LEGISLATIVE COUNCIL

Wednesday 29 February 2012

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answer to a question be distributed and printed in *Hansard*.

CONSULTANTS AND CONTRACTORS

308 The Hon. R.I. LUCAS (7 July 2011) (First Session). For the year 2010-11—

1. Were any persons employed or otherwise engaged as a consultant or contractor, in any Department or agency reporting to the Minister for Environment and Conservation, who had previously received a separation package from the State Government; and

2. If so—

(a) What number of persons were employed;

(b) What number were engaged as a consultant; and

(c) What number were engaged as a contractor?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Sustainability, Environment and Conservation has been advised:

1. The Department of Environment and Natural Resources, Environment Protection Authority, Zero Waste SA and SA Water did not engage any person as a consultant or contractor, for the year 2010-11, who had previously received a separation package from the State Government.

2. The Department for Water engaged two persons as contractors, for the year 2010-11, who had previously received a separation package from the State Government.

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:20): I bring up the second report of the committee.

Report received.

The Hon. G.A. KANDELAARS (14:20): I bring up the third report of the committee.

Report received and read.

PAPERS

The following papers were laid on the table:

By the President—

Report of the Auditor-General, February 2012
Report on the Adelaide Oval Redevelopment pursuant to section 9 of the Adelaide Oval Redevelopment and Management Act 2011 for the designated period 1 July 2011 to 31 December 2011

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

Public and Environmental Health Council—Report, 2010-11
Report on the State of Public and Environmental Health in South Australia, pursuant to the Public and Environmental Health Act 1987

TRADING HOURS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:21): I table a copy of a ministerial statement relating to shop trading hours made earlier today in another place by the Premier, the Hon. Jay Weatherill.

QUESTION TIME

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): My question is to the Minister for Tourism. Does the minister have confidence in the Chief Executive of the South Australian Tourism Commission, the board and its chair?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:23): I thank the honourable member for his question. In relation to the Chief Executive, I have already answered that comprehensively yesterday so I do not intend to waste the time of this chamber again today; and in relation to the board, yes.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): A yes or no answer: do you have confidence in the chief executive of the South Australian Tourism Commission?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:24): I answered that question comprehensively and in glowing terms in respect of the Chief Executive yesterday. It is on the record and I am not going to waste the time of this chamber repeating answers when the opposition leader cannot come into this chamber with an original question each day.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking the Minister for Tourism a question about legal costs.

Leave granted.

The Hon. D.W. RIDGWAY: The opposition has information that the South Australian Tourism Commission and, therefore, the taxpayers of South Australia, are liable for legal costs in the order of $290,000 associated with the ill-fated move of the visitor information centre from the ground floor King William Street location to a Grenfell Street basement. My question is: can the minister assure the taxpayers of South Australia that their liability will be no more than this?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:25): Again, I find it absolutely disgraceful that the opposition comes into this place and continues to negatively bag and damage a very important brand of this state. I do not have the details of legal fees incurred by the SATC, which is an independent statutory authority. It manages itself independently of government. It seeks to obtain advice or consultation with various stakeholders and makes its decisions independently of government.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I have a supplementary question. How often does the minister receive briefings from the Chief Executive or other officers of the Tourism Commission?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:26): Regularly.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:26): I have a supplementary question arising out of the original answer. Given the claim in relation to legal costs was made at approximately 8.30 this morning, is the minister indicating to this chamber that no member of her office sought clarification of that issue from the Tourism Commission this morning?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:26): The information that we acted on this morning was in relation to some comments on radio from Michael Pengilly, stating that the SATC were paying for legal advice during a government investigation. We sought clarification of that. Members will recall that I have

already placed on record in this place the fact that the Crown Solicitor's Office provided legal advice to me in relation to the South Australian Travel Centre for the granting of a licence.

As Crown was advising me as minister at the time it would be completely inappropriate for Crown to also provide advice to the SATC. I am advised that it was at the request of the SATC board that the Crown Solicitor then granted approval under the Treasurer's Instruction 10 for the SATC board to obtain independent legal advice throughout this process. That was in relation to the investigation of Crown into conflict matters and suchlike, which I have already reported on in this place. They were the matters that we sought to clarify this morning after statements made by Michael Pengilly MP on radio.

We were advised that the terms of that approval included the hourly rate that may be charged, and it was consistent with the relevant rate published by the Crown Solicitor's Office which it is on its website. I am advised that this was a decision that was made by the board and it was considered to be appropriate, given that Crown was investigating the government's request—in fact, it was the former minister—and it would be, as I said, most inappropriate for SATC to be receiving advice from Crown as well as being investigated by Crown. I understand that there have been fees paid to date in relation to that investigation, and some further invoices are still pending.

The Hon. R.I. Lucas: Is that $290,000?

The Hon. G.E. GAGO: No, I cannot confirm that at all. In fact, the advice I have is that the associated legal fees paid to date are approximately $145,000.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:29): I have a supplementary question arising out of the answer. What advice has been provided to the minister as to which legal firm or which legal adviser has been appointed by the South Australian Tourism Commission, and is there a cap or limit? Given that the minister has advised $145,000, is there a cap or limit on the total legal costs?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:29): Who the South Australian Tourism Commission hires or seeks to obtain advice from, the consultants that it uses and the way it operates commercially are decisions that are completely independent of government. They are an independent statutory authority that operates in a commercial way.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: As I have indicated, the terms of that approval, including the hourly rate that may be charged, were, in fact, consistent with the Crown Solicitor's advice.

An honourable member: Who's been appointed?

The Hon. G.E. GAGO: I don't know who was appointed. It would be a reputable legal firm. My understanding is, as I reported in this place before, that the Crown investigation has been completed so, in respect of that matter, my understanding is there would not be any further legal advice required. So, in respect of that matter that I have spoken of in this place, my understanding is that has been completed, but I am happy to check that and, if need be, bring back any further matters that might be relevant to that.

CAVAN TRAINING CENTRE

The Hon. S.G. WADE (14:31): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion a question about the Cavan escape.

Leave granted.

The Hon. S.G. WADE: Yesterday, the Hon. Michelle Lensink asked the minister to provide details of the nature of the offences committed by the eight escapees and, in particular, the individual who is still at large. In refusing to provide any information, the minister claimed that under the Young Offenders Act he should not be talking about the young people involved, nor about the offences they committed and for which they were tried. I ask the minister:

1. Can the minister identify which particular section of the act prevents identification of a young person in these circumstances?

2. If the minister considers that such a ban is in place, what action is the minister taking to investigate possible breaches of the act by *The Advertiser* which, in the last two days, has published the names of five offenders and described in detail what they were wearing?

3. If the minister considers that such a ban is in place, what action is the minister taking to investigate possible breaches of the act by SA Police who, over the last three days, have published the names and photographs of three of the offenders on their website, including details of alleged offences committed while they were at large?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:32): In response to the honourable member's questions, I can advise that it is my belief that section 63C, I think it is, of the Young Offenders Act pertains in this regard.

In response to his other questions, I am not aware that *The Advertiser*, or anyone else, has committed any direct breach of that provision. It is my understanding, and I might be corrected, that *The Advertiser* has spoken in generalities and has not identified individuals, and any—

Members interjecting:

The Hon. I.K. HUNTER: It hasn't identified any individuals, Mr President, or identified—

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Thank you, sir—any court proceedings that might relate to those individuals. As I understand it, it hasn't identified individuals by name. SA Police has names and photographs on its website but I do not believe any of those instances actually identify any of the issues that would go to section 63C.

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

CAVAN TRAINING CENTRE

The Hon. S.G. WADE (14:33): Section 63C of the Young Offenders Act—

The PRESIDENT: Without explanation, you must ask your question. I reminded honourable members yesterday to look at standing orders 108 and 109. No explanation: just ask the question.

The Hon. S.G. WADE: Considering that section 63C refers to factors that might identify the person, including the name, why would section 63 not apply?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:34): I invite the honourable member to read section 63C in its entirety.

BAROSSA VALLEY

The Hon. G.A. KANDELAARS (14:34): I seek leave to make a brief explanation before asking the Minister for Regional Development and Minister for Tourism a question about the recent assistance to a wine and food tourism venture.

Leave granted.

The Hon. G.A. KANDELAARS: Our regional areas have many attractions, and in the Barossa wineries are a generator of economic activity as they attract people who spend time and money in the area through the likes of cellar door visits and sales. Can the minister advise how the state government has recently assisted the creation of one of these attractions?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:35): I thank the honourable member for his important question. As I have said previously, I consider that the portfolios I hold have a great potential for synergy as agriculture, food and fisheries are economic drivers for regions and, similarly, tourism is a great source of income for regions. So I am very pleased to be able to announce that I have recently approved a grant from the Regional Development Infrastructure Fund, which crosses over several of my portfolio interests.

As members will know, our great Australian wine shines even brighter when matched with fabulous food consumed in beautiful surroundings, such as those found in our iconic Barossa

Valley. I am very pleased to tell the chamber that I have approved a grant of $25,000 from this fund to Hentley Farm Pty Ltd to help connect electricity supply to its new barn restaurant and function facility at Seppeltsfield.

Hentley Farm includes a picturesque winery with cellar door and restaurant on the banks of Greenock Creek among the beautiful vista of rolling hills. Visitors are able to buy its wines on site, and the popular cellar door facility is operated from a restored 1840s homestead. The electricity upgrade is part of a broader project for Hentley Farm—

An honourable member interjecting:

The Hon. G.E. GAGO: I have spent more time in the Barossa Valley than you have—which is converting an adjacent barn into a restaurant and function—

The Hon. J.S.L. Dawkins: I doubt it.

The Hon. G.E. GAGO: I would most certainly bet my bottom dollar on it any time.

Members interjecting:

The PRESIDENT: Order! We won't have a debate on this, thank you.

The Hon. G.E. GAGO: The electricity upgrade is part of a broader project for Hentley Farm, which is converting the adjacent barn into a restaurant and function centre to attract more customers and visitors.

The Barossa is an important destination for visitors, whether they are international or from interstate or are South Australians getting out and about to explore their own backyard, and I am advised that it is one of the regions known internationally.

The development of the barn into a high-end restaurant meets a tourism need identified in the recent Barossa Gap Audit. The audit identified a need for more medium to high-end dining experiences, focusing strongly on local food and wine matches, and I expect that this new development will play a key role in filling this gap.

While the name Hentley Farm may be known to some, I understand that the main outlets for its wines are direct sales through a very attractive cellar door. The organisation has already undertaken an extensive upgrade to the cellar door in the old homestead and its surrounds to help enhance the image of the business and grow sales of premium wine by directly marketing to customers.

Combined with the existing cellar door and winery tour, the new restaurant will make Hentley Farm winery the complete food and wine destination. The barn conversion is taking place in two phases. The first phase entailed repair to the barn building at a cost of $250,000 and has already been completed. The second phase involves the barn fit-out, electricity infrastructure upgrade and landscaping. The total cost of this phase is estimated to be $505,000. The RDIF grant will form part of this fit-out stage.

Recognising the significant tourism benefits of this development, the South Australian Tourism Commission has already supported the Hentley Farm project by a grant of $50,000 from its tourism development fund. This funding is provided for landscaping and construction of a footbridge over the nearby creek so that visitors to functions such as weddings can make the most of this very scenic spot. The project, which is expected to be completed by mid-2012, will use local contractors both to construct and maintain the facility.

I am advised that the owners are aiming squarely at the premium or high end of the wine and food market and have retained the services of well-known executive chef Lachlan Colwill, formerly of The Manse, and that it is expected it will lead to the creation of five full-time employee positions. The Regional Development Infrastructure Fund is a longstanding fund which helps to assist regional communities to overcome the high cost of infrastructure and promote economic development in regional areas.

SEX INDUSTRY REFORM

The Hon. R.L. BROKENSHIRE (14:40): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question regarding the Fair Work Act Review.

Leave granted.

The Hon. R.L. BROKENSHIRE: The Fair Work Act Review panel of the federal Department of Education, Employment and Workplace Relations closed supplemental submissions into the review on 17 February 2012 and we now await the report of their review. I note that the South Australian government made a submission to that review, dated February 2012. On page 7 of its submission, the government of South Australia made submissions on the definition of 'national system employer' and 'national system employee'. That submission states:

> The issue of non-traditional employment arrangements is also relevant in the sex work industry. The definition of 'national system employee' could be clarified to ensure that employed sex workers can access their industrial entitlements under the FW Act. South Australia is currently proposing the legalisation of sex work, and within this context notes that the provision of industrial protections for these workers would need to be provided in the national workplace relations system and therefore under the FW Act.

I support the Minister for the Status of Women's work on stamping out violence against women and her answer to questions yesterday. I point out to this minister that field research took place in nine countries, five of which were countries where prostitution was either legal or regulated, surveying 854 prostituted women. The study concluded that 60 per cent to 75 per cent of women in prostitution were raped, 70 per cent to 95 per cent were physically assaulted and 89 per cent told the researchers that they wanted to leave prostitution.

An article in the *Michigan Journal of Gender & Law* states that it is not possible to protect the health of someone whose job means that they will get raped on average once a week. My questions to the minister are:

1. I was not aware that the South Australian government is currently proposing the legalisation of sex work. Is the legalisation of sex work South Australian parliamentary Labor policy or not?

2. If not, will the minister contact DEEWR to inform them that the submission contained an error and clarify that South Australia is not currently proposing legalisation of sex work?

3. Is the minister advising this house in his responses that there has possibly been public misrepresentation of the state government policy?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:43): The South Australian government made a submission to the post-implementation review of the Fair Work Act 2009. The submission covered many important aspects of the Fair Work Act relating to minimum employment standards, rights and responsibilities, collective bargaining and flexible working arrangements.

The government proposed that all workers should have access to minimum employment standards, a minimum wage and general protection in the workplace. Within this context, the submission considers the issue of non-traditional employment relationships including outworkers, contractors and subcontractors. Notably, the submission made recommendations about providing protection against employers misrepresenting employment relationships as contracting arrangements to avoid being responsible for appropriate employee entitlements. This is commonly known as sham contracting.

The submission also noted that the issue of non-traditional employment arrangements is relevant for the sex work industry and suggested that the definition of 'national system employee' could be clarified to ensure all legal workers across Australia can access industrial entitlements. In South Australia, institutions that provide opportunities for commercial sex are prohibited under the Summary Offences Act 1953 and the Criminal Law Consolidation Act 1935.

Although regulations regarding sex work vary across jurisdictions, various types of sex work are currently legal in certain circumstances in other states and territories in Australia. This is the broader context within which the South Australian government made its submission.

Members interjecting:

The PRESIDENT: Order! The honourable minister.

The Hon. R.P. WORTLEY: Thank you, Mr President. It is true that a South Australian member of parliament, the Hon. Stephanie Key, MP, has proposed a private member's bill to regulate and decriminalise the four main types of sex work in South Australia: brothel based, home based, escort style call-out, and street work. Ms Key has sent the Sex Work Industry Bill 2011 to stakeholders for consultation.

The Hon. Robert Brokenshire, MLC, has proposed a bill that would make sex work illegal. The South Australian government's submission for review of the Fair Work Act provided comment within the national context and not within the context of the South Australian bills. The submission did not in any way forecast the success or otherwise of the South Australian private member's bill.

SEX INDUSTRY REFORM

The Hon. R.L. BROKENSHIRE (14:46): By way of supplementary question, given the answer and the acknowledgment that this submission is on behalf of the government, can the minister tell us whether the government now is taking away the right of a conscience vote on the issue of criminalisation or decriminalisation of prostitution?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:46): The issue of conscience vote in the Labor Party will be determined by the Premier, and that decision will be relayed to caucus. I am sure there will be a lot of discussion around that issue. Whether it is a conscience vote within the Labor Party is business for the Labor Party and the Labor Party alone.

TRADING HOURS

The Hon. CARMEL ZOLLO (14:47): My question is to the Minister for Industrial Relations. Can the minister advise the chamber of the benefits of the government's recent decision to allow additional trading in the CBD over the New Year period and on Australia Day?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:47): I thank the honourable member for her very important question. As members are aware, the government recently provided exemptions to retailers in the central business district of Adelaide for additional trading on the New Year's Day public holiday.

The Hon. T.J. Stephens interjecting:

The Hon. R.P. WORTLEY: Do you want the answer or not?

The Hon. T.J. Stephens: No, not really.

The Hon. R.P. WORTLEY: Well, that's it. Mr President, you've got to be consistent with this. If they're going to interrupt—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Mrs Zollo might like the answer.

The Hon. R.P. WORTLEY: Consistency is the important thing.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens will be quiet.

The Hon. T.J. Stephens: Just stop enjoying myself; I know.

The Hon. R.P. WORTLEY: Your party room had you measured up when they put you back there on the backbench, mate. So laugh all you want, mate: you're the one who's being laughed at, not me. You are the one who's a joke.

The PRESIDENT: The honourable minister should—

Members interjecting:

The Hon. R.P. WORTLEY: They had your measure, loud and clear, hey?

The PRESIDENT: The honourable minister should get on with the answer.

The Hon. T.J. Stephens interjecting:

The Hon. R.P. WORTLEY: They had your measure. I actually advised you that you were going to be dumped well before it happened—

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: —because Ian McLachlan had your measure as well. He made the phone call and you were dumped, and silly little you didn't realise it.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! All right—you've had your fun. The honourable minister. Moving along.

The Hon. R.P. WORTLEY: This decision was about revitalising the city centre on public holidays for not only South Australians but for regional, interstate and overseas tourists. This decision was a very successful one, with about 70,000 visitors to Rundle Mall on Australia Day alone, generating approximately $8 million in sales for city retailers.

The vibrancy of Adelaide's city centre over the New Year period and on Australia Day, in addition to Proclamation Day, offered a glimpse of the potential success of the government's plan to rejuvenate the Adelaide CBD through extending shopping hours on most public holidays. The decision to allow additional trading for retailers in the central business district of Adelaide on most public holidays was in addition to changes made by the government to streamline the application process for exemptions under the Shop Trading Hours Act for that period.

In previous years, retailers applying for exemptions to trade additional hours over the Christmas and New Year period were required to await responses from various stakeholders, and it is very rare for these groups to lodge objections to the additional trading hours requested. In order to expedite the exemption process and to streamline the current administrative requirements without impacting on the intent of the act, retailers applying for an exemption over the recent Christmas and New Year period were not required to await a response from the relevant local councils, the South Australia Police and the transport operator.

Instead of awaiting a response from these organisations, retailers simply needed to notify the relevant organisations of the extra trading hours being sought. These changes helped make the process less time-consuming, costly and cumbersome for all involved parties and it was a positive step by the government to cut red tape and streamline the application processes for exemptions under the Shop Trading Hours Act.

These changes, in addition to opening the CBD on the New Year's Day public holiday and Australia Day, ensured that South Australian shoppers and visiting tourists were able to enjoy Rundle Mall in its full vibrancy, while the significant flow-on effect enjoyed by surrounding restaurants, eateries and other establishments provided a much-needed boost for the state.

DRUG PARAPHERNALIA

The Hon. A. BRESSINGTON (14:51): I seek leave to make a brief explanation before asking the minister representing the Attorney-General questions on drug-using paraphernalia.

Leave granted.

The Hon. A. BRESSINGTON: As honourable members may recall, in February 2011 I asked questions of the Attorney-General about the operation of section 9B in the Summary Offences Act 1953, introduced by my Summary Offences (Drug Paraphernalia) Amendment Bill 2007.

Specifically, I sought from the Attorney-General an assurance that he would review the judicial interpretation of the law, which I believe was undermined by the judgement in Police v Mr Koutsoumidis, the owner of Off Ya Tree in Hindley Street. The effect of this decision has allowed paraphernalia that is clearly intended for consuming illicit drugs—such as smokeless pipes and their variation, known as 'bud bombs'—to be legally sold in spite of the bill passed by this parliament.

Another question I asked of the Attorney-General was whether he had seen the pipes and so-called water pourers that had been held not to be within the scope of section 9B and hence remain on sale at Off Ya Tree. Having received no response to my question, I was surprised to read in a media article the comments on this issue made by the Attorney-General, and I quote:

> I am concerned to ensure that the legislation works as effectively as possible to prevent the sale of drug implements...I am interested in discussing this issue with Ms Bressington and the police and taking advice from the Crown Solicitor to see if the law needs to be tightened.

While this stood in stark contrast to an earlier statement he made, I nonetheless welcomed the news that the Attorney-General was now taking this issue seriously, and I scheduled a meeting with him late last week.

