses, promotes career development and creates access to skills training. It is also an important link between the Barossa's individual businesses and the various government bodies' interests across the region. We are very thankful for RDA Barossa's advocacy and consultation services which allow us to contribute to the region. It is to be congratulated for its efforts because they are most impressive.

The RDA Barossa discussed the Regional Roadmap and provided its feedback on the key issues and opportunities arising in the Barossa Valley. Another visit that day was to Barossa Infrastructure Ltd, which supplies up to 7,000 megalitres per annum of supplementary irrigation to the region's viticulture Industry. As a result, BIL's success not only ensures water supply for our state's wine industry but feeds straight back into the region's economy.

As Minister for Regional Development and as a South Australian, I certainly enjoyed seeing firsthand the success and growth that our Barossa Valley is experiencing. I look forward to working with the region to ensure that their future visions and strategic projects continue to be realised.

OUTBACK COMMUNITIES AUTHORITY

The Hon. J.M. GAZZOLA (15:25): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question on the Outback Communities Authority.

Leave granted.

The Hon. J.M. GAZZOLA: Members will recall that the Outback Communities Authority was established on 1 July 2010. I understand that the authority has now prepared the Outback Communities Authority's Strategic Management Plan 2011-15. Will the minister update the chamber on the details of the authority's strategic management plan?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:25): I thank the member for his very important question. It really is indicative of the poor state of this house when we have to—

The Hon. G.E. Gago: Absolutely.

The Hon. R.P. WORTLEY: Unbelievable. Absolute non-performers! I am pleased to advise that last month I approved the Outback—

Members interjecting:

The Hon. R.P. WORTLEY: Half the front bench will get the chop very shortly, I can tell you, and they will come from this house. I am pleased to advise that last month I approved the Outback Communities Authority's Strategic Management Plan 2011-15, incorporating the 2011 annual business plan and 2011-12 annual budget. The strategic management plan has been formed following numerous consultations with outback communities in recent times. The authority uses research collated by its predecessor, the outback areas community development trust, and acknowledges that many of these issues are ongoing.

Some of the key issues highlighted during community consultation are increased mining and tourism activity, planning and policy development and standards of infrastructure provision, as well as volunteering and fundraising in our state's outback areas. Through provisions in the Outback Communities (Administration and Management) Act 2009, the authority now has a legitimate role to play in representing outback issues to policy and decision-makers. Additionally, legislative changes have also allowed for individual communities to raise revenue for local services and facilities by initiating a voluntary community contribution scheme, if they choose to do so.

The authority has been tasked with considering how to better engage the people who live and work in the outback, recognising the challenges in achieving this goal across a large geographic area, with small and diverse communities scattered across remote locations. Nevertheless, the authority is committed to exploring innovative solutions to overcome these challenges.

The business to the authority is delivered through three specific yet fully integrated units within the office of the authority. These units—corporate, infrastructure and community development—together represent the broad business focus of the authority. The strategic management plan is the first strategic plan for the authority and is a statement of the authority's aims and objectives over the next five years. It incorporates and is supported by other operational documents, including the annual business plan, the annual budget, the long-term financial plan and the asset management plan. Through its strategic management plan the authority has identified six key objectives:

- to build and maintain relationships with people who live and work in the outback;
- to articulate the views, interests and aspirations of the outback communities to policymakers;
- to manage the provision of public services and facilities to outback communities;
- to support outback people in their community development aspirations;
- to ensure accountability and transparency in the management of the authority's affairs.

In future annual business plans the authority will report on the outcomes of performances against the previous years key performance indicators. This information will be included in the annual report tabled to myself and subsequently in state parliament. I take this opportunity to congratulate the Outback Communities Authority on its initial successes and look forward to working with the authority to build upon these successes.

ANSWERS TO QUESTIONS

CHILDREN WITH DISABILITIES

In reply to the **Hon. K.L. VINCENT** (10 November 2010).

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

1. As part of its response to the recommendations of the Children in State Care Commission of Inquiry (the Mullighan Inquiry), the South Australian Government is undertaking initiatives to promote increased awareness of issues relating to preventing child sexual abuse, including where the child or young person has a disability.

Under recent changes to the Children's Protection Act 1993, many Government, non-government and local government organisations, including those providing services to children with disabilities, will be required to take additional steps to protect children from harm or abuse and to promote child safety and well-being within their organisation.

The College for Learning and Development within DFC, is responsible for the development and training of the 'Child Safe Environments—reporting Child Abuse and Neglect' program, formerly Mandated Notification training. This one-day training aims to increase participants' knowledge as to what constitutes child abuse, including sexual abuse and the reporting mechanisms available to those mandated to report. Whilst addressing the abuse of any child or young person, this program makes specific reference to vulnerable populations, including children who have a disability.

In addition to attending the Child Safe Environments program, all new Disability Services Support Workers attend the Disability Dynamics program, which includes the requirement for workers to respond to situations of risk or potential risk to people with disabilities, including the identification of possible sexual abuse. 169 participants attended training from 1 April 2010 to 1 April 2011. The College for Learning and Development also delivers aspects of the Disability Dynamics program to a wide range of employees across the Department.

SHine SA is the leading sexual health agency in South Australia. It works in partnership with government, health, education and community agencies and communities to improve the sexual health and wellbeing of South Australians. SHine SA is funded by the South Australian Government through SA Health and by the Commonwealth Government through the Public Health Outcomes Funding Agreement.

SHine SA provides prevention, promotion and education programs that build the capacity of communities in greatest need. SHine SA has focused on up-skilling workers in the disability sector. Over the past 18 months, SHine SA has also worked with a number of schools for children and young people with a disability. The program taught to school students covers areas such as safe sex practices and prevention of sexual abuse. Across SA, a number of children and adults with disabilities have also accessed one-to-one education from SHine SA addressing appropriate and inappropriate behaviours and protective behaviours.

Registered Training Organisations (RTOs) access SHine SA services when they want sexual health issues to be discussed with people who are being trained as direct care workers in disability services. This includes the prevention of sexual abuse of people with disabilities.

In 2010, SHine SA restructured its nationally recognised training course for workers in the community services and health sector, in order to extend its scope of training. The Freedom to Explore Sexual Health (FRESH) course aims to provide workers with an increased level of confidence when working with clients in the area of sexual and reproductive health and relationships.

SHine SA has also negotiated a partnership arrangement with Flinders University School of Disability and Rehabilitation Studies, whereby all first year students receive an introductory lecture on sexual and gender diversity, followed by a series of three short workshops in their second year focused on sexuality and disability issues.

The DECS Keeping Safe—Child Protection curriculum has been developed for students attending school between Reception to Year 12. This curriculum includes strategies to prevent sexual abuse of children, including those with disabilities. During the developmental stages, the program was trialled across several sites including some special education facilities.

2. The Government is committed to high standards of protecting children with disabilities. In 2005, the Office for Disability and Client Services (then known as the Client Services Office) led the creation of 'Protecting Children and Young People with Disabilities: a booklet for

parents and carers' in collaboration and partnership with Families SA and Ms Jayne Lehmann and Ms Fim Jucha, parents of children with disabilities.

DFC has progressed updating this booklet and a second edition will be published. Families SA is leading this work in collaboration with Disability Services and advice from the Chair of the Minister's Disability Advisory Council. The second edition of the booklet will be amended to take into consideration a number of changes in child protection since its production in 2005, including changes made to the Children's Protection Act 1993 via the Children's Protection (Miscellaneous) Amendment Act 2005, findings from the Mullighan Children in State Care Commission of Inquiry (2008) and revision of Child Safe Environment training practices.

Once the booklet information has been revised, the Minister's Disability Advisory Council will also be asked for comment. Giving appropriate time for all parties to provide considered feedback, it is expected that a revised second edition will be available later this year.

LITTLE CORELLAS

In reply to the **Hon. J.M.A. LENSINK** (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 Department of Environment and Natural resources (DENR) has already convened meetings with the City of Onkaparinga Executive and these have been productive sessions. Similar meetings are currently being organised with the Alexandrina Council Executive.

DENR recognises the Little Corella management challenges in the Strathalbyn area and has provided support to Alexandrina Council in a variety of ways including:

- DENR, the Adelaide and Mount Lofty Ranges Natural Resources Management Board, the City of Onkaparinga and Alexandrina Council jointly funded a visit by a corella expert from Victoria to Old Noarlunga in March 2010 to examine ways to effectively manage the impacts of the large number of Little Corellas in the region. The report was provided to the project partners in April 2010, and has since been distributed to the public.
- DENR has, and continues to advise the Alexandrina Council on a range of options available for reducing the impacts of Little Corellas.
- In 2010, DENR issued a trap and gas permit to Alexandrina Council and participated in the trap and gas operation undertaken at Strathalbyn in order to better understand the Little Corella population dynamics at the site.
- A DENR representative attended all Alexandrina Council community forums on Little Corella management in 2010 and participation in future forums is anticipated.
- On Thursday 10 March 2011, a DENR representative met with staff from the Alexandrina Council to determine a Little Corella population estimate, discuss the management of Little Corellas in the community, and approaches for improving management strategies and disturbance management techniques.

DENR remains committed to assisting Alexandrina Council with reducing the conflicts between Little Corellas and residents in the area.

ROADSIDE VEGETATION

In reply to the **Hon. M. PARNELL** (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 been advised:

1. Clearance for public safety under Regulation 5(1)(lb) of the Native Vegetation Regulations 2003 does not require a Significant Environmental Benefit in the same way as clearance for the protection of life and property from bushfire. The 'Interim Framework for the Application of Regulation 5(1)(lb) for Clearance Along Roads, Intersections and at Rail Crossings for Public Safety Purposes' outlines the circumstances in which Public Safety Regulation 5(1)(lb)

will apply. The framework requires road authorities proposing to use the Regulation to outline (where applicable) if other safety improvement measures suited to reducing the public safety risk have been considered to avoid or reduce the need for clearance. The Framework only applies to native vegetation with a stem diameter greater than 100mm. The specified distances for clearance reflect the Austroad Guidelines which establish safety standards for Australian Roads.

2. Road authorities must complete the 'Clearance Approval Form' in the Framework which quantifies, among other things, the amount of vegetation proposed for clearance.

3. Clearance for public safety under Regulation 5(1)(lb) does not require a Significant Environmental Benefit payment into the Fund. This is consistent with other safety related Native Vegetation Regulations in South Australia.

EATING DISORDER UNIT

In reply to the **Hon. A. BRESSINGTON** (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 Mental Health and Substance Abuse has advised:

1. There were a number of consultation sessions undertaken as part of the project. These sessions were held during and after work hours to enable people to attend. Those people who were unable to attend a session were provided with the opportunity to contact the project consultant via telephone or email.

2. Consultation has been undertaken to develop a suitable model of care for eating disorders for South Australia. The project recommendations will include a description of the types of programs, which should be delivered in South Australia, for people with eating disorders, as well as South Australian requirements for bed numbers and types. It is anticipated that the review will indicate optimal requirements for bed based services. The future of Ward 4GP would be informed by the project recommendations.

3. I announced that a project would be undertaken to develop a state-wide service model for eating disorders in South Australia. The Government is committed to ensuring that there are weight disorder services accessible by all South Australians.

PHOSPHATE-FREE LAUNDRY DETERGENTS

In reply to the **Hon. T.A. FRANKS** (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 Environment and Conservation has been advised:

1. Phosphorus is a nutrient commonly found in many household chemicals, soaps, detergents, shampoos etc and many commercially available cleaning products are rich in phosphate. Individual consumers can take the initiative to determine what products provide the least impact on our environment, including laundry detergents. Moves by supermarket chains to supply more eco-friendly products are welcomed.

High concentrations of phosphorus discharged into South Australia's waterways can result in excessive growth of aquatic plants causing blue green algae and phytoplankton blooms.

The Environment Protection Authority (EPA), through the Code of Practice for Vessel and Facility Management (marine and inland waters), has introduced wastewater management requirements for vessels operating on South Australia's waterways, which restricts or limits the discharge of phosphates. The EPA website link, www.epa.sa.gov.au/vfm, contains some information sheets and guidelines in relation to phosphates and its risks. This information assists the public in proper use and disposal of chemicals containing phosphates that will help the public with their choice of products, including detergents. The EPA monitors phosphates in South Australian waterways through sampling and lab tests associated with its ambient and event based water quality monitoring programs.

FAMILY AND COMMUNITY DEVELOPMENT PROGRAM

In reply to the **Hon. K.L. VINCENT** (3 May 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 Families and Communities is advised:

The savings measures announced by the State Government in the 2010-11 Mid-Year Budget review.

1. Funding through the Family and Community Development (F&CD) Program must be targeted to those in the community who need it most. The F&CD Program has not been reviewed since it was introduced in the early 1990s and funding allocations have become historically based, rather than needs based. This is why, in May 2010 prior to the Budget, the Department for Families and Communities (DFC) commenced a reform of the F&CD Program. The reform is focused on achieving value for money and measurable community outcomes, as well as providing an excellent opportunity to ensure that services funded are achieving the best outcomes both for the Department and the most vulnerable in our community.

2. DFC has made a commitment to consult and collaborate with all relevant stakeholders during the reform process.

From the early stages of the reform, DFC has informed the community services sector peak bodies and non-government organisations on various components of the reform and most importantly, requested their comments on the evidence-based management framework. Representatives from the community services sector peak bodies and two independent representatives from UniSA and Australian Bureau of Statistics, as requested by the South Australian Council of Social Services (SACOSS), were appointed to the evidence groups. A SACOSS representative was also invited to be a Member on both groups.

3. There is sufficient expertise within the Department to effectively undertake this review process. The review has proceeded as intended and significant progress has been made to date.

The Family and Community Development (F&CD) Program will operate in its current form until 30 June 2012 and all service agreements will continue to be honoured until this date.

MATTERS OF INTEREST

JOHNSTON, MR E.F.

The Hon. J.M. GAZZOLA (15:29): Last Friday, politicians, judges, commissioners, lawyers, QCs, public identities and figures, friends, family and colleagues of the deceased attended the memorial service of the late Elliott Johnston QC at Elder Hall, a fitting venue for a graduate of Adelaide University, a QC, a South Australian Supreme Court judge, federal commissioner and social activist. Others in the media and the legal practice have spoken about his impressive and interesting career and achievements, and I wish to reflect on the honourable Elliott Johnston QC, the individual whose distinctive qualities made him the person so admired by so many of those whose lives he touched, and in doing so I acknowledge the biography by Penelope Debelle.

Elliott Johnston was a man whose character was defined throughout by an unstinting pursuit for social justice. This was grounded in his family, and young Elliott's experiences in the aftermath of the Great War and the Depression, where the big questions of survival, peace and justice prevailed, produced in Elliott the compassion and search for political ideas and solutions that led him to become a member of the Communist Party, a membership he held throughout his life, except for the period of his appointment as a member of the Supreme Court of South Australia.

His belief, energy and urgent desire for social justice were evident in his student days as an editor of the student magazine, *On Dit,* as a founding member of the Law Student Association publication, *Obiter Dicta,* and his founding of, and participation in, the Radical Club. His experiences in these fora and the subsequent battles with opposing university students and office bearers bear testimony to his integrity and moral strength.

These are further evidenced in his commitment to, and love and practice of, the law, especially as it pertained to the representation and protection of workers. In time, he and his law firm saw the bulk of its work in workers' compensation claims. It would be remiss of me not to point out the debts owed by the now ASU to a past secretary, Harry Krantz, then leading the South Australian branch of the Federated Clerks' Union, and the unstinting efforts of Elliott Johnston in restructuring and improving the Clerks Award.

Returning to Elliott Johnston, the price of maintaining his integrity and beliefs became apparent when he was nominated for silk, his initial nomination blocked by concerned Conservative figures. Acknowledgement of his expertise, reputation and service were put forward again to be finally and rightly recognised by appointing him QC, the appointment only coming after what amounted to a lengthy public trial. There were many who were unjustifiably concerned by his politics. Being honoured to have his name put forward, Elliott was equally concerned about not selling out his principles to become a QC.

The battle between differing beliefs and principles briefly continued again when Elliott Johnston, at the peak of his powers as a silk, was recommended in 1982 for the Supreme Court of South Australia, duly to be appointed in 1983 under the Bannon Labor government.

In 1988, and in retirement, Elliott Johnston's considerable knowledge and expertise were called upon as a commissioner in the Commonwealth Royal Commission into Aboriginal Deaths in Custody, a mammoth study still considered a landmark in Indigenous rights and welfare. Nor should we forget his prominent role in the Aboriginal Legal Rights Movement as noted by the current CEO, Neil Gillespie.

The final words on Elliott Johnston QC will be those of Chief Justice of the South Australian Supreme Court, Chief Justice Doyle, who said, in part, at the 2007 Adelaide Festival of Ideas:

> During his lifetime in the law, as a practitioner, as a judge and as a former judge, Elliott Johnston has striven to realise the aspiration and value that is expressed in the judicial oath to do right to all manner of people according to law without fear or affection, favour or ill will. People like Elliott Johnston are few and far between.

Vale Elliott Johnston.

MEMBER'S TRAVEL EXPENSES

The Hon. R.I. LUCAS (15:33): I refer to copies of emails and information I have received under FOI in relation to expenses for overseas travel. I first refer to an email dated 3 March 2004 from Sharon Curtis of PIRSA to Andrew Scott, which states:

> Also, Leon Bignell, the minister's adviser, went overseas on a separate trip regarding energy issues as well as tourism issues. As Leon used his unspent traveller's cheques on this second trip, we will need to invoice you (and the appropriate Department for Tourism) for these expenses. I will have these expenses set out clearly for you in the invoice.

In response on the same date, Mr Andrew Scott said:

> In relation to Leon, I don't think that is our problem. We agreed to fund the minister and an adviser. Leon went along for other reasons but I don't believe we can meet any of his expenses. We can sort that out once you have the figures.

Subsequently, on 20 April 2004, Sharon Curtis from PIRSA sent an email to Cathie Seal from Minister Conlon's office, in which she indicates:

> The difference between Leon's advance—

that is his traveller's cheque advance—

> and his reconciliation will need to be invoiced to the right Agency which relates to Leon's second overseas trip—can you help me out with getting this information? (for your information, Leon didn't return his unspent traveller's cheques and used them on his 2nd trip overseas)
>
> Please also find attached a copy of...reconciliation and Leon's reconciliation of what their expenditure was for, for your information. Minister Conlon does not have any of his receipts from this trip so our Accounts section have based the Minister's expenditure on Leon's reconciliation (as advised by Leon).

Then on 22 February 2005, so almost two years later, Sharon Curtis from PIRSA sends an email to Leon Bignell:

> Leon
>
> I refer to your overseas trips back in June and July—

there are two of them—

> 2003 where you received a travel advance from PIRSA to travel with Minister Conlon and [another person] on the first trip and the second trip was on your own (where you spent the unspent traveller's cheques from your first trip).
>
> You advised me some time ago that you didn't have any receipts for your second overseas trip however you were going to send me through your itinerary and as much information as possible about the trip.
>
> I have been asked by PIRSA's accounts section to have this finalised as soon as possible as it refers to a previous financial year.

Can you please either call me or send me an email with the appropriate information from your second overseas trip in July 2003 at your earliest convenience.

Leon Bignell's reply on 22 February is:

Thanks for the email.

I did have receipts for the second trip and forwarded them through our office manager. My understanding was the amount of the unspent traveller's cheques (from the June trip) was deducted from the amount I was reimbursed.

We'll chase it up this end to clarify the situation.

Thanks again, Leon.

An investigation of those accounts for 2003, and then I followed it up again for 2004, showed that there is no reference at all to any reconciliation by Mr Bignell in all of the freedom of information dockets that I have received in relation to this particular trip.

I must say that, as a former minister, I have never known a ministerial adviser to be authorised to travel overseas by himself, or herself, without any itinerary being approved and without authorisation, it would appear, from departments in relation to various expenditure items. Certainly, in this case, some two years later, a departmental officer was still chasing Mr Bignell to try to get a reconciliation.

Mr Bignell flew out from Australia on 21 July. I note that he went via Pau and Biarritz in France. I note that the Tour de France stopped off in Pau in France on 23 July. Mr Bignell then found his way to Barcelona for the World Police and Fire Games where, I think, on 30 July, some eight days later, minister Conlon joined him.

I think it behoves Mr Bignell now to provide an explanation to the parliament on a reconciliation of his expenses. In particular, did he go to the Tour de France at taxpayers' expense? What was he doing between 21 July and 30 July 2003? Why did he not provide the reconciliation that was requested by the departments of him?

Time expired.

PROFESSIONAL DEVELOPMENT RESEARCH SCHOLARSHIPS

The Hon. I.K. HUNTER (15:38): I rise today to congratulate the six female scientists awarded the South Australian government's 2011 research and professional development scholarships. All six scientists are leaders in their fields of research, all have extensive publication records and all of their research will deliver on the objectives of South Australia's Strategic Plan targets.

The six recipients who will receive scholarships valued at $15,000 each are: University of Adelaide's Professor Bronwyn Gillanders, Dr Ying Zhang, Dr Claire Jessup and Dr Rachel Gibson; Flinders University's Associate Professor Catherine Abbott; and University of South Australia's Associate Professor Linda Davis.

Today, I would like to spend a few minutes highlighting the remarkable work being done right here in South Australia by these fabulous scientists. Professor Bronwyn Gillanders' research focuses on marine ecology and sustainable fisheries. She has a particular interest in marine habitats, fish population dynamics and replenishment and native fish stocking of Australian rivers. She is an expert on the giant Australian cuttlefish and the Spencer Gulf kingfish. Professor Gillanders also studies the use of chemical signatures in the ear bones of marine life to track migratory patterns.

Dr Ying Zhang's research examines the impact of climatic factors on health. Her previous research looked at the likely future burden on health services from diseases predicted to become more prevalent with change in the earth's temperatures. Dr Zhang's current research focuses on ways we can reduce the adverse effects of heatwaves on our ageing population.

Dr Claire Jessup's research is related to pancreatic islet transplantation, which is an emerging curative therapy for type 1 diabetes. In particular, Dr Jessup's work focuses on the intricate interaction between the tiny blood vessels within the pancreas and the insulin producing beta cells within pancreatic islets.

Dr Rachel Gibson's work over the past decade has focused on reducing the side effects of chemotherapy. Those who have watched loved ones go through chemotherapy treatment will know how valued this research is and will be. Dr Gibson has established her own research laboratory,

the Gut Microbiome Laboratory, within the University of Adelaide School of Medical Sciences, and is highly regarded in her field of speciality, gastrointestinal mucositis.

Associate Professor Catherine Abbott has a particular interest in the molecular basis of chronic diseases. It is predicted that the professor's research will lead to increased understanding of the immune system and in disease pathogenesis. This research could potentially reveal new treatments for such diseases as diabetes, obesity, cancer, inflammatory bowel disease and Alzheimer's.

Associate Professor Linda Davis was awarded a scholarship for her research into defence radar and communications. Professor Davis is a professional engineer and technical project manager. Her research interests include wireless communications, broadband communications systems, receiver design and implementation, communications theory and signal processing, mapping algorithms to architectures and low power, and reduced complexity signal processing.

I congratulate all six scholarship recipients on their achievements so far, and look forward to the fruits of their research. Finally, I would like to say how delighted I am that the South Australian government recognises the importance of providing scholarships and practical support to our emerging scientific thinkers. It just makes good sense to do so.

We know that South Australia's economic growth is reliant on the defence, minerals and resources, agriculture and health science industries. We also know that a lot of our best and brightest in these fields are lured overseas to work due to better funding and career opportunities. When those emerging scientists leave South Australia, our state loses hundreds of thousands of dollars of investment in their education and training, as well as their expertise and contribution to South Australian scholarship.

If South Australia can better support, retain and promote our home-grown scientists, and if we can address the gender imbalance that currently exists in these fields and maximise the participation of women in these key industries, this can only be a positive thing for the health of the South Australian economy and for our emerging industries.

This is a fantastic achievement and initiative of our government and I am pleased to congratulate the ministers responsible, the Minister for Science and Technology, Jay Weatherill, and the Minister for the Status of Women, Gail Gago.

WATER PROJECTS

The Hon. J.S.L. DAWKINS (15:42): Earlier this month, the Leader of the Opposition, Isobel Redmond, and I visited two innovative water projects in the City of Tea Tree Gully. Accompanied by Mayor Miriam Smith, council CEO Di Rogowski, Director of Assets and Environment Thornton Harfield, and Manager of Environment Sustainability Brenton Curtis, we first visited the water treatment plant at Wynn Vale dam.

Situated on Park Lake Drive, this plant captures and polishes stormwater for aquifer storage and recovery. This Waterproofing Northern Adelaide project has seen a number of wetlands, aquifer storage recovery schemes, and a distribution main being installed across the city to capture and harvest as much stormwater as possible.

Installation of this treatment facility adds to the project by using ultraviolet technology and pressure filtration to further cleanse the stormwater and essentially polish it, acting as a mini water treatment plant. Council's senior water engineer David Baldwin explained the concept as follows:

> The city of Tea Tree Gully is a reasonably built up urban environment and for water re-use to be sustainable, we need to look at new and innovative ways of capturing stormwater, cleaning it and storing it for later use. Council staff tested several different water filtration systems at the site and this particular treatment facility is a great option for our city. It is compact in size and cleanses the captured stormwater more thoroughly than even our wetlands do.

The treatment device works by pumping stormwater run-off through a number of filtration units consisting of a sand type substance that rids the water of unwanted pollutants such as sediments, heavy metals and organic material. The water is then disinfected through ultraviolet technology and later stored underground in aquifers until needed to water the city's reserves and parks.

Secondly, we visited the council's water re-use facility at Greenwith Road, Golden Grove. Following the successful introduction of the stormwater harvesting project, the City of Tea Tree Gully has developed a water re-use facility which complements the water re-use work it is already doing and involves the treatment of wastewater for non-drinking uses, such as irrigation.

Wastewater is sourced from the SA Water network and includes water from the city's community wastewater management system.

The treatment facility delivers up to 1.1 million litres per day, with a possible expansion to 1.6 million litres per day. This will make sure a reliable water source is available to irrigate parks, sports fields and gardens, while reducing demand on mains water. The treatment process incorporates the latest technology to deliver the most cost-effective and environmentally-friendly recycled water that meets stringent health standards.

The wastewater undergoes a primary treatment of screening and grit removal to remove suspended matter before it is discharged into the secondary treatment, which consists of an activated sludge process. The wastewater is aerated in tanks, where bacteria and other microorganisms feed on the wastewater. This biological process reduces contaminants and increases bacterial cells or biomass. The biomass is recycled through the system, and excess biomass is settled as sludge and disposed to the SA Water sewerage network. This 'class B' water then passes through the tertiary treatment process to remove fine particles, including bacteria and most viruses, followed by final disinfection.