At this meeting I provided the Attorney-General with the drug-using paraphernalia that had either been provided to me by concerned parents or that my office had purchased. This paraphernalia included a smokeless cannabis pipe, a glass open bowl pipe and a bong masquerading as a water pourer. When I placed the water pourer on his table, his comment was, 'Well, I know what this is'.

Having sighted the items, it was clear to the Attorney-General that parliament's intention had been undermined by the Koutsoumidis judgement if these items were legally for sale. In fact, he seemed quite concerned that these items were actually still being sold. So, for the sake of the record and progressing this parliament's response, my questions for the Attorney-General are:

1. Having been provided with pipes and a bong that are still legally for sale, does the Attorney-General now agree with me that parliament's intention when passing the Summary Offences (Drug Paraphernalia) Amendment Bill 2007 has been undermined?

2. If so, will the Attorney-General take action to close the loophole that was created by the Police v Koutsoumidis case and, if so, when will this occur?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:54): I thank the honourable member for her important questions, and I will refer them to the Attorney-General in another place and bring back a response.

TRADING HOURS

The Hon. R.I. LUCAS (14:54): I seek leave to make a brief explanation before directing a question to the Minister for Industrial Relations on the subject of trading hours.

Leave granted.

The Hon. R.I. LUCAS: Interestingly, in the last 48 hours it has not been the minister prosecuting the public case for the change in legislation—even though the minister in this chamber is supposedly the minister responsible for the changes—it has been the Premier. In a vigorous debate on a number of radio stations, in particular, radio station FIVEaa yesterday, the Premier was challenged by Mr Paul Carberry, representing the Aged Care Association, in relation to the impact of the proposed legislative package on aged-care homes in South Australia in particular.

Mr Carberry indicated that the cost for aged-care homes in South Australia of the government's changes would be an extra $475,000 per year, and he asked the simple question of the Premier (who, as I have said, has taken over the running of the legislation from the minister) in relation to how their industry could afford that and what did the government propose to do about it. I think any fair analysis or examination of the Premier's response would be that he refused to provide an answer to Mr Carberry in relation to his question on the Aged Care Association.

Given that the minister has been clearly sidelined in terms of the public debate on this, I ask him the question: does the government intend to provide any assistance to aged-care homes in South Australia as a result of the increased costs from the government's proposed package and, if not, does the minister accept that the costs for residents within those homes will have to be increased as a result of the government's proposed package?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:56): With regard to the Premier taking the lead on this whole issue, it is only fitting that, because this policy direction is central to our strategic plan with regard to making this city a vibrant city, on such a major historical reform the Premier should take the lead. I personally do not have any hassles about that. I have spoken to the Premier about that, and we agreed that that was the appropriate course of action. I will say once again that this policy is integral to the vision for the City of Adelaide and it is very relevant and probably very appropriate that the Premier lead it.

With regard to aged-care homes, there is a review at the moment federally regarding their funding. I have no doubt that all aspects of funding arrangements will be taken into consideration. As we all know, they are funded federally, and there is currently a review underway. I have spoken to the representative from aged-care homes, and our position is that any cost increase will have to be taken into consideration with regard to the review.

I will say that, with any major historical policy implementation, there is always a cost somewhere. The governments will have a $5 million cost, and I have no doubt that there will be a cost in a number of places, but we believe the cost will be minimal and it will be taken into account when the federal review has taken place.

TRADING HOURS

The Hon. R.I. LUCAS (14:58): I have a supplementary arising from the minister's attempted answer. Is the minister indicating that, under this federal review, a cost increase imposed by the state government will be reimbursed by the federal government differentially in South Australia compared with other states and territories?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:59): No, I am not saying that. What I am saying is that the review is a national review. In relation to the specific situation arising in South Australia, I am not part of that review. What I do know, though, is that this review is taken around the country and a funding arrangement is made. So, aspects of all the costs, I imagine, will be put into the mix. As I have said, I believe that there will be adequate funding arrangements in the federal arena to accommodate those costs.

TRADING HOURS

The Hon. R.I. LUCAS (14:59): I have a further supplementary question arising out of the minister's answer. If there is not an adequate federal response in terms of increased funding for aged-care homes, will the state government then look at supporting the aged-care industry in South Australia, or does it accept that fees will have to be increased?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:59): It will not be up to me as to whether the state government subsidises the aged-care industry. I think it is important to understand that, when a review takes place, they look at all the cost aspects of providing aged care and then they make a funding arrangement. It is only hypothetical to say it won't happen, so for me to give any commitment now would be too early.

COMMUNITY BENEFIT SA

The Hon. J.M. GAZZOLA (15:00): My question is to the Minister for Communities and Social Inclusion. Will you inform us how the charitable and social welfare fund Community Benefit SA is helping to strengthen the community?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:00): I would like to thank the honourable member for his very important question and for his close association with the answer I am about to give about how the community benefit fund benefits local communities in particular, but also an organisation that is very close to his heart, that being Foodbank.

Community Benefit SA provides one-off funding to incorporated non-government, non-profit charitable social welfare organisations to assist disadvantaged individuals, families and communities. The Hon. Mr Gazzola is a very charitable person, as you well know, and he is very interested in that sector of our community. CBSA responds to the emerging needs in the community as well as the priorities of the government. It is not surprising that the fund aligns with the seven targets of the South Australian Strategic Plan: psychological wellbeing, volunteering, Aboriginal leadership, multiculturalism, early childhood development, economic disadvantage and housing people with disabilities.

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: The Hon. Terry Stephens notes the incredible amount of class that I bring to this chamber, and I thank him for that comment. The core objectives of the fund are community strengthening, community engagement, sustainability, social enterprise, partnerships with key stakeholders and social innovation. Community Benefit SA consults with relevant government funding and policy bodies to ensure that projects are funded to complement other programs that are underway.

Both the CBSA board and staff members conduct visits to see firsthand some of the projects funded, and this provides an insight into the needs of the community and how organisations are responding to those needs. Community Benefit SA continues to improve its

service delivery by streamlining procedures and processes, and conducts workshops in metropolitan and rural areas to assist organisations to develop skills in writing applications for funding.

Recently I had the opportunity to visit Foodbank in Berri. Community Benefit SA has contributed $40,000 to this project to establish a regional Foodbank service based in the Riverland and Lower Mallee regions by part funding the purchase of a three-pallet capacity refrigerated delivery van to deliver 80,000 kilograms (equivalent to 200,000 meals) of emergency food relief to 30 regional welfare groups.

I was very pleased to see the progress of the facility, which is due for completion in March, as this will strengthen the capacity of the region to assist struggling families in need of support. Foodbank's General Manager Leigh Royans told me the initiative will service the needs of the welfare groups operating in the region and beyond to help individuals and families in crisis. Projects like the Foodbank facility are a great example of how Community Benefit SA is strengthening communities in South Australia.

DISABILITY SERVICES

The Hon. T.A. FRANKS (15:03): I seek leave to make a brief explanation before addressing a question on the disability act to be drafted to the Minister for Disabilities.

Leave granted.

The Hon. T.A. FRANKS: Among other reforms to the disability portfolio, as members are well aware the Weatherill government has indicated that we will soon debate legislation to replace the Disability Services Act 1993. Given that the report of the Office of the Public Advocate tabled this week, the Social Inclusion Unit's *Strong Voices* blueprint document and no less an institution than the United Nations have all recommended that in public policy we must move away from what the Public Advocate termed a 'welfare-based approach' to a 'rights-based approach', my question is very simple. Will the minister now commit publicly to the fundamental principle of a human rights framework to underpin the new disability act? Specifically, will this legislation be based on the United Nations Convention on the Rights of Persons with Disabilities?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:04): I thank the honourable member for her very important question. There has been significant change—and the chamber knows this—in the thinking, context and delivery of disability services in this state in the last 18 years since the South Australian legislation was first enacted. The Social Inclusion Board's disability blueprint *Strong Voices* was released on 19 October 2011. It recommended that a new disability act replace the existing Disability Services Act 1993. On 19 December 2011 Premier Weatherill announced that the government would be drafting a new disability act.

Updating legislation in the context of both the United Nations Convention and the Social Inclusion's disability blueprint will significantly affect the structure and the function of the new act. However, I certainly give the position of myself as minister that when we come to drafting the new act we will be consulting with the community and particularly those affected, people living with disabilities, very widely on the new act.

DISABILITY SERVICES

The Hon. K.L. VINCENT (15:05): I have a supplementary question. Will the minister stand by the position of his predecessor that mandatory reporting will not form a part of this act?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:05): I thank the honourable member for her important supplementary question. I have stated this position previously in this place: I have advice from my advisory council which goes to the issue of mandatory reporting and the advice to me has been that it is not the best way forward. However, I have said publicly that I will consider mandatory reporting and any other mechanisms that can be presented to me when we are talking about safeguarding people with disabilities. That will be part of the consultation process that we undertake when we come to draft the new act.

DISABILITY SERVICES

The Hon. T.A. FRANKS (15:06): I have a supplementary question. Given the Social Inclusion Unit's number one recommendation was a human rights framework, as I have outlined, what further information and consultation need to be undertaken?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:06): We have often been attacked for coming into this place and announcing new legislation without proper consultation. That process will not happen in relation to this act. I commit here and now that we will be consulting very broadly on the new act and how it will operate.

GRAIN INDUSTRY FUND

The Hon. J.S.L. DAWKINS (15:07): My question is directed to the Minister for Agriculture, Food and Fisheries. Given that yesterday the minister tabled regulations under the Primary Industry Funding Schemes Act 1988—Grain Industry Fund—General, will she detail how this fund will operate while the levy implemented under the Wheat Marketing Act 1989 is still in operation?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:07): I thank the honourable member for his most important question. Indeed, I have to say there has been a most unfortunate set of circumstances that has forced government intervention in this matter where, in fact, I believe we should not be. In fact, I believe that the industry itself should be in a position to take full control of its own advocacy, promotion and management of the industry levy. In an ideal world it should be able to do that quite independently of government.

However, it is most unfortunate that that was not the case and there are irreconcilable differences between the different arms within the sector that have required the government to intervene. I just want to put on the record up-front that it is with a great deal of reluctance that I believe I have been forced to intervene in this matter. I have been forced to intervene in terms of addressing the overall interests of the industry, and I think that is most unfortunate.

Nevertheless, that is the way it is and, as I said, it is most important that the industry is not damaged and that we do not lose the confidence of grain growers, given that the levy is, in effect, voluntary and they contribute to that to serve the greater interests of the industry. If growers were to pull out of that and redeem their levies it would really bring about a significant adverse effect to the industry.

At the moment the Wheat Marketing Act authorises the minister to collect payments from the proceeds of grain sales for the purposes of two funds. They are the grains section of the South Australian Farmers Federation (known as the grains industry committee) and, secondly, the grains research through the South Australian Grain Industry Trust.

The SAFF board suspended its grains industry committee at a meeting in July and the two parties were not able to agree on a range of issues, including the appropriation of funds through the SAFF Grains Industry Fund authorised under the act, and I am advised that at no stage has there been any suggestion of inappropriate use of funds or any impropriety. It was rather the organisational elements that there were disagreements over.

The SAFF board announced the suspension of the grains industry committee, and I am advised that there was a public meeting of grain growers in 2011 in Adelaide, attended by 60 of 5,000 grain growers, and they resolved to progress a proposal to establish a new representative group. A steering committee was established, and South Australian grain growers were offered an opportunity to vote on the GPSA proposal in September which, in fact, received overwhelming support.

In December, SAFF announced that it would retain its own grain industry committee, and I have now determined that it is best to establish a new funding scheme for the grains industry by transferring the head of power for the collection of a SAFF grains section fund to a PIF (primary industry fund) scheme act. The arrangements for this are currently being developed and the regulations gazetted, and it is intended that the fund is going to commence on 1 March.

It is proposed that the current grain industry fund payment, established by the act, will be set at zero at the same time as the establishment of the new fund to avoid overlapping arrangements and, like other PIFs, the new fund will be administered by the government and have

a five-year management plan guiding the expenditure of the fund, and that will outline the key outcomes to be achieved for the benefit of the industry.

Any entity, including both SAFF and GPSA, that is able to demonstrate that they represent a significant proportion of South Australian grain growers, or their interests, will be able to apply for funds, as long as the projects are in line with the fund management plan. I have said in this place before that it is not the role of government to determine which industry body should represent grain growers—or, for that matter, any other primary industry group.

The industry itself should be in a position to organise itself and its representation, and I have encouraged both organisations to work through their differences to ensure that the best outcomes are achieved for all grain growers who contribute to the fund. SAFF has recently announced a partnership with Grain Growers Limited, one of several national grain grower organisations, and a series of joint meetings has been planned throughout the state. As I have said publicly, I would seek advice on the options to best ensure that the levy funds are utilised most effectively in the interests of this very important industry.

While I am extremely disappointed that SAFF has obviously walked away from a signed in-principle agreement to work cooperatively with GPSA, which they did earlier this year, what is important is that the growers' funds be used to support the grain industry in the interests of grain growers, and I am confident that these interests will be best served by the establishment of the new PIFs to support this important industry.

GRAIN INDUSTRY FUND

The Hon. J.S.L. DAWKINS (15:14): I have a supplementary question. Is it the minister's intention to leave the wheat industry act levy rate at zero indefinitely, or will she bring in amendments to the act to remove the levy?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:14): I am still receiving advice on what future direction should be taken with the act. It would appear at this point in time that the levy element will be redundant, and possibly other sections as well. However, at this point in time I am still receiving advice on that. So for the time being it will be set at zero and at the same time a PIF scheme will be put in place.

I can assure growers that there will be no overlap; they will not be paying two separate levies. I believe we have also agreed to set the levy at the same rate it currently is. I can assure the industry that it will have a high degree of input into the management plan to ensure that the PIF allocations are in line with the industry's needs and are meeting the overall interests of the industry.

FAMILY SAFETY FRAMEWORK

The Hon. G.A. KANDELAARS (15:15): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Family Safety Framework in Alice Springs.

Leave granted.

The Hon. G.A. KANDELAARS: The minister has spoken in this place before about the importance of the Family Safety Framework. It appears that another jurisdiction has also recognised the significance of this program. Can the minister inform the chamber of recent developments regarding the Family Safety Framework?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:16): I thank the honourable member for his important question. As members are aware, the Family Safety Framework, a key initiative of our government's Women's Safety Strategy, seeks to ensure that services to families most at risk of violence are dealt with in a more structured and systematic way through agencies sharing information about high risk families and taking responsibility for supporting these families to navigate the services available and the system.

The Family Safety Framework includes family safety meetings held at a local level, focused on individual high risk cases and common risk assessment to ensure consistency in the assessment of high risk cases. Initially trialled at Holden Hill, Noarlunga and Port Augusta policing boundaries in 2007, family safety meetings are now being held in 11 regions throughout South Australia on an ongoing basis.

This strategy has been extremely successful. I recall one time in this place—I think it was by way of an interjection from the Hon. Stephen Wade—I was talking about the Family Safety Framework and I remember him scoffing and being quite dismissive of it, saying that it was just a series of meetings and what good was that.

The Hon. S.G. Wade: I would like to see the *Hansard* of that; I don't remember that.

The Hon. G.E. GAGO: I did say by way of interjection. The proof has been in the pudding with this, not only—

The Hon. S.G. WADE: Point of order, Mr President.

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

The Hon. S.G. WADE: The minister cannot malign me in a way that suggests that she cannot substantiate it. I ask the minister to either withdraw that allegation or substantiate it through *Hansard*.

The Hon. G.E. GAGO: Are you suggesting you did not scoff and be dismissive?

The PRESIDENT: Order!

The Hon. S.G. Wade: I can never recall being dismissive of an initiative to stop violence against women—never.

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

The Hon. S.G. Wade: I'm sorry. She has to be able to substantiate it. She can't make assertions.

The PRESIDENT: Order!

The Hon. G.E. GAGO: Well, you did.

The PRESIDENT: Order!

The Hon. G.E. GAGO: You absolutely did in this place, and I called you on it.

The PRESIDENT: Order! The minister should—

The Hon. J.S.L. Dawkins: She should resume her seat.

The PRESIDENT: No; she should continue with the answer, but the minister should be—

The Hon. D.W. Ridgway: Be able to substantiate the drivel that she's—

The PRESIDENT: Yes, she should be able to substantiate it. I am sure she will substantiate any accusations.

The Hon. S.G. Wade interjecting:

The Hon. G.E. GAGO: Well you never do.

The Hon. S.G. Wade: Either substantiate it or stop making scurrilous allegations.

The Hon. G.E. GAGO: Thank you, Mr President. I stand by all my comments—

The PRESIDENT: The minister should stick to the relevance of the question.

The Hon. G.E. GAGO: I will stick to that; thank you for your guidance in these matters.

The Hon. S.G. Wade interjecting:

The Hon. G.E. GAGO: You concoct rubbish all the time. Mr President, they bring misinformation and incorrect facts and figures into this place all the time. However, I will not be distracted; I will take your advice, Mr President, and will continue to talk about the Family Safety Framework, which is incredibly important. In fact, it has been so successful that the Coroner, in his finding on a very tragic death involving a domestic violence case, made a recommendation to roll out the Family Safety Framework to that particular area, which we have since been able to do. So, even the Coroner has identified how valuable the Family Safety Framework is in addressing the needs of those women who are at high risk of domestic violence.

Following the initial sites where we established the Family Safety Framework in Elizabeth, Port Augusta and Port Pirie back in 2008, in addition, we now have the new family safety meetings occurring in the metropolitan policing areas of Sturt, Adelaide Eastern, Limestone Coast, Berri and Murray Bridge. I am delighted to remind members that this now gives us a complete metropolitan coverage of the Family Safety Framework.

The Family Safety Framework commenced roll-out to the Murray Bridge policing area in December 2011. The first family safety meeting was held in Murray Bridge in late January 2012. I am also pleased to announce that the Family Safety Framework is soon to be implemented in Alice Springs. This will be the first family safety meeting established in another jurisdiction and confirms again the effectiveness of the model in responding to high-risk domestic and family violence.

I am advised that the setting up of a family safety meeting in Alice Springs is part of the Alice Springs Transformation Plan and a joint initiative of the Australian and Northern Territory governments. The South Australian Office for Women is providing support and training to the Northern Territory agencies in rolling out the Family Safety Framework in Alice Springs, and that should occur by about mid-2012.

This collaborative work with the Northern Territory also supports the National Plan to Reduce Violence against Women and their Children. The national plan sets out a key objective of improving cross-jurisdictional mechanisms to protect women and children. The work we are doing with the Northern Territory agency fosters ongoing partnerships and enables consistency in service provision across jurisdictions.

The Alice Springs-based family safety meeting will also have real benefits to residents of South Australia because many women and their families escaping family violence on the APY lands, I have been advised, travel to Alice Springs to access support and services. So, this means that their situation may well be referred to the family safety meeting in Alice Springs for a multi-agency support plan to be developed.

The Office for Women has met with agency staff from services on the APY lands, in particular the police, the Women's Domestic Violence Service and Community Corrections. Preparation work is also currently underway for the future implementation of the Family Safety Framework on the APY lands.

The Office for Women will continue to take the lead role in this important work, providing training and training materials and working with agencies to provide the best practice possible. I look forward to keeping this place updated on the developments and look forward to continuing to have the support of all members in this place in relation to this very, very important initiative.

WESSELINGH, PROF. STEVEN

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:23): I table a copy of a ministerial statement from the Hon. John Hill, Minister for Health in another place, regarding Professor Steve Wesselingh.

MATTERS OF INTEREST

SAN PELLEGRINO MARTIRE

The Hon. CARMEL ZOLLO (15:24): As a member of parliament of Italian heritage, it is my privilege to be invited to many religious feasts. The religious festa basically mirrors the tradition of similar feasts in the home towns where different migrants, mostly from Southern Italy, started their journeys many decades ago. The festa of San Pellegrino Martire, which started in 1977 at Saint Ignatius Church, Norwood, and now held every January, is one such celebration which followed its migrants from the town of Altavilla Irpina in the Avellino province of the Campania region of Italy. I know there are a significant number of Altavillesi immigrants in South Australia. In fact, I have heard from several sources that there are more Altavillesi in South Australia than there are in Altavilla itself. The vast majority of them settled in the Norwood/Kensington area, with the first recorded arrival from Altavilla into South Australia in the 1920s.

A lot of people with enormous devotion to their faith and the community they are part of work so hard to see the success of the celebration of religious faith. In the earlier days it enabled those who found themselves in a different land on the other side of the world to stay connected to not just to their faith but also socially to their fellow migrants. I understand the first president of the 'Amministrazione San Pellegrino Martire' was Enrico Grande, followed several years later by Bernadino Tirri, who is still the current president.

In the earlier days the organising committee of many Altavillesi immigrants would start planning in mid-December, preparing lights, staging, the church decorations and collecting donations from fellow Italians in the area to be able to hold the festival. The two-day event was eagerly awaited as it provided a rich program of social, cultural and religious events and well-known singers from interstate and Italy. On many occasions guest priests were brought to Adelaide from Italy to assist in the celebrations. The highlight of the feast was always the high mass celebrated on the Sunday, and the arrival of the 'battenti' into the church.

This tradition goes back to the history of the feast in Altavilla. The 'battenti' are groups of people, mainly men and younger adults, who come in running processions from all the far-reaching towns towards Altavilla, arriving into the town on the day of the feast and processing with great reverence into the church and bowing before the large statute of San Pellegrino, which still contains his bones I am told.

In Adelaide the 'battenti' tradition continues with younger adults and other devotees who leave from the Altavilla Sports and Social Club on The Parade at Beulah Park, go down The Parade and then turn into Queen Street towards St Ignatius Church. Those taking part are dressed in white, with a simple red sash across their chest as a sign of faith to the saint. On arrival the 'battenti' enter the church barefoot, and on hands and knees move in front of the waiting crowd towards a standard of San Pellegrino at the foot of the altar as a sign of respect and reverence to God and the saint. It also reminds many of that first generation of migrants of the traditions and customs from their birth place.

Mr Teo Spiniello is the Secretary of San Pellegrino Martire in South Australia. Mr Spiniello represents the younger generation prepared to step up and take over in assisting the administration to ensure the feast in Adelaide continues to be a very important date on the Italian religious cultural calendar. I understand from Teo that, over the past six years, the feast is now celebrated on a single day due to fewer people being involved, the ageing community and also the difficulty of attracting younger people to the committee. It is of course an issue in many religious and social Italian clubs.

The social aspect of the feast may have diminished over the years, but the religious aspect is still celebrated with enormous pride. The feast now consists of the 'battenti' and other devotees in a grand procession through the streets of Norwood, the mass in St Ignatius Church and then a community lunch at the Altavilla Club. I congratulate all those who work so hard to make the feast of San Pellegrino Martire such a success. The procession on The Parade and side streets of Norwood adds another dimension to the multicultural life of South Australia. I also acknowledge the presence on the day, 16 January this year, of my colleagues: the Premier's parliamentary secretary, Mrs Leesa Vlahos MP, and Mr Steven Marshall MP from the other place.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:29): There were 2,223 people aboard the Titanic when she sank 600 kilometres off the aptly named Mistaken Point; 706 people survived. That was in 1912: exactly 100 years later in 2012 a ministerial reshuffle of the Tourism Commission does not absolve Gail Gago of incompetence any more than shuffling the deck chairs on the Titanic would absolve Captain Edward Smith for running into the iceberg.

This afternoon the board of the South Australian Tourism Commission is meeting at its King William Street headquarters, just a few hundred metres from where we stand. The board and the commission have been feeling the heat, and to mix metaphors its chief executive officer, Mr Ian Darbyshire, a Labor appointment and one in which I am told Kevin Foley had some cabinet input, has been left out in the cold. Why? Because this minister is disinterested in South Australia's $4.5 billion a year tourism industry or the fate of its thousands of operators and the thousands and thousands of international and national visitors we get each year, or the tens of millions of dollars they spend. She does not care about the level of intrastate tourism. She has not once met with the Tourism Commission's board and she, like Captain Smith, will go down—the minister with the ship of state.

It cannot be said that the Hon. Gail Gago was not warned about the impending shipwreck. Time after time the opposition has cautioned the minister about looming obstacles: the Visitor and Travel Centre's ill-considered move from King William Street to a Grenfell Street basement, the money lost on a surfing carnival—not that I am criticising the carnival or the effort of everyone associated with tourism on Kangaroo Island, but the minister's lack of oversight—and, of course, the delay in Tourism's regional guides, which are now so far out-of-date that if anyone followed

their advice, they would still be standing in the wrong place on the wrong date waiting for the Tour Down Under, which will never pass.

Captain Smith had warnings, too, and chose to ignore them. His first warning reported 'bergs, growlers and field ice'. The next one said that a second ship had been 'passing icebergs and large quantities of field ice,' and there were many more, all wasted on officers of the deck. All the warnings about the tourism industry's lack of confidence in this minister have failed to divert minister Gago from her course to destruction.

The *Titanic's* final warning message was received just before midnight, but the *Titanic's* radio officer cut the signal off and tapped back, 'Shut up! Shut up!' That is what the minister has been howling at her critics. Yesterday, South Australians were insulted when she referred to questions about this fiasco as 'outrageous'. It is in *Hansard.* It is on the public record. Instead of changing course or setting new sights, she told her critics that they did not know what they were talking about and ploughed straight on at full speed.

We have seen this sort of insanity before. We saw it in the prelude to the State Bank collapse. My colleague in another place, Jennifer Cashmore, warned premier John Bannon and was told, 'Shut up! Shut up!' What happened in the State Bank collapse? A royal commission found the answer. The directors tried to blame the chief executive. That did not wash with the commissioner. He said that the board was culpable, but the commissioner did not stop there. He also assigned fault to the government, to Treasury and, ultimately, all the way to the top, to the office of the relevant minister, in this case, premier John Bannon.

The collapse of the State Tourism Commission's proper functionality also goes all the way to the top, to the Leader of the Government in this place, to the hapless, incompetent, ineffectual, inept, inexpert, useless Minister for Tourism. When asked yesterday how many months late the *Shorts* booklet would be, she said that it was none of her business, that it was an operational matter.

Can it be that the minister is unfamiliar with the concept of individual ministerial responsibility, a constitutional convention in governments using the Westminster system that a minister bears the ultimate responsibility for the actions of their ministry or department? The minister may well have to consider whether or not she should do the decent thing by this parliament, by the taxpayer, and by convention, and resign her commission.

Asked whether she still had confidence in the Chief Executive Officer of Tourism SA, Mr Ian Darbyshire, she answered that Mr Darbyshire had worked extremely hard in difficult circumstances and referred to him in glowing terms. She said:

> He works hard, he works in a very diligent way, he is incredibly passionate about his commitment to tourism and he should be acknowledged for the work that he does.

Today, less than 24 hours later, the Tourism Commission's board is watching as minister Gago rearranges the deck chairs. Before the *Titanic* went down, distress rockets were fired every few minutes. One wireless operator suggested to his colleague that he should use the new SOS signal as it 'may be your last chance to send it'. It is time the minister fired the distress rockets. It is time the Premier responded to the SOS and sent in a rescue team, because this minister is drowning in a sea of her own inadequacy.

MEN'S HEALTH

The Hon. G.A. KANDELAARS (15:34): This morning I had the pleasure of opening the Men's Health Pit-Stop Promotion at the Adelaide Produce Market at Pooraka on behalf of the Premier, Jay Weatherill. The promotion was an excellent example of how the health sector and industry sectors can work together to promote better health and well-being.

I commend the Royal Flying Doctor Service for running today's event with the tremendous support of Glaxo-Smith Klein, the Adelaide Produce Market, and the Australian Chamber of Fruit and Vegetable Industries. The event was all about giving men's health a higher profile. This is an important cause, and close to my heart.

I would like to relate a personal story in relation to this matter. Some 10 years ago, I was diagnosed with type II diabetes. This occurred as a result of my attending my local GP after having a series of headaches. I can recall the GP sending me off to get blood tests and a phone call one Sunday morning from my GP asking me to come to see her. She told me the test had indicated I was diabetic.

Diabetes left untreated can lead to many chronic health conditions, such as blindness, cardiovascular disease, neuropathy and myriad other conditions. I was lucky, because the condition was picked up early and now my condition is regularly monitored. Being aware of the diabetes allowed me to make some significant lifestyle changes to help prevent the complications from the disease.

There is a growing recognition that men and boys are more reluctant to face health problems than are wise women and girls. Men make only half as many visits to a GP for prevention compared with women. The stigma to seeking help is changing, but there is more to be done. The statistics are staggering.

On average, men live five years less than women (78 years compared with 83 years), and there are significant variations in the outcome amongst men. The Aboriginal male population of South Australia, in particular, fares poorest when compared with the rest of the male population with, sadly, many more premature deaths.

These patterns tell us, in a dramatic way, why events such as Pit Stop are a good way for men to be proactive about their health. There is more work being done to work out why men do not access health services as much as they should. Some of the reasons are simply practical; for example, many health services do not have opening hours that reflect men's working lives.

SA Health is working with GP services to improve health promotion, illness and injury prevention, screening and research related to primary health care. My interest is to encourage men with illnesses to access treatment before they reach a crisis point, rather than hide pain or concerns. It makes good sense to do so. We can support people to be as healthy as possible. It also saves our health system from more expensive care if we deal with things early rather than rely on emergency treatment.

What a once-a-year health check with a GP does is assess where the body is at. It is an opportunity for men to make sure that they are on track and, if not, they can get information and support to get back on track. By monitoring your health regularly and being aware of illnesses or risks in your family history, you will be more likely to catch any health issues early.

This morning, over 100 people took the challenge and put their bodies over the pits for their oil check, torsion, duco, chassis, extractor and fuel checks or, to put it simply to have a free health check of their blood pressure, flexibility, skin cancer, bowel cancer and alcohol intake. It was a delight to be part of the Pit Stop program this morning at the Adelaide produce market.

TRADING HOURS

The Hon. T.J. STEPHENS (15:39): I wish to briefly talk about the agreement between Business SA and the SDA regarding the new shop trading hours, which has opened up a number of public holidays to shop trading but has also created two new public holidays from 5pm to midnight on Christmas Eve and New Year's Eve. I fail to understand the logic behind this proposal, other than a need of a disproportionately powerful union to validate its existence and relevance.

The ridiculous thing is that the public holiday proposal will actually lead to less trading, because shop owners and proprietors will struggle to justify the penalty rates, especially those outside the CBD and Rundle Mall. There are no surprises that the Adelaide-centric Weatherill government has rubberstamped this proposal. After all, we know that the Labor Party in this state could not exist without the SDA. It is, for all intents and purposes, that union's political wing.

My concern in this debate is for the regional suburban traders who are generally smaller traders: independent traders who simply will not be able to afford the penalty rates on days that are not traditional public holidays. The trade-off with Business SA on this deal was that Rundle Mall will be open on traditional public holidays on which it was previously closed. That is great for those businesses but what about everyone else? Instead, businesses outside the mall will suffer twice: no public holiday trading and now they must pay penalty rates on regular days.

These are often days of celebration, particularly during the times designated for public holiday status, 5pm until midnight. However, it should be people's choice whether they work at these times or not. They are never forced and the payment of penalty rates is sheer lunacy. They are exactly that: penalty rates. They penalise the employer for providing a service during times which are frankly some of the busiest times of the year.

The one benefit of penalty rates is that they encourage more people to work during these times but it is only the big businesses that will be able to afford to open during these hours now. To

those on the other side of the chamber who say that the only opposition to this is from Coles and Woolworths and that we are in their pockets, that is absolute rubbish and they know it. It is clear from this sort of action that Labor is not a friend of small business, it never has been and it never will be.

Yesterday during question time we saw the perennial bumbling and incompetent explanations from the Minister for Industrial Relations who demonstrated that he cannot even handle his castrated portfolio; a portfolio cut up for him by the Premier like a mother cutting up pasta for her child to make it easier for him to consume. He only barely managed to get out that this proposal will cost the government an extra $5 million as he stumbled through his answer and revealed that he had no idea where the money is going to come from. It is obvious that this government will continue to spend and spend without even a thought of paying back the current debt that the state is now in.

I want to move on to more positive matters affecting this state. South Australians may have seen on the front page of *The Advertiser* today that Morphettville is a frontrunner in the bid to host Black Caviar, the champion racehorse, for her record-breaking 20th straight win. This would be an enormous coup for the state's racing industry and a boon for the state. The South Australian racing industry has struggled as a whole in recent years. It has its signature and popular race meets; however, some meets which have traditionally been bigger in the past are struggling. This sort of event could bring more South Australians back to the track to support the industry.

It will also show that South Australian meets are just as good and as successful as those in Melbourne and Sydney. We have seen over the years and continue to see that South Australians contribute a lot to racing in this country, and we need to continue to support that. I wholeheartedly support the call from the shadow minister for racing, Dan van Holst Pellekaan MP, to encourage this government to do what it can to assist the SAJC in its endeavours.

I want to congratulate the South Australian Redbacks on their recent victory in the domestic one-day competition. It has been 25 years between drinks since South Australia's last victory in this competition, and 16 years since we have brought the Sheffield Shield to this state. Well done to Michael Klinger—since he was appointed captain a few years ago we have had a lot of consistent performances in the coloured clothing—and also to coach Darren Berry who has obviously rejuvenated things down at the SACA and Adelaide Oval.

I also want to thank the IGA for stepping in to sponsor the SANFL mini-league which is a very important stepping-stone for the development of elite footballers in this state. Honourable members may be aware that the SANFL would have been forced to end the program through a lack of funding and it is great to see that it has been saved by a very good corporate citizen, the IGA.

CIVIL CONTRACTORS FEDERATION

The Hon. J.A. DARLEY (15:44): I rise to speak about the new premises of the Civil Contractors Federation (SA Branch). On 16 and 23 February I had the privilege of visiting the new headquarters of the South Australian branch of the Civil Contractors Federation. These premises at Thebarton were completely refurbished by CCF and incorporate their Hall of Fame, Work Safely Centre and Centre for Excellence.

The South Australian CCF Hall of Fame is a first in Australia. Individuals or organisations are inducted into the hall of fame to publicly award and acknowledge exceptional achievements and/or contributions to the South Australian earthmoving and civil contracting industry.

The Hall of Fame inductions are held annually after a rigorous selection process. Inductees' names are added to the Hall of Fame board, which is proudly exhibited in the front entrance of the CCF building. There is also a President's Lifetime Achievement Award which is presented to those who have made an outstanding contribution to the industry but are ineligible for the Hall of Fame induction. Again, this is a great way to publicly acknowledge exceptional contributions and/or achievements to the civil industry.

The Work Safely Centre is an innovative area developed in conjunction with industry to provide safety training in a controlled environment. The centre replicates real worksites and allows for hands-on, real-life exposure to potentially dangerous situations. The centre then teaches appropriate safety procedures to avoid unsafe work practices. The centre shows and explains good and safe work practices, demonstrates the consequences of not following these practices, and instils in students the importance of safety, particularly on civil construction and other high-risk

industry sites. Qualifications obtained from the Work Safely Centre are nationally recognised, and South Australia's Work Safely Centre is the third in the country.

The Centre for Excellence provides an interactive learning environment for pre-training. The centre is a world-class facility and houses the largest civil construction simulator environment in the world. Many of these simulators are motion-based and provide the user with a lifelike experience of operating a range of machinery used in civil industry, including excavators, wheel loaders, articulated dump trucks, bulldozers, graders and scrapers. My staff and I all experienced what it would be like to operate an articulated dump truck. Luckily for all nearby, this experience was through a simulator, otherwise there would have been mass carnage on these civil construction sites.

The Centre for Excellence also incorporates a virtual construction site. The virtual construction site allows students to apply their knowledge by allowing them to experience a real operating site. Students can attempt to resolve potential issues and can see the effect of a bad or inexperienced decision. For example, a construction site on the side of a road requires traffic control to slow down traffic. This is to protect workers and also ensure that road users maintain control in unexpected road conditions. Students need to identify that slower speed signs are required. If slower speed signs are not placed correctly the virtual site will show that workers and the public can be placed in danger.

The new CCF building is a fantastic Green Star energy rated centre which provides world class training facilities. It is a great way for those interested in a career in the civil industry to be exposed to vocations, to gain an understanding of what is required within the profession, and to see what can be achieved in civil construction. I urge all members to organise a visit to the centre, and congratulate the SA branch of the CCF on its achievements.

COUNTRY PRESS SA CENTENARY AND ANNUAL NEWSPAPER AWARDS

The Hon. J.S.L. DAWKINS (15:48): Last Friday (24 February) I was pleased to attend the Country Press SA Centenary and Annual Newspaper Awards at the Entertainment Centre. I acknowledge that the Leader of the Government in this place attended the event, which was also enjoyed by the Leader of the Opposition in the other place, Ms Isobel Redmond, and the member for Hammond, Mr Adrian Pederick.

I acknowledge that the night was commenced by Mr Trevor Channon, the manager of the *Murray Valley Standard*, but also obviously in his capacity as the current Chairman of Country Press SA. I also note the presence of Mr Michael Ellis from the *Yorke Peninsula Country Times*, who is the Chairman of Country Press Australia, and on Thursday he led an executive meeting of Country Press Australia here in Adelaide.

Also part of the celebrations of the Centenary saw the launch on Friday lunchtime of a book called *Through our eyes*. I note, sir, that you have been reading a copy of that in your quiet time—not that you get much of that. This book encapsulates 100 years of Country Press SA Incorporated and the history of South Australian country newspapers in general. It has been written by Kym Tilbrook, a former longstanding journalist with *The Advertiser* who comes from a very proud country press family.

I was pleased to, once again, be a sponsor at the Country Press SA awards: it is the 11th year I have been fortunate enough to have that privilege. Once again, I sponsored the best Community Profile award. I am pleased to indicate that the winner this year was Mr Brad Perry, Editor of the *Riverland Weekly*, for an excellent article about a family who had escaped from Sudan. It was an excellent story and was brought back to the local Riverland community level. It is also relevant given the motion I will move later this afternoon. Second place in my award was Nick Dillon from *The Murray Pioneer*, and third place went to Briohny Robinson of the *South Eastern Times*.

In the Best Newspaper over 6,000 circulation category, this year the winner was *The Border Watch*, for the second year in a row, ahead of *The Bunyip* and *The Courier* at Mount Barker. In the 2,500 to 6,000 circulation category, the *Murray Valley Standard* won the award for the eighth year in a row, ahead of the *Whyalla News* and the *Northern Argus*. In the category for newspapers under 2,500 circulation, the winner was the *Loxton News* for the second year in succession, ahead of the *Plains Producer* and the *Eyre Peninsula Tribune*.

Other awards were the Best Advertisement (Image/Branding), which went to *The Courier*; Best Advertisement (Priced Product), which went to *The Bunyip* at Gawler; Best Advertising

Feature, which went the *Yorke Peninsula Country Times*; and the award for Best Supplement went to *The Murray Pioneer*. The Best News Photo was taken by Sean McGowan of *The Islander* newspaper; the Best Sports Photo went to *The Leader* at Angaston; and the Best Front Page to *The Pennant* at Penola.

The award for Editorial Writing was given to *The Islander*; the Excellence in Journalism award was given to *The Border Watch*; and the Best Sports Story was awarded to the *Murray Valley Standard*. There were many other worthy placegetters and award winners on the night. Once again, I congratulate Country Press SA on a very professional celebration of what is a wonderful milestone, that is, 100 years of country newspapers in South Australia.

Time expired.

CRIMINAL LAW CONSOLIDATION (LOOTING) AMENDMENT BILL

The Hon. S.G. WADE (14:53): I move:

That the Criminal Law Consolidation (Looting) Amendment Bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

McGEE, MR EUGENE

The Hon. S.G. WADE (15:54): I move:

That this council—

1. Considers that the legal system has failed to effectively deal with the conduct of Mr Eugene McGee in relation to the death of Mr Ian Humphrey on 30 November 2003 and that public confidence in the legal system has suffered as a result.

2. Calls on the Attorney-General to exercise his powers under the Legal Practitioners Act 1981 to refer Mr McGee to the Legal Practitioners' Disciplinary Tribunal to consider whether his behaviour constitutes unprofessional or unsatisfactory conduct.

After more than eight years, significant community concern persists in relation to the role of Mr Eugene McGee in the hit-and-run death of cyclist Ian Humphrey on 30 November 2003. Nick Xenophon, once a member of this council and now a senator of the commonwealth parliament, has consistently highlighted deficiencies in the handling of the case by police, prosecutors and courts. Public confidence in our justice system has been undermined by these events.