The main environmental and aesthetic advantages are: less effluent discharged into Gulf St Vincent; reduced reliance on mains water and groundwater for irrigation of parks and gardens; less impact on those parks and gardens during times of water restrictions; reduced costs for irrigation water; and less reliance on the River Murray and Adelaide Hills catchments.

I give great credit to the City of Tea Tree Gully for its commitment to these innovations, both in a policy and a financial sense, and I thank the council for taking the time to demonstrate these initiatives in action. I should add that both the projects have been developed with the support and assistance of the Australian government and the Adelaide and Mount Lofty Ranges NRM Board.

SUPER SA PENSIONS

The Hon. R.L. BROKENSHIRE (15:48): I raise a matter today concerning a constituent's widow's Super SA entitlement, a matter which has some complexity. I give the following chronology of allegations, which I will pass on to the Treasurer for further investigation. My constituent has asked that these matters be raised in parliament.

My constituent is an 80-year-old lady who was entitled to a widow's pension of two-thirds of her husband's Super SA policy if she outlived him. Her husband had worked for the state railways until retirement. After 50 years of marriage, the widow's family doctor and her husband's psychiatrist both advised that they considered it dangerous for her to continue living with her husband due to his mental illness.

Just before he retired in 1985, Super SA ran a conference during which my constituent was told that she would be paid her two-thirds entitlement regardless of separation or divorce. My constituent alleges that Super SA has admitted that advice was given to her at that conference. Family Court proceedings were initiated to formalise the separation in the early 2000s. Changes to superannuation considerations in family law occurred during this process taking place.

My constituent did outlive her husband, but Super SA did not pay the entitlement she thought she deserved, an entitlement that equates to a commuted six-figure sum, to provide for her retirement. Super SA claimed that, had the critical court hearing for finalisation of the moneys occurred by 28 December 2002, my constituent would have received the pension she was entitled to. However, due to the hearing occurring just 27 days later, on 24 January 2003, Super SA said that it would not give her that entitlement.

My constituent alleges that her agreement for the entitlement to be paid was made before the deadline but the documentation was sealed only after the deadline, which resulted in her losing her entitlement. Law Claims insurance subsequently agreed to pay $30,000 for bad advice by her original solicitor, from which my constituent had to pay her legal advisers, which ended up involving Queen's Counsel. The late husband left the widow nothing in his will, but the estate agreed to pay her $10,000. The widow received no further money from Super SA and my constituent alleges the state government still has over $100,000 of money that my constituent argues ought to be paid to her and which, it would appear, falls just beyond her reach by 27 days due to a change in the law. Super SA at one stage offered the superannuation pension to my constituent, but then, in a subsequent letter, it withdrew that offer.

I conclude these allegations to say they are as have been related to my office by my constituent with the assistance of her son, but I understand all of this to be correct and accurate. I acknowledge the circumstances are somewhat unique and I sincerely hope are a one-off occurrence. Nonetheless my constituent's lack of progress with Super SA has brought me to raise the matter in the parliament with the agreement of my constituent. Obviously I will not name my constituent here in the parliament; however, with her approval I will be prepared to speak personally to the Treasurer with respect to her name for follow up.

I place on record the following questions, and I do so knowing a question in this place would be taken on notice in any event. I will be asking these questions and others of the government by forwarding *Hansard* of my matter of interest speech today to the Treasurer, with an accompanying letter seeking a detailed answer. The two key questions that I would ask the Treasurer to look into on compassionate grounds as outlined in this matter of interest today are:

1. Why has Super SA been so lacking in compassion for this widow, who has been through a lot and is now over 80 years of age, just because of a procedural issue?

2. Will the Treasurer negotiate with Super SA to reverse its decision and pay the widow her pension entitlement as it originally agreed to do before it then withdrew that offer?

ARTLAB

The Hon. CARMEL ZOLLO (15:52): Early last month I had the pleasure of representing the Premier, the Hon. Mike Rann MP, at the opening night of the FIVE exhibition, Artlab Australia's annual SALA Festival 2011 art exhibition held at the Artlab Centre as part of the South Australian Living Artists Festival. Today I would like to take the opportunity to speak on the work of Artlab in the conservation of fine art and historic material.

Artlab, as I am certain honourable members would be aware, is a division of Arts SA and part of the Department of the Premier and Cabinet. Its core business is caring for South Australia's diverse cultural collections. These collections are a vital part of our state's memory and the heritage that our generation will pass on to future South Australians. Currently these collections include those of the South Australian Museum, the Art Gallery of South Australia, History SA (Migration, Maritime and National Motor Museums), the State Library of South Australia, and Carrick Hill historic house.

The restoration works include specialising in fields such as paintings, Indigenous, ethnographic and natural history objects, metals, wood, glass and ceramics, industrial/technological objects, outdoor sculptures, paper, photographs, books and textiles. One of the most significant restoration projects that Artlab has undertaken to date has been the restoration of the Eureka flag. Artlab has been entrusted with ensuring that the Eureka flag can be appreciated by future generations. I am told that this involved over 300 hours of painstaking sewing with curved needles and thread so fine it is almost impossible to see with the naked eye. The flag has been reinstated to its original dimensions and supported on a new lightweight panel of aluminium honeycomb.

Mr Andrew Durham, the Director of Artlab Australia, has provided me with a snapshot of some current activities which give an insight to the range of conservation work undertaken to care for our collections. In the objects studio conservators are preparing ethnographic items from the SA Museum for storage and restoring the damage on a 16th century Spanish carving of St John the Baptist from the Art Gallery. In the paper and books studio, old master drawing mezzotint prints are being washed and having their acidic backings removed to be replaced with acid-free materials which will improve their longevity.

In the textile studio the conservators are repairing tears in batik wall hangings for Asian collections of the Art Gallery, and in the painting studio another colleague is removing darkened varnish from George Watt's masterpiece, *Love and Death*, which belongs to the Art Gallery of South Australia. Given its expertise, Mr Durham also pointed out that in addition to its role in caring for the state's collections, Artlab is also a business enterprise. It provides conservation and preservation services to governments, corporate and private clients on a fee-for-service basis. This represents approximately 40 per cent of Artlab's work. Members will not be surprised to hear that our parliamentary library is also one of its clients. I was interested to read that at the international level clients include the National Museum of Malaysia, the National Archives of Singapore, and the Dalongdong Baoan Temple in Taiwan.

Mr Durham also mentioned that what makes Artlab unique and distinct from other conservation institutions in other Australian capitals is that it gives advice and carries out practical treatments on the personal treasures of anyone who cares to bring them for advice. It may be a family heirloom, an irreplaceable souvenir or a family Bible. Consultation days are held every fortnight, and members of the public receive the same expert advice and benefit from the same expert skills that are used to preserve the state's and nation's treasures. The list of other major clients is most impressive: from the National Museum of Australia, and other state's galleries and museums, to Parliament House in Canberra.

To preserve these precious historical items from the ravages of time takes a great deal of skill and dedication. Time and again this skill has been displayed by the dedicated technicians at Artlab who have, since its inception in 1985, and through a blend of science and artistic talent, preserved these often priceless items for the enjoyment of future generations of Australians. Our qualified conservators care for our rich and diverse collections in both our state and beyond. Indeed, they are respected worldwide, and on behalf of all members I acknowledge such talent, commitment and excellence.

RIGNEY, MR M. AND JOHNSTON, MR E.F.

The Hon. M. PARNELL (15:57): Today I want to reflect on the lives of two eminent South Australians who have died in the last month and put on record my acknowledgement of the contribution each has made in their own way to our state. I want to speak about Ngarrindjeri man Matt Rigney, who died at Meningie on the shores of Lake Albert, and lawyer Elliott Johnston QC, who died recently at the age of 93.

First, to Matt Rigney. It is a testament to the respect in which he was held that the chapel at Matt's funeral was filled to capacity; so too was the overflow chapel and the surrounding areas, where there was standing room only. There were many members of parliament and many from the conservation movement in attendance, and many Indigenous people from all over the state and from interstate.

I met Matt on a number of occasions over the last 10 years and found him to be a very impressive and committed person. I remember interviewing him in a formal capacity once to see whether he was a suitable person to be a Greens candidate in a federal election. Of course he passed the test with flying colours, and we only ever went through that formality once, even though he stood as a candidate for the Greens four times.

Matt was the Greens SA candidate for Barker in the federal election of 2001, Finniss in the state election of 2002, Hammond in the state election of 2006, and he was on our Senate ticket for the federal election in 2007. On behalf of the party, I am grateful to Matt for the faith and trust he placed in us on those occasions. As a party, we will honour that trust and seek to further the cause of reconciliation that he taught and practised throughout his life.

Most recently, Matt was better known as the Chair of the Ngarrindjeri Regional Authority Incorporated, the Ngarrindjeri Native Title Management Committee, and the Murray Lower Darling Rivers Indigenous Nations. In recent years, he has been a tireless advocate for Indigenous rights to water and, as a member of the Murray-Darling Basin Ministerial Council's community advisory committee, Matt had been advising the Murray-Darling Basin Authority on its water plan. He described the experience like this:

> They are beginning to realise we have been living in this environment for literally thousands upon thousands of years and that we have managed it in a very sustainable way. I now sit at the table with farmers, irrigators and the like, and say 'Hang on, here's the customs that we follow as Indigenous people. These are the rules you must consider in any water plan.'

I would like to conclude my comments on Matt Rigney with an observation made by Senator Bob Brown recently, and I fully agree with these sentiments. Senator Brown said:

> Now and then we meet another human being who has a wisdom beyond our own. Matt, with his deep bond with the Murray-Darling country, was such a man, and specially so. His spirit touched me deeply and I will always be grateful to him.

The life and times of Elliott Johnston QC were acknowledged last week at a moving memorial service held at Elder Hall and, again, yesterday in a condolence motion in the other house. Elliott Johnston was a truly great South Australian and a man of great principle who never lost the common touch despite reaching the highest legal office. I do not propose to talk about his distinguished legal career because others have done that better than I could, but I want to touch briefly on his post-retirement activities

As members would know, up until the very end Elliott Johnston was a regular attendee at any meeting, rally or event where the topic was injustice and creating a better world. His support for Aboriginal causes and for human rights was unswerving. Even at an age when most people are taking a break and relaxing after a life of hard work, Elliott was out there. He believed in the power of positive messages and hope, and he believed that a better world was possible.

My last conversation with Elliott was at the AGM of the *Australian Options* magazine, a thoughtful and worthwhile publication that all members of parliament should subscribe to. If you do not want to spend your own money, the Parliament Research Library has it, and I am sure that Elliott would appreciate a plug for a journal that was very close to his heart.

As Australia's most decorated communist, Elliott probably did more than anyone to help destroy the stereotype of the uncaring and unthinking ideologue that so often attaches to political labels. His vision of a better society was not filled with gulags and cultural revolutions that killed millions of working people; his was a vision of a world of compassion, rights and responsibilities that looked after all and left no-one behind.

Right to the end, Elliott was active in politics and the community. As we learnt at his memorial service, he was particularly keen to work with young people—young lawyers and students in particular—to expand their minds and to help them carry the baton of social justice forward.

JUSTICE FOR THE DISABLED

The Hon. K.L. VINCENT (16:01): I move:

1. That a select committee of the Legislative Council be established to inquire into and report on access to and interaction with the South Australian justice system for people with disabilities, their families, carers and support networks, namely:

   (a) participants' knowledge of their rights;

   (b) availability and use of appropriate services supports;

   (c) dealings with the police;

   (d) the operation of the courts;

   (e) how South Australia compares with other states and countries in terms of access to the justice system for people with disabilities and what measures could be taken to enhance participation in and thereby provide people with disabilities with just and equitable access to our justice system; and

   (f) any other related matter.

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

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

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

Members would be well aware that highlighting the failings of the police and court systems in terms of equitable access for people with disabilities has formed a large focus of my work of late, and so it should, for it is clear that the barriers to accessing the justice system for these people are plentiful and arise all too often.

The Hon. Tammy Franks once said in this place, when speaking to my motion regarding the Eitzen family and support for family carers of people with disabilities that, 'Disability is more than a condition, it is a way of living'—and right she is. Disability is something that consists of more than not being able to walk, talk, hear, see or learn easily and so on, the ramifications often reach across many areas of life and affect people with disabilities more deeply and in more ways than we might originally assume.

With this issue, we have a very good example of that: a situation where a person's disability not only makes them more vulnerable than average to abuse but where that person also has fewer avenues to pursue justice than the average person once they have been abused. It is a situation where, once again, those who need the system most are those who are the most let down. So what exactly are the barriers which people with disabilities may face in accessing the

justice system? People with disabilities are being let down in all relevant areas, be it protection from abuse or rights-based education or even the attitude of the judiciary.

Given that this motion focuses on access to the justice system specifically, I will only mention the problems with the latter. First, there is the police system. Currently the front-line officer who deals with the alleged victim in the first instance makes an assessment at their own discretion as to the vulnerability of the witness and whether they would benefit from being referred to the victim management unit. This unit consists of five officers who have undergone just one level of training above the average communication training which every officer is obliged to take. This extra level of training educates VMS officers in the art of open-ended questioning.

For some alleged victims, particularly those who are extremely traumatised or emotional, open-ended questioning could be very helpful, but for people with some forms of disability, particularly intellectual disability, or people with limited capacity to speak, open-ended questioning could potentially be more of a hindrance than a help.

For example, if you asked a person with an intellectual disability which meant that they could only think very literally, 'Why are you here today?' they would answer with something like, 'Well, because you told me I had to come,' or 'Because someone brought me here.' Again, a person with limited vocabulary, such as some people who use speech generation devices, may not be able to answer such abstract questions, and it would seem that this is where the road presently ends when it comes to police support for people with disabilities in the interview process.

There is no onus on police to be trained specifically in communicating with people with disabilities, nor is there onus on them to employ someone who does have such training to assist the alleged victim. I recently met with SAPOL in the light of recent cases of alleged abuse of very young children, children with communication disabilities, and I have to inform the chamber that the thing I find the most disturbing is not the fact that the current police system is so deficient in this sense but the fact that the police officers I met with genuinely seemed to believe that the current system is sufficient.

It is logical that if a police officer is only able to gain a very limited statement from an alleged victim, whether it be due to disability or some other factor, their case is very unlikely to get before a court, let alone have a successful outcome. However, even if a case does get to court, there are further barriers which people with a disability must face. The most glaring problem is a lack of genuine onus on a judge to offer supports that would aid a person with a disability to give evidence. Yes, there are some clauses in the current Evidence Act, most relevantly section 13, which attempt to make provisions for so-called vulnerable witnesses. But, it would seem that there is a problem with the subjective nature of the language used in these particular clauses. For example, section 13(1) provides:

> (1) Subject to this section if—
>
> (a) it is desirable to make special arrangements for taking evidence from a witness in a trial in order to protect the witness from embarrassment or distress, to protect the witness from being intimidated by the atmosphere of the courtroom, or for other proper reason; and
>
> (b) the facilities necessary for the special arrangements are readily available to the court and it is otherwise practicable to make these special arrangements; and
>
> (c) the special arrangements can be made without prejudice to any party to the proceedings,
>
> the court should, on its own initiative, order the special arrangements to be made for the taking of evidence from a witness.

The potential problem caused by the subjectivity of the language in this section is, in my belief, quite evident. What does it mean for supports to be 'readily available' exactly? My wheelchair is currently readily available to me, but is it feasible that, if I did not have it with me but required it to participate in the court, it would not be considered readily available?

A person who needs a sign language interpreter to give evidence in a court is highly unlikely to have such a person following them around at all times and may require someone to make a phone call to Deaf CanDo or some other organisation on their behalf to arrange for an interpreter to be present. Would this classify as 'readily available'? The examples I have given may seem a bit outlandish, but I believe they are worth considering, given that several cases involving victims with disability seem to indicate that appropriate supports for people with disabilities in courts are rarely, if ever, used.

The St Anne's case, involving alleged sexual abuse of then students with severe and multiple disabilities in the 1990s, first brought this shameful issue to the surface. As members will be well aware, this year we have seen a similar incident occur, and that case is still before the courts. This case consists of about seven children with communication disabilities who were allegedly sexually abused by their school bus driver. Some of the charges against this man will be pursued, but many, including all the charges pertaining to two particular children, have been dropped due to lack of evidence, reportedly because the disabilities of these children might prevent cross-examination.

I hope that the establishment of this select committee will not only give us the opportunity to increase awareness about the universal right to access justice but also give people a chance to tell us exactly what are their experiences and how they, as the people who would be benefiting from any changes made, would like to see these things amended. Members might be aware that there is also currently an inquiry in Victoria which is very similar to that which I am proposing here, which not only shows us how widespread and important an issue this is, but also that we could learn a lot about it from other jurisdictions.

It is clear that we have a lot to learn when it comes to equitable access to justice for all Australians. I was briefed just this afternoon on changes to the Evidence Act, which the Attorney-General will be tabling in the other place today. From what I am told, these changes sound like a step in the right direction, but there is a lot further to go.

The required systematic attitude changes will not come quickly, but with the establishment of this committee, I hope to speed us down that path a little more. This is not an issue that can wait, as the two cases I just mentioned illustrate quite clearly. I commend this motion to the council and encourage all members to join me in working towards creating a justice system that is truly just.

Debate adjourned on motion of Hon. G.A. Kandelaars.

CO-MORBIDITY

The Hon. K.L. VINCENT (16:11): By leave, I move my motion in an amended form:

That the Social Development Committee inquire into and report on the issue of co-morbidity, which here refers to a dual diagnosis of both intellectual disability and mental illness, viz:

1. Facilities in South Australia currently treating people with a dual diagnosis with particular reference to the Margaret Tobin Centre and James Nash House;
2. The possibility of establishing a new forensic facility similar to James Nash House in South Australia to deal specifically with offenders with intellectual disability;
3. The level of training offered to general practitioners, psychologists, psychiatrists and other relevant professional in the area of dual diagnosis and possible measures to enhance that training;
4. Information given to individuals and carers on how to manage a dual diagnosis;
5. Supports to aid individuals and carers in managing and living with a dual diagnosis; and
6. Any other related matter.

I am moving this motion hoping that we can make some progress in an area which has been little discussed and attracted little interest but which, nonetheless, represents a great hurdle in the lives of many people with disabilities.

Mental illness is between three and four times more likely to occur if a person has an intellectual disability. Despite this, in South Australia and across much of the country there are almost no dedicated facilities or supports offered to help people with this dual diagnosis or co-morbidity, as it is more commonly known nowadays.

I understand that it may not be immediately obvious to members why the existing structures which deal separately with disability and mental illness are not adequate, so I would like to explain how this issue has unfurled for me—that way you can all see things the way I see them.

I was contacted recently by two families whose loved ones have both an intellectual disability and a mental illness of some form. The stories these families have told me about the treatment their family members have been subjected to are nothing short of horrific. While every experience has varied greatly in its context and actions, there is a common theme in all of them. That theme is ignorance, often augmented by a lack of empathy.

When I met with the families, I heard a great many examples of misunderstanding. One story involved a teacher who clearly thought the child in question was deliberately badly behaved. Her solution to this behavioural issue was to lock him in a cupboard. This particular boy was trying to deal with the world through a prism of an autism spectrum disorder while also having a mood disorder. His mother says that, with effort to accommodate his needs, he is little trouble. Clearly, the teacher in this case was not interested in examining the causes of his behaviour; rather, she just wanted it to stop. This teacher was ignorant and disinterested.

While I am sure you all acknowledge that this story is indeed tragic, perhaps you are thinking that some teachers do not have an in-depth understanding of intellectual disability or mental illness, and that is not too surprising. What is surprising is how far this level of ignorance permeates into the professions of psychology and psychiatry.

As an example, here's another incident recounted to me by one of the families. The loved one with an intellectual disability and mental illness had been institutionalised for a brief period during an episode when their mental illness was more severe than usual. After a few days at the facility, the mother was speaking to his treating doctor and attempting to explain the issues her child might face when conventional mental illness treatments were used. Due to his disability, for example, this man has a fear of large, noisy spaces. Also due to his disability, he requires a bit of extra and lateral explanation when communication is taking place.

The doctor, however, simply was not interested. Instead of taking the comments on board, he simply said, 'I'm not here to treat his disability, I'm here to treat his mental illness.' But of course, as most rational people would know, you cannot treat one without at least acknowledging the other. To me, that is like saying that I can get treatment for a migraine but only if I get out of my wheelchair and walk over to pick up the appropriate medications. It is almost inconceivably stupid.

Having heard these stories, and many others, I set about trying to find out if they were the normal state of affairs. I must thank the Royal Australian and New Zealand College of Psychiatrists for helping me a great deal with my research in this area. However, what I found out was no cause for thanks. While there are pockets of expertise in the treatment of intellectual disability and mental illness around the world, there remains an enormous gap in expertise in South Australia.

The UK seems to have some of the best practices and knowledge in the area, and there are a few locals in South Australia who have trained there and have brought this knowledge back with them. However, there are absolutely no systematic methods by which this knowledge is spread.

Registrars training in psychiatry are not exposed to disability, except perhaps through a few lectures which mention it. For professionals operating in institutions like the Margaret Tobin Centre, one of our main mental health destinations, there is no expectation that you will have a level of knowledge about disability, either.

This shows an attitude of apathy toward disability, but also reflects the level of ignorance our society still has around mental health, more generally. It is proof that we are still not considering mental health as a part of a whole person. We looking at it as if it were some kind of alien disease which can be extracted with the simple swallow of a pill.

Mental health is like any other illness, it has its causes and many of them are buried within the person themselves. This must be recognised. When left unrecognised, we end up with people who could be active and engaged with life that are instead pushed to the fringes. That is why part of my motion focuses on forensic facilities, because many people with intellectual disability and mental illness end up being so alienated from society that they are picked up in the justice system.

I hope this inquiry can unearth information about better treatment, and also provide us with ideas about the best and fairest way to deal with offenders who have a dual diagnosis, because I assure you that they are not being given a chance at the moment. I do not think I need to draw a picture for you of what might, and does, happen to someone with an intellectual disability and mental illness when incarcerated in a mainstream prison.

So, this is a snapshot of what I have found out so far, but I realise that there is much more we need to know so that we can tackle this problem fully. I am not, in this instance, attempting to attack the government or anyone else by making these statements. What I hope I have done is convince all of you that this area is a significant disaster at the moment, but with some good information and good policy frameworks it could be transformed, which would simultaneously transform the lives of South Australians, and their families, with a dual diagnosis.

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

SCHOOL BUS CONTRACTS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:20): I move:

1. That a select committee of the Legislative Council be established to inquire into and report upon the department of education's open procurement process for school bus contracts, with particular reference to—

   (a) the impact on regional communities through the subsequent deterioration of family business operators if contracts are lost;

   (b) the ability of South Australian small operators to be sustained by private contract work and the subsequent impact on South Australia's future market competitiveness;

   (c) the inclination of new contractors to support small communities in the same way as previous family bus company contractors;

   (d) the sustainability of benchmarks used to determine tender applications;

   (e) government subsidies and the concession reimbursement scheme provided to some operators;

   (f) the failure to provide certainty for school bus operators whose contracts are yet to expire; and

   (g) any other relevant matter.

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

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

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

Six years ago today, it came to light that bus contractors had been threatened by the education department in negotiations on new school bus contracts. The evidence of the Economic and Finance Committee showed that contractors felt intimidated by the department and were living in fear that they would lose their contracts.

Six years on, this Labor government is even more contemptuous towards small business and regional South Australia. It seems that the worst fear of these bus operators is now being realised. Rather than providing these small businesses with a stable business environment, Labor has left them in limbo for years now, with the soon to be removed Premier refusing to resolve the issues of expiring contracts.

Labor refused to guarantee these longstanding service providers realistic operating cost increases or the benefit of a selective tender process widely used in other government transport contracts. All of this was amidst the Premier's election promise of 100,000 new jobs for South Australians. After leaving South Australian bus contractors in limbo for five years, 280 privately operated school bus runs were called onto the open market. That was last October. In the first round, nearly half the contracts have gone to a Victorian company—a far cry from the 100,000 jobs for South Australians.

This also follows the 2006 Labor announcement of air conditioning and seatbelts to be installed on all school buses at significant expense to many of the small operators who, incidentally, have since lost their contracts. It hardly seems fair. These upgrades, operating costs and wages all come at considerable expense, and we have been told repeatedly that the price benchmarks set by DECS for the contracts were totally unsustainable for the smaller local operators.

The education minister and soon to be premier, the Hon. Jay Weatherill, continues to deny this. In fact, he is so blase about the plight of local operators that he, at the end of our last estimates, was unaware of the circumstances of the winning tenderers, their cost advantages and how they managed to achieve them. How is a state government meant to support state and local economies if they do not even understand the challenges faced by small businesses in the face of interstate and overseas competition? When deciding on the price point benchmark, did the Labor government consider whether a major interstate consortium would be prepared to support small

communities in the same way the family bus companies do, Mr President? I am sure that you, growing up in a country community, are well aware of how small business operators in country communities do support their communities.

For example, will they transport kindergarten kids free of charge if it is raining or a parent is caught up in an emergency situation? What is the price that this government puts on that kind of community spirit and relationship with local businesses? Unfortunately, this is the end of the line for some small bus providers. A great deal of our future market opportunities will be gone as they inevitably crumble without the stability that these school bus contractors give them. There is simply not enough private work to sustain them.

I would like to put on the record one particular instance where this open procurement process will lead to the demise of a small business which has been absolutely dedicated to its community for the last 55 years. I thank my colleague in another place, the member for Schubert (Mr Ivan Venning), for sharing this with me.

Lyn Miller, owner and operator of Harris Coaches in Gawler, in service for 55 years, has lost a contract in the first round of tenders. This will mean the end of her business. Harris Coaches was told in late June that it had lost five routes. Two weeks later, Lyn Miller's local member, Tony Piccolo, put a congratulatory message in the local newspaper (*The Bunyip*), which said 'Happy 55th Birthday Harris Bus Service. Long Live the Butterbox.' This is pure testament to how detached Labor members are from their electorates. They have no comprehension of the plight of real South Australians who are trying to run a business and be a pillar in the local community and support their families.

It has also come to light that one non-local company which won contracts over local companies has been paid around $8,000 a month in concession reimbursements without those concessions being passed on to parents. The member for Goyder, Steven Griffiths, uncovered those Link SA invoices (effectively to the taxpayer) by FOI. A former employee of the company has come forward to say that he was directed to sign many student concession forms on behalf of parents without the knowledge of the school or the parent.