Two recent episodes of *Australian Story* focused on the death of Mr Humphrey, the role of Mr McGee in that death, and the campaign by Ian's widow Di to try to get some justice for Ian. It was powerful television, and I would like to quote from some of the statements made in the program. Di Gilchrist is quoted as saying:

Here we were, two trials and a royal commission later and nothing had changed. Everything was still the same. It was still the system saying, 'He did nothing wrong, it's okay.' As far as criminal proceedings go, that was the end of the road—there was nowhere else to go. The only hurdle I was yet still jumping was that with the Legal Practitioners' Conduct Board.

Senator Nick Xenophon was interviewed and said:

For a whole range of reasons, including public confidence in the legal profession, I don't think Mr McGee should be practising. He should at the very least be suspended for a significant period of time...This case highlights how badly the legal system can let people down. This family's been let down, the family of Ian Humphrey have been let down fundamentally by the legal system at every turn.

The member for Croydon in another place, a former South Australian attorney-general from 2003 to 2010, is quoted as saying:

From my opinion, I think the public of South Australia is angry about the Eugene McGee case, because they think it's an example of the lawyers acting as a club and protecting one of their own. I think they've got a pretty strong case.

In the program, a protester was interviewed as part of a Channel 7 news broadcast from 2011. The protester said:

And there seems to be one law for a lawyer who's got mates in the cops, and another law for common people, and that definitely needs to be rectified.

The program ends with the caption, 'South Australia's new Attorney-General has decided against referring the case to the Lawyers' Disciplinary Tribunal.'

In spite of the action already taken against Mr McGee, it is important that all reasonable steps are taken to hold Mr McGee to account and ensure that such issues are adequately addressed through the justice system in the future. Last year I received legal advice that raised significant doubt as to the correctness of the reasoning adopted by the Legal Practitioners' Conduct Board and recommended that charges should be laid against Mr McGee before the Legal Practitioners' Disciplinary Tribunal in relation to both unprofessional conduct and unsatisfactory conduct.

While the Legal Practitioners' Conduct Board recommended no action against Mr McGee, the Attorney-General can still refer the matter to the more senior body, the Legal Practitioners' Disciplinary Tribunal. Given the efflux of time, under section 82 of the Legal Practitioners Act 1981 only the Attorney-General is legally able to refer this matter to the tribunal. In April 2011 Senator Xenophon and I called for Attorney-General Rau to refer it to the tribunal.

The Attorney-General issued a statement on 8 December 2011 announcing that following advice from the Crown Solicitor's Office that 'it was open to the board to take the view that unprofessional conduct could not be proved in the circumstances' he had decided not to refer. The implication is that it was also open to the board to take a contrary view and, accordingly, for the Attorney-General to refer the matter to them so that they could form a view. On that day I called for the Attorney to release his advice. Former attorney-general Michael Atkinson and Senator Xenophon have both recently called for the case to be referred.

In moving this motion today I urge the council to favourably consider it and support it. In my view it is very important that this parliament joins with the South Australian community in urging this referral. It is important that we protect public confidence in the justice system and I believe that, in this case, it is important that, to that end, we refer the Eugene McGee matter to the Legal Practitioners Disciplinary Tribunal.

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

MOUNT BARKER DEVELOPMENT PLAN AMENDMENT

The Hon. M. PARNELL (16:00): I move:

That this council—

1. Notes the admission from the Minister for Planning that the government erred in fast-tracking the Ministerial Mount Barker Urban Growth Development Plan Amendment ahead of appropriate community and infrastructure provision; and

2. Calls on the minister to—

   (a) Immediately suspend the operation of the Mount Barker Urban Growth Development Plan Amendment and reinstate the zoning that existed prior to 16 December 2010 when the DPA was approved; and

   (b) Prepare a new plan for development of Mount Barker and Nairne that respects the wishes of the people of the district and the District Council of Mount Barker.

Whilst the government would like it to be otherwise, the debacle that was the Mount Barker urban sprawl rezoning is simply not going to go away. What I have discovered in recent weeks vindicates most if not all of the concerns that I have raised, the local council at Mount Barker has raised and the community has raised in relation to the way the rezoning of Mount Barker was undertaken.

What we know is that we were on the money the whole time and the reason that we know that is that I have recently obtained a number of documents under the Freedom of Information Act—documents that both the government and the developer were very keen to keep secret from me and from the South Australian community.

The first paragraph of my motion notes the admission made by the Minister for Planning that the government erred in fast-tracking the Ministerial Mount Barker Urban Growth Development Plan Amendment ahead of community and infrastructure provision. I would like to just explore what the minister has actually said went wrong with Mount Barker, and I start with the minister's address to the Property Council on Friday 25 March last year, which was not long after minister Rau was appointed planning minister.

A part of his address to that gathering said that, under his watch, the pace of greenfield development—in other words, urban sprawl—would be slowed significantly and that the state's unique assets would be retained. To quote the minister: 'We cannot continue to build suburbs on top of our best agricultural land.' He also said:

> With the natural barriers of the hills and the gulf waters, Adelaide has grown to the north and south—but this urban sprawl must end.

Not surprisingly, the new minister was accused of hypocrisy, given the decisions that had already been made about Mount Barker and other areas on the fringe of Adelaide. According to the *Sunday Mail* on 27 March, Mr Rau said that his remarks applied only to sprawl beyond what was already planned. The minister, according to the *Sunday Mail*, denied that the rezoning of Mount Barker and Seaford Heights was a mistake. The quote from the minister was: 'They were the right decisions at the time.'

Then the minister made a further contribution in another speech to developers and the planning profession, this time to the Urban Development Institute in August 2011. What the minister was widely reported as saying at that meeting was that the planning policy in this state was 'dishevelled, disjointed and inconsistent'. He was reported as saying that fixing this problem was the key to a better planning environment.

In particular in this address, minister Rau signalled critical areas for change, which included a pledge that the lack of infrastructure planning before the rezoning of land near Mount Barker would never happen again. The ABC reported this on 18 August last year under the heading 'No more Mount Barkers: Rau'. I will quote from some of that report:

> South Australia's planning minister has admitted the government made a mistake in its handling of the Mount Barker housing development. John Rau says that the government should not have approved the rezoning of land before working out an infrastructure plan for the area. Speaking at a meeting of developers in Adelaide, Mr Rau said the government had learnt its lesson from Mount Barker.

The quote from the minister was:

> I am not in favour of decoupling rezoning from infrastructure planning. With the benefit of hindsight this was a problem in the Mount Barker rezoning.

In a further quote he said:

> There will be no more Mount Barkers on my watch.

He goes on:

> It makes no sense to let developers build houses without the government and local councils being able to support that community with infrastructure.

The article goes on to say that the Mount Barker development was met with widespread community opposition and led to several protests, which were overridden by Paul Holloway, who was the planning minister at the time.

So, here we have the new minister Rau backing away slightly from the tougher stance he took earlier. In many ways the approach of the government in fact represents the good cop, bad cop routine, where former planning minister Holloway was the bad cop and new planning minister Rau is the good cop. The good cop does not want to see further urban sprawl but, as I will outline later, he is not prepared to do anything about the bad decisions that have been made to date, even though he does have the power to redress the situation.

So, that is what the government admits has gone wrong, but it goes further than that, and certainly I believe there is a range of other fundamental problems with the Mount Barker rezoning that need to be addressed. To get to the bottom of it we need to go through some of the history of this quite sorry state of affairs. I want to highlight some of the key issues that come from the documents that I obtained under the Freedom of Information Act.

Members might recall that former minister Holloway wrote to the Mount Barker council on 19 May 2009 advising the council that he was proposing to rezone land around Mount Barker for urban development. In this place in June 2009 I asked the minister to name them, and he did. To quote the minister:

> My information is that the consortium of five companies comprises the following organisations: Urban Pacific, the Fairmont Group, Walker Corporation, Land Services Pty Ltd and Daycorp Pty Ltd. I am advised that Connor Holmes is not a member of this consortium.

I then lodged a freedom of information application to obtain copies of the correspondence between this consortium of property developers and the government. In response to my request the planning department did as it is required to do: it consulted the third parties who were part of this chain of communications, primarily the consortium of developers and the firm of Connor Holmes, their representative.

Not surprisingly, these third parties objected to the release of documents. The department chose to side with the developers and therefore refused access. I lodged an internal review of that decision, which resulted in the same decision. I then appealed to the Ombudsman. The Ombudsman overturned the department's decision and ordered that the documents be released to me. In his findings the Ombudsman had some interesting things to say that are certainly relevant to Mount Barker but also of more general application. For example, one observation the Ombudsman made was in relation to claims of commercial confidentiality. The Ombudsman had this to say:

> It seems to me that commercial entities, when they come up against the FOI Act, commonly claim that all matters relating to a commercial matter is either confidential or exempt under the business affairs provisions. Put another way, I find it all too common that commercial entities expect to be able to do business with the government under a complete veil of secrecy. I find such claims to be difficult to accept. Exemption claims levelled at discreet information to do with a commercial matter are more justifiable.

The Ombudsman also had a bit to say about the balance that needs to be struck in the Freedom of Information Act between the rights of those named in documents and the public interest. What the Ombudsman said in my case was:

> There is a strong public interest in the minister's decisions under the Development Act and therefore there is a strong public interest in information underlying his decisions being disclosed. Decisions of this nature tend to impact a wide variety of people, significantly the people living in surrounding areas and not just those involved in the negotiations.
>
> Disclosure of relevant information assists openness and accountability. Any countervailing public interest factors tending against disclosure will have to be weighed against this. More particularly and in the light of the importance of these decisions made under the Development Act, it is my view that there is a significant public interest in the actual issues surrounding this particular information and a corresponding public interest in knowing that the government is appropriately handling such issues. Accordingly, to the extent that disclosure of this information could be expected to have an adverse effect on the business affairs of the consortium, I am not satisfied that this outweighs the overriding public interest in the release of the information.

I was pleased that the Ombudsman saw that the public interest overrode other considerations and ordered that the documents be released. However, before I could get them, the consortium of developers appealed to the District Court. I was named as a respondent to the proceedings. The planning department was the other respondent. I should note that the department decided to take no active part in the appeal, although it attended to give any assistance that was required. Effectively, the case was the developers against myself.

This then resulted in the quite bizarre situation of a court trial, where I had to defend the Ombudsman's decision—and I point out that the Ombudsman is not party to these appeals. So, I had to defend the Ombudsman's decision without actually knowing how the Ombudsman's reasonings related to the documents, because I had not seen the documents.

So, in a court case over the release of documents, I am the only person in the room who does not actually know what is in them. The department knows what is in the documents—it holds them. The developers know what is in the documents—they wrote half of them, and they were the recipient of the other half. The judge had the documents. So, it is a bizarre type of court case, where you really go in with your hands tied behind back.

My lawyers even asked if they could be given confidential access to the documents to help them prepare the case. They promised not to show me the documents, and they promised on pain of contempt of court charges, but that was unsuccessful. However, ultimately, despite having one or even two hands tied behind my back, the matter went to trial in late 2010. Importantly, that was before the Mount Barker Development Plan Amendment had been approved by the minister.

I am disappointed to say that, despite the urgings of my lawyers as to the urgency of the matter, the District Court took over a year to hand down its decision. By that time the Mount Barker DPA had been approved and the Environment, Resources and Development Committee of this parliament had concluded its deliberations. The important thing is that that latter decision, that of the ERD committee, was taken without the committee having access to these documents. That is why I mention just in passing why I have given notice today that I want this matter to be referred back to the Environment, Resources and Development Committee. I will address the reasons why when that item is put on the *Notice Paper* next month.

So, even though the District Court handed down its decision last year, I still was not able to get the documents because the planning department had to wait for a further appeal period to expire; they had to wait to see whether this consortium of developers wanted to buy a bit more time by going to the Supreme Court; ultimately, they did not. I eventually got these documents more than 2½ years after lodging my application and, as I have said, after all the main decisions had

been made. That is clearly a travesty, and the Freedom of Information Act needs to be fixed up to avoid that situation happening in the future.

There is no doubt in my mind that the appeal by the developers was overwhelmingly an exercise in delay and obstruction. If they could keep these embarrassing documents out of the public realm for long enough, the DPA process could run its course and they would get what they want with less ammunition in the hands of the community as to why the proposed rezoning process was fundamentally flawed and corrupt. So, to the extent that this was their objective, the developers had won, thanks to the culture of secrecy within the planning department and the unwieldy freedom of information regime and the painfully slow legal system—and I am sure that the tens of thousands of dollars the developers spent trying to prevent my accessing these documents was probably regarded as money well spent on their part.

Before I go through what some of these documents disclose about the Mount Barker rezoning, I need to remind members that, prior to 2010, when former planning minister Holloway signed off on the DPA, there was no policy vacuum in a planning sense. The question of where future development in the outer metropolitan and near country areas should occur had already been the subject of a comprehensive process over the preceding several years.

In August 2006, minister Holloway released the planning strategy for the outer metropolitan Adelaide region, which includes Mount Barker, and that planning strategy is the highest level planning document in our state planning system, and it was the culmination of a lengthy, across departmental process. That document did not identify urban sprawl at Mount Barker as a priority. That was a document released in 2006. The introduction to that document says:

> The planning strategy represents the South Australian government's policy directions for the physical development of the state over the next 10 to 15 years.

It also says:

> This outer metropolitan Adelaide region volume of the planning strategy creates...an environment of certainty for investors, state agencies, local government and the community by providing a clear indication of the state government's policy directions for the physical development of the outer metropolitan Adelaide region.

What that says is that, certainly, as of 2006, the clear intention was that Mount Barker was not to be developed and that that was the position that was set in the highest level planning document to last for at least 10 to 15 years.

The documents that were eventually ordered to be released to me by the District Court show, before the ink was even dry on that planning strategy, forces at work to undermine it and, ultimately, those forces succeeded. It is also clear that the developers bullied the government into fast-tracking the process, rather than following proper planning procedures, and they did this by veiled threats to pull out of the project if they did not get their way.

I want to refer to a number of specific documents that I obtained and to quote some extracts from them. For the information of members and for the readers of *Hansard*, these documents will shortly be uploaded to my website, www.markparnell.org.au. The first document is numbered document 7, and it is a letter to the minister from Connor Holmes, dated 1 April 2008. What this document shows is that Connor Holmes, on behalf of the consortium of developers, had a feeling that they were not going to get too far with the Mount Barker council. What they said in this letter was:

> There is a sense that the council is unlikely to move on this matter at this time and possibly not in the future as well.

I would say, 'Who can blame them?', given that we had had a comprehensive planning process for this part of the state just a few years earlier—in fact, three years earlier—which had said that this was not a priority, that this was not an area that should be subject to urban sprawl.

The document also outlines a number of claims that are complete rubbish. In one, for example, they say that they want to 'deliver a carbon-neutral project'. Well, I can tell you, Mr President, you do not build a dormitory suburb tens of kilometres from where most of those people need to go for work and think of that as a carbon-neutral project. It is absolute greenwash; absolute codswallop.

The document claims that the existing residents of Mount Barker, the ones who overwhelmingly oppose these plans, would benefit and they would benefit from 'avoidance of wider Hills sprawl'. In other words, the people of Mount Barker would benefit because all the urban sprawl would be in their backyards, it would not be elsewhere in the Hills, and that is some benefit

to them. It also mentions 'developer-funded infrastructure to reduce the rate burden on existing residents'. I do not think anyone envisages that the rates in Mount Barker are going to go down as a result of this development.

Document No. 9 is a letter from Connor Holmes to the minister dated 16 June 2008. Again, it makes outrageous claims such as, 'This project will deliver a carbon-neutral outcome.' It also talks about 'the wastewater that would be produced by all the extra people to live at Mount Barker and how that wastewater would provide a water source for the Adelaide Hills mining operations'.

Mind you, it does not identify any particular mining company that wants that water or any particular method for delivering any excess water to mining companies; it is absolute rubbish. The letter also predicts that there will be a community and council backlash to any ministerial rezoning. It says, 'It will likely evoke considerable interest from the local community, government agencies and council.'

'Likely evoke considerable interest': that is a euphemism for 'all hell will break loose'. They knew it would happen, and it did happen. The letter also includes an insulting reference—a backhander, if you like—to the local council and community. What Connor Holmes says in this letter is that if the minister chooses to go down the fast-track ministerial process this will mean that the process will be 'free of any parochial, conservative and/or emotional attitudes'.

What a remarkable set of words! It suggests that it would somehow be improper; it would be emotional or parochial for the local council and the local community to care about the future of their local environment and the future of development in their area. According to Connor Holmes, the only way to avoid those considerations getting in the way of money is for the minister to take this project on himself.

The letter also acknowledges that the Mount Barker consortium was prepared to fund the ministerial DPA. It was prepared to provide the consultancy team—possibly led by Connor Holmes—that would undertake all the investigations and deliver the necessary documentation for the rezoning. In other words they are saying, 'Don't worry about the work involved, minister; you just leave it to us and we'll do all the work for your rezoning of Mount Barker.'

The letter discloses that whilst the company would have been prepared to accept a major development declaration, that was not its preferred approach. I know why it was not their preferred approach: because they would have had to do an EIS, and that would have added extra time and expense. What the document does disclose is the main card that they held up their sleeve. The main reason for rushing the Mount Barker rezoning was that they saw a need to keep the consortium together. The quote is:

> Retaining the interest and commitment of the Mount Barker consortium could prove to be a difficult exercise as fiscal demands in a fickle land market could well impose pressures that could divert the interests of any participants.

In other words, they are threatening to walk away, and if they walk away the government might have to pay for the freeway interchange out of its own money rather than have the property developers pay for it for them. That was the card that they held up their sleeve, and ultimately it was a successful card.

Another document that was released, document No. 1, is a departmental file note of meetings between the department and the developers. What that discloses is that there was a meeting between minister Holloway and the developers in January 2008, in other words, less than 18 months after the 10 to 15-year planning strategy had been published. At that meeting the minister supposedly provided encouragement towards a different approach—a different approach to the agreed approach from just 18 months earlier. The note indicates that the developers, by that stage, had already met with minister Conlon and, not surprisingly, the consortium had already bought up 600 hectares of the land to be rezoned.

Document No. 10 from 6 August 2008 is a letter from minister Holloway to Connor Holmes. This letter actually outlines the proper process: what should happen. What this letter shows is that Mount Barker would be considered as part of the overall growth investigation areas, not a separate exercise, so the minister was still holding out at that stage.

Document No. 11 is a letter from Connor Holmes to the minister on 14 August 2008. In response to the minister's letter, clearly unhappy by not getting the answer that it wanted, Connor Holmes made it very clear why it wanted to rush this rezoning. It states:

> We also advise that the prospect of holding the Mount Barker Consortium together during a possible further five years of uncertainty is slim. The ability of the Consortium to underpin construction of key infrastructure for the township, such as the Adelaide-bound on-off ramps to a Bald Hills Road interchange will diminish if Consortium members pull out during the hiatus.

In other words, 'Do the rezoning, minister, or we might not fund your freeway interchange.' I also make the observation that this letter includes some fundamental flaws of thinking in relation to planning. In particular, Connor Holmes is emphasising the need for a supply of 15 years of residentially zoned land. The point that they miss, of course, is that there is no obligation or even indication from the government that that 15-year supply needs to be at Mount Barker. I do not actually agree with the 15-year supply target but there is certainly nothing in any documents that the government has released which says that that land has to be at Mount Barker.

Document No. 12 is perhaps one of the most telling. It is a draft letter from the minister to Connor Holmes. It was a letter that was drafted by the department for the minister to sign to give the minister's final verdict on what should happen at Mount Barker. What this unsigned draft letter written by the department says is that the minister was 'not willing at this time to prejudice the outcomes of this work'. By 'this work' he means the growth investigation areas report, the investigations for the 30-Year Plan for Greater Adelaide. It goes on to say that the minister would 'continue further dialogue with you once this work has been completed'.

Certainly the department got it. The department realised that the way to do these things is to inquire into the needs of the community, then you compile all that information into a comprehensive planning strategy document (in this case the 30-Year Plan for Greater Adelaide) and then, and only then, and after that has happened, you consider whether any rezoning is needed in a specific area. That was the advice that the department gave to the minister. It drafted a letter for him to sign and it is pretty clear now that the minister rejected that advice and did not send the letter.

The document numbered two in the set that I received is an email exchange between Connor Holmes and the Department of Planning on 21 and 22 April 2009. What is really curious about this is that the subject field in the first email is 'Mount Barker growth'—that is the subject line. By the time the email exchange is completed, Connor Holmes have added the words 'cabinet-in-confidence' to the end of the subject line. Remarkable! How does a private firm of planning consultants know what is cabinet-in-confidence? Clearly, this was an attempt to try to make sure that the document would never be released to a member of the public under the Freedom of Information Act. Clearly, that did not work; we have this chain of communications.

Also interesting in this chain of emails was the recipient list. Included in the cc field is one former senator, ALP fundraiser and lobbyist, Nick Bolkus. There is a question for the government: why is he being included in this chain of communications between property developers and the government?

Perhaps most interesting in this chain of emails is the issue around conflict of interest and, clearly, all of the people involved knew that they had a problem with conflict of interest, the problem being that the firm of Connor Holmes, which was lobbying on behalf of the consortium, represented the consortium and offered to write all the rezoning documents for the consortium, were the same people employed by the government to give the government advice on what would be some good spots to rezone for housing around Adelaide.

It is remarkable. I have raised that in this place before. These documents simply add flesh to the bones of that conflict of interest. Richard Dwyer of the department in this email chain says:

> Whilst not ideal, the consortium has accepted a single representative on an interim basis on the understanding and assumption that, following the execution of the contract for the 30-year plan and the Growth Investigation Areas projects, Connor Holmes would no longer have a perceived conflict of interest—

no longer have a perceived conflict of interest—

> and could return as the primary point of contact for the Mount Barker consortium.

They knew they had a problem, and they were trying to think of ways to sideline the consortium until this conflict went away. It never went away, and it is at the heart of everything that is rotten about this rezoning at Mount Barker.

The document numbered 3 in the set is a minute to the minister. This is departmental advice to minister Holloway dated 14 May 2009. It is a lengthy minute, and I will not read too much of it, but it refers to the fact that the Growth Investigation Areas report, undertaken by Connor

Holmes, was fast-tracked and that there was a clear desire to get Mount Barker sorted out before any other potential growth areas were identified and, certainly, before the 30-year plan was approved and, certainly, before the consortium lost interest in developing at Mount Barker. The minister was warned in this minute by his department:

> Undertaking a DPA to review the zoning of land around Mount Barker at this stage could be seen by council and the Hills community as pre-empting the consultation process and government decisions about the 30-year plan, potentially giving rise to concerns that a decision to accommodate urban growth at Mount Barker has been made.

Well, of course it had been made! Absolutely, it had been made! Here you have the department desperately trying to help the minister understand that there is a problem with the way this is being handled. The document also makes it very clear that the current practice for doing the planning work for this type of development is to be outsourced rather than the planning department doing it itself, and we have seen that happen in a number of locations. Towards the end of the advice to the minister, there is another reference to conflict of interest. Their minute states:

> Until recently, the consortium of developers was represented by Connor Holmes. Depending on how the consortium wished to progress the investigations, etc, the assistance of Connor Holmes may be more appropriate following completion of their involvement with the Growth Investigation Areas project/30-year plan.

So, they know that there is a real problem with the same firm of consultants working for the government and working for developers in relation to the same land.

Why, then, in light of all of these new revelations, should the minister go back to the drawing board in relation to Mount Barker? The first question is: is it possible for the minister to do it? The answer is: yes, it is. Members would be aware that a technique commonly used by the minister in planning is something called interim operation. The minister can, almost overnight, announce changes to the planning system, and to zoning in particular, so it is certainly possible to do it.

Is it ideal? It is not ideal. Would it add to uncertainty? Yes, it would add to some uncertainty. But, is it the right thing to do for the people of Mount Barker and the environment of Mount Barker? Absolutely, it is. There are some arguments that will no doubt be raised against this approach, and I want to take the opportunity to pre-empt and counter some of those now.

In the speech made by new minister Rau to the Property Council on 25 March 2011, as reported in the *Sunday Mail* on 27 March, the minister made it very clear that he would not undo decisions that had already been made. He says, 'There are commercial arrangements in place.' He goes on to say, 'There have been decisions made over a period of time. I'm not intending to go around disturbing those.'

I also refer members to the article in today's edition of the Mount Barker *Courier*, where planning minister Rau said he had 'no intention' of changing the rezoning for fear of 'disturbing contractual arrangements between third parties entered into in good faith on the basis of the Mount Barker DPA.' He is also quoted as saying, 'As I have said before, to even contemplate doing so would raise the spectre of sovereign risk in South Australia.' I say that this is not about sovereign risk but it is about risk. Property developers and speculators are in the business of taking risks. They take gambles, gambles that sometimes pay off and sometimes do not. They sometimes take a gamble that things will change in their favour and they sometimes gamble that things will not change against them.

To give an example, members might wonder why the Le Cornu site at North Adelaide was vacant for so long. The answer is that developers had gambled by paying six-storey prices for land in a three-storey zone. They knew what the zoning was; they gambled that ultimately either the zoning would change, the council would buckle or the minister would bail them out. In the end that is what happened, the minister bailed them out. They won that gamble, but the price paid by the residents of North Adelaide was a blight on their landscape and a prime piece of real estate vacant for many years.

I say that, at the end of the day, democracy is more important than any implied guarantee of property gains for land speculators and developers. Ultimately the will of the people should be more important than any perceived right that property developers have to make a profit out of land they own. These property developers have actively worked to sidestep the local community and the local council to thwart the legitimate concerns of the people of Mount Barker, and if democracy catches up with them, so be it.

If they turn out to have paid too much money for land—because no doubt most of them would have had options to purchase and they would have purchased the land at above farming rates, even though that is what it was zoned—on the basis of the rezoning, if that is overturned, so be it. These are people who are out there undermining the system, buying up land speculatively over a period of time, and then working on the government to make sure that their interests are protected and that proper processes are sidestepped and they get the rezoning they want.

I think we have in our society a problem with this notion that the rules, the planning rules in particular, are only allowed to change if they increase property values. That is rubbish. The rules will change in both directions; there are swings and roundabouts. There is no constitutional or other implied right on the part of property developers to make a profit from land. If land is rezoned back to a more appropriate use—such as in the case of Mount Barker to farming, agricultural use—then so be it.

I note that, following the minister's August 2011 speech to the Urban Development Institute of Australia, there were some comments made by the local community. For example, Brian Haddy, spokesperson for the Coalition for Sustainable Communities, a group that was fighting against the rezoning of land at Mount Barker, was reported in the media as saying the following:

> We've said all along that the Mount Barker development was inappropriate, and now the government's agreeing with us, which is great, but unfortunately it's too late for all the beautiful rolling green hills and the productive agricultural land in Mount Barker that's going to go under housing estates in the next few years.

I have to say that at the time I tended to think he was probably right, that it was too late, but now that a fuller picture has emerged of exactly how dodgy this whole process was I think it is beholden on us to do whatever we can to make sure that we do try to reverse some of the worst aspects of this decision.

There are some aspects of it that will be difficult to reverse, but the bulldozers have not yet moved in. The roads have not been bulldozed and paved, the stately old trees have not been cleared; there is still time to resurrect the situation. I know that for some parts it will be too late. The reason I say that is anyone who has already lodged their subdivision applications has a legal right to have them assessed against the current planning scheme, but we certainly know that not all of 1,300-odd hectares are subject to current development applications; it is not all being subdivided for housing; it is possible to go back to the drawing board.

In conclusion, I think that the sorry tale of Mount Barker is actually a wake-up call to us in this place, and it is a wake-up call to the whole community that we need to get our planning system back on track. When injustices occur, when poor decisions are made, when the legitimate interests of local people are overridden, we have an obligation to step in and try to rectify the situation. That is what my motion calls for the government to do, and I would urge all honourable members to support it.

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

SOLAR FEED-IN TARIFFS

The Hon. M. PARNELL (16:41): I move:

That this council—

1. Notes that in 2011 the Legislative Council passed amendments to the Electricity Act 1996 that restricted the ability of household and small generators to generate revenue from the SA Solar feed-in scheme by restricting payments to the first 45 kWh of electricity fed into the network each day;

2. Condemns the attempt by ETSA Utilities to retrospectively reduce the number of participants in the SA Solar Feed-in Scheme through the use of new, additional guidelines developed and made known to participants in the solar feed-in scheme only after participants had already made significant investments in solar energy infrastructure; and

3. Calls on the government to ensure that the additional guidelines developed by ETSA Utilities (namely a restriction on households with greater than 3.04 kW systems installed on meters that record less than 400 kWh of electricity per year) are no longer used to limit the eligibility of households and small generators to participate in the scheme.

This motion is quite specific, and it tackles a particular injustice that is currently occurring in our community. In a nutshell, it involves the solar feed-in scheme. As members know, last year parliament passed changes to the solar feed-in scheme to limit the amount of public subsidy that

would be paid to solar households, based on the amount of power that they exported to the grid each day up to a maximum of 45 kilowatt hours per day.

This was in response to concerns raised by the government that the feed-in scheme would be used by large operators to develop commercial-scale solar farms. Whilst the Greens do not have a problem with using feed-in schemes to drive commercial-scale solar investment, it was the will of the parliament that this restriction be put in place, and I note that it had been announced by the premier well before the bill came into parliament.

In fact, I will go further than saying we do not have a problem with it. It is certainly Greens policy, and my colleague, Senator Milne, is actively promoting broader feed-in tariffs to exactly accommodate these types of solar farms. But that is not what we are talking about here. We are talking about small-scale solar feed-in under the South Australian legislation.

So, the solar industry was aware that the restriction would be in place, and they adjusted their installation and their marketing strategies accordingly but, only after the scheme had closed to new entrants and solar panels had been installed, did ETSA Utilities make up an additional eligibility criterion, that is, a new and, I say, arbitrary annual use test.

The annual use test is that, if someone has installed a solar voltaic system that is 3.04 kilowatts or greater and they use only 400 kilowatt hours of electricity per year, then they are deemed, unless they have got a good explanation, to be ineligible to be part of the scheme. This new eligibility criterion was developed after panels had been installed and after this parliament had passed legislation.

This unnecessary, additional, retrospective eligibility test is what is causing so much distress, and that is what I am seeking to have scrapped through this motion. Members need to be aware that many of our fellow citizens have invested large amounts in solar photovoltaics. People have spent a lot of money installing clean energy systems and they have done so in good faith, only to now be threatened by a retrospective change in the eligibility rules. Many of those affected are in fact farmers who have followed the advice of their solar installers.

That advice is pretty easy to comprehend. A farmer says, 'I want solar panels'. The solar installer turns up and says, 'Well, we could put them on your house, but there's a few trees in the way. We could put them over on your shed—that's completely clear and your shed has got its own separate electricity meter. Put it on your shed. You'll actually do better, you'll actually make more from the feed-in tariff and you can use that to offset the cost of electricity for your house.' Of course that is the advice the solar installers are going to give, and of course that is the advice the farmers are going to take, so that is what they do—they put the panels on their sheds.

It is unfair in the extreme for ETSA Utilities, presumably under instruction from the energy minister, to target people who are trying to do the right thing and who have followed professional advice as to the best place to locate their panels. This is not the only aspect of ETSA Utilities' behaviour that has raised concerns. Concerns have also been raised about ETSA unfairly targeting customers who, through no fault of their own, had panels or meters installed, sometimes only days or, in some cases, even hours outside the eligibility cut-off time. These people are really in despair at the lack of flexibility being shown by ETSA.

You have to recognise that some of these people, especially in the country, with one day of bad weather or a hiccup in the supply chain, especially in that hectic period as the scheme was winding up, through no fault of their own miss out by a small period of time, with no flexibility being shown by ETSA. If they can cut someone off the scheme, they will. These examples are symptomatic of a much broader concern about the attitude of critical players in the energy market towards renewable energy. I will go through some of them in a while.

For now, I want to provide a little more detail about why what ETSA is doing is so unfair. We need to go back to the statement made by former premier Rann on 31 August 2010. In his media release he stated:

Those intending to install solar panels to take advantage of the new scheme will be subject to a new eligibility criteria, including:

- a limit of one generator per customer
- the exclusion of additional generators installed specifically to create a profit from the scheme
- the bonus will be limited to the first 45 kilowatt hours per day—this limit will not affect normal residential systems (i.e. those less than 7 kilowatts).

At the time the definition of 'specifically to create a profit from the scheme' was never defined. After that we waited in vain for some months for the legislation to be introduced so we could get some more details. In the meantime, the only guideline that the industry had to work with was from the October 2010 copy of *Industry News*, which is a regular update sent out by ETSA Utilities and which stated:

> Customers that connect to either a new or existing network connection point that have no or very low energy consumption history (i.e., an old disused shed or a pump on a rural property), maybe classified as an excluded generator for the reason that its dominate [sic] purpose is for generating into the grid for profit.

I will repeat the critical section, the example given, 'an old disused shed or pump on a rural property'. You can imagine the surprise from solar installers and their customers when ETSA started sending out letters to customers in November 2011 that stated—and I will read some part of the letter:

> I'm writing in regard to your application to install a PV SEG system and to advise you of changes to the feed-in tariff scheme under legislation passed by state parliament on 23 June 2011, published in the SA *Government Gazette* on 28 July 2011 and effective from 29 July 2011. Under this legislation ETSA Utilities is obliged to ensure customers who install photovoltaic systems after August 2010 meet the eligibility requirements for participating in the state government's FIT scheme. The legislation states that an excluded generator, i.e., a generator not entitled to FIT payments, is defined as:
>
> - Excluded generator refers to a small photovoltaic generator that in the opinion of the operator of a distribution network, from which permission to connect the generator is sought, would, but for the fact that the generator is an excluded generator by virtue of this definition, be installed for the dominant purpose of feeding into the network electricity generated by the generator, and the fact that a generator is to be installed in a pair or group of generators may be evidence that the generator is an excluded generator.

That is that quote. Going back to the letter:

> In assessing eligibility, it has been agreed with the South Australian government that ETSA Utilities would contact customers with electricity consumption of less than 400 kWh per annum and who have installed PV systems of 3.04 kW and larger to check the circumstances relating to the minimal consumption before determining the dominant purpose (eg primary purpose is to export energy to the electricity grid).
>
> Our records indicate that you may not have connected your proposed PV SEG system. In accordance with our legislative obligation, we have undertaken an initial assessment based on the information provided in your application for approval to connect a PV system. From this assessment, the level of your electricity consumption over the last 12 months combined with the size of your proposed installation would mean that you would not be eligible to receive FIT payments.

Basically, it is a please explain letter, but the clear threat is that you are about to be cut off. These letters set out this new test, a new test clearly devised by the government and ETSA Utilities, certainly not one that was approved by this parliament. The important aspect here is that the parliament had already legislated to limit the size of schemes for the primary reason of keeping it to small schemes, which was to meet the government's objective to prevent what it calls profiteering.

Our concerns are that it is retrospective. As I have said, these changes were introduced after panels had been installed by households. Secondly, we have a private overseas-owned corporation making up these rules and now applying them. ETSA Utilities is a private business and it is effectively setting public policy by deciding who is and who is not an eligible generator. Thirdly, there is this onus of proof question. The letters assume that the person is not eligible and it requires them to prove why they are not ineligible.

Fourthly, the figure of 400 kilowatt hours per annum analysis is based on just one year's use. Why that is particularly remarkable and particularly inappropriate is that we are talking about a product that is going to generate clean electricity for its owner and into the grid for probably 30 years. These panels are effective for a long period of time. Why on earth do you decide their eligibility to participate in the scheme on the basis of one year's electricity bill? You may well have people who have installed panels on a shed for which they have future plans to conduct a business from, for example. They may not have used much electricity last year, they might not use much next year, but maybe in five year's time they will be using far more electricity than they are generating from the roof; yet they will have been arbitrarily cut off from the scheme by virtue of these provisions.

As I have said, I have been provided with a number of examples of farmers in particular, who chose, for sensible reasons, to put the panels on sheds rather than on their homes. They were allowed to do that because they had multiple metres, and they had multiple metres presumably because the sheds on which they installed the panels had a demand—or even a potential demand—for electricity. Sure, sometimes it might just be a light globe running, but there is a range

of other activities that farmers undertake in sheds that use a lot more power than a light globe. So, there are lots of reasons why the shed was the logical choice.

One example is where an installer effectively refused to put the panels on the farmhouse because it had an asbestos roof. It was a much better option to put them on the shed. There are other examples, as I have said, where houses are heavily shaded. The types of sheds on which these panels are installed—the people who are getting these letters—are not old or disused, which is what ETSA had been telling people was the test months earlier. These are active sheds used to store farm equipment and do maintenance and repair work in. As I have said, the operations in those sheds can, in fact, use a significant amount of electricity, a demand that might not be reflected in one year's bill.

So, under ETSA's arbitrary criteria, if the farmers fail to undertake major work in their shed and use lots of electricity in their shed each and every year, they are going to fall foul of these rules and they are going to be kicked off the scheme. What is remarkable is that ETSA, having come up with these rules, was not even prepared to wait for a period of time to elapse to consider alternative options; for example, a rolling average over, say, five years might have been a better test.

It is also my understanding that, unless the government acts on the urgings of this parliament to stop this, ETSA intends to target farmers and households every year for the next 17 years to see whether their use drops below this critical arbitrary threshold. So, a farmer may fulfil the eligibility criteria for the next 10 years, then they might have a lean year, not use much electricity in their shed, and then be booted off the scheme in 2022 and, really, this is a hanging sword of Damocles over their head.

I want to emphasise to members that these people are not somehow people who deserve our condemnation. They are not people who set out to deliberately rip off the system or make windfall profits. We are not talking about small investments either, for some of these people. They have spent $30,000 to $40,000, and their only capacity to recoup some of that substantial investment is if they can remain part of the feed-in scheme. These are people who have done the right thing by the environment, and they should not be penalised the way ETSA is going about it.

This also raises an issue this government is very fond of talking about—and I raised it earlier today and minister Tom Koutsantonis has raised it before—and that is this question of sovereign risk. What these farmers, I think, find most offensive is that ETSA is implying that they are somehow cheating and that these people are making windfall profits and they are using the profits from the scheme to fly off to exotic locations. These are people who have made good, sensible decisions for the environment.

The sovereign risk aspect—if it is good enough for the government to say that you cannot change the rules, otherwise capital will flee our state, why is that argument not good enough for this as well? Here we are, changing the rules after the event. The government is happy to hand out large sums to mining companies. If they think that is a problem, are they about to hand out similar sums to solar panel owners? I would be very much surprised if they do; I know they will not.

There is some indication—and I am pleased with this—that the minister is starting to realise that he cannot just wash his hands of this. This morning on ABC radio, in response to my raising this issue on Monday morning, minister Koutsantonis said the following—and I will read out this exchange because it is informative:

> [David] Bevan:...Now, we were talking to Mark Parnell from the Greens earlier in the week and he said that it's just nuts that some people had been told...'You invested so much in these solar panels, we actually consider you are setting yourself up as a generator, so we're not going to give you the rebate'...where's the sense in that?

Mr Koutsantonis' answer was:

> I sort of half agree with what Mr Parnell was saying, and I met with the Farmers' Federation recently...they brought me a series of examples of farmers who have put their photovoltaic cells...not on their property but on other parts that had better sun on the advice of the installers. Many farms in South Australia have more than...one meter.

The minister went on to say:

> Look, government doesn't accept that it's retrospective; we made these announcements...in August 2010 and the scheme—

> [Matthew] Abraham: What, you made an announcement in August 2010...your predecessor, that if you have a system that generates over 40—

Matthew Abraham is cut off, and the minister says:

No, no. If you're profiteering.

Abraham: But you didn't define profiteering did you?

The minister replies:

Well, we did, and it's in the act, and the parliament has made a decision on it.

If it is in the act why the need to make up new additional criteria retrospectively? Back to Abraham:

When did parliament make a decision on it?

Minister: It made the decision in 2011, I think October ... but the important—

Abraham interrupting again:

What, after you'd bought your systems? Because a lot of people have bought systems before—

Minister: No...that's why...I have a lot of sympathy for what Mark Parnell was saying.

Abraham:

Because what you're doing is changing the rules after people have signed up in good faith.

Minister: Well, no, what...the bill actually does is allows...ETSA—and it's not the government that does this, it's actually ETSA—the parliament decided that ETSA would do this not the Government, so it's not me who makes these decisions, it's given to ETSA.

I can't do the voices, Mr President. I would love to be able to do minister Koutsantonis' voice. I think they speak for themselves. Abraham:

But they're operating off government legislation.

Minister: Sure, yes...I understand that and that's why I've undertaken with the Farmers' Federation that if people think they've been unfairly treated to come see me and I will personally handle all these matters individually.

Abraham:

Each one?