This is an interstate company using taxpayer-funded depots and buses and receiving incentives. It is not only dodgy behaviour but an extremely unfair advantage over our local businesses, which have shown loyalty and integrity in their operations. The transport minister asserts that this behaviour is entirely appropriate.

This arguably fraudulent practice came to the minister's attention in 2009 and was raised again in 2010 and in April this year by my colleague Mr Griffiths. In fact, he met with the minister and it was then raised in estimates. Astoundingly, the minister since has said that the payments really have little to do with student concessions, that they are more an incentive to ensure the service. As the Labor government effectively continues to condone this behaviour, I understand that the school concerned is considering going to the police.

The opposition believes that the small local businesses which have lost out in this abuse of process and poor government policy deserve to have a lot more questions asked. They deserve at least to have a minister pay attention to the matter and pay attention to what is going on in his own department. South Australians deserve to know what their money is being used for. Is it being used to pay unjustified incentives to interstate contractors who already have a competitive advantage over our own small businesses?

With those few remarks, I think members would be well aware that some serious questions need to be asked. That is why the opposition seeks to establish this select committee. It is my intention to bring this to a vote in the next few weeks. I hope that we can wind up a couple of the other select committees that are in operation at the moment so that we can devote a significant amount of attention to this important issue.

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

BURNSIDE COUNCIL INQUIRY

The Hon. A. BRESSINGTON (16:28): I move:

1. That a select committee of the Legislative Council be established to inquire into and report on:

   (a) The legality and appropriateness of the decision of the Minister for State/Local Government Relations to terminate the inquiry pursuant to section 272 of the Local Government Act 1999 into the City of Burnside, and to ascertain:

(i) the likely duration and costs of proceedings with the inquiry to the completion of a final report by the investigator;

(ii) the likely duration and costs of proceedings with the inquiry to the completion of a final report by the Ombudsman;

(iii) the likely duration and costs of proceedings with the inquiry to the completion of a final report by a select committee of the Legislative Council;

(iv) any legal impediments to the finalisation of the investigation; and

(v) the authority to which to refer any allegations of criminal conduct; and

(b) Any other relevant matter.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that standing order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only;

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

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

I am moving this motion for a select committee out of sheer frustration. Quite frankly, there are questions that need to be answered about the whole process of terminating this inquiry. The minister has not been able to convince me or anybody else in this chamber, or anybody in the public who has an interest in the Burnside council investigation, that his decision was lawful, that it was well considered and that it was actually made in the best interests of the people of this state.

The minister stated on a number of occasions the cost of completing this inquiry. It has gone from $1 million to $2 million to $3 million, and he has made that judgement without ever even speaking to Mr MacPherson about how much it would actually cost for the completion of the report in abidance with the suppression order that was placed on the report. He has basically, I believe, tried to wiggle and worm his way out of taking responsibility for his decision by making a number of claims that these were nothing more than petty allegations. I find it very difficult to believe that Mr Ken MacPherson would waste—and that is the implication of this—$1.5 million of taxpayers' money and ask for two extensions, I think, into the investigation if they were just petty local government politics.

Call me naive, but I do believe that Mr MacPherson has a higher work ethic than that, and I believe that he was acting with good will and in good faith with the terms of reference he was given but that, as evidence was accumulated or received through this inquiry, it was obviously more serious than even Mr MacPherson had thought it would be. That is my assumption, and it is also the assumption of many other people out there.

The minister was very quick in the house today, when asked a question about Burnside council, to state that he is the only person—the only person in this entire place—who is upholding the law and showing respect for the courts in this state. I would just like to read part of the court judgement that relates to the minister's chest beating in the chamber in question time today. Paragraph 16 of the court judgement of 28 June 2011 states:

> It is in the public interest that Mr MacPherson complete his inquiry and report to the Minister, as soon as practicable, on matters within the scope of the Terms of Reference as limited by the Court.

In fact, we have this judgement, part of the judgement, by the Supreme Court which put the suppression order on the entire report and stated that termination of the inquiry should not have been an option. How the minister, the Hon. Mr Wortley, can stand before this council and beat his chest about being the only one being respectful of the law, being respectful of the courts in this place, based on that excerpt from the judgement, defies belief.

I do not even believe he has read the judgement. Not only do I know he has stated in here that he has not read the report, I do not believe he has read anything to do with the Burnside inquiry—not the judgement, not anything. I think he is receiving very bad advice from people who do not want this report ever to surface. A petition has been presented of 1,630 Burnside or SA residents who have concerns and who want the investigation completed and want a report handed down. The response was 1,630 out of 30,000 residents. Do you know what? We had a very short time limit to gather those signatures. It was a citizen-initiated petition. The people who were doing

this were working full-time as well as going to places and getting people to read the petition and agree to sign it. I believe that if we had another three, four, five months to collect signatures, to reflect exactly what the interest is in this inquiry amongst residents, we would probably have doubled or tripled the number of signatures we have.

No-one who was approached to sign that petition who understood what it was about refused to sign it. I think that is pretty significant. If people said, 'Look, I'm not interested and I don't want to sign it, I don't care,' and we scavenged 1,630 signatures out of it that way, fair enough, but no-one who was approached refused. It was a time factor and an ability factor, if you like, in terms of the number of feet on the ground doing this.

There is actually a great deal of interest out there from people, and the attitude of the minister, the 'That was then, this is now' scenario, 'It is a new council now and those members who are involved in all this have moved on, they have continued with their lives and all this is over'—no. If there are criminal conduct issues contained in the MacPherson report then the people engaged in those activities should be brought to justice just like every other citizen in this state.

We have people out there who do nothing more than challenge an expiation fee on a speeding fine, and who, because they choose to challenge that, end up with a criminal conviction, a criminal record. Ordinary, every day citizens do not get either the opportunity or the privilege of dodging a bullet where the justice system is concerned, and I do not believe that we in this place would condone that people who have a held a position not only of responsibility but of power within their community have a get-out-of-gaol card handed to them simply because of that.

I can tell honourable members that public sentiment reflects that, if it is good enough for us, by God it is good enough for them. No-one is sure that criminal charges will be laid, but that is the whole point of finishing the report, so that the entire report can be handed down and investigations pursued if necessary. On the finalisation of those investigations, if charges are to be laid, then that will go to the DPP and it will go through the justice process. But no, through the minister terminating this inquiry the way he has, he has cut that whole process of due diligence, due process, short. Why? Because he is the minister, he can do it, and he says so. It is not good enough, just not good enough.

Kevin Borick QC handed down a very brief opinion, but it was not a 'paid for' opinion, as the minister, in the previous sitting of parliament, implied. I paid him nothing for his view on this. He looked at the act, he interpreted the act and said that it was a very specific act; rarely do pieces of legislation contain the word 'must', but, under section 272, the Local Government Act provides that, when a committee has been lawfully formed, the investigation must be concluded and a report must be handed to the minister as part of that process. There is not very much room to move in the interpretation of that particular act, and Kevin Borick QC clearly stated that he believed that the minister had made an unlawful decision in terminating the inquiry the way that he did.

He said that, if we had 100 QCs in a room, we would probably get 100 different opinions. I have sought legal advice from more than five, and I can tell you now that they are all in agreement: that decision was unlawful. These are the issues that we will be looking at in this select committee inquiry. It is going to be short, sharp and shiny. There is no intention whatsoever to call in all the people who gave evidence to the MacPherson inquiry. There is no intention to redo the entire inquiry. I want clarity on the issues where I believe the minister has failed to sell the case—failed to convince me and others in this place and outside that he has made a well-informed and just decision in terminating that inquiry. That is what it is for.

I urge members to support this inquiry. As I said, it will be short, sharp and shiny. It is not going to drag on for months. It will also give us the opportunity to receive legal opinions about the decision of the minister in the evidence. The report from the select committee, whatever it shows, will then at least be out there for this minister to be judged on the decision that he made. If I am wrong, the report will reflect that. If my suspicions and the suspicions of others are correct, the minister is going to have a serious case to answer to justify his first major decision as a minister of the Crown in this place.

I leave this now with members, but I also make the point that, because the issue has been floating around this chamber for so long, I intend to bring this to a vote on the next Wednesday of sitting. I do not believe that we need to wait for three or four months for people to deliberate about whether or not they are going to support it. As I said, the sooner this is voted on the sooner we can get this select committee started, finalised and a report written. I leave it with members to consider.

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

ASSISTED REPRODUCTIVE TREATMENT (ASSISTANCE FOR LESBIANS AND SINGLE WOMEN) AMENDMENT BILL

The Hon. I.K. HUNTER (16:42): Obtained leave and introduced a bill for an act to amend the Assisted Reproductive Treatment Act 1988.

The Hon. I.K. HUNTER (16:42): I move:

That this bill be now read a second time.

Today I rise to introduce the Assisted Reproductive Treatment (Assistance for Lesbians and Single Women) Amendment Bill 2011. Most of my colleagues would now be aware that this amendment bill contains the same amendments I moved in this place in July 2009 when we debated the Reproductive Technology (Clinical Practices) (Miscellaneous) Amendment Bill.

This bill is also based on recommendations made by the Social Development Committee's 2011 report into same-sex parenting. The Assisted Reproductive Treatment (Assistance for Lesbians and Single Women) Amendment Bill 2011 seeks to amend section 9 of the Assisted Reproductive Treatment Act 1988 which currently prevents some single women and some women in same-sex relationships from accessing some IVF services in South Australia.

As the proposed amendments and the arguments supporting these amendments have not altered since I last spoke on this issue, I will not indulge in a lengthy repetition of speeches I have previously delivered in this place; rather, today I seek to provide just a brief summary of the key points involved with this debate.

Current South Australian law requires a woman to be diagnosed medically infertile in order to access assisted reproductive treatments. This, of course, has significant implications for same-sex couples in that it specifically excludes couples who may not have any medical impediment to achieve pregnancy but whose sexual orientation prevents them from conceiving without some form of assisted reproductive treatment.

The current South Australian reproductive technology law, with its narrow definition of infertility, forces many lesbian couples to travel to other jurisdictions where laws are less restrictive, often incurring unnecessary expense and stress. It also results in some women choosing to self-inseminate outside of regulated clinical settings, which can potentially lead to danger for both the woman and the child involved. The Social Development Committee's 2011 report into same-sex parenting noted that self-insemination may place a woman and her child at risk of disease because the donor is not thoroughly screened for genetic diseases or sexually transmitted infections. Furthermore, the use of self-insemination in private arrangements may mean that a child born through such arrangements will be denied information about the full circumstances of their birth and genetic background.

This bill therefore seeks to broaden the criteria used to define infertility as previously consistent with the provisions contained in Victorian legislation. As technology and social values change, it is necessary for legislation to evolve to reflect those changes. Queensland, Tasmania, Victoria, New South Wales, Western Australia, the ACT and the Northern Territory all allow lesbian couples to access reproductive technologies—every state and territory in this country except us. That South Australia does not allow it speaks volumes. As I have said before, by insisting on our current legislation we do not stop a single pregnancy; we merely force women to stump up thousands of dollars to travel interstate for that treatment.

If our current legislation is so ineffective, why do we then insist on it? Why do we force women to travel interstate for these treatments, a treatment regime that can involve many trips over many months? It seems to me to smack of nothing more than meanness. Nothing is achieved by limiting access to IVF in South Australia in this way, other than to force South Australian women to spend upwards of $20,000 to become pregnant in Melbourne, in Sydney or in Canberra. This parliament runs the risk of being seen as mean and vindictive to lesbian couples who seek to start a family using IVF.

It is also important to note—and not everyone understands this point—that, by broadening access to IVF clinics to otherwise fertile women, no additional financial burden is imposed on the state or commonwealth. Women who would use this facility who are not medically infertile have to pay for that service—I understand at a full cost recovery rate. I have twice spoken at length in this place on the need for these amendments. For those who seek further information, I refer honourable members to the second reading speech I delivered in this place on Thursday 16 July 2009, and also to the speech I gave on the report as chair of the Social Development

Committee on Wednesday 18 May 2011. Finally, I look forward to the debate on this bill and, perhaps optimistically, to a slightly different outcome to that of 2009.

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

ELECTORAL (COST OF BY-ELECTIONS) AMENDMENT BILL

The Hon. M. PARNELL (16:48): Obtained leave and introduced a bill for an act to amend the Electoral Act 1985. Read a first time.

The Hon. M. PARNELL (16:48): I move:

That this bill be now read a second time.

This bill is identical to the bill of the same name that the Greens introduced in 2009. It relates to the cost of by-elections brought about by the unnecessary early retirement of members, and it is designed to act as a disincentive to political parties to use taxpayer-funded by-elections as a method of party renewal or succession planning. In the lower house of this parliament, and in most other parliaments, if a local member retires or resigns, a by-election is held to fill that casual vacancy.

My bill aims to sheet home the cost of unnecessary by-elections to the political party to which the retiring member belongs. If passed this bill would provide that, in the event of early retirement, in the absence of a good reason (and I will come back to what that means later), the political party to which the member belongs will have two choices: either it can pay the cost of the by-election from its own party resources; or, it does not field a candidate in the subsequent by-election.

It will come as no surprise to members to know that the impetus for bringing this bill back at this time relates to the likely by-elections to be held in the seats of Port Adelaide and Ramsay as a result of the foreshadowed retirement from the House of Assembly of minister Foley and premier Rann.

Before I go on to describe the current circumstances of those likely by-elections, I would like to emphasise that this bill is not aimed at the Labor Party or any particular party; it is aimed at all parties. In fact, when I first introduced this bill, it was around the time of the departure of the former member for Frome, the Hon. Rob Kerin, who retired early. He was quoted in the local paper, *The Plains Producer* as follows:

'For a long time I had been holding on simply to save a by-election,' he said, 'However, the time has come where I feel burnt out with politics and it would be disingenuous to continue. I feel I am no longer able to give the electorate what they deserve and should therefore stand aside'.

Unfortunately for the Liberal Party, it did not go quite as it had hoped, and now we have a new Independent member for Frome. The situation in Port Adelaide is fairly similar. Greg Kelton wrote the following in *The Advertiser* on 6 September:

In a move that caught many people by surprise, Mr Foley, who appeared close to tears, said it was time to go and he was 'very tired'. 'I haven't got the energy to continue as a minister,' he said.

Only last week, Mr Foley, while on an overseas trip, had said he had no intention of quitting parliament although there was growing pressure within the party for him to go at the same time as Mr Rann.

On 5 September, *The Advertiser* reported the following:

Mr Foley told a media conference at the State Administration Centre he was 'tired' and did not have the energy to remain a minister. 'It has been a difficult 18 months for me personally,' he said. 'I turn 51 in a few weeks; it is time for me to step out and make a new future outside parliament. I am looking forward to being an ordinary citizen'.

He said he would step down from cabinet on the same day as Mr Rann because there was need for 'generational change'.

The article continues:

'This is the right time for Kevin Foley,' he said. 'I guess in many ways you could say I'm being a little selfish. At this point in my life, I'm putting my own personal self interests ahead...of those of the government. Right now, I would prefer to forge a new life than to remain in government another two years.' Mr Foley's actual departure date from politics remains unclear.

He said at one stage that he hoped to leave parliament before Christmas but later amended that to say he could stay on until Mr Rann left early next year, so there could be two by-elections on the same day.

It is probably worth pointing out that there are two intermingled issues here. One is the honourable member's departure from cabinet, which is not impacted at all by my bill. In fact, members can come and go from cabinet as they see fit, or as their leaders see fit, is probably more like it. The other issue is a member's pending retirement from the parliament. I should also point out that there is nothing in my bill that prevents any member of the House of Assembly from resigning or retiring at any time they choose. Any member can resign for any reason.

What my bill does is sheet home the cost of unnecessary by-elections to the political party responsible. Whether it is the Hon. Rob Kerin in the seat of Frome, the Hon. Kevin Foley in the seat of Port Adelaide or the Premier in the seat of Ramsay, if somebody has stood for parliament, promising to stay for a full term, and they decide to retire early, taxpayers should not have to pick up the tab to find their replacement.

However, we know that members of parliament get sick, some even die in office. Other members of parliament have carer responsibilities which they were not aware of when they were elected, or which become more demanding after their election, and, for those reasons, they choose to retire early. I want to protect those people and their parties from either having to stay in parliament or paying the cost of a by-election. I think they are reasonable reasons for someone to retire early, but I do not think that simply being tired or having had enough are reasons for the taxpayer to foot the bill for a by-election. I would like to address the question of the cost of by-elections—

The Hon. J.M. Gazzola: What if they're not in a party?

The Hon. M. PARNELL: Although it is unparliamentary to interject, the Hon. John Gazzola said, 'What if they're not in a party?' The point is that, if they are not in a party, then there is not anyone, other than the taxpayer, to foot the bill. If they go, they go, and that is it. They will not be contesting the by-election and, because they are not in a party, no-one from the party that they are not in will contest the by-election either way.

I know I am going to get into trouble for responding, but Mr Darley is a member of the upper house of parliament, and, if he were to chose to go, that would be a very different question, and it is not in my bill.

Coming back—because I know it is unparliamentary to respond to the Hon. John Gazzola's interjections—to the cost of by-elections, because they are not that common it can be difficult to predict the cost. We know that the last by-election, the Frome by-election, cost taxpayers $220,000. The Ramsay and Port Adelaide by-elections may be a little cheaper, both being metropolitan seats, and there may be some shared cost relating to advertising, however, the cost, inevitably, will be hundreds of thousands of dollars, and most likely around the $400,000 mark. So, we are pushing half a million dollars.

As for the mechanics of the bill, and I offer this in lieu of a formal explanation of clauses because it is a very simple bill, this is how it would work in practice. If a member of a registered political party retires early then the Electoral Commissioner would ask the party to pay the estimated cost of the by-election, unless the Electoral Commissioner was satisfied that there was some good reason why the party should not pay. The actual words in the bill are:

> The Electoral Commissioner may determine that this section does not apply to the resignation of a member if the Electoral Commissioner is satisfied that the resignation was reasonably necessary due to circumstances beyond the member's control...

It then goes on to provide some examples, including:

> If the retirement was due to a medical condition of the member or of a person who relies on the member for care, the Electoral Commissioner may determine that this section does not apply.

In other words, the section that requires the party to pay. So, if the Electoral Commissioner is satisfied that the resignation was reasonably necessary due to circumstances beyond the member's control then the section does not apply.

My bill is not aimed at trying to force the unwell to stay in parliament. It is not designed to force people to choose between parliament and their caring responsibilities. If people have good reason to retire then the normal course of events, which is that the taxpayer foots the bill, should apply, but if there is no good reason and the party does not want to pay for the cost of the by-election then, under my bill, that party forfeits the right to run a candidate in the forthcoming election.

When I raised this last time, a number of members, and no doubt the Hon. John Gazzola included, said that it was undemocratic and harsh.

The Hon. J.M. Gazzola interjecting:

The Hon. M. PARNELL: I cannot help it, Mr President, I am sorry. This has nothing to do with the Hon. Mr Darley, who is a member of the Legislative Council where we do not have by-elections because a by-election would require an election of the entire state. So, this has nothing to do with the replacement of members in the upper house.

The Hon. J.M. Gazzola interjecting:

The PRESIDENT: Order!

The Hon. M. PARNELL: I need some protection, Mr President.

The PRESIDENT: The honourable whip will whip himself.

The Hon. M. PARNELL: As I said, members might feel that this is undemocratic and harsh, but it seems to me that where there is pushing half a million dollars of taxpayers' money being effectively wasted because someone does not last their full term and has no good reason for retiring then it is neither harsh nor undemocratic.

Of course, if the party wants to run a candidate it can and it will pay the cost of the by-election. The point of this bill is that unnecessary by-elections are expensive, they are inconvenient and the least that we can do as a parliament is to reduce the burden on the public purse by requiring political parties to pick up the tab in those circumstances. I commend the bill to the council.

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

CONSTITUTION (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (16:59): Obtained leave and introduced a bill for an act to amend the Constitution Act 1934. Read a first time.

The Hon. R.L. BROKENSHIRE (16:59): I move:

That this bill be now read a second time.

I believe it is worthwhile for the Legislative Council to look at matters concerning the constitution from time to time. I do not think it will be done in the other place, for reasons that we would all know, but here I think that, for democracy, the Legislative Council should and does have a right now and again to revisit some of the matters around the constitution.

This bill contains three essential elements that honourable members will have heard me speak about in the media and other places and forums. Firstly, the requiring of premiers to serve no longer than two terms and, generally speaking, eight years in office; secondly, the empowering of the people of South Australia by petition to require an election; and thirdly, the compelling of the upper house to sit in or about the January/February period before a March fixed election. All these elements are designed to bring some accountability to the government of the day, and I will explain each quickly in turn then refer honourable members to my public comments or my office if they would like further information on each of these matters.

Regarding fixed terms for premiers, this is a law that applies in the United States of America with its governors and, of course, its President. It ensures that heads of state move quickly to implement their true political desires and not hang on in office for a long time. It ensures rejuvenation of governments that do, generally speaking, get tired after two terms and need reinvigoration.

It is a protection from dictatorship and, at the moment, whilst it is taking a very long period of time—and I preferred the model that I heard you, sir, talking about on radio—we are seeing some of that reinvigoration at the moment, but it is never a pretty sight when we see it this way. Clearly, with my proposal here, it would be automatic, and, ultimately, the premier of the day, of whatever political persuasion, would go down in the history books for what they achieved in that two-term period, not whether or not they beat the record of another premier of that party.

The second clause I wish to discuss is the petition for election or recall election. We have had an outstanding response on this issue. The South Australian people actually do want this. We have had many calls to our office asking where they could sign right away with respect to a petition

to support this clause. We have chosen a lofty limit that I know some political commentators feel is too high. In fact, in debate in the media recently, one highly respected political commentator could see wisdom in this clause; however, they felt that we were setting the bar too high.

I am not sure that is the case. However, I am prepared to listen to wise counsel from my honourable colleagues if they feel that the bar is too high, as was already indicated by the Hon. Mr Stephen Wade when he, in principle, supported this concept in the media but thought that we were a bit too high. The bottom line with this is that we believe we have set it at a responsible level at 15 per cent of the enrolled voters at the time of the petition.

The limit is 30 days to ensure the matter does not drag on and is genuinely an urgent desire by the state's electors. This is in keeping with models used overseas for recall elections, the most famous of which is that of a governor of whom the Premier has spoken in the past with some approval—former California so-called Governator Arnold Schwarzenegger.

Fixed sittings before elections is the third part of this bill. Firstly, on a technical point, I am advised that we can only compel this house to sit, which I think is unfortunate because I would love to see both houses sit for a couple of weeks before an election. I point out that this is only on the year of the actual election and, as we know, we have four-year fixed terms for the second Saturday in March, as I recall.

Constitutionally, we cannot compel the other place to sit, and whether the other place follows suit if the Legislative Council is sitting is up to it as a transparency measure. I am also sure that, if there is a hint in this process that government representatives here seek to deflect questions to the minister in the other place for response, we would have to amend standing orders in advance of what would be a February 2014 sitting of parliament to ensure we get answers and not deflections.

It is really one of the challenges of this place and the other place that, although some ministers have sought to give more detailed answers than others, other ministers take the questions on notice and members then wait a long time for an answer. The so-called new paradigm in Canberra in relation to this has not worked, whereas the Cameron government in the United Kingdom has shown that you can have an effective question time with real answers. Those are matters parallel to the issues in this bill. The bill requires only that parliament sit just before the election. It is problematic that this parliament picks up and goes on a long break before elections—and for some time after the election—and that is not what the public expects.

To continue on from the technical point I have mentioned, it is appropriate that we as an upper house sit during this time since half of us are not even up for re-election at that time. The taxpayers of South Australia expect a lot more from this parliament than its taking a long holiday for elections to be conducted, and this particular element of this bill gives effect to that. I commend the bill to the house.

Debate adjourned on motion of Hon. Carmel Zollo.

HOSPITAL PARKING

The Hon. R.L. BROKENSHIRE (17:07): I move:

That this council:

1. Recognises the public rallies and thousands of petition signatures tabled and otherwise shown to the parliament concerning the Rann government's decision to impose paid parking in public hospital car parks from 15 August 2011; and

2. Calls upon the government to remove parking meters and rescind the policy immediately.

The decision was made in the 2009-10 budget, but the impact was felt in August, during the winter break, as meters were installed in public hospitals. Surely, this must tell the government that this was a bad decision. In fact, I put on the public record that, if the Premier, the Hon. Mike Rann, does not see the wisdom of pulling this silly decision, I call on the premier-in-waiting, the Hon. Jay Weatherill, as one of his first initiatives, to come out and say to the public, 'This was a wrong decision. We cannot hit the most vulnerable.'

People do not go to hospital for the sake of going to hospital. They go there for three reasons: first, they are sick and need treatment; secondly, they have a loved one or a friend in the hospital and they want to visit them; or, thirdly, they are a volunteer.

To hit the most vulnerable people to the tune of ripping $11 million—and that is the budget estimate—to park in car parks is a disgrace. I feel confident that, if Jay Weatherill is to make some difference and a turnaround in the polls, soon after 20 October he could turn around and say that this was not a good decision. Whilst I understand that the Hon. John Hill is digging in his heels and saying that he is not budging on this, as tight as the budget may be I call upon the Hon. Jay Weatherill to rescind this government decision.

Clearly, the Hon. Jay Weatherill will have to steer a different course if the government is to regain a consistent turnaround in the polls, after the holiday period, and this is one easy no-brainer for the new premier to knock out. With the amount of headroom and slippage that you get in a budget of about $15 billion, why you would inflict this upon the South Australian community for $11 million I do not understand.

I want to congratulate particularly a gentleman whom I have come to admire and respect, who has actually got out there and campaigned for this, and that is Mr David Lawrence. Mr Lawrence has seen the wrong in this. He is not a political activist. He has probably never been involved before in any political campaign or rally in his life, but through unfortunate circumstances he is in a situation where he needs to access medical treatment himself. He has talked to a lot of other patients, and these people do not have the money to spend on parking their cars, for goodness' sake, in a public hospital car park.

Other people I want to bring into this are nurses and other staff who work in hospitals. They are all going to be hit with this as well. On several occasions I have been with colleagues, and with the Hon. Mark Parnell only last Friday, and hospital staff pointed out that, under this government decision, even when they are on holidays, would you believe, they will pay for car parking. Nurses, doctors and other hospital staff on leave will have money taken out of their salary to pay for car parking even though they will not be using it. Where is the justice in this decision? I am sure that, if the backbench and the caucus of Labor had some input, this would never have got off the discussion table.

I seek procedural guidance from you, sir, because we have two lots of petitions. We have some that are in the standard form for presentation to parliament, and I seek leave to table the thousands of petitions that I have here that are in the legal format on the top side, but, because they were printed through the *Messenger*, I am advised there is a technical issue. With good intent, the South Australian community signed these documents expecting that their signatures would be received by this parliament.