Minister: Each one.

It is good that the minister is finally acting but I need to correct something that he said that is wrong, because he is trying to dump all this on ETSA. In the letter that was sent out by ETSA it specifically states, and I quote it again:

In assessing eligibility, it has been agreed with the South Australian Government that ETSA Utilities would contact customers with electricity consumption of less than 400 kWh per annum and who have installed PV systems larger than 3.04KK to check their circumstances.

So the government is complicit in this action and it must now act to fix up this mess. Whilst the minister has committed to personally intervene in each issue, a more appropriate response would be to change the instructions to ETSA utilities to ensure fairer interpretation and ultimately to scrap this arbitrary rule.

Otherwise, I fear that in a few years' time more innocent people will be caught up or we will have the perverse incentive of someone with a large system on their shed deliberately leaving the lights on 24 hours of the day to make sure they do not fall foul of the system. They would have a look at their meter and think, 'Geez, I'd better run some electrical equipment otherwise I'm going to get one of those letters from ETSA and I'll get cut off the scheme.' How perverse is that?

I will mention the other case of the people who, through no fault of their own, were a day or two late in getting their systems fully installed—it is mostly regional people who have fallen foul of that scheme. The example I gave was of a solar installer who was travelling to a remote part of the state only to come unstuck with bad weather so they could not actually deliver and install.

Another one is the customer who had done everything right and the solar installer simply did not turn up when it was scheduled to do so—that is not the customer's fault. So householders who have done everything right are now being penalised. They have done all the paperwork, they have paid all the money, but unfortunately the panels did not go up. ETSA should show some leniency to these people. If there are special circumstances as to why the cut-off was missed and it was not through slackness on the part of the property owner, they should be shown some leniency.

It really annoys me when we see all sorts of gaming and rorting going on by big energy players to manipulate the electricity market to try to maximise their profit from the burning of fossil fuels, yet when a very small number of decent and ordinary South Australians try to do the right

thing they are mercilessly punished. What this incident shows is a wider attitude towards solar energy that is unhelpful. I have been very frustrated to see that the government's attitude appears to be that solar and wind energy, which should be a real solution, is somehow seen as a burden.

I suspect that much of the concern is that these clean energy alternatives actually attack the profit-making model of the larger energy players and they just cannot accept that individual households have now become significant generators in their own right. So my message to ETSA and to the government is that we have to get used to this new regime. We need to adapt to the new paradigm and we need to do it quickly.

Mums and dads are now electricity generators and they need to be treated with respect. This is an unfair crackdown. It does have to stop and in this motion the Greens are calling on the energy minister to reverse this retrograde step, go back to the drawing board and really honour and credit the people of South Australia who are doing the right thing by the environment, through the installation of clean, green, renewable energy.

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

NATURAL RESOURCES COMMITTEE: UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT ACT REPORT 2010-11

The Hon. G.A. KANDELAARS (17:05): I move:

That the 2010-11 report of the committee be noted.

Since December 2006 the Natural Resources Committee has been responsible for the oversight of the Upper South East Dryland Salinity and Flood Management Act 2002. This is the final report required of the Natural Resources Committee under the act, as the project has now been completed. The committee visited the South-East region between 15 and 17 November 2011, meeting with local landholders, both supportive of and opposed to the scheme. We also received detailed briefings and a comprehensive tour from the Department for Water and the South East Water Conservation and Drainage Board on technical aspects of the scheme.

The South-East region of South Australia is a highly modified landscape. Broadscale land clearing and an extensive drainage network developed over the past century have converted what was once a wetland dominated landscape to agricultural production on a vast scale. Although this has generated great wealth and prosperity for the region and the state, environmental health has deteriorated. Several South-East drains intercept environmental flows which previously flowed north to the Upper South-East and the Coorong, a Ramsar listed wetland of international importance.

The Upper South-East scheme attempts to do two things: drain saline groundwater and floodwaters away from agricultural areas (the deep drainage project) and maintain and improve surface water flows to wetlands and watercourses (the REFLOWS project). Whilst the majority of landholders appear to support the scheme, some remain concerned about the quantity and quality of the water that has been delivered to the wetlands via the surface water drainage or REFLOWS system.

These landholders argue that the recently completed Bald Hill/Wimpinmerit Drain, which is used to divert saline water north to the Morella Basin and the Coorong, has caused the watertable to drop, drying out the Parrakie wetlands. The committee heard from witnesses opposed to the project that the completion of the drainage scheme adjacent to the Parrakie wetlands meant that there are now no unimpacted wetlands left to compare with impacted wetlands in the region.

Those same witnesses gave evidence that in late 2010 the salinity in the surface water flows intended for the West Avenue wetlands was considerably higher than the saline water in the groundwater drainage system, which is the reverse of what it should have been. The alkalinity of the REFLOWS water was also extremely high, killing most of the biota living in the wetlands. This is important, because the wetlands were home to the Southern Bell Frog and the Yarra Pygmy Perch, both endangered species.

The committee heard conflicting evidence regarding the causes of the wetlands drying out and the unexpected high salinity and alkalinity, with the Department for Water blaming below-average winter rains in 2011, together with unauthorised obstructions and diversions upstream. The department suggested the high salinity may have been the result of first flush effects in the newly constructed REFLOWS system, with the alkalinity perhaps being a natural phenomenon.

Despite the arguments and counter arguments about the specific environmental impacts of the Upper South-East scheme, the committee heard that, in general terms, the Upper South-East scheme has been successful in reducing salinity and increasing agricultural productivity for some landholders. The department openly acknowledged the need to improve the operation of the surface water drainage network. As part of its 'adaptive management approach', the department has put in place a comprehensive hydrological monitoring network facilitating flow management in both the surface water and groundwater drainage systems.

The committee hopes that it will be possible to tweak the system to fix any problems that are identified. Committee members formed the view that it is too early to make a final judgement as to whether or not the scheme has been a success, particularly in relation to the impact on the Bald Hills-Wimpinmerit drains on the West Avenue wetlands.

Members of the committee intend to revisit the region after significant winter rains in order to consider the efficacy of the REFLOWS project, especially its success in supporting ecosystems of the Parrakie wetlands, including the resident southern bell frog and the Yarra pygmy perch. The committee would also like the Minister for Sustainability, Environment and Conservation to ensure that adequate research is undertaken to address some unresolved environmental impacts on the region, especially the high alkalinity and salinity in floodways, degradation of soils due to sodicity and the erosion of some drains and floodways.

I acknowledge the contribution of committee members during last year. They are: the Presiding Member (Hon. Steph Key MP), Mr Geoff Brock MP, Hon. Rob Brokenshire MLC, Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, and Mr Dan van Holst Pellekaan MP. I also acknowledge the former members of the committee, Hon. Russell Wortley MLC and the Hon. Paul Holloway MLC. I thank members for the cooperative manner in which all have worked together and look forward to the continuation of this spirit this year. Finally, I thank the committee staff for their support. I commend the report to the house.

The Hon. J.S.L. DAWKINS (17:13): I rise to briefly endorse the comments that the Hon. Mr Kandelaars has made and, once again, he has come onto the committee relatively recently to deal with such an issue. However, I suppose the great majority of us on the committee are also in that scenario as well, because the Presiding Member (Hon. Steph Key) is the only one now who has continuity from the previous committee, and the previous committee did quite a bit of work in relation to the Upper South-East drainage project.

Can I say that I think all of us benefited from the visit that we made to that region—as the Hon. Mr Kandelaars said, between 15 and 17 November—although the first part of that trip was in the Lower Lakes region, largely to do with the Murray-Darling Basin inquiry. We then moved down through the barrages and the Coorong to Salt Creek and looked at the works that have been done that the Hon. Mr Kandelaars gave some description of.

I do not think anyone can appreciate the complexity of the project or its aims until they go and witness it. There are some terrific examples of what engineering can provide to a region. Certainly there are differing points of view as to the benefits of the project—and I know I have been in the company of people who are not over-complimentary about its impact on the environment—but I think anyone would recognise the reasons why residents of the South-East would have been empowering and requesting government to do such work, and to do such work throughout the whole South-East. I think it goes back to the 1930s; the Hon. Mr Kandelaars might correct me.

I was in the South-East in 1975, when the whole of the region was awash and the only way that a group of students, of which I was one, could get to agricultural properties was by leaving the bus on the bitumen road and getting onto a tractor and a trailer to go out and visit those properties in the sunny South-East; they were absolutely awash. Anyone who experienced that would understand why the drainage system has been devised.

It may not be perfect, but in my view it is something that has, overall, given a benefit to that region. The Hon. Mr Kandelaars did say that it is the committee's intention to go back and have another look and see what it is like after there have been significant rains. Of course, that will take some delicacy in timing to try to plan to get us all together to go at a time just after we have had a lot of rain; it will not be easy.

I commend the officers of the Department for Water and the South East Water Conservation and Drainage Board for the time they gave us and the manner in which they showed us a wide range of the works that have been completed in the South-East. With that, I once again

thank my colleagues on the committee and the staff for their assistance in the work we do, and particularly the chairmanship of the Hon. Steph Key. I commend the report to the house.

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

SOUTH SUDAN

The Hon. J.S.L. DAWKINS (17:19): I move:

That this council congratulates HURIDOSS (Human Rights Development Organisation South Sudan), Australian Chapter, on its launch and wishes it success in promoting awareness and protection of human rights in the Republic of South Sudan through community education, advocacy, research and consultation in order to advance important policy and legislative reforms in this new nation.

The Republic of South Sudan emerged out of one of the longest and most brutal civil wars of the 21st century, with 2 million people killed and another 2 million becoming homeless. The Republic of South Sudan formally seceded from Sudan on 9 July 2011 as a result of an internationally monitored referendum held in January that year and was admitted as a new member state by the United Nations General Assembly on 14 July 2011. The Human Rights Development Organisation South Sudan (otherwise known as HURIDOSS) was established in 2011 as a non-profit, apolitical and non-governmental organisation.

The new Republic of South Sudan is dedicated to being a part of the United Nations international human rights treaties to uphold and protect the human rights of its people. HURIDOSS has in principle agreed to be bound by the international human rights laws; however, there is a higher need to support this new nation through capacity building and to enable it to develop its legal framework through which the sociopolitical, economic and cultural rights of the South Sudanese people can be upheld.

Australia has played a major role to ensure the success of this new nation through support, education and promoting its progress. The vision of HURIDOSS is:

- to educate through programs aimed at promoting respect for and awareness of fundamental human rights as embedded in the transitional constitution of the Republic of South Sudan in a way compatible with international human rights documents;
- to promote and encourage the ownership of human rights by South Sudanese citizens;
- the engagement with individuals, communities and the government in creating an environment of peace and social cohesion in the country;
- advocacy and legal representation;
- recruiting of human rights volunteers and supporters to enhance the objectives of the agency;
- to provide counselling and advice to victims of human rights abuses;
- to organise community consultation as a two-way exchange of communication; and
- to contribute to national debates aimed at integrating a rights-based approach in public policy formulation and implementation.

HURIDOSS appreciates the support provided by Australia in the process which contributed to South Sudan becoming a sovereign state. Thousands of South Sudanese people call Australia home and this has provided a strong friendship between the two nations.

On 28 January this year, I had the privilege of attending the launch of the Human Rights Development Organisation South Sudan, Australian Chapter, at Brooklyn Park on behalf of the Leader of the Opposition, Ms Isobel Redmond MP. While Ms Redmond was unable to attend due to other commitments, she joined me in congratulating the South Sudanese community on the establishment of the Australian Chapter of HURIDOSS here in Adelaide.

I was asked to speak on the role of Australia in supporting human rights and the rule of law in new democracies. Like many Australians, I have followed the developments in South Sudan's pathway to nationhood, including the referendum a little over 12 months ago, the creation of the new nation last July and the subsequent admission to the United Nations and the African Union. I have also noted the adoption of the national anthem and flag, both of which featured prominently in the launch.

The event began with a colourful cultural performance and then prayers led by Pastor Michael Brawn. Mr Mabok Deng Mabok, patron of the Australian Chapter, was the host for the event and he welcomed all the guests and commenced the proceedings. Throughout the event we learnt of the struggles and triumphs this community has faced over many years to become an independent state and be given the same rights and freedoms as many around the world.

Through the voices of many of the community members who were there that day, this event outlined the roles of the South Sudanese people in explaining the impact of violence, the rebuilding of the nation and the importance of peace and education. The South Sudanese community members also discussed human rights in Australia and how this country has played a major role in the education and support of South Sudanese people and voicing the need for groups such as HURIDOSS to be promoted, funded and recognised as highly important in building close friendships with people from South Sudan. The protection of human rights is a vital part of democracy. It is important to defend and encourage the continuation of the different backgrounds and cultures that make up our society.

Australia, and South Australia in particular, have a strong history in this regard. In the very early days of this state many followers of the Lutheran religious domination came here to escape discrimination in their homeland. They have featured highly in the development of this state and country and in many industries, including the wine sector, while strongly maintaining their German heritage. This is a great example of how people proud of their culture can be determined to play a role in the continuing development of this country while maintaining a strong connection to and interest in their homeland.

Mr Bosco Opi, the HURIDOSS Director for International Relations and a human rights advocate, has worked for over 10 years, both in Australia and overseas, and is highly experienced on human rights and refugee issues. I had the privilege of hearing Bosco speak about his legal background and his efforts as a member of Amnesty Australia and his contributions to refugee and human rights policy in South Australia. Bosco has undertaken a number of research works and consultations on human rights, and in 2009 published a research finding entitled, 'When do I stop being a refugee?'

Among the other speakers and dignitaries participating in the launch were Major General Vikram Madan, who was there representing the Lieutenant Governor and chair of the South Australian Multicultural and Ethnic Affairs Commission, Mr Hieu Van Le, AO; also, the keynote speaker, the Hon. Dr Lynn Arnold, the CEO of Anglicare and a former Premier of South Australia; His Excellency Mariano Ngor, the principal liaison officer, government of the Republic of South Sudan Mission in Australia; and the Hon. Robyn Layton, QC, Adjunct Professor, School of Law at the University of South Australia.

There is no doubt that Australian citizens, one and all, need to keep a strong focus on assisting human rights in the new nation of South Sudan. I look forward, as do my Liberal colleagues, to hearing more of the development and progress of the Australian chapter of HURIDOSS in the future, and I commend the motion to the council.

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

CRIMINAL LAW (SENTENCING) (ABOLITION OF SUSPENDED SENTENCES FOR SUBSEQUENT SERIOUS OFFENCES) AMENDMENT BILL

The Hon. D.G.E. HOOD (17:29): obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. D.G.E. HOOD (17:30): I move:

That this bill be now read a second time.

I rise to reintroduce the Criminal Law (Sentencing) (Abolition of Suspended Sentences for Subsequent Serious Offences) Amendment Bill 2008, possibly the longest titled bill I have ever introduced. Members may recall that I introduced this bill to the Legislative Council back in 2008. They may also recall that I perceived there to be a lack of support and, as such, it was never brought to a vote, so it did lapse. However, in subsequent discussions, I understand that there may have been more support for the bill than I initially realised, hence the reintroduction of this bill.

Clearly, there has been a great deal of media attention on this issue in recent months, given the serious spate of various crimes that have taken place in our city streets in recent times. In

light of this, it is possible that the general attitudes to punishment for serious crimes in this place, and indeed in our community, has firmed somewhat, hence the reintroduction of this bill.

For members' interest and for clarity, I gave my second reading speech back on 18 June 2008. Members will be relieved to know that I will not go through that speech again in its entirety this evening; I will only make a few brief points referring members to that speech.

The way in which this bill would operate in its most fundamental sense is very clear. It would prevent a court from ordering that a sentence of imprisonment be suspended where the sentence is for a subsequent serious offence in any 10-year period. The offences are listed in the bill; I will not go through them again. I think members will find it self-explanatory.

Just to be clear, the court would have the power to suspend a sentence if one of these serious offences had occurred at a given time, but they would not have the power to suspend a subsequent sentence within any 10-year period for one of these serious offences only. They would have the power to do that for a minor offence or for a less serious offence. That is not included in my bill.

During my speech I gave examples of some suspended sentences that I say should quite clearly not have been suspended, sentences that would be caught by this bill and not be allowed to be suspended. I suspect that most people would agree that the suspension of the sentences in the cases I have outlined were completely inappropriate and, indeed, plainly wrong, yet the courts did order them. Legislation is needed to ensure that this sort of thing does not happen again and that criminals are not given suspended sentence after suspended sentence. As I said, I will not labour this point.

I just make the general observation that the current Attorney-General, the Hon. John Rau from the other place, indicated during a radio interview a sense of favour toward this bill, so I am somewhat optimistic that the government may wish to take this bill on or, perhaps, amend and reshape it. Nonetheless, if we were able to achieve an outcome along these lines, I would certainly be pleased.

Just to be clear in my final comments, I do not seek to reduce whatsoever the power of the courts in their initial sentencing. I think there is an appropriate level of flexibility in sentencing that courts enjoy, but I think the thing that upsets many people in our community is seeing particularly violent offences and very high level offences being given repeated suspended sentences. As I say, I have outlined a number of those examples in my speech back on 18 June 2008, so members can refer to that for some very specific examples. I think most people will read those and simply shake their head that this sort of thing does happen. Unfortunately, it happens more commonly than I think people realise, certainly more commonly than I realised, and this bill would put that matter to bed.

I am certainly open to other members' ideas or thoughts on this. Some members may argue that perhaps the number should be three suspended sentences in a 10-year period. Some may argue that two is the right number. In any case, I am open to discussion and I look forward to receiving the support of members. I also say to members that this will most certainly be brought to a vote, given that there has been some indication of support. I anticipate that I would look to bring this to a vote some time in the middle of the year.

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

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 28 February 2012.)

The Hon. T.A. FRANKS (17:35): I rise to support this motion and to thank the Governor for his opening of the second session of the 52nd Parliament of South Australia. I echo my colleagues who have, I think without exception, paid tribute to His Excellency the Governor and his family and the office for their service to the South Australian Parliament and, of course, to the people of South Australia, and I add my support to those who have welcomed the news that Governor Scarce has been appointed for a further two-year term. I trust that this will also bode well for the continued success of Central Districts Football Club. I share the Governor's passion for Central Districts Football Club, despite last year's finals hiccup. I think that, if we had had just a few minutes more, we possibly could have got across the line.

Historically, the Governor's speech to open a session of parliament outlines for the people of South Australia what the legislative agenda for the government will be for that coming session. As we know, we are in an unusual situation, where we have gone from former premier Rann to current Premier Weatherill and where we have prorogued the parliament. Certainly, it has brought some interesting developments in recent weeks.

One welcome part of the speech, something that was historical for this parliament, was that it was the first proceedings of this parliament to be webcast, and that is, of course, something that the Greens welcome. I am very happy we have finally entered the 20th century. Unfortunately, we are not quite in the 21st century yet because we do not have the video to go with the audio, so perhaps that might come some time soon, although I do not know whether we want to inflict our visage upon people. However, I think the technology is there and we should be ashamed that we are the last parliament to access webcasting. I look forward to a better democracy as a result of this innovation, as we will know that people might potentially be listening to us as we speak.

Digital democracy still has some way to go in this parliament. I also hope that we will see developments such as the acceptance of electronic petitions, better transparency and accountability of the proceedings, and searchability of our *Hansard*, for example, through our website in the near future, because anyone who has ever tried as an outsider not on the intranet to search for a bit of *Hansard* would know that it is not the most user-friendly parliamentary system in the country. I certainly have greater ease finding things in the parliament of other states and territories than I do when dealing with our own.

The Governor's speech to this parliament, which was prorogued following a change from the former premier to current Premier Weatherill, outlined what I would call unfinished business. We heard that there is to be a review and a new Aboriginal heritage act. While I welcome that, this is certainly not a new announcement; this is something that the government has been reviewing since, I believe, 2009. So, I note with some concern that it has been announced as some new milestone to achieve, without that acknowledgement. I certainly think that, for transparency, that acknowledgement should be made, and it should have been in the Governor's speech.

I also note that the Rann government, and now the Weatherill government, has been reviewing the Aboriginal Lands Trust Act for some years as well. The issues, of course, in Indigenous affairs are, as we often hear, complex and challenging and, indeed, I agree with that. But that does not mean that they are so difficult that we cannot ensure that we progress them with the appropriate importance I think they should be apportioned.

I would say that the former minister (the minister before the current minister, Paul Caica) did not make an enormous contribution under her watch. Certainly, under her watch, we saw neither the Aboriginal Heritage Act nor the Aboriginal Lands Trust Act reach a point where we had draft legislation in this place or, indeed, any sort of final report. I for one, and the Greens, certainly want to work with the government in the area of Aboriginal affairs and reconciliation. It is a vital area that I think all parliamentarians should put their mind to in terms of a commitment to those who are the most disadvantaged in Australian society.

I was saddened to see what happened with the Australia Day debacle when petty and personal politics overtook what was an important recognition of the history of Aboriginal people in this country. I agree with my colleague, Adam Bandt, when he called for any debates in the federal parliament following that Australia Day incident to focus on closing the gap, not identifying faults or what a staffer did or said at a particular time. I certainly know, in the annals of history, which is the most important.

Under the Rann government, and now the Weatherill government, there has been a lot of rhetoric about law and order. There have been announcements of increased police and we have recently heard the announcement of a $3.5 million police station at Yalata, yet community constable positions remain unfilled. In one community those particular positions have remained unfilled since 2003 despite the fact that the chair of the community council in that community has attempted to assist the government to fill those positions, and despite the fact that applications have been made.

I am disheartened to see a direction where that which should be a shame, that those positions are not filled, is actually seen as business as usual. I hope that under the Weatherill government these sorts of instances in Aboriginal affairs will not be seen as business as usual. I also hope that we will see a greater focus on justice reinvestment and a recognition of one of the old principles that prevention is a lot better than cure and early intervention is not only a cost saving

measure but it is a life-saving measure. The sacrifice of the lives of people who come into contact unnecessarily with the justice system and lose their future destroys families and destroys the fabric of our society, when a small investment in the early years could produce real and lasting results.

Another area that was a bit of unfinished business—but I certainly welcomed the announcement in the Governor's speech—was that of disability. Disability demands reification of our attitudes. In the *Strong Voices* blueprint document from the Social Inclusion Unit I note the words of Monsignor Cappo:

> It is a plan not just for Government, but for the whole community, to change the way disability is considered as an issue. It is now time that Government and the community sees people with disability not for what they cannot do, but for who they are and what they can achieve as citizens.

The elected representative of the Dignity4Disability Party in this place challenges all of us in our day-to-day working lives here in parliament as to what a representative who happens to have a disability can do and can achieve. I welcome the contributions made by Dignity4Disability, but I am mindful that it is the responsibility of all of us to work on disability issues and to ensure that those with disabilities in our communities are not forgotten.

We have heard that a new disability act is to come before us, as outlined in the Governor's speech. I am disappointed that we have not got a commitment from government yet that that will be rights-based rather than welfare-based. I can only echo the recommendations that have come out of the report of the Office of the Public Advocate this week, that we must move from a welfare-based approach to disability to a rights-based approach and all that accompanies that.

The United Nations Convention on the Rights of Persons with Disabilities has certainly been a great step forward at the international level. Many other areas of the world have adopted that approach and we have seen great gains. As I say, it is a different way of viewing disability and an area that needs public policy rethinking.

One area that did not get a mention in terms of disability is youth care. Across the country a young person with high care needs is often placed in aged care facilities. I understand that in South Australia close to 1,000 young people are currently living in aged care, and that is simply unacceptable. Young people with a disability deserve to be placed in specialised facilities that offer the rehabilitation and specialised care that they need to deal with acquired brain injuries and specific disabilities like Parkinson's disease, muscular dystrophy and so on.

They certainly do not need to be living in an aged-care facility where people are at the end of their lives. There is a burden on those young people because they are living with people who are passing away on a regular basis. It is not appropriate and it is not acceptable. I commend Victoria. It is to be congratulated because it opened the first youth-care facility in Melbourne over a year ago, possibly two years ago now. I think we can and we must follow suit in South Australia.

Of course, a youth-care facility could be a monument. We have come to see that monuments in this state have to be the biggest to count as a priority of government. South Australians deserve the best in health care, the best in education, the best in employment opportunities, the best environment and the best that we can offer for the future. They do not deserve an obsession with spin over substance where the debates revolve around a new or a rebuilt public hospital, or a new or a rebuilt sporting oval. We can spend up big at the Royal Adelaide Hospital, finding $2 million for some way-finding art, yet we cannot find just under half a million for the Keith Hospital. I am really disappointed that some of the mistakes of the past (with regard to the funding of that particular hospital) were not addressed in the Governor's speech.

Ultimately we will be remembered not for the statutes or for the monuments but for the real impact that we had on people's lives. We must lose the spin. We must not talk about homelessness as only people sleeping rough on the streets and our ability to reduce those numbers, while we do not talk about the women sleeping in cars in car parks in suburban shopping centres and then taking their children to school.

We do not talk about the hidden homelessness; we simply identify one area, focus on that in our state plan and congratulate ourselves with a pat on the back when we hit a target. Simply because an area is easily measured does not necessarily mean that it is the most important, and I certainly would point to mental health and wellbeing as an area that is very difficult to measure and very difficult to calculate, yet it is absolutely vital that we ensure that we have good mental health in our society.

I have heard a lot of spin. I think the most disappointing bit of spin over substance was during my first weeks here when I was informed that fewer children (wards of the state) were living in hotels than had done so in previous years—this was infants through to youth. At first I thought that was a great thing. I thought it was a great achievement. Then I discovered that, in fact, they were living in apartments, and that the numbers had gone up.

I do not buy the story that an apartment for a child as a home life is better than a hotel. I think both are unacceptable. I think it is unacceptable to learn that we have infants in the care of the state who are cared for probably by very well meaning but unqualified people who, for example, feed a young infant solids when the child is not physically equipped to handle that. To me that indicates that we do not have the best care for our children right from the start in this state.

We will be remembered for the decisions that we make here that impact on future generations. I hope that we will be leaving a society of compassion rather than creating a culture of fear. We will also be remembered for how we secure the future opportunities for South Australians. Of course, one such case that many speakers have touched on in both houses is the future of GMH at Elizabeth. I had a flashback this week after hearing all the speeches about Holden's and I remember I had a light blue T-shirt that had the lyrics from a song familiar to many growing up in the seventies—that I was as Aussie as football, meat pies, kangaroos and Holden cars. It had a kangaroo on it but I do not think it had a Holden car.

As we have heard in past months, Holden cars in Australia may not necessarily be the Australia of the future, despite the fact that they have been certainly an icon of our past. We must grapple with what part Holden—and the manufacturing sector, more broadly—will play in our future. I have to agree with Greens member for Melbourne and the Greens industry spokesperson federally, Adam Bandt, when he says that future assistance to the car industry needs to drive innovation and a shift to electric vehicles if our Australian car industry is to survive.

We cannot just blame the high dollar for job cuts. We have to take responsibility and adapt to new markets, and the car industry certainly needs to go green if it is to survive in our particular conditions in Australia and in South Australia. The government needs to play an active role in driving that innovation and requiring the industry to change.

I certainly take cold comfort in the handouts given to the industry without ensuring that there is a future for that industry because, if we are simply giving workers a few more years before they then see the company move offshore, we are really not giving them real job security. We need to get ahead of the game, and certainly I condemn at a federal level the scrapping of the green car innovation fund because, although that had some problems, it was at least a step in the right direction.

Another area in which South Australians deserve that we provide the best is, of course, the area, before employment, of education. Unfortunately, the SACE system has not provided South Australian students with the best that we can offer. We have seen students used as guinea pigs. We have seen a lack of forward planning and an inability and an unwillingness to listen to the educators about the disaster that was before us. That leaves us in a position where we are now about to review the SACE.

Everyone who was involved in delivering and studying the SACE was saying that there was a problem. We knew that the compulsory research project was difficult to support. We knew that it was actually diminishing students' ability to do extra subjects such as languages and potentially harming their ability to get into tertiary academic institutions, certainly in other states, as their options were being cut off by being forced to do a research project.

We are also aware that there is a lack of librarians across the state and that teachers are being stretched even further when we know that they are pretty much at the limit of what they can manage at the moment. Yet, their calls to have preparation time and also to potentially offer students who wished to do another subject that was not a research project that option were ignored for years. Unfortunately, that particular cohort of students, I believe, has been used as guinea pigs and, certainly, the Greens have said that those students who were doing the research project have, in fact, been treated as a research project, and that is just not good enough.

Young people deserve the best education and the best employment opportunities that we can provide, but they also must have a vibrant culture. Certainly, I will be speaking further to this when the Hon. Michelle Lensink moves her motion about the travesty of losing young people from this state. One of the reasons young people leave, other than employment and education

opportunities, is, of course, because they seek the vibrant cultures of our Eastern States in Australia.

I welcome the announcement of a Capital City Committee. I welcome what seems to be an attempt to work across government. I am concerned that the member for Adelaide is not invited to participate on this committee, and I would hope that that would not be because she is from a party that is not of the government. Certainly, I think, if we are to have a vibrant culture and a prosperous state, in those particular cases we must put aside our political differences and work together.

I would point to one particular area of vibrant culture that I think South Australia could do a lot better in. Last week, we saw the very first SLAM Day. That acronym stands for Save Live Australian Music. The very week that we saw the commemoration of Save Live Australian Music Day, we saw the reason why we need it, because we heard of the impending closure of the Jade Monkey later this year. The site on which the Jade Monkey has operated as a small live music venue for about a decade now is slated for development. I have no quibble with the development, that seems to be a positive thing, but I certainly think there must be more done to save small live music venues in South Australia—and, in particular, our capital city—if we are to support contemporary music.

I note that $500,000 has been allocated each year in South Australia for contemporary music. That was originally put in place as an amendment to the SA Gaming Machines Act 1992, and I remember helping friends who were in bands with grant applications and so on. I remember going along to those meetings where that amount was offered to, I guess, pacify the anger of the live music industry. I do commend the establishment of the Community Development Fund, but that figure of $500,000 was a minimum and it was set some 10 years ago. I understand it has not actually been increased since that time; certainly the 2010 arts policy document for the state, State of the Arts, makes no mention of contemporary music.

There is no contemporary music strategy in this state, unlike in Western Australia and Queensland. I understand that the government is currently either in the process of or about to finalise a review of the contemporary music funding program, but that review does not contemplate an increase to the allocation, yet in terms of our arts budget, is just one half of one per cent. I think that live music warrants more than that very paltry amount.

The small live music venues in this state being under threat is no different to the situation around the country. In Melbourne we have seen iconic venues under threat, and in Sydney we have seen the real diminution of the live music industry. In fact, the Australia Council report 'Vanishing Act' outlines just how dire the situation is.

Just as we saw the reopening of the Tuxedo Cat, something that I welcomed—and I commend the Premier for taking an interest in the arts and in venues like the Tuxedo Cat, and in projects like Renew Adelaide—we heard of the loss of the Jade Monkey. I do hope that a new home can be found for that particular venue, and I point to the huge groundswell of public support that indicates just how much South Australians do, in fact, care about live music and the live music scene. I think that government support should be commensurate with that public opinion.

It is time for the state government to step up its commitment to local live music or we will never see local talent follow in the footsteps of some of our proudest achievements: the Hilltop Hoods, the Angels, Mark of Cain, Master's Apprentices, I Killed the Prom Queen, the Audreys, and of course Cold Chisel. I do not know the Hon. John Gazzola's bands' names or I would throw them in here. Those young bands, new bands and emerging artists will never step out of their bedrooms and onto a local stage if there are no small live music venues. It is a long way to the top, as the lyric goes, but if you cannot take the first step you will never get to the end of the journey.

The Greens have also long called for changes to the welfare system at the federal level to remove the bias against practising musicians and help them earn a living wage. I think that supporting live musicians should be on the agenda not only of the arts departments but also education, Treasury, communications, trade and so much more. I do commend the Weatherill government, because I believe that the Premier has actually contacted the Jade Monkey personally and offered some assistance, so I look forward to more positive news in coming months on that front.

At this point I cannot leave unchallenged some of the various contributors' comments with regards to the Greens in the Port Adelaide by-election. I certainly note the words of the Leader of the Opposition in this house that this was some sort of a test for the Greens. Apparently it was a test for us to say to the government, and I quote:

We don't like the fact that you are selling the forests. We don't like Mount Barker; we don't like Buckland Park. We don't like the sort of economic management that you have undertaken. We do not like seeing our businesses uncompetitive, bus contracts going to Malaysian companies.

Well, we don't like those things. I would agree; we don't like those things. The Liberal opposition must remember that we have also not been in accord with them on various measures in this place. Certainly, on the Work Health and Safety Bill before us and for protections for child workers we have definitely not been in accord with the Liberal Party.

The Leader of the Opposition in this place pointed out that we had the opportunity as the Greens to preference the local candidate, Gary Johanson. Now, last I heard, the Liberal Party actually refused to field a candidate in these by-elections and there was an independent member of the Liberal Party who ran. I would point out to the Liberal Party members that the Greens, in fact, preferenced her above Gary Johanson.

We were informed in this place that a vote for the Greens was a vote for Labor. Well, no; a vote for the Greens is a vote for the Greens, and we have seen in recent elections that that is not a wasted vote. We had a nine-point plan for the port, and that is outlined on our website. It was a plan for the future of Port Adelaide. It was a plan for a new model for the port redevelopment, developing a tourism icon at Hart's Mill, protecting heritage at risk at Torrens Island, a better approach to development across the state, an EPA that works, protecting our marine environment, a decent system of WorkCover, helping South Australians in financial difficulty and investing in justice not prisons.

The Greens are no-one's lackey. These are Green priorities for the people of Port Adelaide. They have come from great consultation with the locals of Port Adelaide and they reflect Green ideas for Port Adelaide. We are no-one's preference machine; we are no-one's faction. We are here to see Green ideas into power. We take two seats in this place, but around the country we take 22 state and territory seats and, in federal parliament, we have 10. We have broken through in lower houses as well as upper houses and, in 2010, 1.6 million Australians voted Green. They did not vote Green to vote Labor or Liberal.

It is certainly telling that, when it comes down to it, there have been two recent occasions: in the Victorian elections, Labor and Liberal did a deal for the Liberals to preference Labor above the Greens to keep the Greens out of four key seats where we looked like taking those lower-house seats in the inner suburbs of Melbourne; and in Tasmania the Liberal Party, with 10 seats would not come to the five Greens who had been elected and the Greens were, in fact, forced by the situation to finally work with the Labor Party's 10 members.

That was only done after days of stand-off and the Governor sending both parties back to the drawing table and telling them that one of them had to work with the Greens. We have seen two ministers there in that Tasmanian government, Nick McKim and Cassy O'Connor, do fine work, but we will work with either party. I would point the Liberals to look to their record at refusing to work with the Greens.

I would say that the Greens here in this state upper house look forward to a changed, refreshed and renewed Weatherill government. We hope that the mistakes of the past will not be repeated, and we look forward to working with people from all parties who are elected to this place to represent the people of South Australia.

[Sitting suspended from 18:04 to 19:48]

The Hon. J.S. LEE (19:48): I rise to support the adoption of the Address in Reply given by His Excellency to open the Second Session of the 52nd Parliament on 14 February 2012. Along with the other honourable members, I would also like to take this opportunity to congratulate the Governor and Mrs Scarce on their commitment to the community by doing an outstanding job in their roles. They demonstrate a high level of respect and courtesy to the people of this state and are great ambassadors for South Australia.

I place on the record my sincere congratulations to the Governor for his reappointment for a future term. This decision, I believe, is great news for the South Australian community. As the shadow parliamentary secretary for multicultural affairs for the Leader of the Opposition, I would also like to thank the Governor for his commitment to recognising the achievements and contributions of our citizens from culturally and linguistically diverse communities through the Governor's Multicultural Awards.

The Governor's address to open the parliament followed the grand traditions of the Westminster system. Therefore, he was acting and speaking on behalf of the government. The Governor was reading a prepared speech written by the Labor government of the day and, of course, the new Premier. My comments in replying to the Governor's address are not a reflection on the Governor but an assessment of the government. The opening speech by the Governor spoke about the future. He said:

> My Government believes that, more than at any time since the formation of the first government for this State 175 years ago, our future will be determined by the decisions we make in this decade.

It is very interesting to observe that the government should talk about the future. Is it because they do not want to remind the people of South Australia about the past? Labor has been in government for 10 years and produced a very miserable report card for the state. So, the new Premier decided that those 10 years of hard Labor have nothing to do with him and he wants the people of South Australia to forget the past. Premier Jay Weatherill would rather shift the 10 years of Labor mess to the former premier Mike Rann as his legacy: bye, bye Mr Rann, walking away leaving the state in a mess but with a very handsome $200,000 golden handshake departure allowance package that the people of this state have to pay for.

The government and Premier Weatherill would like South Australians to forget the past 10 years and focus on the next decade. He is trying to mislead the people of South Australia by promising a new direction for Labor. Perhaps a few reminders will highlight why Premier Weatherill would use the Governor's speech to make people feel good about the future rather than looking at the past.

Mr Weatherill has sat in cabinet and signed off every bad Labor decision over the past decade. Perhaps Premier Weatherill was too embarrassed to mention the sale of the South-East forests and the SA Lotteries Commission in the opening speech to parliament. Despite underpinning their budget strategy, Premier Weatherill and the Labor government were ashamed to mention selling the harvesting rights of the South-East forests and selling the SA Lotteries Commission.

In the Governor's speech, he highlighted seven primary areas of focus for action. The first two themes were about a clean, green food industry and the mining boom and its benefits. Honourable members would know that most of the primary produce of food, wine and mining resources come from our regional South Australia. The question is: what has the Labor government done for the regions in the last decade? There has been the sustained neglect of regional South Australia, with many country communities devastated by Labor's city-centric policies.

Labor's ruthless and heartless attacks on the state's regions include selling the forward rotations of the state forests. I am on the forestry select committee, and I have heard first-hand evidence from the community of how unjust is this decision and how it will destroy many businesses and many families in the region. Another select committee I am on examined awarding a substantial part of regional bus contracts to an interstate company instead of staying with South Australian local providers.

Slashing funding to regional community hospitals in Keith, Ardrossan and Moonta is putting regional families at risk. The government has failed to adequately consult regional communities on marine parks; it has slashed jobs and funding from PIRSA, increased fees and charges imposed on fishing, wine, mining and farming sectors; and it has allowed regional roads to deteriorate, with a $200 million backlog in road maintenance across the state.

They also removed the petroleum subsidy scheme, which has seen petrol prices in country regions rise by 3.3¢ per litre. This is hurting regional South Australians, those who have the capacity to produce clean and green food. Removing the petroleum subsidy increases the cost of food, services and tourism and rips $50 million over 3.5 years from the pockets of regional communities. Labor had also landed regional South Australia in a jobs crisis, with the mining sector losing 1,000 jobs and the manufacturing and construction sectors each losing 3,400 jobs reported last year.

The new Premier Weatherill will, of course, distance himself from all these bad decisions he made when he sat in cabinet that crushed regional communities. Not once, Mr President, have we heard Premier Weatherill speak out against those decisions affecting the regions, not once; yet in the opening speech the government talks about the prosperity of the regions and expects the

regions to be productive yet does very little to protect and support the people of regional South Australia.

In the Governor's speech the government spoke about the need to support advanced manufacturing. One would have thought that advanced manufacturing requires innovation. The federal Labor government has cut the only program designed to stimulate innovation in the state, namely, Innovate SA, to save $3 million. This cut comes despite the Labor government spending $5 million on the new Department for Manufacturing, Innovation, Trade, Resources and Energy offices on Grenfell Street. By closing Innovate SA the government has cut the small and medium enterprise investment development program. It has let down business in South Australia. Another theme the government spoke about is a vibrant city. In his speech, the Governor said:

> Our capital city centre should be a vibrant place that expresses our state's confidence and vitality.

Perhaps the government should have spoken about a vibrant city when it had a Labor minister in 2002 under Jane Lomax-Smith, the former member for Adelaide. For eight years she did nothing. The Labor government did nothing. Thank goodness for 2010 and we now have a hardworking Liberal member for Adelaide in Rachel Sanderson.

We all know that there is a high concentration of businesses located in the city. To develop a vibrant city means many things, but one of them has to be in relation to business confidence in the city. South Australia has the worst business confidence in the nation. As the parliamentary secretary for small business, I studied the ANZ Small Business Sales Trends recently published with great interest. The report has shown that small businesses are doing it tough in South Australia. Year on year sales figures for the 12 months ending January 2012 show that South Australia was the worst performer of all mainland states—only a 4.1 per cent increase in sales before inflation.