I wish to advise my colleagues that there are 2,137 of these alone, notwithstanding what my colleagues will see with the other petitions that are in the standard form. Just before I seek your wise ruling on this, sir, I want to say that, if you do rule this out, I place on record, so all my colleagues and the public know through *Hansard*, that there are 2,137 of these signed.

Before I pause for a moment for your guidance and direction, given that the media are showing more interest in running petitions on certain matters in print and electronic form, and also given the fact that we now have email, if such formats are not acceptable at least to be tabled, I think at some stage we have to come up to speed with the modern technology that we live with and change some of these basic processes. I know Labor members are locked into a difficult spot until they get a direction from their cabinet, but certainly members of the Liberal Party, all the crossbench members and the minor parties have indicated that we do not agree with this decision.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Mr Brokenshire has asked for leave. I will ask whether leave is granted in a moment, but I should explain that, because the number of petitions you have talked about are not in the prescribed manner, you can seek leave for them to be tabled and that will happen. However, they will not be referred to by the Clerk in the normal sense, so you may wish to again state the number of petitions yourself. It will not happen in the normal sense that we do before question time, if you understand that scenario. There are other petitions out in the community at the moment that are in a similar situation to yours that do not fit the right wording or have been done on the web. So, based on the fact (as the clerks have advised me) that they will not be referred to by the Clerk in the normal sense, is leave granted for them to be tabled under those circumstances?

The Hon. J.M. GAZZOLA: By tabling, what is actually going to be done with them?

The ACTING PRESIDENT: They will become part of the documents of the Legislative Council but, other than the Hon. Mr Brokenshire referring to them, they will not be referred to in any other sense. Further to that, they will be classified under documents tabled, but not petitions.

The Hon. J.M. GAZZOLA: They are not going to be included in the *Hansard*?

The ACTING PRESIDENT: No, certainly not. I will ask again: is leave granted? Leave is granted on that basis.

The Hon. R.L. BROKENSHIRE: I thank the Clerk for her guidance again, I thank you Mr Acting President, and I thank my colleagues for granting that leave. It is 2,137 petitions. As I said, over and above that, in the valid format of the requirements of the Legislative Council, there are a lot more that have also been tabled and that will be put into the *Hansard*.

I have heard comments from some people that whilst the Rann government had a very strong moral compass early on it has drifted from that and lost touch with the rank and file of the community. I think it is fair to say that this is a classic example of that, and it was interesting that at the rallies we attended there were not people who had any particularly strong argument on political parties. They came from all voting patterns, but there were a lot there from the Labor Party who said that they just could not believe that a Labor government would be charging.

I also want to put something else on the public record, and hopefully the Hon. John Hill will look at this. I am not sure whether or not he will run at the next election; he has not made a commitment about whether he is going to but, as I pointed out at the public meeting, the Hon. John Hill has done a lot of good things as a minister and as a local member over the years, and he is astute. On the other side of the equation, the Hon. John Hill has also had the benefit of support from the southern area of Kaurna to allow him to have these privileges, and in their time of need I do not think it is in the best interests of the Labor Party or the Hon. John Hill—and I know that it is certainly not in the interests of people who have to pay these fees—that he is simply stonewalling. I would like to think that the Hon. John Hill would go back to cabinet, go back to David Swan, the CEO of health, and say, 'Mate, this one's no good. I've realised that there's a mistake here. You can't charge people for public car parking.'

I also put this to the Hon. John Hill: how can the government have planning legislation that states that if you build a facility you have to provide adequate car parking for the people who attend the shopping centre, factory, industrial site or bulky goods site? At law, you also have to provide adequate car parking for the workers. The unions would be outraged if suddenly the government turned around, changed the laws and said that when the workers come to work they will have to pay for their car parks.

This could be the thin end of the wedge if this precedent gets up. What will we do with schools? Will we charge mums and dads when they visit the school? Will we charge the schoolteachers for parking in the school car park? Where does it stop once you get this through? This is very bad legislation and, from a government that talks about social inclusion, that is a rubbish statement now because this is social exclusion.

We have seen the government bring in draconian WorkCover changes in 2008; we have seen it cutting long service leave entitlements to Public Service workers; we have seen it planning to bulldoze the Parks Community Centre and precinct for developers, while the bikie fortress across the road looked on and laughed untouched. We see the government now selling off major income-earning state assets in the form of SA Lotteries and ForestrySA. Hopefully, there will be a reversal on those two, as well.

In concluding my remarks on this motion, it is interesting and ironic that here we have a government selling off the South Australian Lotteries Commission which returns tens of millions of dollars a year to taxpayers and which was set up specifically to help fund hospitals ($20 million a year net return) but it is going to sell that off for short-term gain—and not a lot of gain when we look at the size of the global debt of the state now. That is $20 million that the government is not going to get but it is going to hit the most vulnerable for $11 million to try to recoup some of that $20 million. Bad business; social exclusion.

This is an attack on the frail and the elderly by forcing them to pay for public car parking at hospitals. Is it too late to reverse the decision? My answer is no. The government reversed its position on the relocation of Yalata Prison to Murray Bridge and paid compensation for that decision to those who had tendered for the project. The government has to accept the cost and consequence of bad decisions.

I thank my colleagues who have been supporting Mr David Lawrence and others at the rallies. I thank my colleagues who have, in a multipartisan way, been out there when they have clearly seen that a decision is wrong and have worked cooperatively side by side—that is what this

council is about; that is what the crossbenchers are about. I hope the government, and particularly my colleagues in the government who are listening now, will go into the next caucus meeting and say, 'Look, this is absolutely wrong. Rule it out and stop it.' Let us get some common sense and fairness back into this madness decision that we see, where the most vulnerable and frail are being hit for $11 million a year.

Debate adjourned on motion of Hon. G.A. Kandelaars.

APY LANDS, STATE GOVERNMENT SERVICES

The Hon. T.A. FRANKS (17:22): I move:

That this council calls on the government to:

1. Take note of concerns voiced in recent media by members of the federal government and Indigenous leaders that the current administration of state government services across Anangu Pitjantjatjara Yankunytjatjara (APY) lands is lacking and despite efforts in the past to address these issues, coordination and resourcing for essential services, food security, education, housing and employment and health are still inadequate;

2. Use this criticism as an opportunity to rise to the challenge of closing the gap and ensuring Anangu are listened to and empowered and resourced to lead the way in meeting this significant and important challenge; and

3. Provide this council within one month of details of the urgent steps that will be taken to guarantee Anangu living on APY lands good health and opportunities of a standard fitting Australia's status as a developed nation and how these will be measured and monitored in a transparent and open manner.

I move this motion today as members may be aware that the APY lands have actually been in the media in past weeks—and not for all the right reasons. I move a motion not of condemnation of this state government but urging them to take the bad news that we are seeing on the pages of *The Australian* and *The Advertiser* and on our radio waves as a challenge to rise to.

We have heard over past weeks not only leaders such as Noel Pearson, former ALP president Warren Mundine, and a spokesperson for Jenny Macklin but also Lowitja O'Donoghue and many others who have raised their concerns. Most pertinently, I understand that minister Portolesi (the Minister for Aboriginal Affairs and Reconciliation) is meeting with Lowitja O'Donoghue at some stage today in response to that Indigenous leader's statement that the Rann government, in fact, buried a report that she wrote in 2004 in conjunction with World Vision chief Tim Costello. That report exposed failings in the management of remote South Australian Aboriginal communities on the APY lands.

Ms O'Donoghue has gone on record saying that she was 'unhappy there has been no proper action taken and I want to deal directly with the people who were supposed to be running programs in the APY lands'. At the time the Premier appointed her, together with Tim Costello, to advise and review the APY lands, they of course replaced former Senator Bob Collins who, due to unforeseen circumstances, was unable to complete that report.

They did a report, quite duly, for this state government. They visited the lands, in fact, in August 2004, and I have a copy of the report here. I note that in this nine-page report, which of course would not take a great deal of time to read, on pages 8 and 9 are key recommendations. The recommendations deal with clarifying governance confusion, mediating family and clan disputes, getting rid of the various silos of government departments and petty clan bitterness, and creating coherent authority to manage essential services at a level that would both 'protect lives and give minimum standards for lands occupants'.

The report has several recommendations and, in fact, offers the services of both Ms O'Donoghue, a very respected Aboriginal woman, and Tim Costello from World Vision, who is also incredibly respected in our community, to help implement the recommendations and undertake a process where a whole-of-government approach could be supported and the philosophical issues debated; in fact, both of them offered their services at this time. I draw members' attention to that because today in question time minister Portolesi, having said that she met with Ms O'Donoghue this morning, in response to a question noted that, while she had enormous respect for her, she understood that most of the issues raised in the report, 'because they did not provide recommendations per se', were somehow being addressed.

I have grave concerns about a minister who meets with Lowitja O'Donoghue to discuss criticisms of the Rann government's mishandling of the APY lands overall, clearly has not read the whole report—a good nine pages thereof—and simply does not understand that there are

recommendations not only at the end of that report but also an offer to implement and facilitate the consultation that was necessary to undertake that. It is little wonder then that we are copping such criticism in this state for the management of Aboriginal affairs. It is an opportunity—and I will keep repeating that—and I hope that Labor members and members of the government, whoever they be in future governments, will see these things as a challenge to rise to and not a responsibility to shirk from.

The reason we have had a media spotlight shone on this issue is actually reasonably ironic. A few weeks ago, the Minister for Aboriginal Affairs took an embedded journalist trip off to the APY lands to show off her gardens she has as part of her so-called food security strategy. That food security strategy was launched by the minister as the centrepiece of her work so far in this portfolio. It was announced last December and contains three main prongs: two gardens (although it may be three) which serve less than 5 per cent of the total population of APY lands; a 'come and cook with kids' cooking class demo, something which NPY Women's Council and organisation of some 30 years' standing has been running for quite a while (and I understand many other NGOs already run to capacity); and engaging nutritionists, again something that is already being done on the lands and was seen as an unnecessary added extra.

I have been critical of this so-called food security strategy because I do not believe that that is food security. I believe some market gardens that serve very few people are a food supplement, and that is a great thing. Gardens and access to good, fresh, healthy foods are a fine thing, but they are in no way food security, and they should not be treated as something that is, in fact, proving to be a vital contribution to establishing food security for people on APY lands.

One of the communities that the minister visited was the community of Watarru, which has some 59 people according to the Census figures to come, I understand, having spoken to the Census worker who counted that community just earlier today. What was quite sad was that that community—which is to gain from one of these gardens—has a local community store and, while the minister was there, that store was in crisis.

Journalists were not informed of this. They were not informed that only days earlier the store manager had disappeared and that the store had been closed and that there was no access to general food, health hardware and other necessities of life for the people of Watarru. The organisation, Mai Wiru, stepped in in that emergency and assisted one of the local women to get that store back up and running. There was no assistance from this government for either that local community or for Mai Wiru, which is an Anangu-led organisation which came out of Nganampa Health some 10 years ago.

Meanwhile, the minister was happily having photo opportunities a few hundred metres away, showing off her garden, with its marjoram and parsley, while the shop was in crisis. I find that one of the most offensive things that I have uncovered so far in this job. I hope I will not hear stories like that again.

I think that the embedded media approach has actually led to this backlash against the Rann government that we are seeing in the pages of our media at the moment. I hope the Rann government learns its lesson and does not go for press releases and photo opportunities in the future but looks at the hard policy yards.

The minister, in her defence, has made some statements, and I would like to raise them here at this time. She has published an opinion piece in the pages of *The Advertiser* in the last few days. There is some merit to her claim that, for the first time, we have permanently stationed police officers, social workers and child protection officers on the lands. However, the piece avoids the embarrassing fact that one of the two children's protection officer positions that were established in response to the Mullighan inquiry has actually been vacant since July 2010—over a year—and that the staff house for this position, funded by the federal government, has also stood empty in Umuwa for more than a year, while other services and programs have struggled to find housing for their staff.

The minister's statement also does not acknowledge that two of the six APY social worker positions that she mentions are currently vacant, and that the position in Mimili—supposedly one of the two priority communities—has been vacant since January, that is, for the whole school year. Nor does the minister's statement mention that the majority of 10 community constable positions are currently vacant, and have been for more than five years. The absence of community constables continues to hamper the effects of the sworn police officers, who often lack the

language skills and cultural understanding required to effectively and efficiently manage complex incidents.

The minister's article—or opinion piece—states that Indulkana is the largest community on the APY lands, but it does not mention that no police officers are stationed in that community; that the community has not had a social worker for more than four months; that it has not received any new money for community housing under the national partnership agreement, and it is not expecting to receive any for the next three years. Needless to say, she is also incorrect when she says that it is one of the largest communities on the APY lands; several communities are actually significantly larger.

Moving on to the food security strategy. I look forward to December when we expect our first annual evaluation report about the life of this plan. I ask the minister why she has continually excluded both Maiwiru and NPY Women's Council from being engaged in the implementation of her so-called food security strategy?

They are two of the organisations, along with Nganampa Health, that are key to ensuring that we have food security on our lands. They are the experts in this. They have been doing it for decades. Their expertise and wisdom is not only being ignored, it is being deliberately ignored, because despite repeated requests to be involved in the Executive Action Team (EAT) for the APY, they have been shut out.

I also look forward to hearing about progress on the APY lands as a result of this bad media coverage. We used to hear about progress on the APY lands. We certainly receive responses in this chamber to questions without notice informing us that this government has made significant progress. In fact, in March 2005, over five years ago, the first Progress on the APY Lands report was published.

That report was put on the Department of the Premier and Cabinet's website, but for the better part of three years it accounted for the work that was being carried out on the APY lands, and I do congratulate the Rann government for that, however, we have not seen one since May 2008. So, I call on the government—when it started to do these reports it promised that they would be twice a year—to start reporting again and perhaps we will see actual achievements and significant progress on the lands continue.

Everyone here knows that if something is not counted, it does not count. If there is no commitment to providing ongoing regular reporting, then we know that these issues will be put in the too-hard basket and there will be no concerted government approach to it, which gets me onto something that the Rann government absolutely loves, which is planning, and strategic plans.

I note that in this past week we have had the latest incarnation of the State's Strategic Plan launched. I am quite a supporter of the State's Strategic Plan. I think that some of the work that goes into the consultations is quite good work. What does disturb me though is that for many years now we have had promises of an Aboriginal strategic plan, I think the first was in 2008. Certainly, over the past three years we have been told that the South Australian Aboriginal strategic plan is in process, under consultation, almost ready to be released.

The South Australian government has now had three years to work on this plan and has told us and assured us that it is, in fact, beavering away working hard to release the Aboriginal strategic plan with urgency and, not only that, it has set up mechanisms of regular reporting, monitoring and feedback. As I say, if we are not counting it, it will not count. It is something that this government says it has already committed much work to, so it should not be too hard to bring it out and shine a light on its great progress.

It is no wonder that this government has recently come under fire when of a $25 million-plus housing project with federal money, we saw $900,000 of that having to be given back to the feds because of the slowness of building work. Then, when those houses were finally completed, we saw that there were no furnishings or furniture in them. Heaven forbid that they are also equipped with things like washing machines and fridges to ensure food security and good health.

Members may have missed the article in *The Advertiser* about a week ago—because it was buried on about page 30—which showed that the feds had coughed up some money to pay a local community group in the northern suburbs, the Playford Community Fund, to create furnishings for these dwellings. The first delivery was undertaken and completed by that community group and given to Housing SA in December 2010. They estimate that they built over 50 dwellings' worth of beds, mattresses, kitchen suites, etc., which they gave to Housing SA, who promptly put them into

storage where they disappeared, because they certainly were not there when these houses were allocated to residents.

If Housing SA (as a reflection of this Rann government) cannot—with federal government money that has been used to build the housing and furnishings—actually manage to organise getting the furniture into the houses, then the old joke about a piss-up in a brewery is not too far off the mark. I think it is a crying shame that, with a lack of coordination, state and federal bureaucracies do not have their act together enough to fulfil the basics.

We are talking of sums of over $25 million and about people who, as we heard, are often sleeping on the floor, living without fridges, without access to washing machines and living with the results of that—ill health, poor nutrition, the inability to budget in terms of being able to buy a range of food at the same time, cook up a few meals and freeze a few, which is what anyone on a budget needs to be able to do. We are forcing them to endure the effects of what we would see in a developing nation, including scabies and malnutrition. This government does stand accountable for that and, as I have said, I do hope that you rise to the challenge.

There has been a lot of debate because the headline of one of the articles stated that children on APY lands were starving. I know that the honourable Madam Speaker believes that going without food for three days is not starving, and I believe that the minister equivocated on whether or not regularly going without food for three days is hungry or starving, but what I would say is that no matter what you want to call it, it is unacceptable, and the people of South Australia and across Australia are not accepting it. That is why we are seeing the bad media.

It has nothing to do with a minister's personality or with personal pointscoring: it is because people do not believe that, in our country, in this day and age, in 2011, that we should have people living in such conditions. Certainly, under a Labor government, this should never be allowed to continue. With that, I again draw the chamber's attention to the recommendations in the O'Donoghue report that Lowitja O'Donoghue provided to this government some five plus years ago. I am not sure whether she is still willing to extend her support to implementing them, but perhaps World Vision may still be.

I also draw the Rann government's attention to the fact that it used to report on the progress in the APY lands every half-year and that for the last three years it has promised us an Aboriginal strategic plan. It is not too much to ask for you to keep your promises. With that, I commend this motion to the chamber.

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

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

The Hon. J.M.A. LENSINK (17:45): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

BUDGET AND FINANCE COMMITTEE

The Hon. J.M.A. LENSINK (17:46): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

SELECT COMMITTEE ON DISABILITY SERVICES FUNDING

The Hon. J.M.A. LENSINK (17:46): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

SELECT COMMITTEE ON LONSDALE-BASED ADELAIDE DESALINATION PLANT

The Hon. T.A. FRANKS (17:47): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

SELECT COMMITTEE ON DEPARTMENT OF CORRECTIONAL SERVICES

The Hon. T.J. STEPHENS (17:48): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

SELECT COMMITTEE ON HARVESTING RIGHTS IN FORESTRYSA PLANTATION ESTATES

The Hon. R.L. BROKENSHIRE (17:48): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

SELECT COMMITTEE ON MARINE PARKS IN SOUTH AUSTRALIA

The Hon. D.G.E. HOOD (17:48): I move:

That the time for bringing up the report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. J.M. Gazzola:

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

(Continued from 27 July 2011.)

The Hon. T.A. FRANKS (17:49): I rise to speak briefly to the Aboriginal Lands Parliamentary Standing Committee report. I note that I have not been a member of this committee for very long; in fact, I have been a member of the committee for a very brief period of time. Certainly, on the crossbenches, the Hon. Robert Brokenshire preceded me on the committee.

As members are aware, this is a multipartisan committee. It has a great commitment to ensuring the oversight of Aboriginal affairs in this state, with particular regard to the various acts that have been committed to the jurisdiction of this committee. I rise because I wish to note that I believe that the committee as it is currently constituted, with a minister being on the committee, is not necessarily tenable into the long term. Certainly that was the view of many of the members of the previous incarnation of the committee, as outlined in the report we have before us. I note the words of the Hon. Lyn Breuer, who believes that this committee is seen as a conduit to government by Aboriginal people. It is a sounding board and a place for mediation, and it is a vital role. It is the only contact for many Aboriginal people with parliament and with government, so there must be good people on the committee. To quote her, 'If you are just going on it because it would be good to have on your CV, then do not bother; we do not want you here.'

I certainly do not think that any member of the committee is there for their CV but, at the tabling of the previous committee's report, she went on to say that, historically, the committee was set up with the involvement of a very enthusiastic and engaged minister and that as that situation has changed, not necessarily in terms of the enthusiasm or engagement of various ministers but certainly their capacity to be engaged fully with the committee itself, perhaps we should look at the committee not having the minister on it into the long term.

I understand that not only the Hon. Lyn Breuer but also the former minister for Aboriginal affairs and reconciliation (Hon. Jay Weatherill), Duncan McFetridge (member for Morphett) were of that opinion; and various other longstanding members of the committee had arrived at the same conclusion. I draw members' attention to this because I do not think that this committee can continue to be functional in its current composition, where a minister is not available to take part in the workings of the committee and is typically not only not able to come to meetings but also not able to engage with the various witnesses, hearings and visits.

With that, I hope that in future weeks we will see the tabling of the next year's committee report, which I believe is in its final stages, and that this report, which was in fact some seven months overdue, will not bear unfavourably on the following report. With that, I hope that the minister and the Rann government will give us some clarity soon about the minister's role on this committee.

The Hon. R.L. BROKENSHIRE (17:52): I will be brief, but I rise to also support the tabling of the report of the Aboriginal Lands Parliamentary Standing Committee 2009-10. As the

Hon. Tammy Franks has already advised the house, she took that position following my time on the committee, and that is why I want to speak briefly to this report. I certainly enjoyed my time on this very important standing committee. I can recall, going back to when I was police minister, the issues and concerns on the lands when I visited on a couple of occasions and then coming and listening to a lot of evidence, with further visits there. There are some real issues that are still not being addressed that simply cannot go unaddressed any longer.

I just want to add my support to the idea that the minister of the day should not be on that committee. It is not a reflection upon any of the ministers who have been on the committee of any political persuasion. It is just that I have found that, first, often the minister cannot not get there; secondly, ministers have a lot on their plate; and, thirdly, I feel that the committee is working to an extent with one arm behind its back, intimidated by the fact that the minister is there. The committee starts to take evidence or deliberate, the minister is invariably going to be late because of their workload and then they come in, move into the chair and take over.

I think it also gives the wrong impression, particularly to our Aboriginal people when they come to give evidence. As the Hon. Tammy Franks pointed out, it is a conduit for all those people and it should be between Aboriginal people and the parliament. The minister has other roles. I always felt intimidated, to be frank, by that fact that you would go in there—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: Yes, me of all people! You would go in there wanting to be totally open and frank on concerns and issues but feeling that some members of the committee thought we should hold back because of the minister's position on that committee. I do not advocate or support ministers chairing, or being on, any standing committees, quite frankly; I think that is a role for non-ministers. Hopefully, when we start to see some reform through these houses that will be one of them, including debate on whether government members should chair the committees. Certainly they want to when they are in government but I am not sure that they want to when they are in opposition, and when you sit on the crossbenches you can see the difficulties when the percentage of the committee weighs in favour of the government of the day.

In conclusion, again I say that it is no reflection on any minister for Aboriginal affairs. They do the best they can. It is not an easy portfolio. It does need a lot more focus on delivery of service and real outcomes, and I would support any colleague who advocates that the minister not be on that committee.

Debate adjourned on motion of Hon. T.J. Stephens.

NATURAL RESOURCES COMMITTEE: INVASIVE SPECIES INQUIRY

Adjourned debate on motion of Hon. P. Holloway:

That the 57th report of the committee, on the invasive species inquiry, be noted.

(Continued from 27 July 2011.)

Motion carried.

NATURAL RESOURCES COMMITTEE: BUSHFIRE INQUIRY

Adjourned debate on motion of Hon. P. Holloway:

That the 58th report of the committee, on the bushfire inquiry, be noted.

(Continued from 27 July 2011.)

Motion carried.

[Sitting suspended from 17:57 to 19:47]

OLYMPIC DAM EXPANSION

Adjourned debate on motion of Hon. M. Parnell:

1. That this council notes—

   (a) that the environmental impact statement and supplementary environmental impact statement for the proposed Olympic Dam expansion comparing the proponent's preferred option of exporting the uranium-infused copper concentrate to China for

processing with the option for domestic processing is 'not discussed in sufficient detail to enable an understanding of the reasons for preferring certain options and rejecting others', as required in the guidelines for the preparation of the environmental impact statement;

(b) that this absence of detail does not 'provide an adequate framework in which decision-makers may consider the environmental, economic and social aspects of the proposal'; and

(c) that the state government has publicly expressed that it will 'strongly oppose any moves by the company to do most of the processing of minerals from the expanded Olympic Dam mine overseas'.

2. That this council calls on the state government to urgently require BHP Billiton to publicly release further detail, including economic modelling, justifying the export of South Australia's mineral wealth to China for processing over the option of processing here in South Australia.

(Continued from 27 July 2011).

The Hon. I.K. HUNTER (19:48): I rise this evening to give the government's response on this motion of the Hon. Mr Parnell's. As I understand it, the Hon. Mr Parnell is seeking support for a motion that is put forward for the state government to urgently require BHP Billiton to publicly release further detail, including economic modelling, justifying the export of South Australia's mineral wealth to China for processing over the option of processing here in South Australia.

The Olympic Dam expansion project BHP Billiton described in its draft EIS contained its selected option for processing ore being:

- Of the additional 1.8 million tonnes of copper concentrate to be produced from the open pit mine, 200,000 tonnes would be directed to the existing smelter which would be expanded to produce an additional 115,000 tonnes of copper cathode, bringing the total onsite production to 350,000 tonnes from 800,000 tonnes of concentrate. The remaining 1.6 million tonnes would be exported for offsite smelting facilities to produce 400,000 tonnes of copper.
- For uranium oxide production, of the additional 14,500 tonnes to be produced, around 12,500 tonnes would occur at Olympic Dam on top of the current production level of around 4,500 tonnes, with the remaining 2,000 tonnes contained in the copper concentrate for export.

The EIS guidelines the Hon. Mr Parnell quoted from in his motion also say:

- Ore from the proposed open pit is expected to have a lower copper to sulphur ratio than ore currently mined from the existing underground mine. All ore recovered will be processed to concentrate in processing facilities at the mine. The lower grade ore will likely require a two stage smelting option. Smelting capacity for the concentrate produced from ore recovered by the open pit may be produced at the mine or at another location;

That could potentially be outside the state.

- To identify the relationship of the EIS to the project evaluation work, including descriptions of the alternatives investigated and the 'do nothing' option in the context of conceptual technological and locality alternatives.

And further, he quoted:

In so far as the economic assessment for the expanded project as described by BHP Billiton, the direct and indirect impact of the expanded project on the national, state, regional and local economies in terms of the effects of employment, income and production is to be discussed.

In relation to those comments of the Hon. Mr Parnell, I make the following observations. It is clear that offsite production of a refined copper product from concentrate was a real option being contemplated for the project, and as is apparent this was part of the description of the expanded project and consequently the basis of the economic assessment undertaken and presented in the draft EIS.

Further, it is also clear that there was to be distinction made between the level of information required in the EIS for the alternatives that were to be investigated, to be presented in a high level nature, being conceptual, technical and locality alternatives, rather than the level of information for an economic assessment of the described expansion proposal (that is, including off-site processing) for which approvals were being sought.

The Premier, in his news release dated 21 April 2011, said that the commonwealth government had determined, in consultation with the South Australian government, that the supplementary EIS contained sufficient adequate information to enable governments to assess the

proposal. It was the government's view then, and it is the government's view now, that BHP Billiton's EIS contained an appropriate level of information for assessment purposes.

BHP Billiton was obliged to thoroughly consider the economic, social and environmental impacts of the expansion proposal that it described in the EIS. The guidelines did not require BHP Billiton to investigate and describe the impacts of all the project options it considered, and the Hon. Mr Parnell's interpretation and, perhaps, his expectation otherwise, I would propose, is misguided.

It is the government's view that the information provided does enable a reasonable person to understand the reasons why BHP Billiton selected the processing option outlined above. I also note that Olympic Dam is the only copper mine in South Australia and Australia that produces copper cathode on site at the mining operation, and one of two in Australia that process beyond the concentrate stage.

It is also worth noting that of the 2.4 million tonnes of copper concentrate that would be produced, one-third would be smelted and refined on site to produce 47 per cent of the total contained copper output, with 90 per cent of the uranium oxide concentrate also produced on site, as I have been advised. On this basis, government members will not be supporting the proposed resolution.

The Hon. J.M.A. LENSINK (19:53): I rise to make some remarks on this particular motion, which has as its intention that the processing of uranium concentrate is done domestically rather than exported. It is critical of the lack of detail contained within the EIS and also calls the bluff of the state government in its express comments in 2007 that it would 'strongly oppose any moves by the company to do most of the processing of minerals from the expanded Olympic Dam mine overseas.'

I note, from his supporting speech, that the Hon. Mr Parnell states that BHP Billiton needs to provide its costs so that an assessment of its claim can be validated. He also outlines in some detail Premier Rann's hypocrisy in demanding in 2007 that processing take place locally, which he has, strangely, gone very quiet on.

I think disclosure is a very important part of this process. For that reason, I sought from one of our ministers in this chamber today information about the assessment report which will contain all of the agency reports responding to the EIS and the supplementary EIS, which I think needs to be released publicly posthaste because that is really going to inform us of the main game, which is the indenture proposal.

I can understand that the honourable member will continue to put these sorts of motions up, seeking information and for this chamber to endorse a certain action, but I think that what we really need with the timing is to get more details about the indenture and to get all the details that are contained within the assessment report which is being put together by the Department of Planning and Local Government posthaste. I understand that that was provided to cabinet two weeks ago. Clearly, it is absolutely critical that members of this chamber are made informed of that so that we can make an informed decision.

The major problem that I have is in part two of the member's motion which is where he calls on BHP Billiton to publicly release those details because I think there may be issues of commercial in confidence. So, while I think we need disclosure on a great number of details, I do appreciate that there may be some aspects of it that may not be in the best interests of the project to be made public, not because the company has anything to hide from us or from the people of South Australia but from its competitors. I have sought some details from BHP Billiton as to what their response would be and they have made the following comments which I will read into the record:

> The Draft EIS and Supplementary EIS provided detailed explanations of the preferred option for the processing [of] ore and the reasons why other options were rejected. By providing the company with permission to publish the Supplementary EIS at the conclusion of the adequacy test process in early 2011, the State and Federal Governments declared this assessment was adequate for assessment.

I guess in that sense they are making the point that they have done everything they have been asked to do, so I think they would probably make the point that, if there is any fault in that process, then the government should have asked for other details. It continues:

> As outlined in the Draft EIS, very few mining projects extract and process ore to final product at the same site. This is because it is difficult to match the operating parameters of an on-site smelter with the changing mineralogy, grade and volumes of ore being extracted from the mine. The result often requires ore to be stockpiled

and blended in an attempt to produce a more consistent feed to the smelter, or to have the smelter operating below capacity and therefore inefficiently. Creating the ability to choose the volume and grade of ore sent to the on-site smelter and exporting the excess as copper concentrate would provide Olympic Dam with greater operating efficiency.

The option to construct a new plant at Olympic Dam to process all recovered ore was not the preferred option because:

- this would require an additional smelter to be constructed at Olympic Dam and the additional cost for the additional smelter would not provide the optimal return on investment
- the lower copper grade and lower copper to sulphur ratio of the ore body to be mined for the proposed expansion would necessitate different smelting technology from that currently used at Olympic Dam (ie two-staged smelting instead of single-staged smelting), thus increasing the complexity of on-site metallurgical processing by running two smelters with different technologies.

I must admit that in reading that there are clearly a lot of issues that are to do with chemistry which are probably beyond the expertise at least of this parliament and, therefore, goes to the point that I have made earlier which is that the assessment report is absolutely critical and we would like to have it as soon as possible please, Mr Government.

The final point that I would like to make is that there are some who would probably say that, knowing the Greens' staunch policy of not wanting to mine uranium—and this is perhaps a fairly cynical suggestion—that they will seek to put up barriers to this project until (if all of those barriers were accepted) the project would basically fall over and be financially unviable. I am not necessarily wedded to that point of view but it is certainly a view that people in our community hold.

With those comments, I do endorse the desire of the mover of the motion for greater transparency but, due to the fact that there may be issues with commercial-in-confidence matters, we will not be able to support the motion.

The Hon. M. PARNELL (19:59): In concluding the debate on this motion, I would like to thank the Hon. Ian Hunter and the Hon. Michelle Lensink for their contributions, and I will just reflect very briefly on both of them. First of all, in relation to the Hon. Ian Hunter's contribution on the part of the government, the numbers that he quoted—the various tonnages—do make the point that the company's intention is for the vast bulk of the job-rich components of this project to be outsourced beyond the borders of South Australia, most likely to China.

The Hon. Michelle Lensink made the point that, in relation to that lower grade ore, there is a great reluctance on the part of the company to want to invest in new smelting technology that could be necessary to process that ore. I disagree with a couple of points the Hon. Ian Hunter made. He first of all believes (or the government believes) that the appropriate level of information has been provided. What I say is, well, if that is the case, where is it? It is not in any of these thousands of pages of documents.

He makes the point that they were not obliged to put the same level of detail into options that they rejected compared with the option that they have accepted, but I do not think that is satisfactory when we are talking about the biggest project this state has ever seen and we are talking about non-renewable resources that are owned by the community, where the community expects to get maximum return from them. So, I disagree with the honourable member's assertion that the company has done enough. They have done what they were asked for.

He makes the point that we should somehow be pleased that this project is the only copper mine that is actually producing metal on site; I think it is fine to say that, but we should do more of it. The fact that other mines do not do it is no reason for us not to do it. As I say, these are South Australian resources, and South Australian jobs can be created if we insist on local processing.

The Hon. Michelle Lensink referred to the pending indenture legislation and highlighted the importance of that, and I agree with her entirely. That is going to be a very important bill that is presented to this parliament, and we are going to have to scrutinise it in great detail, but what I would say to the honourable member is that if we wait until we see that legislation it will be far too late.

The Hon. J.M.A. Lensink: I want the assessment report.

The Hon. M. PARNELL: The honourable member says that she wants the assessment report and, again, I agree with her there. I want to see it as well, but if we wait until we get the assessment report and we get the indenture bill presented in parliament it will be too late. The

company will certainly claim that it is too late to go back to the drawing board, as they will see it, and have to explain to us why they did not adopt the option that created the most jobs here.

In relation to arguments of commercial confidentiality, I know that my motion does not infringe that. Basically calling on the government to require BHP Billiton to publicly release further detail, including economic modelling, does not mean that every single piece of financial analysis they have done in relation to the whole project needs to be presented, but what we have not seen expressed honestly is the simple economic principle: workers in China get paid less than workers in South Australia and that is why the company does not want to process here. They do not want South Australian workers to be paid Australian wage rates. I do not think there are commercial confidentiality issues in presenting a broad economic model that shows why it is they are going down the path they are.

The Hon. Michelle Lensink quoted from the BHP Billiton response and made the point that if there is any inadequacy in the information then the government should have asked for it. The government should have insisted on it. I agree. The government should have and did not. The Hon. Premier Mike Rann back in 2007 should have insisted on the level of monitoring because back then he was very prepared to tell the South Australian people that the China option was unacceptable for South Australia, so I agree that the government should have asked for more information but it did not. Therefore, I am leaving it to the Legislative Council to do the government's job and to ask for that information.

The letter from BHP, that the honourable member quoted from, made it very clear that BHP Billiton does not want to build a new smelter here in South Australia because they will not make as much money if they do it that way. This is at the heart of the entire debate. Is the exercise assisting BHP Billiton to make as much money as it possibly can, or is the object of the exercise allowing a mining company—whether it is BHP or anyone else—to make a reasonable profit, but also recognising that the resource belongs to South Australians and the South Australian community has an expectation of a decent return?

As I say, these are our minerals. You can only dig them up once, you can only process them once, and we should be doing it in South Australia rather than in China. I think this motion has great deal of merit and I would urge the council to support it.

Motion negatived.

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

Second reading.

The Hon. S.G. WADE (20:06): I move:

That this bill be now read a second time.

I rise to speak on the Criminal Law Consolidation (Child Pornography) Amendment Bill 2010, a bill initiated by the Hon. Iain Evans in the other place, who, I am delighted, is in the gallery this evening. The bill seeks to address a current loophole in the law that means people between the ages of 16 and 17 are not protected under child pornography provisions.

The opposition strongly supports the initiative of the member for Davenport, the Hon. Iain Evans, in bringing these matters to the parliament's attention. The member is a proactive legislator, picking up issues with legislation highlighted to him by people at the coalface. This is an example of that. This loophole was brought to his attention by a member of the police Paedophile Task Force at a Neighbourhood Watch meeting.

The effects of child pornography often have devastating and far-reaching consequences. A research paper entitled 'Child pornography in the world congress against sexual exploitation of children' found that child pornography amplifies and broadcasts the original act of abuse that it depicts. In so doing, it can substantially aggravate the original offence.

The research paper indicated that in some studies about 50 per cent of the children who had been sexually abused experienced depression, post-traumatic stress disorder, disturbed behaviour, or a combination of these. Among the same cohort 59 per cent admitted having suicidal thoughts and 66 per cent showed signs of other emotional and behavioural problems.

Under the Criminal Law Consolidation Act (which I will now refer to as the act), a child is defined as a person under the age of 16 years. In South Australia, however, the age of consent is 17 years, as provided in section 49(3) of the act. Persons between the age of 16 and 17 years are

not covered by the provisions in the act relating to child pornography, even though that person has not attained the age of consent.

A person who incites or procures a child who is, say, 16½ to commit an indecent act is not guilty of an offence. The amendments introduced by the bill will move the prescribed age of a child from under the age of 16 years to under the age of 17 years to encompass children who are excluded from the protection of the act as it stands. The Hon. Bob Such in the other place highlighted the need to:

> ...distinguish between people who abuse children sexually, particularly those who do it in a horrendous way, and teenagers who might think they are just having a bit of harmless sexting.

The issues the Hon. Bob Such raises are important, but I stress that the dilemma is not created by this bill. These issues have been raised with the government time and time again. We look forward to the government addressing them as a matter of urgency.

There is no doubt that child pornography can have a devastating, long-term effect on children. The bill is an important step in the right direction to help combat this heinous crime. We thank the government for its support of the changes in the other place and look forward to progressing this bill through the remaining stages as soon as possible.

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

RUNDLE MALL

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

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

(Continued from 29 July 2011.)

The Hon. A. BRESSINGTON (20:10): I rise to indicate my support for the Hon. Stephen Wade's motion to disallow the by-law of the Adelaide City Council concerning Rundle Mall. The by-law seeks to prohibit a range of activities and require permits for a range of others.

Controversially, the by-laws again attempt to regulate and foreseeably ban preaching in Rundle Mall. This, on my reading of the Supreme Court judgement in the matter of the Corporation of the City of Adelaide versus Corneloup & Ors (2011), would again cut across our freedom of religion and infringe our recognised freedom of political speech implied in the constitution.

Although I can understand why the council is determined to regulate the preaching of some individuals, who through their own actions are at times their own worst enemy, I am genuinely uncomfortable with singling out preaching. For this reason, I support the disallowance.

The Hon. CARMEL ZOLLO (20:11): I rise to indicate the government's response. The government does not support this motion. The Local Government Act 1999 and the City of Adelaide Act 1998 set up a scheme under which the City of Adelaide has responsibility for administering activities within its area.

This by-law does not prohibit preaching or political speech. The by-law merely gives the council a discretion to attach conditions to a permit granted if a person or group wishes to preach in a particular area of the mall. These conditions are intended to minimise any disturbance or impact on people going about their normal, lawful business and to minimise the exposure that ratepayers might have to any financial risk.

I am advised that the council is apparently undertaking a review of this by-law, in conjunction with a review of its other by-laws, to ensure its lawfulness. This follows recent judicial attention on the subject of preaching. That being the case, the government believes that it is inappropriate for this chamber to move such a motion.

The Hon. S.G. WADE (20:13): I would like to sum up and, in doing so, express my amazement at the government's response. To make sure that my comments can be seen in context, I remind the council of the two quite distinct objections I have to this by-law—and when I say, 'I have', it is the opposition that has given me the authority to move this motion. We object to the by-law on two grounds. First of all, it discriminates against religious communication by requiring preachers to seek a permit when other communicators are not required to seek a permit. Secondly, it provides for broad, subjective offences in terms of offending and annoying people in the mall.

I can assume only that the Hon. Carmel Zollo has come to this chamber with a speech that was prepared at the end of July, pre the Supreme Court judgement in the Corneloup case, which was tabled on 10 August. Otherwise, how can one construe that the government would think that the Supreme Court would tolerate the permit provision in relation to religious communication? It has already severed or read down an analogous by-law that was put before the court at the end of last year. The court struck out the word 'preach'; it was by-law No. 4, in relation to roads. This council should have every expectation that the court would do exactly the same with by-law No. 6.

The Attorney-General, presumably, is considering whether or not the government will join the Adelaide City Council and whether they will jointly go to the High Court to appeal against the Corneloup case. If the Attorney-General is pinning his hopes on the fact that, somehow, we can retrieve the opportunity to do permits for religious preaching, I think he needs to read the judgement again.

It is very clear from the judgement of Justice Kourakis that the court is very committed and, I should say, is supported by Chief Justice Doyle and a brother judge. It is a very clear case that the implied constitutional protection of political communication is taken by the courts to also cover religious communication with political aspects. I can assure hopeful members of the government that you can be assured that every religious sermon delivered in Rundle Mall will now have some aspect of political contribution to make sure that it attaches the constitutional protection.

I think it is a naive assertion from the government that we should not interfere in a council by-law which clearly breaches a constitutional protection provided by the government, and is, I believe, religiously discriminatory. If it applies to all political communication, then why does it mention preaching? Why does it not talk about the public address or communication of general ideas? I am very disappointed. For a government which prides itself on respecting the Christian heritage within our community to come up with a pathetic argument such as the Hon. Carmel Zollo was forced to deliver today is very disappointing.

I can only conclude by saying I appreciate the contributions of members to the debate and I thank them for that. I appreciate the indications of support from a number of members. I would indicate that I do not support the perspective of the Hon. Kelly Vincent. She said that she would not be supporting the disallowance on the basis of assurances from the Adelaide City Council on the way that the by-law will be implemented. I respect her position not to support my disallowance, but I do not believe that we should rely on an assurance from the council that it would not apply the by-law unfairly. It applies to preaching; it does not apply to other communication; it is inherently unfair.

I think it is important for us to acknowledge the need for the council to revise the by-law and ensure that a new by-law or by-laws put in place a robust and effective regime which respects the rights of South Australians to religious and political communication and the rights of South Australians to use Rundle Mall as a family retail and recreation precinct. The fact that the government does not even realise what the problem is is an extremely distressing thought. After all, Rundle Mall is a key state asset, our largest retail precinct. We need to respect the investment of businesses large and small, in terms of capital, time and effort. I am very disturbed about reports of businesses losing thousands of dollars as business tries to deal with disorderly preaching and related protests.

Today I met with representatives of the Rundle Mall Management Authority to talk about how we can move forward and I appreciate the optimal response is likely to be an interaction of state law and council by-laws and a blend of police enforcement and council officer enforcement. I am very concerned about the conflict in the mall between the street preachers and the Love not Hate group. I think there is a real risk of violence. Freedom of speech is not the right to drown out other people exercising that right. Not only that, but the behaviour undermines the amenity of the mall, the operation of businesses in the mall and public safety.

There needs to be active cooperation between the police and the council to maintain public order. Having discussed the issues with stakeholders and particularly with members of the authority today, I am convinced that we need to have a cooperative approach to address this issue. I believe the council needs to come back with strengthened by-laws as soon as possible. It is not acceptable for the council to wait the year or two that it will take for any High Court appeal to be resolved before police and council officers are given appropriate tools to manage the mall.

We also need to make sure that state law in relation to assault and trespass are appropriately applied. I urge the council to make a clear statement about our commitment to

religious freedom and for respect for constitutional rights, and in that context to support this disallowance motion so the council can get in and start making good law.

Motion carried.

CASINO (ENCLOSED AREAS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March 2011.)

The Hon. CARMEL ZOLLO (20:20): I indicate that I will be responding on behalf of the government. The 100 per cent smoking ban in enclosed areas commenced on 1 November 2007. It became apparent at the time that some venues may seek to install gaming machines outside to avoid the ban. There are numerous reasons why this should not occur. In particular, the government formed a policy position that gaming machines should not be located in areas where smoking is allowed.

This policy position is well known in the gambling sector, as it was publicly stated in a September 2008 paper on amendments to the Gaming Machines Act 1992. This amendment, along with others relating to the licensing of gaming machine venues, commenced on 1 June 2011. This bill anticipates amendments that were planned by the government for the Casino Act 1997 when it was to be next amended. Therefore, the government supports this bill, as it is consistent with the government's policy position.

The 20 gaming machines that were operating in the Oasis Bar area of the Casino were disabled on 10 March 2011. At this time the Liquor and Gambling Commissioner assumed control of the machines under section 40(3) of the Casino Act 1997. The Liquor and Gambling Commissioner, Mr Paul White, has advised the government that he has received a letter from the managing director of SkyCity Entertainment Group acknowledging the South Australian government's firmly held position that gambling does not occur in areas where smoking is permitted.

The government is advised that the SkyCity Entertainment Group informed Mr White that SkyCity would remove the electronic gaming machines from the Oasis Bar area and relocate them to an approved location within the Casino where smoking is prohibited. On 25 March 2011, Mr White relinquished control of the gaming machines in the Oasis Bar area on the condition that the Casino liaise with his office to determine an appropriate area for their relocation. The government is advised the machines have now been removed and placed into storage.

I would like to thank the Hon. John Darley for putting this bill forward. As I have indicated, the government supports this amendment bill.

The Hon. T.J. STEPHENS (20:23): The Hon. John Darley has moved this bill in response to an incident that occurred at the Adelaide Casino some months ago. In addressing this bill, my focus will be on the future and on the past. In planning for the future, we should understand what has gone before, and we should be guided by facts and economic realities, not by the rhetoric and chest-thumping of government media releases.

The SkyCity company has announced publicly that it intends to spend $250 million on upgrading and extending the Adelaide Casino. It is understood that its plans involve pushing out towards the riverbank, with multilevel bars and restaurants overlooking the River Torrens and Parklands. SkyCity proposes to extend the boundaries of its licensed areas to extend its main gaming floor. It proposes to build exclusive new rooms designed to attract increased numbers of interstate and international high rollers and VIPs.

Whilst this much is public, most of the detail is not at this point. Any development of the Adelaide Casino is likely to result in adjustments to the areas licensed for gambling, the areas licensed for alcohol consumption, the areas where the Office of the Liquor and Gambling Commissioner extended trading authorisations apply, the areas where the Office of the Liquor and Gambling Commissioner entertainment consent applies, the maximum number of patrons approved for each area, the areas defined as enclosed for the purposes of the Tobacco Products Regulation Act, and any conditions imposed in respect of any of the above approvals.

The Hon. John Darley's bill attempts to regulate the permitted use of just one of the many areas within the Casino. However, in the next year or so, if development does in fact proceed, there is likely to be a range of new spaces, both indoor and outdoor, created. I am told that, if new

areas are created, there is then likely to be a substantial rearrangement of the existing facilities within the Casino.

In my view, discussion about licence boundaries and permitted uses should be discussed as a whole and not considered piecemeal. It may be, at a point in the future, that the Oasis Bar at the Casino becomes an enclosed area with a roof, it may remain an open area that becomes non-smoking or it may remain an open area where gaming is prohibited. These plans are before the government and SkyCity's proposals are being considered. The Liberal Party will have to consider those plans when the government decides that it is prepared to share them with the rest of South Australia's population.

On a personal level, I look forward to seeing SkyCity's plans and encouraging SkyCity's investment in South Australia. I know that the Crown Casino complex in Melbourne was one of the many major projects supported by that outstanding Liberal premier, Jeff Kennett. The Crown complex has a massive impact on the economic and social life of Victorians; it has led to a rejuvenation of not just the Southbank precinct but the CBD and the entire suburb of South Melbourne. I would be amazed if you, Mr President, have not enjoyed yourself at some stage in that Crown Casino complex in Melbourne.

The PRESIDENT: Yes, and Gazzola.

The Hon. T.J. STEPHENS: I would almost be prepared to bet London to a brick that the Hon. John Gazzola has been there for a quiet shandy, sir.

The Hon. J.M. Gazzola: And Ridgie? What about Ridgie?

The Hon. T.J. STEPHENS: Certainly the Hon. David Ridgway has been there with me and we have enjoyed ourselves. Singapore opened its first two casinos last year and tourists have been flocking there. Before then, Singapore's economy was in the doldrums in the wake of the GFC. Since the opening, Singapore's GDP had grown from a negative 16.7 per cent to a positive 22.5 per cent in May 2011. The conservative Singapore government resisted casino-orientated development for many years; it finally relented and is now reaping the rewards.

Following the rise of personal wealth in Asia, particularly China, the region has seen the rise of casino-related tourism. Crown Casino's annual report showed that they made $500 million from international VIPs last year. According to a report in *The Advertiser* on 23 May 2011, Deutsche Bank predicts the highly competitive Australasian high-roller market in Australasia will reach almost $90 billion by 2015; they say that SkyCity's share of that market will be only 4 per cent, and 4 per cent of $90 billion is a mere $3.6 billion. I know that the management of the Adelaide Casino is pulling out all stops to go after that particular market.

The important thing about a growing market is that Adelaide Casino does not need to take market share from other casinos in order to justify its investment. Every year there is more money and the VIP gambling pie gets bigger. This market will only stop growing when wealth in China and the rest of Asia stops growing. We believe that that will not be for many years to come.

The message that the Liberal Party has received from SkyCity is that it is almost impossible for them to compete in the international VIP market because of a range of regulatory and tax rate issues. Whilst we do not yet know the details, I understand that SkyCity is looking for a level playing field on these issues with other Australian casinos. The Adelaide Casino was not helped by some of the stupid decisions made by this Rann government over the past decade.

When smoking bans were introduced in Australia, every other casino in Australia was given an exemption for their VIP rooms. The fact is that many high rollers in the Asia-Pacific region like to have a cigar or cigarette when they have a punt. The market for high rollers is an intensely competitive one and, if a gambler cannot play in surroundings where they are comfortable, they will go somewhere else.

The Adelaide Casino has put in place state-of-the-art smoke extractors in their VIP rooms so that, if a customer was smoking, it would hardly be noticed by staff and other customers. It is one of the dopier decisions of this government that, at the time, it decided not to exempt the Adelaide Casino's VIP areas from smoking bans. The consequence of this Rann government decision is that, if there are any international VIPs who smoke, they are at Crown, Burswood or the Gold Coast, not in Adelaide, and we are not reaping the taxation benefits that go with it.

The Hon. G.E. Gago: Ridiculous! They go out onto the balcony for goodness sakes!

The Hon. T.J. STEPHENS: I hate to think how many dollars that single—

Members interjecting:

The Hon. T.J. STEPHENS: The Hon. Gail Gago is an expert in gaming. She is an expert in the Casino. I would bet London to a brick that she would not have lost $10 in that casino. Would I be right, Gail?

The PRESIDENT: She is an expert in health though.

The Hon. G.E. Gago interjecting:

The Hon. T.J. STEPHENS: You have visited. Did you have a punt?

The Hon. G.E. Gago: You are talking about smoking.

The Hon. T.J. STEPHENS: Have you ever been there and had a punt? Do you know anything about gaming? No.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! She does know quite a bit about health.

The Hon. T.J. STEPHENS: I hate to think how many dollars that single decision has cost the South Australian economy. If Adelaide Casino were getting its fair share of the $500 million in international VIP business, now going to the Crown Casino every year, how many extra dollars would have been spent on local hotels and restaurants? How many extra tourists would have visited Kangaroo Island, our wine regions, even the magnificent part of the world up near Whyalla?

How much extra would have been spent on local retail shops? How many extra jobs would have been created? How much extra tax would have been paid and what could a good government have done with that extra money? Well, that is a bit of a furphy, because God knows what this government would have done with that money.

Smoking and gambling in Australia do not end in casino VIP areas. I am told that, in other Australian states, an estimated 17,000 machines and table games are positioned in outdoor areas. Star City Casino in Sydney has 322 machines on a huge open-air balcony overlooking Sydney Harbour. Several of the big New South Wales rugby league clubs have well over 100 outdoor gaming machines, and some have more than 200. Up to one-third of gaming machines in New South Wales are outside.

I set this out because any debate about smoking within the Adelaide Casino needs to be looked at by considering the market within which it operates. I am told that 30 per cent of revenue—and I will repeat that: 30 per cent of revenue—at the Adelaide Casino comes from non-South Australians. It is therefore shortsighted and self-defeating to apply exactly the same rules to the Casino that apply to local venues.

I also raise these issues to set the background about what happened when the Rann government realised that they had approved an outdoor gaming area at the Casino. Smoking in casinos is commonplace in Australia. Outdoor gaming areas are commonplace in Australia. Adelaide Casino has written approval from the commissioner himself to operate gaming machines in an outdoor area. This parliament decided last November to ban outdoor gaming in pubs and clubs but not at the Adelaide Casino. Adelaide Casino's decision needs to be seen in that context.

When the Premier realised what this government had approved, he described the Casino as 'reprehensible'. Well, if it was so reprehensible, why did his government approve it? Adelaide Casino's legal advice confirmed that they had acted legally and in accordance with the approval given by the commissioner. However, when faced with a barrage of abuse from the Premier and that former legend of a gambling minister, the Hon. Bernard Finnigan, Adelaide Casino management unilaterally decided not to pursue its outdoor gaming area. What that means is that this issue is no longer a live issue. There is no urgency to the measure proposed by the Hon. John Darley. There is no existing ill that needs legislation to prevent it.

I am not an advocate of confusing smoking policy and gambling policy. Senator Xenophon says that, when smoking bans were introduced in hotels and clubs, problem gambling fell. The reality is that patronage from all customers fell, that is, problem gamblers, non-problem gamblers, tourists, everyone. Senator Xenophon's approach is like saying, in order to prevent road deaths, we will ban everybody from driving on the roads during peak times. In my view, good regulations should be balanced and targeted to the problem they seek to solve.

Too often, this government has introduced measures in pubs, clubs and the Casino that just make it more difficult and more annoying for everyone playing the games. A serious policy to address problem gambling specifically targets problem gamblers and leaves the recreational gambler alone. We need to be wary of the nanny state brigade who simply do not like gambling, drinking or having fun and, in the name of protecting the vulnerable few, make life miserable for the rest of us.

In my view, if the Casino can demonstrate that it has state-of-the-art air conditioning and smoke extractors and if it can come to an arrangement with its staff about working in smoking areas, then the government should be prepared to consider Casino smoking areas on their merits. In making these decisions, government needs to be mindful of competitive pressures and economic opportunities.

If I was in parliament in the 1980s, when South Australia was deciding whether or not to have a casino, I am sure I would have voted yes. As a Liberal, I believe in freedom and an adult's right to choose how to spend their leisure time and dollars. Unless I was part of the 1 per cent of people who cannot control their gambling, I should not have a government telling me what I can and cannot do.

I know that there were a few members back in 1985 who did not really like the idea of a casino but wanted the tax revenue that goes along with it. I understand their argument, but sometime between 1985 and today this school of thought has been forgotten. The current regulatory scheme seems to permit a casino but has so many unnecessary rules and red tape that the Casino cannot compete to bring tourists in.

The Rann government, in particular, seems to want to squeeze greater amounts of tax from the same existing pie, instead of growing the casino and everyone sharing a much bigger pie. It is just plain stupidity to permit a casino and then tie its hands behind its back so that it cannot attract tourists, particularly the high roller VIP gamblers, to South Australia. Whilst I understand the sentiments behind Mr Darley's bill, and he may well achieve his aim in the full passage of time, it is premature to legislate on the casino's boundaries before decisions are made about a $250 million investment. For these reasons, I oppose the bill.

In summary, the Darley bill deals with one area of the casino and one aspect of its licensed boundaries. As part of the casino's proposed $250 million development there is likely to be a substantial rearrangement of facilities within the casino and many new areas created. This will involve substantial changes to gaming, liquor and other boundaries, and needs to be remembered. Licence boundaries and permitted users should be decided as a whole, as part of the casino development project, not on a piecemeal basis.

Smoking is permitted in VIP areas of other Australian casinos and there are around 17,000 gaming machines in outdoor areas in pubs and clubs in other states. I repeat that the rules about smoking at Adelaide Casino should be considered after proper consideration of its competitive market and the opportunity to bring VIP gamblers to Australia. Smoking policy and gambling policy should not be confused. Smoking rules should not be used as a back-door method of getting stuck into the gaming industry where this cannot be justified on the evidence.

There are enormous and growing benefits to the state from a bigger casino that can compete for international gaming VIPs. Why should we be the backwater? Like all other Australian states, the government should consider different rules for the casino if the economic upside can be demonstrated.

The industry in South Australia puts an enormous amount of money into the Gamblers Rehabilitation Fund. It has been a pet hobby of mine for some period of time that the money that is pumped into the Department for Families and Communities—and then goodness knows where it finishes up—should go to the NGOs who have people on the ground who are passionate about solving problem gambling issues.

We have millions of dollars that the industry contributes and I do not see that being spent wisely. That is where the focus should be. That is how we solve problem gambling. If we are serious about having free enterprise, private enterprise, let's have a level playing field. I oppose the bill.

The Hon. T.A. FRANKS (20:37): The Greens rise to support this bill. I believe that it is simply common sense that if somebody cannot stop from using one of these poker machines in the Oasis courtyard, where I have in fact been—

The Hon. T.J. Stephens: Shame!

The Hon. T.A. FRANKS: —and seen for myself—

The Hon. T.J. Stephens: Not patronising it, just—

The PRESIDENT: Order! Moving along.

The Hon. T.A. FRANKS: Thank you for your protection, Mr President. If they cannot stop using poker machines for five minutes while they have a cigarette then I think they have possibly got a problem with gambling, as we probably all know. You can simply put a sign up and the machine can be held for you while you go to the toilet or while you have a cigarette. What has not been discussed in this debate so far is that there are workers in the casino and their rights need to be protected as well, and they have a right to a smoke-free workplace. With that, I do commend the Hon. John Darley for bringing this bill before us. It is unfortunate that it was necessary to have a private member raise this in this way, but I do also welcome the government's support.

The Hon. A. BRESSINGTON (20:35): I also rise to briefly indicate my full support for this bill introduced by the Hon. John Darley, following the report in *The Advertiser* that the casino had located 20 poker machines in the outdoor smoking area known as the Oasis.

Whilst the casino argues that the area was approved for gambling in 1986, and this may well be true, there can be no doubting that since that time, particularly since the introduction of poker machines some seven years later, we have become more stringent in our regulation. This can be seen in the soon-to-be-universal ban on smoking in all gambling areas: a policy we know works given the 10 per cent decline in gambling revenue following the introduction of the smoking ban in pubs and clubs. Cause and effect is still yet to be determined, obviously.

I must convey my disappointment with the Casino in its attempt to locate poker machines in a smoking area. It can hardly claim ignorance of the government policy or of the fact that every other gambling venue, be it a pub or club, is prevented by law from having poker machines in outdoor smoking areas. This is a cynical attempt, in my view, to take advantage of its unique legislative status. This is particularly true, given the Office of the Liquor and Gambling Commissioner's statement that it had previously refused permission to locate gambling machines in the Oasis area.

Like the Hon. John Darley, I commend the action taken by the then gambling minister, though I note that it took the issue to be revealed in the media first. However, I am hopeful that that action will be followed through with the support of the bill, as I have just seen is going to occur. I have to put a tag on this that I am really confused by some of the arguments made by the Hon. Terry Stephens, but I do not think I am the only one. With that, I will leave it.

The Hon. J.A. DARLEY (20:40): I would like to thank the Hon. Ann Bressington, the Hon. Carmel Zollo and the Hon. Tammy Franks for their contributions and support in this matter. I would also like to thank the Hon. Terry Stephens for his contribution.

As I mentioned in my second reading explanation, this bill was introduced in response to the Adelaide Casino's attempt to operate poker machines in an outdoor smoking area situated within the Casino atrium. Following a visit to the Casino by liquor and gambling inspectors, those machines were subsequently disabled. In response to that incident, the then minister for gambling indicated that amendments to the Casino Act would be introduced to ensure that Casino gambling areas remained smoke free, consistent with the government's smoke-free gambling policy.

I must admit that the current Minister for Gambling had indicated to me in person the government's support for this bill. Again, the Casino showed a blatant disregard for the government's smoke-free gambling policy by installing and operating poker machines in an outdoor smoking area. This bill will ensure that this cannot occur again. It is a sensible, non-contentious bill which ought to be supported by all honourable members.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.G.E. HOOD: Very briefly I would like to rise and place on the record Family First's support for the bill.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment.

The Hon. J.A. DARLEY (20:45): I move:

That this bill be now read a third time.

Bill read a third time and passed.

KANGAROO ISLAND, DOGS

Orders of the Day, Private Business, No. 42: Hon. R.P. Wortley to move:

That by-law No. 5 of the District Council of Kangaroo Island concerning dogs, made on 13 August 2010 and laid on the table of this council on 14 September 2010, be disallowed.

The Hon. G.A. KANDELAARS (20:45): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

KANGAROO ISLAND, CATS

Orders of the Day, Private Business, No. 43: Hon. R.P. Wortley to move:

That by-law No. 6 of the District Council of Kangaroo Island concerning cats, made on 13 August 2010 and laid on the table of this council on 14 September 2010, be disallowed.

The Hon. G.A. KANDELAARS (20:45): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

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

Adjourned debate on second reading.

(Continued from 29 July 2011.)

The Hon. S.G. WADE (20:46): I rise to speak to the Consent to Medical Treatment and Palliative Care (Termination of Pregnancy) Amendment Bill. I indicate that I will not be supporting the bill. The doctor/patient relationship is special and governments should be cautious in interposing in it, but this parliament has asserted the primacy of the rights of the patient to medical self-determination. In that context, the parliament has legislated for informed consent. There is no right to medical self-determination if there is no right to appropriate information.

Under section 15 of the Consent to Medical Treatment and Palliative Care Act, a medical practitioner is already obligated to provide the information suggested by this bill in the context of a termination of pregnancy. Section 15 of the act states:

15—Medical practitioner's duty to explain

A medical practitioner has a duty to explain to a patient (or the patient's representative), so far as may be practicable and reasonable in the circumstances—

(a) the nature, consequences and risks of proposed medical treatment; and

(b) the likely consequences of not undertaking the treatment; and

(c) any alternative treatment or courses of action that might be reasonably considered in the circumstances of the particular case.

The bill before us proposes to insert a new section 15A which, in the context of the termination of pregnancy, seeks to give more detail to this right to be informed. The section reads:

15A—Termination of pregnancy

Before any treatment for the termination of a pregnancy in accordance with section 82A(1)(a) of the Criminal Law Consolidation Act 1935 is carried out, the medical practitioner who will be performing the termination must, at the time of the personal examination of the woman referred to in that section, ensure the patient has been given a pamphlet in the form prescribed by the regulations, which contains the following:

(a) information with respect to the option of having the baby adopted including general information about the processes involved; and

(b) information with respect to the option of having the baby placed in foster care including general information about the processes involved.

In my view, the information about adoption and the information about foster care are the types of alternative treatment or courses of action that might be considered in the circumstances of a person facing a termination of pregnancy. The question is: is this specific provision (the proposed section 15A) an improvement on the general provision section 15? I think, for a number of reasons, that it is not.

I thought the Hon. Kelly Vincent made a very strong point in her contribution where she highlighted that this information comes relatively late in the process. The information, according to the bill, would be provided at the time of the personal explanation of the woman referred to in that section. That, as I understand it, is a woman who has already made the decision to have a termination, so it is not information to contribute to her decision-making; it is, in effect, an after-the-event impost.

Secondly, the issue of the pamphlet. I would stress that the general duty is a duty not to provide a particular document or a particular set of resources but a duty to explain. The medical practitioner has a responsibility to take whatever resources or whatever steps they believe they need to take to make sure the patient understands the information they need to have informed consent. In that context a pamphlet may well fail. A person with a disability, particularly a cognitive disability, will not be helped at all by a pamphlet. Many people will find, particularly among the younger generation, that information is more accessible and more relevant to them if it is delivered to them in a website or the like.

I am concerned about the one-size-fits-all approach of specifying a pamphlet. I also believe that effectively it gives the opportunity to the medical practitioner the opportunity to dumb down their duty to explain. The Hon. Paul Holloway, on behalf of the government, indicated that there are a range of resources available. I am not so naive to think that these resources are being effectively deployed to provide support to people making these choices, but let us look at it this way: if medical practitioners are currently ignoring their statutory duty to explain under the current general provision, why are they any more likely to comply with a duty that is more specific?

I indicate that I do not support the slippery slope argument offered by the Hon. Ian Hunter. I do not like those arguments when they are offered by conservative members of the house. I know that this Labor government provides itself on being conservative, but I am not attracted to it in this context either. I am not opposing this bill because I do not want to give one chink of light to people who actually believe we should be more restrictive in abortion. I consider this bill on its merits and I do not believe it should be supported on its merits.

I will not support the bill. I would need to know more about what information is currently being deployed and how it could be more effectively deployed, and I would need to be assured that the intent of the legislation could not be better achieved with the flexibility of regulations, policies, improved resources and a better understanding by medical practitioners of their duty to explain.

The Hon. J.M. GAZZOLA (20:52): Following on from the Hon. Mr Holloway, who has already given the government's response, I reiterate that, unlike previous bills dealing with the issue, it is not a conscience vote for Labor members of parliament and the government will oppose it on the basis that it is unnecessary. The government believes it is unnecessary because there are legislative provisions that currently exist in South Australia.

Termination of pregnancy is regulated in South Australia under the Criminal Law Consolidation Act 1935 and its corresponding regulations, Criminal Law Consolidation (Medical Termination of Pregnancy) Regulations 1996, and the act is committed to the Attorney-General. The Hon. Mr Wade has already covered section 15 of the Consent to Medical Treatment and Palliative Care Act 1995, which requires that a medical practitioner, in the provision of medical treatment, which would include a procedure for termination of pregnancy, has a duty to explain the nature, consequences and risks of proposed medical treatment, the likely consequences of not undertaking the treatment and any alternative treatment or courses of action that may reasonably be considered in the circumstances of the particular case.

I also point out that there is available counselling for women considering termination of pregnancy. In addition to the current requirements to see two medical practitioners, as we have heard, who can offer counselling, a range of counselling services are available, including: the South Australian Pregnancy Advisory Service; public hospitals undertaking terminations; 24-hour National Pregnancy Counselling Hotline; SHine SA; Support After Foetal Diagnosis of Abnormality

(SAFDA) provides support for people before and after the termination of pregnancy following the diagnosis of an abnormality; SANDS SA (Sudden and Neonatal Death Support) offers support to people who have suffered the death of a baby any time from conception through to after birth, and this includes miscarriage, neonatal death, stillbirth, ectopic pregnancy and genetic/medically advised termination; and, also there are counsellors in private practice.

As indicated above, a range of counselling services is already provided by the metropolitan public hospitals where the majority of terminations of pregnancy occur. For these reasons, I recommend that honourable members oppose this bill.

The Hon. T.A. FRANKS (20:55): I rise to speak to this bill on behalf of the Greens and I note, as the Hon. Mr Hood noted in his second reading speech on this bill, that abortion is a very difficult topic. There will never come a day when the two sides stand together in harmony, and some in this debate have referred to those sides as pro choice and pro life. I hesitate here to use that description.

Pro life implies that those in favour of providing abortion options to women are somehow not this. On the contrary, those of us who support reproductive options, including abortion, are very much in favour of life. We are in favour of the fully formed, completely realised life of the woman involved and the impact such a decision will have on her mental and physical wellbeing. Descriptions such as 'pro choice' and 'pro life' are therefore deliberately misleading.

As the Hon. Dennis Hood himself stated, those in the so-called pro life camp are very concerned that choices be provided to women facing unplanned pregnancies, particularly the choice of adoption. Similarly, those in the so-called pro choice camp are not just concerned with the life of the woman involved but also the life of the child beyond birth, should the mother decide to carry him or her to birth.

However each side may personally view abortion, as legislators it is far better to focus on the things that unite us here rather than those that divide. I do not think any but the most extreme of activists from either side should deny, or would deny, that our highest priority has always been trying to support women as they grapple with the trauma of an unwanted pregnancy.

I must also take this moment to acknowledge the Hon. Dennis Hood's view that, although circumstances may differ from case to case, no child is unwanted. There are, indeed—he is not going to like this bit—many thousands of couples and single people in South Australia who are not only desperate to become parents but also have the capability to provide love and security to children whose birth parents cannot care for them, and in that way that is some part of the story.

So, in a sense, I do agree with him: there will, in fact, always be people around who want a child. However, it is unrealistic, and perhaps disrespectful, to the woman faced with an unplanned pregnancy to disallow her the use of the term 'unwanted'. We do not know the circumstances that caused her to become pregnant.

Yes: there may be people desperate for children who could claim that they considered no child unwanted; but, for the pregnant woman who may have been perhaps raped, abused, abandoned or simply in a position where she cannot emotionally or financially care for that child, the sense that this is the very last thing that she wants is very keen.

Further, it is all very well and good to say that no child is unwanted but this is, sadly, untrue. There are, of course, many unwanted children in the world, both in Australia and internationally. We have evidence of children suffering horrific neglect and abuse throughout South Australia. The last decade has seen the revelation of terrible abuse within organisations and institutions that have claimed to protect children. Countless guardians have been exposed as having violated the trust and physical autonomy of children in their care. To this day in this state, we have children living in apartments without parents and without ongoing care, and that is a tragedy.

It is also no doubt tragic when loving couples and single people are desperate to become parents and yet they cannot have children of their own; but it is tragic when there are often narrow limitations on what kind of children people want. Typically, adoptive parents want children as close to new-born as possible. There is nothing shameful in this. The urge to parent a child from birth is strong. However, before we perhaps wax lyrical about the countless numbers of unborn babies that could satisfy the scores of willing parents in this state, we should also take a look at the current system of children in care, particularly those for whom the 'cuddly factor' has disappeared.

It is no secret that, past a certain age, the likelihood of a child being adopted diminishes rapidly. In fact, the majority of children adopted over the age of 10 are only largely done so by other family members. Similarly, the parameters we place on who we allow to become adoptive parents in South Australia also need to change. We enjoy the legacy of Don Dunstan and his role in claiming South Australia as a socially progressive state, yet, since the days of Dunstan, we have fallen dramatically behind the other states when it comes to law reforms around sexual orientation. We are, in fact, the only jurisdiction in Australia to deny single women and lesbians access to IVF, unless in cases of medical infertility, although perhaps members of the government might like to see that change soon.

We deny same-sex couples the right to access altruistic surrogacy. When it comes to adoption—supposedly one of the greatest gifts you can give to people unable to have a child, people with the very financial and emotional capability of raising that child, those same people who would view no pregnancy, no child, as unwanted—we say that the only people allowed to open their homes to these children are heterosexual couples in a married or de facto relationship.

Those who would see this discrimination continue claim that they are doing so in support of children's rights. They argue that children have the right to a mother and a father, but that is not really true. What children have an inalienable right to is to be raised in a home where they are loved, cared for and encouraged. Nothing is perfect in this world, yet I think every family, in its own incarnation, can be perfect.

There can be no sense of satisfaction in trying to put strict parameters on how children should be raised, because sometimes life has other plans. There are countless successful and well-adapted adults who were raised in single-parent families. There are many others who were raised by same-sex couples with no conceivable damage or spiritual malnourishment. We know that hundreds, if not thousands, of children in Australia have suffered neglect or abuse in a family home that consists of a mother and a father. There are no hard and fast rules when it comes to parenting, only that the ability to love and support your child be paramount.

Until we change the laws surrounding adoption and other modes of parenting in South Australia, what we are really saying is this: there is no such thing as an unwanted child, but your ability to provide a loving home for them is secondary to our belief that they will be better off with no parents than with just one, or with two parents of the same sex.

Perhaps we should be honest and call a spade a shovel. There is no such thing as an unwanted baby, but there are countless examples of unwanted children in our state. If we want to reduce the abortion rate while raising the adoption rate, we have to actually begin caring about what happens to these children once they pass the stage of total dependency into toddling and beyond. We have to be equally concerned with providing loving homes to troubled children or to children with special needs. We cannot use the argument that no potential children are unwanted when we routinely turn our backs on living ones who are.

As pregnancy and child rearing are such personal decisions, we have to ensure that all information provided to women considering their options is free of an agenda. I acknowledge that the Hon. Dennis Hood has gone to great lengths to attempt to achieve that with his bill, however, it is also to be acknowledged here that it is actually very difficult for women to gain access to clear, concise information regarding adoption in South Australia.

Additionally, there are emotional considerations for women should they carry a child to term. A far greater degree of counselling is required to help a woman come to terms with an adoption than with an abortion. There are a host of legal questions that will be paramount for women facing that choice. Can she change her mind? Is she able to access an open adoption here in South Australia? What form might that open adoption or perhaps a fostering arrangement take? Are private adoptions available? This information needs to be freely available—and I would also say that this area of the law needs to be reformed to make these options available—so that women can make an informed choice about the outcome of their pregnancy.

In supporting informed consent, we need to be careful about allowing political agendas to influence reproductive legislation. As with current abortion providers, we need to ensure that impartiality is maintained. No woman should be forced into having an abortion, but nor should they be guilt-tripped into having a baby. We have seen the terrible ramifications of what happens when women are forced to surrender their babies for adoption.

If we legislate to provide more information on adoption options for pregnant women, we must also ensure that counselling and care are provided to deal with the aftermath. We must also

have better supports for women who want to actively choose adoption and fostering. There can be common ground here between the two sides of the abortion debate. We must not forget that the woman is actually at the centre of this debate. An unwanted pregnancy is not just an inconvenience, it is an incredibly painful and emotional experience marked not just by uncertainty but often, of course, by fear. Any legislation needs to reflect that the outcome is ultimately the choice of the woman concerned, and the best that we can do here is to provide her with all the information that she needs to make that decision and the widest range of options to support our children in South Australia.

We owe the children left to slip through the cracks the respect of not pretending that their welfare is contingent upon the gender of the parents who want to provide them with a home. We owe society the respect of knowing that we can be better than that—that we can be just the kind of community that cares about all children, not just the ones who have not been born yet.

With that, I indicate that the Greens will not be supporting this bill today, although we certainly do not join the chorus condemning the Hon. Dennis Hood for trying to make a difference in the lives of children in this state.

The Hon. A. BRESSINGTON (21:05): I rise to speak to the Consent to Medical Treatment and Palliative Care (Termination of Pregnancy) Amendment Bill introduced to this place by the Hon. Dennis Hood. This is a simple and straightforward bill that requires women attending pregnancy advisory clinics and receiving information on abortion also to be provided with information on adoption as another option.

This bill has been turned around basically to be portrayed in this place as something that it is not. This is not about whether or not women will ever have to forgo their choice to have an abortion. This is about providing women with information of an option that should exist. I have a whole thing prepared here, but I might do one of my raves—

An honourable member interjecting:

The Hon. A. BRESSINGTON: Not a long one. I do not buy the argument that the Hon. Ian Hunter tried to represent in his speech that this is the beginning of a slippery slope. If we are going to talk about slippery slopes and abortion we are already there. The legislation for abortion was introduced for women who had life-threatening conditions or illnesses, or for whatever medical reason it would be life threatening for them to see through the pregnancy.

I attended a function the other night where I heard that 98 per cent of abortions are now occurring because women can claim that it would be psychologically harmful for them to go through with the pregnancy. I do not deny that there are women out there who can go to a clinic and seek out information on abortion, have an abortion and walk out of that clinic and never give it another day's thought, or so they think.

I also believe that there are women and young girls who, when they find out they are pregnant, are in a distressed state and who are referred to these so-called pregnancy advisory clinics. Let me tell you that they are almost forced to consider no other option. There is one group of people who can cope with that, cope with an abortion, and recover and move on with their lives—free-for-all. There is another group of women over here who cannot.

There are young women at school (and I have heard this from a school counsellor) who, as soon as the school finds out they are pregnant, are referred to one of these clinics to make arrangements to have an abortion. This is the school intervening in that process. The family is cut out of this, and that young girl, that young teenager, is then forced to deceive her family and do something that may be against her very grain, and that leaves that girl scarred for the rest of her life.

There are certain things that we need to consider with this—that it is not just about a one-size-fits-all situation for women who are having abortions. If we do not consider both sides of this then we are doing one side a terrible disservice. No-one is saying that women who go into an abortion clinic or a pregnancy advisory clinic seeking information on abortion is going to be talked out of an abortion. What we do know is that many are talked into an abortion, and we have to level that out a little bit, I think. It is our responsibility to level that out a little bit.

The Hon. Ian Hunter also used the example of women who have been raped and have fallen pregnant from that experience, that they would automatically want to get rid of that baby. That is not entirely true either. There are women who have been raped who do not consider

abortion, or would not have considered abortion if they had not been put into a situation where they felt that they had no support to have a baby.

I met a 19-year-old girl who was raped and fell pregnant. She was basically abandoned by her family because she would not agree to have an abortion. The mother toddled her along to the clinic. That girl said to me, 'Ann, my baby didn't commit a crime. My baby is being punished for the crime of the person who raped me.'

So, there are always two sides to these stories. There are always different circumstances, women who cope with different things in different ways, and I do not believe that the arrangements that we have around abortion manage the side of the female population who would rather keep their baby than have an abortion but do not quite know how to go about it, or would rather have their baby and adopt it out than go through the trauma of an abortion.

I have seen this in my own family and I have seen it in my years in drug treatment. Nobody picks up the pieces of this. We just had a list from the Hon. John Gazzola of all of the services that are available for women who are planning to have an abortion, have had an abortion, have lost a baby, etc. The fact of the matter is that these young women are not referred to those services, they are left to flounder on their own most of the time. These young girls end up very depressed, they feel ashamed and they feel guilt, and a lot of them turn to drugs and alcohol to try to forget the trauma of it.

We are basically in here tonight saying that none of that exists, that none of that happens and that this is all about pro choice. I am all for women having choices. I, personally, could not have an abortion, but that is me. As a legislator, I understand that is not the road we go down. I understand that there are women who would choose to have an abortion and I do not condemn them for that, but I also understand that there are women who, with the right sort of counselling, the right sort of assistance and the right kind of information, would be able to make an alternative choice that actually suits them and will help them to move on with their life in a much more functional way.

I support this bill. I support the sentiments of it. While we are talking about 5,000 babies in South Australia that are being aborted, on the other hand we are talking about access to reproductive technology for gay and lesbian couples. Does nobody else see the contradiction here?

We hear from the Hon. Tammy Franks, and I agree with her, that there are many children out there who are caught up in the state system. Those children are not offered for adoption. Let us not kid ourselves. It is not that people would not adopt them, it is that people are not given the opportunity to adopt them, even foster parents who express a need or a want to take on a child in that role are not allowed to do it.

All of those other arguments are peripheral to what this bill actually means, and that is that women are given both sides, both options, to make the decision for themselves, the decision that they can live with, and if they want to have the baby and adopt it out a pathway to be able to do that. That is all that this bill is asking. So, on those grounds I support this bill and I am saddened to hear some of the arguments that have been put up here tonight.

The Hon. R.I. LUCAS (21:14): I rise to support the bill as well. In doing so, I want to comment on a couple of contributions that have been made, both tonight and on a previous occasion. I have to say that one of the saddest contributions I have seen to the debate in this chamber was the contribution that the Hon. Mr Hunter gave on this particular bill. Sad from the viewpoint that the Hon. Mr Hunter seems to have a pathological hatred of Family First and organised religion, in some way.

We have seen that demonstrated on a number of previous occasions. Sadly, again, it was demonstrated in his contribution on this particular bill. These were the words that he was using about the bill, the Hon. Mr Hood, Family First and those who support the views being expressed by the Hon. Mr Hood and his party: 'offensive, condescending and, at best, insincere', 'Family First's paternalistic and patronising approach to women's rights' and so it went on.

I will defend the Hon. Mr Hunter's rights to have his points of view. He does not need me to defend them, but that is my view. He is entitled to his points of view, but I think it is sad and it is demeaning for him as an individual and for the party that he represents. So often, whenever we have these particular debates, because there is somebody in this chamber or in the community that has a different view on these sorts of issues, he (the Hon. Mr Hunter) resorts to personal abuse in

a very sad and demeaning way of both the individual, the party and the people that they represent and the views that they represent in this chamber.

I do not have a problem with the Hon. Mr Hunter on this issue and on many others, strongly disagreeing and indicating where he has opposition to it. But from my viewpoint anyway, when it resorts on these sorts of difficult moral, social and religious issues with overtones of all of those elements in a particular debate, to approach the debate in the way that he virtually always does, I think, reflects poorly on him as an individual and by inference his own party.

The PRESIDENT: The honourable member should get to the bill.

The Hon. R.I. LUCAS: I am talking about the bill.

The PRESIDENT: Including what you are accusing the Hon. Mr Hunter of doing.

The Hon. R.I. LUCAS: No, I have not called him anything—just sad.

The PRESIDENT: You're being sad, I think.

The Hon. R.I. LUCAS: Well, your particular preferences, Mr President, are of no particular concern to me at all, frankly, in relation to this particular issue.

The PRESIDENT: And yours to Mr Hunter, I am sure.

The Hon. R.I. LUCAS: If you want to express a view, sit down on the benches and give the Hon. Mr Gazzola the presidency and express the point of view that you wish on the bill.

The PRESIDENT: I can express my point of view from here.

The Hon. R.I. LUCAS: Well, you could do it at the appropriate time but not whilst I am speaking. If you want to, you stand in your chair, Mr President, and ask me to sit down—

The PRESIDENT: I don't have to be told by you what I can do.

The Hon. R.I. LUCAS: —and you can then put your point of view. But until then, please desist from interjecting. I have a contribution to make and I intend to. I will not be diverted by your intemperate—

The Hon. S.G. Wade interjecting:

The PRESIDENT: Very good advice.

The Hon. R.I. LUCAS: I will not be diverted by your intemperate interjections from the chair, Mr President, trying to defend the indefensible in relation to the position of the Hon. Mr—

The Hon. S.G. Wade interjecting:

The Hon. R.I. LUCAS: Well, he obviously does because you are providing the interjections from the chair trying to defend the indefensible—

The Hon. S.G. Wade interjecting:

The PRESIDENT: The Hon. Mr Wade will put a sock in it.

The Hon. R.I. LUCAS: —on this particular issue. Even you, Mr President, are not going to be able to defend the position of the Hon. Mr Hunter on this particular occasion. As I said, I do not agree with much of what the Hon. Mr Hunter said in relation to the bill and other members (the Hon. Ann Bressington and others) have responded to elements of the contribution made by the Hon. Mr Hunter.

The other contribution that I wanted to comment on was a contribution this evening from the Hon. Ann Bressington because I thought it brought a refreshing insight to what is a difficult issue. Let me be the first to concede: the Hon. Ms Bressington's background knowledge and exposure to the issues that she addressed in relation to this bill are much more comprehensive than mine, and I suspect that it is much more comprehensive than a number of other members' who have made contributions to this particular piece of legislation.

She has had the experience, through her professional life, in assisting young people through these difficult issues, whereas, I suspect that most of us in this chamber have not. She has had to provide advice, she has had to provide counselling, and she has also had to assist after difficult decisions have been taken by young people, young women in particular, as she indicated, some as young as 13 and 14.

She has knowledge from a firsthand basis of a lot of the theory—not practical knowledge—that other members, myself included, do not have of these particular issues. Whilst some members have parroted government advisers in relation to the services available, the Hon. Ms Bressington was able to indicate the real world perspective rather than the comments that the Hon. Mr Gazzola parroted on behalf of the government on this issue.

The Hon. Ms Bressington raised the issues of the practical circumstances of young girls as young as 13 and 14, and the real world experience and the advice that pregnancy advisory services provide. Again, I am just not in a position—and I suspect that most members are not—to be able to say with firsthand knowledge what sort of advice is provided by those particular services and centres. We can, if we are members of the government, parrot what the government advisers tell us. We from the opposition, like myself, could perhaps parrot the advice of others who do not like the sorts of services they provide.

However, the Hon. Ann Bressington is the one person in this debate thus far who has stood up and been able to indicate from real-world, firsthand, practical experience a knowledge of what actually goes on and what sort of advice is provided to young girls and young women in particular. I think the rest of us are better informed for having listened to that.

I thought it was also refreshing because too often in this chamber I suspect there would have been pressure on the Hon. Ann Bressington from the female mafia out there in relation to this issue; that is, if you are a feminist, you have to have a particular point of view on this bill, and if you believe in women's rights you have to vote in a particular way on this bill. As the Hon. Ms Bressington said, they do not know the Hon. Ann Bressington—

The Hon. A. Bressington: They don't come near me.

The Hon. R.I. LUCAS: They don't come near you. I think it is refreshing that the Hon. Ann Bressington stood up in this chamber tonight and provided us with some actual knowledge, some real-world knowledge, of what are difficult issues. Whilst acknowledging my views on those diametrically opposed contributions from the two members, to me this is a relatively simple measure. It is not, as some members such as the Hon. Mr Hunter have sought to portray it, an evil and sinister first step in changing the current position on abortion in South Australia.

It is what it is; that is, it is an issue of whether we do or do not support the provision of information to young girls, and young women in particular, who have to make a difficult decision. I heard stories that the Hon. Dennis Hood was really after distributing leaflets that would have on them grotesque images of aborted foetuses and those sorts of things. However, the information provided by his office is that the information will be provided by the department in line with government policy. It will not be prepared by the pro-life or pro-choice groups.

I suspect the Hon. Mr Hood in closing the debate will address some of these claims that have been made about what he was really up to and provide some facts from his viewpoint in relation to it. That is the advice that his office has provided to me and other members of parliament in relation to the bill.

The only other point I will make is that we have seen a number of bills come through this parliament—the Fair Work Act and the Child Employment Bill—which have provisions for the distribution of leaflets or pamphlets to outline the particular rights and responsibilities of employers or, in the case of the Fair Work Act, the rights provided to all employees. There are a number of other examples, of course, in legislation as well.

As I said, to me, it is what it is, and that is a proposal to provide information to young girls and young women, in particular, as they make a difficult decision, to at least highlight other options that are available to them, together with the options they might already have been considering that, if one accepts the facts and the advice from the Hon. Ms Bressington, they are being pushed into by various advisory services and others that exist within the broader health system as they make these decisions. For that reason, I indicate that I wholeheartedly support the proposal from the Hon. Mr Hood.

The Hon. CARMEL ZOLLO (21:26): I want to make a few brief comments. Like the Hon. John Gazzola, I would like to associate myself with the comments made by the Hon. Paul Holloway when he responded on behalf of the government on 29 July 2011. I think that we should make it quite clear that the issues of abortion is one of conscience for members of the Labor Party. However, in relation to the legislation before us, the government is of the view that what we have here is about administrative matters.

Everybody has said that this is really a simple bill, but the government believes that what the honourable member is proposing is already available as part of the counselling and package of information available to women who attend at public hospitals. I appreciate the comments of the Hon. Ann Bressington. In relation to the Hon. Dennis Hood, I personally understand and respect the honourable member's good intentions. However, the government does believe that this bill is unnecessary, and members of the government will not be supporting it for that reason.

The Hon. D.G.E. HOOD (21:28): I will be fairly brief in my summing-up comments, but I do want to commence by thanking people for their contributions, both for and against. We have had a number of people contribute, with various levels of passion. The abortion issue is one that brings out very substantial levels of passion in people. You do not meet many people who are on the fence, if I can put it that way. Generally, people tend to have strong feelings either way on this issue. It probably brings out the best and worst in all of us at some time.

I do want to briefly address some of the issues that I have been raised. I can count; this bill will obviously be defeated tonight and, I must say, that is to my great sadness. I have attempted to introduce what I see as a very modest measure—about as modest as I could possibly imagine—on this issue. It really was a genuine attempt and nothing more to simply provide information to women at a very sensitive time.

I think the Hon. Ann Bressington said it very well. In my experience and in my discussions with literally hundreds of women who have been through these circumstances, the truth is that a vast number of those women really never even considered they had the option to adopt that child or that foster care was an option; they were not even aware of it. The decision for them was a very quick one because they felt they were being encouraged in a certain direction in many, many cases. This bill would do nothing more than provide information to women in those circumstances.

Where I stand, more information helps people make a better decision, not a worse one. That is all it is: more information—simple information about how a women or a girl, as it often is, in that circumstance would go about placing that child up for adoption or placing the child into foster care. In fact, we have heard claims that all these measures are already explained. It is not entirely true: indeed, it is largely untrue. I have copies here, which members are welcome to look at afterwards if they wish, of the websites concerned at the pregnancy advisory centres, and there is actually no mention of foster care at all. It is just not there. There is a one-line mention of adoption in passing amongst the massive text of other material. The truth is that the suggestion that this is already well covered, as the government has put forward, just simply is not the case.

Currently, there is no mandatory requirement for consistent information to be provided to women in these circumstances whatsoever. There is no mandatory requirement, and what we see is that inconsistent information is delivered to women in these circumstances. This is an attempt to help and merely to provide information, nothing more.

I also think that it should be noted at this point (and I said I would be brief, and I will be) that we are at the very liberal end of abortion legislation in this country. In Europe, of course, they have much greater restrictions: they allow abortion, but requirements are placed on doctors in particular to provide information. Some countries even actively discourage abortion; Germany, for example, not surprisingly, has an abortion rate about half that in Australia. There are 5,000 abortions approximately in South Australia every year—about 20 every working day.

I thank the Hon. Mr Lucas for his usual lucid contribution, as I do the Hon. Ann Bressington. At this stage, they are the only speakers who have spoken in favour of the bill. I thank them, but, as I said, I also thank those who have spoken against the bill. I appreciate that this is an issue that creates substantial sentiment.

For those who are interested, I also have a letter of support for the bill from the Archbishop of the Catholic Church. He has indicated in writing his support for the bill. I think I will leave it there. There is so much I could say, and I did have a number of points, but at the end of the day this bill will be defeated tonight. That is unfortunate, as I think it would have benefited many women in difficult circumstances.

The council divided on the second reading:

AYES (6)

Bressington, A.	Darley, J.A.	Hood, D.G.E. (teller)
Lee, J.S.	Lucas, R.I.	Stephens, T.J.

NOES (11)

Dawkins, J.S.L.	Franks, T.A.	Gago, G.E. (teller)
Gazzola, J.M.	Hunter, I.K.	Kandelaars, G.A.
Lensink, J.M.A.	Parnell, M.	Ridgway, D.W.
Wade, S.G.	Zollo, C.	

PAIRS (2)

Brokenshire, R.L.	Wortley, R.P.

Majority of 5 for the noes.

Second reading thus negatived.

CORONERS (RECOMMENDATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 September 2010.)

The Hon. CARMEL ZOLLO (21:37): I rise to indicate the government's response. The government opposes the Coroners (Recommendations) Amendment Bill 2010. The amendment bill seeks to extend the power of the Coroner to make such further recommendations that relate to a matter arising from the inquest, including matters concerning the quality of care, treatment and supervision of the dead person prior to death, and public health and safety and the administration of justice and is, in the circumstances, an appropriate matter on which to make a recommendation. The bill also empowers the Coroner to compel a minister to prepare a supplementary report addressing concerns raised in a Coroner's report, and the supplementary report must be tabled in parliament by the minister within eight sitting days of the expiration of three months after receiving the request from the Coroner.

Clause 3(1) of the bill in its original form effectively removed any limitation as to the recommendations that might be made by the Coroner. Although amendments made by the bill have tightened the range of circumstances whereby the Coroner would be able to make recommendations, the government believes that the scope remains too broad. The government agrees that there should be some extension in the Coroner's power to make recommendations; however, this bill goes too far. The government is also not convinced of the need to amend the reporting requirements under the act. The current time frame for tabling a minister's report on actions to be taken on recommendations about a death in custody is within eight sitting days of the expiration of six months after receiving the report. This time frame is appropriate to allow proper and thorough consideration of the recommendations and should not be shortened. For these reasons the government opposes this bill.

The Hon. M. PARNELL (21:39): The Greens will be supporting this bill, as we supported it back when it was first introduced in 2008, I think. When I last spoke on this matter on 3 June 2009 I made particular reference to the report entitled 'The South Australian Coroners Act 2002 and the Consequences for Prison Reform of Partial Implementation of the Royal Commission into Aboriginal Deaths in Custody' by Mr Chris Charles, a lawyer with the Aboriginal Legal Rights Movement. In many ways this bill is really tying up some of the loose ends from that important royal commission.

On the last occasion I also acknowledged the role of our former colleagues the Hon. Sandra Kanck and the Hon. David Winderlich for advancing this bill. I hope that this time the Hon. Stephen Wade is successful, and I reiterate the Greens' support.

The Hon. A. BRESSINGTON (21:40): I rise to briefly indicate my support for the Coroners (Recommendations) Amendment Bill 2010, which seeks to expand the scope of recommendations arising from an inquest that the Coroner can make under section 25(2) of the Coroners Act 2003. The wording of section 25(2) of the act currently restricts the Coroner to making recommendations, and hence investigating matters, causally linked to the death of an individual subject of the inquest.

Hence, the pertinent but incidental recommendations are omitted, despite such recommendations potentially of themselves preventing a death and the coronial inquest that may follow.

As the then coroner, Mr Wayne Chivell, noted in 2004, in several states of Australia coroners now have the power to inquire into incidental issues. It is my understanding that all other interstate jurisdictions now permit the Coroner, to a greater or lesser degree, to make recommendations on matters related to the death subject to the inquest. In saying that, I note that the Law Society, in its submission to the bill dated 15 November 2010, suggested that the proposed amendments 'are wider than comparable provisions interstate'.

The society's resultant concerns about the scope of the amendments proposed are, I believe, addressed by the subsequent amendment filed by the Hon. Stephen Wade, the drafting of which, I believe, was assisted by Emeritus Fellow Andrew Ligertwood at Adelaide University, to whom a great deal of respect is owed. I take this opportunity to indicate that I will be supporting that amendment—a great lot of good it is going to do.

As the Hon. Stephen Wade noted when introducing the bill, the former members of this place, the Hon. Sandra Kanck and her replacement, the Hon. David Winderlich, both moved identical bills. This is hardly surprising, given that respective coroners have for years requested the expansion of their recommendation powers. An example is the 2007-08 annual report of the South Australian Coroner's Court in which the current State Coroner, Mr Mark Johns, states:

> In my opinion, it would be desirable to amend the Coroners Act 2003 to extend the power to make recommendations to include those relating to the administration of justice.

That is something this government does not seem to hold dear to its heart. That this Labor government has refused the repeated public requests of the State Coroner is an indictment on their governance and leadership. It is my hope that this bill, under this Attorney-General, who saw fit to work with the crossbenchers specifically and the Hon. Iain Evans on the Coroners (Reportable Deaths) Amendment Bill, will see fit to support what is a long-overdue reform—again, that is irrelevant.

On a final note, I have just seen the amendment filed by the Hon. John Darley, which will also now be irrelevant. I am very disappointed that the government has decided not to support this, with the amendment of the Hon. Stephen Wade that would have made it not quite so challenging for the government to support.

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

EVIDENCE (DISCREDITABLE CONDUCT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 September 2011.)

The Hon. M. PARNELL (21:44): When this bill was first announced, I was appalled that the government appeared to be going down the path of trashing one of the pillars of our criminal justice system, namely that persons charged with offences have the right to be tried on the basis of relevant and admissible evidence that relates to the charges and not to extraneous matters. That is how it was first reported. Juries would be told about a defendant's past behaviour before they retired to consider the guilt or innocence of the accused.

That would have been a major travesty of justice. Human nature being what it is, the burden of proof and the standard of proof would both have fallen victim to the natural human tendency to presume that, if a person has been bad in the past, then they are probably still bad. A defendant faced with weak evidence, but having their poor criminal record disclosed to the jury, is far more likely to be convicted. You can almost hear the jury saying, 'Sure, there is not much evidence, but this is such a bad person that they probably did it, and they have probably done much worse but they have not been caught, so let us convict them of this one.'

I do not think that I was overly paranoid in thinking that the government might trash a pillar of the criminal justice system because they have form in this area. The now discredited and, in part, unconstitutional serious and organised crime act is a case in point. Guilt by association, secret evidence that cannot be challenged, removing judicial independence—you name it, the government has form when it comes to trashing longstanding legal principles.

However, I am pleased to see that this bill has not lived up to its draconian expectations. What we have before us is pretty much a codification of the existing common law rules of evidence

relating to a narrow range of circumstances where a person's prior conduct can be introduced as relevant evidence of a criminal offence. These include propensity and similar fact evidence.

In these circumstances, the codification makes some sense. The bill makes it clear that the probative value of the evidence must outweigh the prejudicial effect of allowing that evidence in. The bill outlines the circumstances in which such evidence cannot be used and then provides for judicial discretion before the evidence can be admitted. Whilst there may be arguments about whether this codification is strictly necessary, it seems to us that the government's approach in this case is not unreasonable and, therefore, the Greens will not be opposing the 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) (21:47): I would like to, at this point, thank all honourable members for their second reading contributions and their support for this important bill. In stark contrast to the vast amount of judicial and academic ink that has been spilt over the last century or so on the vexed subject of similar fact and bad character evidence, I can thankfully keep my concluding comments today mercifully brief.

I would like to thank, as I said, members for their considered support and I should note that a considerable amount of work has gone into the formulation and drafting of this bill. I would also like to express, as noted in the second reading speech, my appreciation and gratitude for the valuable and wonderful work that has been kindly provided as part of this process by the Solicitor-General, Mr Wells QC, Mr Blue QC (now Justice Blue of the Supreme Court), and also the Hon. Kevin Duggan QC, former justice of the Supreme Court, and his former colleagues on the joint Courts Criminal Legislation Committee. I would also like to take this opportunity to express my sympathy to the family of the late Shirree Turner and to thank them for their efforts to also help reform this very important area of criminal law.

This bill, as the second reading speech makes clear, is a careful and deliberate effort by the government to clarify and simplify this incredibly difficult, and presently virtually unworkable, area of criminal law. The present law, resulting from various decisions of the High Court, as honourable members have rightly noted, is unduly restrictive and has the practical effect of excluding cogent and highly reliable evidence. The bill strikes an appropriate balance in this important area of the criminal law.

The bill provides that, in an appropriate case, the prosecution will be able to adduce in a criminal trial the past criminal or discreditable acts of the accused, but, at the same time, the crucial right of the accused to a fair trial is maintained and the central principle of our law that you cannot convict an accused by simple reference to his or her past misconduct is preserved. I commend the bill to the house.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (21:52): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ROAD TRAFFIC (RED LIGHT OFFENCES) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (21:54): I move:

That this bill be now read a second time.

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

Leave granted.

The *Road Traffic (Red Light Offences) Amendment Bill 2011* is a simple Bill that contains a small amendment to section 79B of the *Road Traffic Act 1961* related to level crossing offences.

Crashes at level crossings can have catastrophic impact on car drivers and passengers who often lose their lives or are seriously injured and can cause trauma to train drivers, passengers and the local community.

Currently, the *Road Traffic Act 1961* provides that where a vehicle is detected by a photographic detection device committing both a red light offence and a speeding offence arising from the same incident at a place where there are traffic lights or traffic arrows, such as an intersection, the penalty for both offences applies. Similarly, the *Motor Vehicles Act 1959* provides that the demerit points for both offences apply.

Driving through a level crossing while the warning lights are flashing has serious road safety implications. Also, drivers often speed up when they see the level crossing warning lights flash and drive through the crossing above the applicable speed limit. However, the double penalty for the two offences arising from the same incident when committed at an intersection with traffic lights does not apply to a level crossing with twin red lights.

The Bill rectifies this anomaly by amending the definition of 'red light offence' in the *Road Traffic Act* to include 'twin red lights'—these are the horizontal or diagonal alternately flashing red warning lights seen at level crossings.

This will have the effect of applying the existing double penalty for speeding through a red traffic light or arrow at an intersection to speeding through a level crossing where the twin red lights are flashing. The changed definition will flow on to the *Motor Vehicles Act 1959* and ensure that demerit points for both offences apply.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Road Traffic Act 1961*

4—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause makes a number of changes to section 79B of the Act. Section 79B provides that where a vehicle appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a prescribed offence, the owner of the vehicle is guilty of an offence against section 79B (unless certain exceptions are proved). The penalty for the offence is higher if the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident.

This clause amends the definition of what constitutes a *prescribed offence* for the purposes of section 79B to make it clear that the offences prescribed in the regulations for this purpose can be parts of offences or offences committed in described circumstances.

The clause also amends the definition of a *red light offence* for the purposes of section 79B. Currently a red light offence means a prescribed offence relating to traffic lights or traffic arrows defined by the regulations as a red light offence. The amendment allows the red light offences defined by the regulations to include prescribed offences relating to twin red lights (those used at level crossings) as well as prescribed offences relating to traffic lights or traffic arrows.

These amendments to the definitions of *prescribed offence* and *red light offence* will allow offences at level crossings where twin red lights are operating to be prescribed as red light offences for the purposes of the application of higher penalties where a speeding offence arises out of the same incident.

The clause also clarifies the meaning of *traffic arrows*, *traffic lights* and *twin red lights* by referring to the meaning of those terms in the *Australian Road Rules*.

Debate adjourned on motion of Hon. S.G. Wade.

SMALL BUSINESS COMMISSIONER BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (21:55): 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.

In South Australia there are over 136,000 small businesses. These range from one person owner-operators through to medium sized firms. The Government recognises the significant contribution that these businesses make

to employment in this State and to the continued economic success of the State. The development of a more competitive and fairer environment for small businesses in South Australia is a goal of the Government.

It is with great pleasure and pride that I introduce this Bill into the House. It establishes a Small Business Commissioner and confers functions on the Commissioner that are designed to facilitate the continued viability and expansion of the small business sector.

In developing this Bill the Government has taken into account the lessons learned from the successful model provided by the Victorian Small Business Commissioner, which has been noted by the Small Business Ministerial Council as a best practice approach. The Victorian Commissioner has been very successful in resolving disputes through mediation. Some 6,800 matters were handled between 2003 and 2010 with a success rate of 80 per cent or more. This is a substantial alleviation of the burden that may otherwise fall on the Courts and a benefit to businesses that may not otherwise pursue a complaint.

One of the principal roles of the Small Business Commissioner is to provide those business operators who have limited bargaining power, time and resources with the ability to access a timely, low cost dispute resolution service designed to avoid the costly litigation processes that currently exist. It is intended that the Small Business Commissioner will deal with disputes and complaints in a hands-on, proactive and commonsense way using a range of dispute resolution services including:

- initial advice and preliminary assistance;
- referrals to other available dispute resolution options;
- investigation of the circumstances of a dispute in more detail as required;
- arranging and facilitating conciliation, mediation or other alternative dispute resolution mechanisms as appropriate.

These are voluntary mechanisms with parties free to take ordinary legal proceedings at their option.

It is recognised that when there is a breakdown in a business relationship the effects will often go beyond the individual business concerned to the entire network of suppliers, operators, employees and sometimes family members. The services of the Small Business Commissioner will therefore be valuable not just to the businesses concerned but to those involved in the wider network.

Small businesses often feel powerless when dealing with State and local government bodies. To this end, the Small Business Commissioner is given the function of assisting small businesses on request in their dealings with such bodies. It is envisaged that businesses would make use of existing mechanisms but that the Commissioner would become involved in instances where the provision of assistance would be useful and likely to lead to a better outcome.

The Small Business Commissioner is also given a role in disseminating information to small businesses. The information might, for example, be about understanding the pitfalls faced by businesses, and the rights and obligations of businesses, when entering into contracts, leases and the like. The provision of appropriate information could be expected to encourage and support good commercial decision making and the practice of due diligence on the part of small businesses.

This Government understands the frustrations experienced by many people involved in small businesses when they feel powerless to deal with unfair practices of landlords, franchisors or other businesses that resort to unscrupulous practices. The Small Business Commissioner is to have the function of monitoring, investigating and advising the Minister about such practices. In addition, the Minister may request the Commissioner to report on any specified matter affecting small businesses and the Commissioner may, on the Commissioner's own initiative, report to the Minister on any aspect of the Commissioner's functions.

It is contemplated that the Commissioner will build relationships with the various industry sectors and work with key industry associations and key groups in developing strategies to promote fair dealing and proper conduct in particular sectors. It is envisaged that this may include the promulgation of appropriate industry codes and the administration of the codes by the Small Business Commissioner and the Bill amends the *Fair Trading Act 1987* to that end. Consultation with stakeholders on a draft of the Bill disclosed a desire in some sectors for such an approach. In order to ensure that industry codes can be effectively enforced, the Bill introduces a scheme of civil penalties that may be applied to particular contraventions by the regulations.

Under the Bill, the Small Business Commissioner is also given specific responsibility for the administration of the *Retail and Commercial Leases Act 1985*. The Commissioner will have a role in the resolution of retail tenancy disputes and in promoting fairness between tenants and landlords in the important retail sector.

Enforcement powers and remedies relating to a contravention of a prescribed industry code or the *Retail and Commercial Leases Act 1995* continue to be located in the *Fair Trading Act 1987*. The Commissioner is given a power to require provision of information necessary for the performance of the Commissioner's functions.

The Small Business Commissioner will be expected to provide independent advice and recommendations to Government. The Commissioner will investigate business complaints, review and provide comment on matters affecting small businesses, make submissions to relevant inquiries, and make representations to the Minister for Small Business on a range of matters. Over time it is expected that the Commissioner will be in a position to greatly assist the Minister for Small Business and the Government of the day with an evidence based analysis of key issues affecting small business.

The Bill expressly provides that the overarching objective of the Small Business Commissioner in the performance of the Commissioner's functions is the development and maintenance in South Australia of relationships between small businesses and other businesses, and small businesses and State and local government bodies, that are based on dealings conducted fairly and in good faith.

To ensure the integrity of the position, the Small Business Commissioner will be a statutory officer. The Commissioner will be required under the *Public Sector Act 2009* to produce an annual report which will be tabled in Parliament and is to be taken to be a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

In conclusion, this Bill evidences the Government's commitment to providing a fair and competitive environment for small businesses in this State.

I commend the Bill to the House.

Explanation of Clauses

1—Short title

This clause is formal.

2—Commencement

This clause provides for operation of the measure to commence on a day to be fixed by proclamation.

3—Interpretation

This clause provides definitions of three terms used in the Bill:

- the Commissioner is the person holding or acting in the office of the Small Business Commissioner;
- the Deputy is the Deputy Small Business Commissioner;
- industry code has the same meaning as in Part 3A of the *Fair Trading Act 1987*. That is, an industry code is a code regulating the conduct of participants in an industry towards other participants in the industry or towards consumers in the industry. The term 'industry code' is not limited to codes that have been prescribed for the purposes of the *Fair Trading Act 1987* or another Act.

4—Small Business Commissioner

This clause provides that there will be a Small Business Commissioner who will be appointed by the Governor and is an agency of the Crown.

5—Functions

This clause sets out the Small Business Commissioner's functions as follows:

- to receive and investigate complaints by or on behalf of small businesses regarding their commercial dealings with other businesses and to facilitate resolution of such complaints through measures considered appropriate by the Commissioner such as mediation or making representations on behalf of small businesses;
- to assist small businesses on request in their dealings with State and local government bodies;
- to disseminate information to small businesses to assist them in making decisions relevant to their commercial dealings with other businesses and their dealings with State and local government bodies;
- to administer Part 3A of the *Fair Trading Act 1987* (which relates to industry codes) and the Australian Consumer Law (SA) to the extent that responsibility for that administration is assigned to the Commissioner under the *Fair Trading Act 1987*;
- to monitor, investigate and advise the Minister about—
    - non-compliance with industry codes that may adversely affect small businesses; and
    - market practices that may adversely affect small businesses;
    - to report to the Minister on matters affecting small businesses at the request of the Minister;
    - to report to the Minister on any aspect of the Commissioner's functions at the request of the Minister or on the Commissioner's own initiative;
    - to take any other action considered appropriate by the Commissioner for the purpose of facilitating and encouraging the fair treatment of small businesses in their commercial dealings with other businesses or assisting small businesses in their dealings with State or local government bodies;
    - any other functions conferred on the Commissioner by or under the *Small Business Commissioner Act 2011* or any other Act.

The clause also provides that the Commissioner is to perform his or her functions with a view to the development and maintenance in South Australia of relationships between small businesses and other businesses, and small businesses and State and local government bodies, that are based on dealings conducted fairly and in good faith.

6—Ministerial direction

Clause 6 provides that the Minister may give directions to the Commissioner. However, a direction may not be given to the Commissioner by the Minister relating to the investigation, mediation or resolution of a particular complaint or dispute. The Minister is to consult with the Commissioner before giving a direction.

A Ministerial direction is to be communicated to the Commissioner in writing. There is also a requirement for a Ministerial direction to be included in the Commissioner's annual report.

7—Terms and conditions of appointment

Although the maximum term of appointment for the Commissioner is five years, a person will be eligible for reappointment at the end of a term. The Commissioner's conditions of appointment are to be determined by the Governor.

Under clause 7(2), the appointment of the Commissioner may be terminated by the Governor on any of the following grounds:

- the Commissioner has been guilty of misconduct;
- the Commissioner has been convicted of an offence punishable by imprisonment;
- the Commissioner has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
- the Commissioner has been disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth;
- the Commissioner has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily;
- the Commissioner is incompetent or has neglected the duties of the position.

It is also provided that the appointment of the Commissioner is terminated if he or she becomes a member, or a candidate for election as a member, of an Australian Parliament or Legislative Assembly. The appointment will also be terminated if the Commissioner is sentenced to imprisonment for an offence.

8—Deputy and Acting Commissioner

A person may be appointed by the Minister to be the Deputy Small Business Commissioner. That person may be a public servant. The Deputy may act as the Commissioner if no person is appointed as the Commissioner or when the Commissioner is absent from, or unable to discharge, official duties. When the Deputy is not acting as the Commissioner, he or she may perform functions or exercise powers of the Commissioner by delegation from the Commissioner.

A person may be appointed by the Minister to act as the Commissioner if—

- there is no person appointed as the Commissioner, or the Commissioner is absent from, or unable to discharge, official duties; and
- there is no person appointed as the Deputy, or the Deputy is absent from, or unable to discharge, official duties.

9—Honesty and accountability

This clause applies the provisions of the *Public Sector (Honesty and Accountability) Act 1995* relating to the honesty and accountability of senior officials to the Commissioner, the Deputy and any other person appointed to act as the Commissioner.

10—Staff etc

The Commissioner's staff consists of Public Service employees assigned to assist the Commissioner in addition to persons employed by the Commissioner. Such persons are to be employed with the consent of the Minister to assist the Commissioner.

This clause also provides that the Commissioner may make use of the services or staff of an administrative unit of the Public Service under an arrangement established by the Minister administering the unit.

11—Delegation

This clause authorises the Commissioner to delegate a function or power under the *Small Business Commissioner Act 2011* or any other Act, other than a prescribed function or power. A function or power cannot be delegated to a person who is not a Public Service employee without the consent of the Minister.

A delegation—

- is to be by instrument in writing; and
- may be absolute or conditional; and
- does not derogate from the power of the delegator to act in a matter; and
- is revocable at will.

12—Power to require information

Under this clause, the Commissioner can require a person to give the Commissioner information in the person's possession that the Commissioner requires for the performance of his or her functions. The requirement is to be made by written notice served personally or by post. The notice must specify a reasonable time for compliance with the requirement.

If a person who is required to give information fails to do so within the time stated in the notice, he or she is guilty of an offence. The maximum penalty is a fine of $20,000.

A person cannot be compelled to give information under the clause if the information might tend to incriminate him or her of an offence or if the information is privileged on the ground of legal professional privilege.

13—Confidentiality

This clause prohibits a person from divulging or communicating personal information, information relating to trade secrets or business processes or financial information if the information is acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of the *Small Business Commissioner Act 2011*. However, such information can be divulged or communicated—

- with the consent of the person to whom it relates; or
- as authorised by the Commissioner or the person's employer; or
- in connection with the administration of the Act; or
- to a police officer or a member of the police force of another State, a Territory or the Commonwealth; or
- to a person concerned in the administration of another law of the State, or a law of another State, a Territory or the Commonwealth relating to trade or commercial practices or the protection of consumers; or
- for the purposes of legal proceedings.

The maximum penalty is a fine of $20,000.

14—Regulations

This clause authorises the making of regulations that are contemplated by, or necessary or expedient for the purposes of, the Act. The regulations may fix fees in respect of measures designed to resolve a complaint taken by the Commissioner. The regulations may also provide for the payment, recovery or waiver of fees.

Schedule 1—Associated amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Fair Trading Act 1987*

2—Amendment of long title

This clause substitutes a new long title for the *Fair Trading Act 1987*. The proposed long title states that the Act is to—

- provide for the appointment and functions of the Commissioner for Consumer Affairs;
- provide for the administration of certain aspects of the *Fair Trading Act 1987* by the Small Business Commissioner;
- apply the Australian Consumer Law as a law of South Australia;
- make provision for industry codes;
- otherwise regulate unfair or undesirable practices affecting business and other consumers.

3—Amendment of section 3—Interpretation

This clause amends the interpretation provision of the *Fair Trading Act 1987* by inserting new definitions of *Commissioner for Consumer Affairs* and *Small Business Commissioner*. A new definition of contravene is also inserted. This definition makes it clear that a contravention includes a failure to comply. Other changes to definitions are consequential.

Subsection (3) currently allows the regulations to exclude a person or class of persons from the ambit of the definition of *consumer* for the purposes of the Act. This clause amends the subsection to make it clear that a person or class can be excluded from specified provisions of the Act rather than the Act as a whole. (An exclusion from the definition does not apply in relation to the Australian Consumer Law (SA).)

4—Insertion of section 4B

This clause inserts a new section.

4B—Administration of Act

Proposed section 4B deals with the administration of the *Fair Trading Act 1987* and provides that the Commissioner for Consumer Affairs is responsible for the administration of the Act. This includes the Australian Consumer Law (SA) (the ACL). However, because aspects of the ACL relate to business consumers, the section also allows for the Small Business Commissioner to administer the ACL to the extent specified by the Minister for Consumer Affairs by notice in the Gazette. A notice is to be made on the recommendation of the Minister responsible for the administration of the *Small Business Commissioner Act 2011*.

The Small Business Commissioner is to be responsible for the administration of Part 3A of the Act in relation to an industry code or provisions of an industry code if the regulations declare that the Commissioner is to have that responsibility. Under Part 3A, an industry code or the provisions of an industry code may be prescribed by regulation for the purposes of the Part. The regulations are also to declare whether the Commissioner for Consumer Affairs or the Small Business Commissioner is to be responsible for the administration of the Part in relation to the code or provisions.

The Small Business Commissioner may only be assigned responsibility for administration of the ACL or an industry code insofar as the ACL or code applies to persons who acquire or propose to acquire goods or services for the purpose of trade or commerce, or insofar as the ACL or code regulates the conduct of traders towards other traders.

Proposed section 4B also makes it clear that, to the extent that the Commissioner for Consumer Affairs is responsible for the administration of the *Fair Trading Act 1987*, he or she is subject to the direction of the Minister to whom responsibility for administration of that Act is committed. To the extent that the Small Business Commissioner is responsible for the administration of the *Fair Trading Act 1987*, he or she is subject to direction by the Minister to whom the administration of the *Small Business Commissioner Act 2011* is committed.

5—Substitution of heading to Part 2

This clause substitutes a new heading for Part 2 to reflect the fact that administration of the Act is to be dealt with in new section 4B while Part 2 is to deal with matters relating exclusively to the Commissioner for Consumer Affairs.

6—Repeal of sections 6 and 7

Section 6, which relates to the administration of the Act, is to be repealed because administration is the subject of proposed section 4B.

Section 7, which relates to the appointment of authorised officers, is to be repealed because the Bill proposes the insertion of a new section relating to authorised officers into Part 7 (Enforcement and remedies)—see clause 24.

7—Amendment of section 8—Functions of Commissioner for Consumer Affairs

8—Amendment of section 8A—Conciliation

9—Amendment of section 9—Co-operation

10—Amendment of section 10—Delegations

The purpose of the consequential amendments made by these clauses is to make it clear that references to the Commissioner in the amended sections are references to the Commissioner for Consumer Affairs.

11—Repeal of section 11

This clause repeals section 11, which relates to confidentiality, because the Bill proposes the insertion of a new confidentiality provision—see clause 32.

12—Amendment of section 12—Annual report

The amendments to section 12 make it clear that the annual reporting requirements under the section apply to the Commissioner for Consumer Affairs.

13—Amendment of section 16—Meaning of generic terms used in Australian Consumer Law

This clause substitutes a new definition of regulator for the purposes of the ACL. Under the new definition, the regulator continues to be the Commissioner for Consumer Affairs. However, if the Small Business Commissioner is responsible for the administration of any aspect of the ACL, the Small Business Commissioner is also the regulator.

14—Insertion of Part 3A

Part 3A, inserted by this clause, relates to the prescription of industry codes by regulation.

Part 3A—Industry codes

28D—Interpretation

An industry code, for the purposes of Part 3A, is a code regulating the conduct of participants in an industry towards other participants in the industry or towards persons to whom goods or services are or may be supplied by participants in the industry.

28E—Contravention of industry codes

Proposed section 28E provides that a person must not, in trade or commerce, contravene a prescribed industry code or a prescribed provision of an industry code.

28F—Regulations relating to industry codes

Under proposed section 28F, an industry code, or provisions of an industry code, may be prescribed by regulation for the purposes of the Part. The regulations may also declare whether the Commissioner for Consumer Affairs or the Small Business Commissioner is to be responsible for the administration of the code or provisions.

The regulations may also—

- declare that a contravention of section 28E of a particular class is to be subject to a civil penalty under Part 7 Division 3A (to be inserted by clause 28); and
- fix expiation fees for alleged civil penalty contraventions within the meaning of Part 7 Division 3A.

The maximum civil expiation fees are $6,000 for a body corporate and $1,200 for a natural person.

A specified activity may be declared by the regulations to be taken to be an industry for the purposes of Part 3A, and persons of a specified class may be declared to be taken to be participants in the industry.

It is made clear in the section that a proposal for regulations under the section may be initiated by either the Minister responsible for the administration of the *Fair Trading Act 1987* or the Minister responsible for the administration of the *Small Business Commissioner Act 2011*. If the Commissioner for Consumer Affairs is to be responsible for the administration of Part 3A in relation to a prescribed code or provisions, the proposal may be initiated by the Minister responsible for the administration of the *Fair Trading Act 1987*. If the Small Business Commissioner is to be responsible for the administration of Part 3A in relation to a prescribed code or provisions, the proposal may be initiated by the Minister responsible for the administration of the *Small Business Commissioner Act 2011*.

15—Amendment of section 36—Offences

This amendment is consequential on the insertion of a definition of *contravene* into section 3.

16—Amendment of section 37—Powers of District Court

17—Amendment of section 41—Advertisements must not state or imply approval of consumer affairs authority

18—Amendment of section 42—Recreational services

19—Amendment of section 45A—Power of Minister to prohibit third-party trading schemes

The amendments made by these clauses are consequential. References to 'the Commissioner' are amended so that the sections as amended refer to the Commissioner for Consumer Affairs.

20—Substitution of heading to Part 7

The heading to Part 7 currently refers only to enforcement. The substituted heading refers also to remedies and therefore better reflects the contents of the Part.

21—Insertion of Part 7 Division A1

This clause inserts a new Division.

Division A1—Interpretation

46—Interpretation

Proposed section 46 provides definitions of the terms Commissioner and Minister that apply for the purposes of Part 7. A reference in the Part to the Commissioner is a reference to the Commissioner for Consumer Affairs or the Small Business Commissioner. 'Minister' means the Minister responsible for the administration of the *Fair Trading Act 1987* or the Minister responsible for the administration of the *Small Business Commissioner Act 2011*.

22—Substitution of heading to Part 7 Division 1

This clause substitutes a new heading for Division 1 of Part 7. The new heading, which is 'Legal proceedings and warnings', more accurately reflects the contents of the Division.

23—Redesignation of section 76—Conduct of legal proceedings on behalf of consumers

Section 76 of the Act, which authorises the Commissioner to conduct legal proceedings on behalf of a consumer, is redesignated by this clause as section 47.

24—Insertion of Part 7 Division 1A heading and section 76

This clause inserts a new Division heading and a section dealing with the appointment of authorised officers.

Division 1A—Authorised officers

76—Authorised officers

Under proposed section 76, the Commissioner for Consumer Affairs, the Small Business Commissioner, the Deputy Small Business Commissioner and persons appointed under the section are authorised officers for the purposes of the Act.

Public service employees may be appointed to be authorised officers by the Minister responsible for the administration of the *Fair Trading Act 1987* or the Minister responsible for the administration of the *Small Business Commissioner Act 2011*. Other persons employed by the Small Business Commissioner may also be appointed to be authorised officers.

An appointment may be subject to specified conditions and may be revoked at any time by the relevant Minister.

It is a requirement of the section that an authorised officer be issued with an identity card, which must be produced by the officer at the request of a person in relation to whom the officer intends to exercise powers under the Act.

25—Amendment of section 78—Entry and inspection

Section 78(4) is redundant because of new section 76 and is therefore deleted by this clause.

26—Amendment of section 80—Registration of deeds of assurance

Section 80 as amended by this clause will require each Commissioner to maintain a register of assurances accepted by him or her.

27—Amendment of heading to Part 7 Division 3

The heading to Division 3 of Part 7 as amended by this clause will more accurately reflect the contents of the Division. The heading currently refers only to contraventions of the *Fair Trading Act 1987* despite the fact that section 83 (Injunctions) also applies in relation to contraventions of related Acts.

28—Insertion of Part 7 Division 3A

This clause inserts a new Division into Part 7 of the Act. Division 3A deals with civil penalties and civil expiation notices in relation to industry codes.

Division 3A—Civil penalties and civil expiation notices for contravention of industry codes

Subdivision 1—Interpretation

86A—Interpretation

Proposed section 86A provides that a person commits a civil penalty contravention if the person contravenes section 28E and the contravention is of a class declared by regulation to be subject to a civil penalty. A person also commits a civil penalty contravention by attempting or being involved in such a contravention.

Subdivision 2—Civil penalties

86B—Civil penalties

Proposed section 86B provides for the making of civil penalty orders by the Magistrates Court. A civil penalty order may be made by the Court if it is satisfied that a person has committed a civil penalty contravention. The Court may order the person to pay an amount not exceeding $50,000 in the case of a body corporate or $10,000 in the case of a natural person. Currently, the maximum penalty allowed under the Act for contravention of a code of practice is the maximum that can be imposed for contravention of a regulation, that is, $2,500.

Proceedings for a civil penalty order may be commenced by the Commissioner by application to the Court made within three years after the date of the alleged civil penalty contravention.

The proposed section lists matters to which the Court is to have regard in determining the amount to be paid by a person as a civil penalty. Those matters are—

- the nature and extent of the contravention and any loss or damage suffered as a result of the contravention;
- the circumstances in which the contravention was committed;
- any financial saving or other benefit that the person stood to gain by committing the contravention;
- whether the person has previously been found by a court in proceedings under this Act to have committed similar contraventions;
- any other matter the Court considers relevant.

The proposed section also provides that if conduct constitutes two or more civil penalty contraventions, an amount may be recovered from the person in relation to any one or more of the contraventions. However, the person is not liable to pay more than one amount as a civil penalty in respect of the same conduct.

Subsections (5) and (6) provide defences. Under subsection (5), a person will not be liable to a civil penalty if he or she establishes facts and circumstances that would have amounted to a defence under section 88 had the civil penalty contravention constituted an offence against the Act. Section 88 provides a defence where a contravention was due to a reasonable mistake or reasonable reliance on information supplied by another person. A defence is also available under section 88 if a contravention was due to the act or default of another person, to an accident or to some other cause beyond the defendant's control and the defendant took reasonable precautions and exercised due diligence to avoid the contravention. Section 88 contains various other relevant provisions.

Subsection (6) provides that if the Court is satisfied that a natural person acted honestly and reasonably and ought fairly to be excused, the Court may relieve the person either wholly or partly from liability to a civil penalty.

Subdivision 3—Civil expiation notices

86C—Certain civil penalty contraventions may be expiated

Proposed section 86C provides for the giving of civil expiation notices to persons alleged to have committed a civil penalty contravention if the regulations fix an expiation fee for the contravention. If a civil expiation notice is given to a person, the contravention may be expiated in accordance with Subdivision 3.

86D—Civil expiation notices

Proposed section 86D sets out certain rules and requirements relating to civil expiation notices:

- a civil expiation notice may only be given to a person by the Commissioner or by an authorised officer authorised in writing by the Commissioner;
- a civil expiation notice may relate to up to three alleged civil penalty contraventions arising out of the same incident, cannot be given more than 12 months after the date on which the civil penalty contravention or contraventions were alleged to have occurred and cannot be given to a person if proceedings have been commenced against the person for a civil penalty order;
- if a civil expiation notice is given to a person alleged to have committed a civil penalty contravention, no further civil expiation notice can be given to the person in respect of any other alleged civil penalty contravention arising out of the same incident;
- a civil expiation notice is to—
    - be identified by a unique number; and
    - state the date of the notice; and
    - state the name and address of the person to whom it is given; and
    - state that the notice is given on behalf of the Commissioner; and
    - state how the Commissioner may be contacted; and
    - give details of the civil penalty contravention or contraventions allegedly committed by the person, including the date of the alleged contravention or contraventions; and
    - state the maximum civil penalty that the person could be ordered to pay in respect of the alleged civil penalty contravention or contraventions; and
    - specify the expiation fee that is payable in relation to the alleged civil penalty contravention or each alleged contravention; and
    - state that the expiation fee is to be paid within 28 days from (and including) the date of the notice; and
    - state that the expiation fee is payable to the Commissioner; and
    - explain how payment of the expiation fee is to be made; and
    - include any information prescribed by the regulations.

86E—Late payment

Proposed section 86E authorises the Commissioner to accept late payment of an expiation fee any time before proceedings are commenced for a civil penalty order for the alleged contravention to which the payment relates.

86F—Effect of expiation

Proposed section 86F sets out the effect of expiation. If a civil penalty contravention to which a civil expiation notice relates is expiated, proceedings cannot be commenced against the person to whom

the notice was given for the contravention or any other expiable civil penalty contravention arising out of the same incident.

Importantly, the section makes it clear that the expiation of a civil penalty contravention does not constitute an admission of guilt or of any civil liability. Moreover, expiation of a civil penalty contravention will not be regarded as evidence tending to establish guilt or any civil liability. Expiation of a civil penalty contravention cannot be referred to in a report furnished to a court for the purposes of determining sentence for an offence.

86G—Commencement of proceedings if expiation fee not paid

Proposed section 86G provides that proceedings for a civil penalty order may be commenced against a person for a contravention that has not been expiated in accordance with the Subdivision.

86H—Withdrawal of civil expiation notices

This proposed section authorises the Commissioner to withdraw a civil expiation notice with respect to all or any of the alleged civil penalty contraventions to which the notice relates if—

- the Commissioner is of the opinion that the person to whom the notice was given did not commit the contravention or contraventions or that the notice should not have been given for the contravention or contraventions; or
- the notice is defective; or
- the Commissioner decides that proceedings should be commenced for a civil penalty order against the person for the contravention or contraventions.

Subsection (2) provides that a civil expiation notice may be withdrawn despite payment of a civil expiation fee. If this occurs, the amount paid must be refunded. However, if an expiation fee has been paid for a contravention and the period of 60 days from the date of the notice has expired, the notice cannot be withdrawn for the purposes of commencing proceedings for a civil penalty order.

The fact that a person has paid a civil expiation fee in relation to a civil expiation notice that has subsequently been withdrawn is not admissible as evidence against a person in proceedings for a civil penalty order for a civil penalty contravention to which the notice related.

The Commissioner is required under subsection (5) to withdraw a civil expiation notice if it becomes apparent that the person to whom the notice was given did not receive the notice until after the period for payment of the expiation fee, or has never received it, as a result of error on the part of the Commissioner or failure of the postal system. However, a civil expiation notice cannot be withdrawn if the expiation fee has been paid or proceedings have been commenced for a civil penalty order against the person to whom the notice was given.

There is a requirement for a notice of withdrawal to specify the reason for the withdrawal. The notice must also include any information required by the regulations.

If a civil expiation notice has been withdrawn by the Commissioner and the notice of withdrawal does not specify that the notice is withdrawn for the purposes of commencing proceedings for a civil penalty order against the person, proceedings can be commenced for a civil penalty order only if the person has been given a fresh civil expiation notice and allowed the opportunity to expiate the contravention.

86I—Service of civil expiation notice or withdrawal notice

Proposed section 86I sets out the requirements for service of a civil expiation notice or a withdrawal notice.

29—Redesignation of section 86A—Application of Division

This clause redesignates section 86A as section 86J.

30—Redesignation and amendment of sections 91A and 91B

Under section 91A, which is to be redesignated by this clause as section 48, the Minister or the Commissioner may issue public warning statements. This clause amends the section so that a public warning statement can be issued about conduct that the Commissioner has reasonable grounds to suspect may constitute a civil penalty contravention for the purposes of Division 3A that has resulted in or is likely to result in one or more persons suffering detriment.

A consequential amendment is also made to section 91B, which is to be redesignated as section 49.

31—Redesignation of sections 93, 93A and 94

This clause redesignates sections 93, 93A and 94 as sections 78D, 78E and 78F respectively.

32—Insertion of section 96A

This clause proposes the insertion of two new sections.

96A—Confidentiality

Proposed section 96A prohibits a person from divulging or communicating personal information, information relating to trade secrets or business processes or financial information acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of the *Fair Trading Act 1987* or a related Act. The section includes exceptions to this prohibition, allowing information to be disclosed—

- with the consent of the person to whom the information relates; or
- as authorised by the Commissioner for Consumer Affairs or the Small Business Commissioner or the person's employer; or
- in connection with the administration of the *Fair Trading Act 1987* or a related Act; or
- to a police officer or a member of the police force of another State, a Territory of the Commonwealth or the Commonwealth; or
- to a person concerned in the administration of another law of the State, or a law of another State, a Territory of the Commonwealth or the Commonwealth, relating to trade or commercial practices or the protection of consumers; or
- for the purposes of legal proceedings.

The maximum penalty is a fine of $20,000.

96B—Delegation by Minister responsible for administration of Small Business Commissioner Act

Proposed section 96B authorises the Minister responsible for the administration of the *Small Business Commissioner Act 2011* to delegate a function or power under the *Fair Trading Act 1987* (except a prescribed function or power).

33—Amendment of section 97—Regulations

This clause amends section 97 to enable regulations to be made fixing fees in respect of any matter under the Act and providing for their payment, recovery or waiver.

A provision of the section that authorises the prescription of codes of practice is to be deleted by this clause because proposed Part 3A will allow for the prescription of industry codes.

Currently, section 97 allows the regulations to fix expiation fees up to a maximum of $1,200 for alleged offences against the Act or the regulations. As amended, the maximum expiation fee for an offence against the Act will continue to be $1,200 but the maximum expiation fee for offences against the regulations will be $210. This does not affect the power under section 28F for the regulations to fix expiation fees.

A new subsection inserted by this clause will provide that if a document formulated or published by any body or authority as in force at a particular time or from time to time is incorporated, adopted, applied or referred to in the regulations—

- a copy of the document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
- evidence of the contents of the document may be given in any legal proceedings by production of a document apparently certified by the Minister or the Minister responsible for the administration of the *Small Business Commissioner Act 2011* to be a true copy of the document.

Part 3—Amendment of *Retail and Commercial Leases Act 1995*

34—Amendment of section 3—Interpretation

This amendment to the *Retail and Commercial Leases Act 1995* has the effect of making the Small Business Commissioner responsible for the administration of the Act.

35—Repeal of section 8

This clause repeals section 8, which relates to Ministerial control and direction. The section is not required because section 6 of the *Small Business Commissioner Act 2011* deals with direction of the Commissioner by the Minister.

36—Amendment of section 78—Annual reports

This amendment is consequential.

Part 4—Transitional provisions

37—Provisions relating to *Fair Trading Act 1987*

The transitional provisions provide that—

- a person holding office as an authorised officer under section 7 of the *Fair Trading Act 1987* will continue to hold office as an authorised officer as if the person had been appointed by the Minister responsible for the administration of that Act under section 76 of that Act as amended; and

- a code of practice prescribed by the regulations under the *Fair Trading Act 1987* will be taken to have been prescribed as an industry code under Part 3A of that Act as amended by this Act and the Commissioner for Consumer Affairs will be taken to have been declared to be responsible for the administration of the code.

Debate adjourned on motion of Hon. S.G. Wade.

At 21:56 the council adjourned until Thursday 15 September 2011 at 14:15.