Also, according to ABS figures released today, South Australia's retail turnover performance dropped by 0.6 per cent compared to a national increase of 2.5 per cent. I would also like to refer to the NAB Retail Survey published on Monday 27 February this week, which showed that South Australia has suffered the lowest per capita retail spending in the nation for the past two years. Other states with lower taxes and better workers compensation schemes saw better growth in sales in the small business sector. Small businesses in South Australia are struggling under the highest taxes in Australia and the worst workers compensation scheme.

With the state budget in such a mess and Labor proposing to spend more than the state gets in revenue in the next three years to the tune of $367 million (deficit), $453 million (deficit) and $348 million (deficit), small businesses can expect more pain from Labor. The shadow treasurer (Hon. Iain Evans) in the other place pointed out that, even after selling the South-East forests and the Lotteries Commission, state debt would increase from $8 billion to over $11 billion.

Households and small business will pay the interest bill approaching $2 million per day through higher taxes. Is it any wonder that they are doing it tough in South Australia after a decade of Labor mess? Without the confidence to operate viable businesses, without the confidence to open its door to consumers and without the confidence to employ people, how can the people of Adelaide have the capacity to build a vibrant city under this government?

Both businesses and consumers in South Australia have lost confidence in the Weatherill Labor government. This Labor government has simply failed to create an environment that encourages and supports business growth in South Australia. Can we trust the Labor government to deliver a vibrant city? The judgement is: I think not.

Another theme the government spoke about is safe and active neighbourhoods. One only has to open the newspaper every day to know that so many neighbourhoods are no longer safe. So many people are living in fear. We all heard about the eight escapees who fled from the Cavan Youth Training Centre on Monday night. This is a clear threat to public safety, as these young men are all facing serious charges.

Labor's claimed urgency to tackle organised crime is a smokescreen to deflect from its poor performance on fighting crime. Despite having literally years to come back to parliament with organised crime laws, the delay still continues. None of Labor's 2010 serious crime or new community safety policy election promises have been implemented.

Another theme was affordable living. The words 'affordable living' are soon to become a foreign language for South Australians. The cost of living skyrockets under Labor. After a decade of this Labor government, South Australian families are struggling with the burden of increasing cost

of living pressures. According to the CPI figures released by the ABS, in the past 16 months water bills have increased by 40 per cent, electricity bills have increased by 24.7 per cent, state taxes have increased by 7.4 per cent and housing rents have increased by 4.2 per cent.

The opening speech also spoke about early childhood as another priority area. I recognise that investment in our youngest children is important, but I cannot help feeling sad about those children who have grown up and become young people who are now struggling to find jobs. The number of South Australians in full-time work is the lowest in 12 months, with 1,300 full-time jobs disappearing in December 2011 alone.

Data just released by Roy Morgan reveals an even more disturbing story for the 226,000 South Australians—or one in four workers—who are either out of work or looking for more work. After a year of announcements, promises and even a change in premier, Labor has managed to deliver only part-time jobs.

The Roy Morgan data collected in January confirms that, in South Australia, of a workforce of 892,000 people, 106,000 (11.9 per cent) are unemployed. A further 120,000 people (13.5 per cent) are under-employed (part-time workers). The overall total of 226,000 South Australians (more than 25 per cent) looking for work, or looking for more work, is the highest of any state.

Our state's businesses pay the highest taxes in Australia under the Weatherill Labor government. This means that businesses have less money and lack confidence to hire staff. Labor made an election promise exactly two years ago to create 100,000 new jobs but, at this rate, it will not even meet half its target. Premier Weatherill must explain why South Australians have fewer opportunities after 10 years of this Labor government.

The Labor government must re-look at its priorities and address the current pressures facing families now. It must start addressing the unemployment issues. Bear in mind that families with jobs and security are in the best position to bring up healthy children and therefore be able to invest in developing early childhood wellbeing for their own children.

South Australians are suffering under 10 years of Labor mismanagement, ranging from massive cost of living increases to a damaging youth unemployment rate. Labor has a lot to answer for. Labor has also failed to manage the state budget and invest for the future. I call on the government to start acting in the best interests of all South Australians. With those remarks, I commend the motion to the council.

Debate adjourned on motion of Hon. R.I. Lucas.

WATER INDUSTRY BILL

In committee.

(Continued from 28 February 2012.)

Clause 18.

The CHAIR: The last time the committee met, the Hon. Mr Ridgway had moved an amendment to clause 18, and the minister was to seek advice.

The Hon. I.K. HUNTER: I have sought some further advice, and I indicate to the committee that the government is prepared to accept this amendment.

Amendment carried; clause as amended passed.

Clauses 19 to 23 passed.

Clause 24.

The Hon. D.W. RIDGWAY: I move:

Page 20, after line 26—Insert:

(3a) The Treasurer must, within 14 days after the receipt of a report under subsection (3), cause a copy of the report to be published on the Department of Treasury and Finance's website.

This amendment inserts a new subclause (3a), which obliges the Treasurer to table a report concerning the level of annual licence fees. In the House of Assembly the government argued that the time for tabling of three sitting days provided in the amendment presented by the opposition in the other place was too limited. This new proposed amendment now pushes that out to 14 days.

We think the purpose of the amendment is to increase accountability. Because the government rightly claimed that three sitting days was too short a period of time, we are now saying 14 sitting days. We would hope that the government and the crossbenchers see the sense and wisdom of this amendment and support it.

The Hon. I.K. HUNTER: The honourable member is quite correct in saying the original amendment to this clause in the House of Assembly required a report to be tabled in parliament in three sitting days. As he also noted, that probably is a little too onerous. It would not allow time, for example, for cabinet and other related processes to take into account such a time frame. It still remains the government's position that reports should be tabled in parliament within 12 sitting days. This is in line with similar requirements across other legislation. It would then give us time, for example, to publish such a report on the Department of Treasury and Finance's website; so we are opposing the amendment.

The Hon. M. PARNELL: This is a fairly minor amendment and it does go to the question of transparency. Really, the difference between the government and opposition positions is very, very small. The opposition is saying 14 days. They have moved some distance, as I understand it, from their previous three sitting days. The government has not sought to amend the Liberal amendment by increasing the time period. If they were that keen that it was that important they would have done it.

I think the Greens will support the amendment; it adds to transparency. If between the houses the government wants to come back with an alternative, which is their longer period of time, because they have not said they are opposing transparency (they are just concerned about the time period), let them, between the houses, come back with a different number if they want, but the Greens will be supporting it now.

The Hon. K.L. VINCENT: I will support it.

The Hon. I.K. HUNTER: We can count on this side. We will not be seeking to divide but we continue to oppose.

Amendment carried; clause as amended passed.

Clause 25.

The Hon. I.K. HUNTER: I undertook last night to come back to the chamber with some responses to questions I was asked. It might be appropriate for me to put that on the record now. I undertook to get back to the chamber on the Hon. Mr Ridgway's question of the financial burdens placed on the Salisbury council under this proposed new licensing regime.

As indicated, the bulk of the licence fee revenue will be paid by SA Water, and the impact on other water industry entities will be modest. I was then asked to quantify 'modest'. With respect to application fees and based on initial advice from ESCOSA, the government expects the reasonable costs of determining an application to be similar to that currently set for energy retail licence applications. In this respect, the government expects that the $1,000 paid for an application to ESCOSA for an energy retail licence, as set by the Minister for Energy, would be an appropriate amount for the application fee under clause 19 of the bill.

With respect to the annual licence fee, the government expects that this would include an additional fixed component of $1,000 plus a variable component. The variable will be based on the total number of water and sewerage connections and regulatory effort. SA Water has approximately 93 per cent of the total water and sewerage connections in South Australia and will be contributing a similar share of the regulatory costs. Given large monopoly suppliers like SA Water would be subject to a formal price regulation, they will also be responsible for the major portion of ESCOSA's regulatory effort. The upshot is that the variable component contributed by entities with a small number of connections—say, less than 500—could be expected to be around the $1,000 or $2,000 mark. This is a ballpark figure.

As members will be aware, in the House of Assembly the government accepted an opposition amendment that required the government to take into account advice contained in a written report furnished to the Treasurer by ESCOSA for the purpose of setting licence fees. It is, therefore, impossible to be more precise about the licence fee figures at this time as this will be pre-empting the advice of ESCOSA.

In concluding the answer, I also point out that if licence fees were to be used for any other purpose other than regulation of the water industry, then this would be considered an excise which states are prohibited from collecting under section 90 of Australia's constitution.

The Hon. D.W. RIDGWAY: I withdraw my amendment [Ridgway-1] 9 because it is consequential.

The Hon. M. PARNELL: I move:

Page 22, after line 20—Insert:

(1a) The Minister must, in acting under subsection (1)(o), take into account the principle set out in section 35(8a).

I apologise to members that my replacement set [Parnell-2] which entirely replaces [Parnell-1] has only just arrived recently, but I can assure members that it covers exactly the same territory as the previous set of amendments. My amendment No. 1 (and it is cross-referenced to my amendment No. 3, which we will get to later) basically goes to this question of concession schemes and the performance of community service obligations. Under clause 25 (which is a licensing clause) basically licence holders have to comply with the requirements of any concession scheme or community service obligation scheme that is devised by the minister. These, of course, will be publicly-funded schemes; they are not schemes funded by the water entities themselves.

What my amendment seeks to do is to say that, when the minister is putting his or her mind to what should be in these customer concession and community service obligation provisions, the minister should have regard to some principles which are set out in a new subclause (8a) of clause 35, which we will get to later, so I just need to briefly explain what that is.

For the benefit of the committee, I should say that I have moved a great deal since my first lot of amendments were drafted. The first lot of amendments, I had a fairly concrete concept called 'the essential residential consumption amount'. This is an amount of water that is deemed to be essential for all people to live a quality life and be able to wash, drink, eat and clean their clothes and whatever. The government balked at the idea of having a fixed concrete amount that could be quantified, so what I have attempted to do in this amendment is go to the vibe, rather than go to the quantifiable amount.

The vibe is now for the minister to take into account the fact that members of the community should be entitled to the provision of a basic amount of water for essential human needs and that the price of water provided to residential premises should take into account the need to ensure that this amount of water is generally affordable. It is very much the vibe; it is not a concrete amount. It does not say how much that water should cost, but it recognises what I think governments have always recognised with the inclining block tariff and that is that the first bit of water—it is not discretionary; you have to have this bit of water to keep healthy and clean and whatever—really does need to be dealt with separately from more discretionary components, and that is why we have always priced the first bit of water cheaper.

I know it might sound convoluted because it is coming in a licensing section, but what this amendment says is that the licence holders have to obey the conditions of their licence. One of the conditions of the licence will be the minister's concessional arrangements and the minister's community service obligations, and that when the minister is putting his or her mind to those things, they should take into account the feature I have just referred to: water is essential for life; at least some part of it (unquantified) should be provided at an affordable amount. That is the purpose of this inclusion here. But, as I have said, it is cross-referenced to part of my amendment No. 3 to clause 35, which sets out the vibe of the intent of this amendment.

The Hon. I.K. HUNTER: The Hon. Mr Parnell's amendment relates to the concession schemes and to the Hon. Mr Parnell's proposals in his amendment No. 3 to clause 35 for the concession scheme to take into account water for essential human needs. The government does not support the proposed amendment to clause 35 for reasons which I will outline, and therefore it does not support this amendment at all.

In developing a concession scheme, it is not practical for the government to take into account the provision of a basic amount of water for essential human needs. This simply begs the question of how to define an essential amount. In this respect, I note the recent findings of the Productivity Commission's inquiry into Australia's urban water sector, which found that there is no need for an essential residential volume of the water. The commission states:

In addition to being unnecessary, it would also be difficult to do given that the amount of essential water use required at the household level...is determined in part by the number of persons who reside in a household.

The government agrees with this view and will not be supporting the amendment because, in the Hon. Mr Parnell's parlance, the vibe is just too vague. I might leave the discussion of Mr Parnell's amendment. I have some other notes to put onto the record, which I will do after we break from this clause.

The Hon. D.W. RIDGWAY: My understanding is that this is a re-jigging of the Hon. Mr Mark Parnell's original set of amendments. I think I am right in saying that. I indicate that, from what I can understand, it obliges the minister to establish a low income concession scheme of sorts. The bill provides, under clauses 25(4) and (5), for the minister to include licence condition provisions to assist customers who are experiencing some kind of hardship and for the minister to gain relevant information from a licensee to enable the administration of a concession scheme or for the performance of community service obligations. The opposition has already indicated that it has a desire for a review of a range of these concessions provided by the state. It is our view that this will make that review at some future point somewhat difficult and may even compromise it, so I indicate that we will not be supporting the Hon. Mark Parnell's amendment.

Amendment negatived.

The Hon. I.K. HUNTER: I move:

Page 22, after line 20—Insert:

(1a) The Commission must, in acting under subsection (1), have regard to the scale and nature of the operations of the water industry entity (with the scale and nature being determined by the Commission after consultation with the entity or a person or body nominated by the entity).

The government acknowledges the concerns expressed by the Local Government Association and those shared by some members of this chamber. I foreshadowed last night that we were drafting this amendment—and I bring it forward to the chamber now—about how independent economic regulation will be applied to smaller entities. These concerns apply in particular to small community wastewater management schemes run by local government. As previously indicated, the government regards these as essential services but has also sought to assure the chamber that these services will be subject to a light-handed regulation. I have already outlined what 'light-handed' means in practice.

To give members of this chamber and other stakeholders additional assurance on this issue, the proposed amendment requires ESCOSA, under this clause, to have regard to the size and nature of the entity in question. Moreover, this must be done in consultation with the entity itself, or its nominated representative, which could be an organisation; for example, the LGA.

The Hon. D.W. RIDGWAY: I indicate that while the opposition is not totally happy with this amendment, it goes some way towards addressing our concerns. I am looking at some advice from the Local Government Association. It states that it is aware the government will move an amendment with licensing requirements that must have regard to the scale and nature of schemes being operated by the water entity, with the scale and nature being determined by the commission after consultation with the water entity, or persons nominated. I think the LGA and the opposition are at one on this. The LGA also states that it does not totally address the concerns of councils but does move some way forward from where this bill is currently. So, I indicate that the opposition will be supporting the amendment.

The Hon. M. PARNELL: The Greens are supporting this amendment.

The Hon. A. BRESSINGTON: I will be supporting the amendment.

Amendment carried.

The Hon. D.W. RIDGWAY: I move:

Page 22, lines 23 and 24—Delete 'considered appropriate by the Commission' and substitute:

authorised by the regulations

This is a technical amendment which will ensure that any new licence conditions considered appropriate will be established by regulation, rather than as considered appropriate by the commission. It gives parliament some extra oversight, if you like, and being a regulation it gives parliament the right to disallow, thus preserving some more of the parliament's sovereignty.

The Hon. I.K. HUNTER: This amendment moved by the Hon. Mr Ridgway removes the ability of the independent economic regulator to make licences subject to further conditions as deemed appropriate by the commission. Given that the commission must operate within requirements set out in legislation, it is difficult to see what would be achieved by denying them the flexibility envisaged in the clause.

This clause exists in similar industry legislation, namely the gas and electricity acts. This clause has been used in the past by ESCOSA under these acts to impose a licence condition prohibiting energy entities from introducing a prepayment metering system. These systems (which were not common at the time of passing the gas and electricity acts) received considerable condemnation from social interest groups such as SACOSS. The government will be opposing this amendment.

The Hon. M. PARNELL: I can see that this amendment is attractive to the extent that often in this place we try to have more elements of law put into disallowable instruments rather than leaving it to the discretion of statutory bodies, but I am comforted that this amendment is not really necessary by two factors. The first is that ESCOSA, under its own legislation, has constraints. It is not an unfettered discretion simply to add whatever conditions they like to a licence.

Secondly, the reason the minister gave is that there may be very relevant unforeseen circumstances that do require additional licence conditions, and I think it is appropriate for the commission to determine what they are. The example the minister has given is an example where this power was used for consumer protection and that shows that this clause, left as it is, will not necessarily cause the harm that perhaps the opposition thinks it might.

The Hon. J.A. DARLEY: I will not be supporting this amendment.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 22, line 25—Delete 'if the Minister so requires'

This refers to something the Hon. David Ridgway referred to before. He will tell me if I misquote him, but he referred to subsection (4) and he said that the minister will have to prepare some guidelines, if you like, or rules around hardship provisions. It is not quite like that on my reading of subsection (4). What it says is:

A code or set of rules under subsection (1)(a)—

and (1)(a) basically talks about codes and rules under the Essential Services Commission Act—

must, if the Minister so requires, include provisions to assist customers who may be suffering specified types of hardship...

The important words there are 'if the Minister so requires'. What those words mean is that the minister, if he or she does not want to, does not have to prepare any code of conduct or give any guidance to ESCOSA in preparing a code of conduct in relation to hardship provisions.

My understanding is that it would be the minister's full intention to prepare such guidelines and for ESCOSA to prepare such a policy, so deleting the words 'if the Minister so requires' makes it crystal clear that the minister will go down the path of facilitating a hardship program. It seems to me that we are simply saying in legislation what I understand the government is already committed to doing.

The Hon. I.K. HUNTER: Thank you, Hon. Mr Parnell, the fabulous 'leader of the opposition', and long may you reign over there. The government supports this amendment. It complements the Hon. Mr Parnell's amendments in relation to hardship. It is the government's view that hardship policy should be developed based on evidence as to what works in the best interests of consumers.

In its energy retail code, ESCOSA sets out how retailers must deal with customers who are experiencing payment difficulties. While similar requirements might be expected to apply in the water industry, under the amendments proposed by the Hon. Mr Parnell it is the minister who will have responsibility for developing a hardship policy, which must then be included in the codes developed by ESCOSA.

The Minister for Communities and Social Inclusion will be delegated the minister's responsibility with respect to hardship policy and the government would work with community

organisations and other key stakeholders on the contents of that direction. As I said, the government will, therefore, support the amendment.

The Hon. D.W. RIDGWAY: It is the opposition's understanding that this amendment of the Hon. Mark Parnell seeks to direct ESCOSA by establishing a principle that water pricing should have regard to the provision of a basic amount of water for essential human needs.

The Hon. M. Parnell: Wrong one, David. It is the new set, so your notes will be out.

The Hon. D.W. RIDGWAY: We only got this set tonight and the Hon. Mark Parnell indicated that they were pretty much a mirror image of what we had—except I should have been suspicious because there were five amendments and now there are six. Given that we only got them tonight, I have two choices. The government is supporting it, which is what the minister indicated he would be doing, and this, of course, has not been to the Liberal Party party room, so I indicate I have two choices—either to report progress (which we will be doing shortly for the Hon. Robert Brokenshire's amendments) or vote against it.

The Hon. M. Parnell: Oppose it if you need to. I think it will be all right.

The Hon. D.W. RIDGWAY: At this point in time, I indicate the opposition will not be supporting the amendment.

Amendment carried.

The Hon. D.W. RIDGWAY: I move:

Page 22, after line 29—Insert:

(4a) However, assistance provided to customers on account of a requirement imposed under subsection (4) must be limited to arrangements for the payment of any charge or other monetary liability by instalments.

This amendment is made in the context that the bill envisages that entities other than SA Water, a public company, will be subject to the law, and thus restricts the minister's power so that private businesses will not be obliged at the minister's discretion to provide payment relief other than by instalments.

The Hon. I.K. HUNTER: The government will not be supporting this amendment. It limits assistance to vulnerable customers and undermines the safeguards in the bill to protect them. Furthermore, this amendment is inconsistent with current practices in the state in energy, and in other jurisdictions in both water and energy, I am advised. Customers experiencing hardship are people who are having trouble paying, not just people who will not pay.

People can experience hardship for a range of reasons and require a range of solutions. In contrast to the opposition amendments, hardship measures for vulnerable customers of essential services often include more than just payment arrangements for charges and instalments. For example, hardship-related measures used in the South Australian energy industry often include extra training for service provider staff to identify and assist hardship customers, providing information about alternative payment options, government assistance and concessions, protection arrangements for further debt collection, access to retrofitting and energy audits and financial counselling. We are trying to replicate these types of arrangements in the water industry.

Hardship is a good example of where we should be aligning the arrangements in water and electricity. For example, it is reasonable to assume that a customer who is having difficulty paying an electricity bill will also find it difficult to pay a water bill. It is also reasonable to assume they will be contacting the same government agencies for assistance. It, therefore, makes a lot of sense to align the hardship arrangements in these industries. Surely, this would lead to efficiencies and minimise customer confusion.

I also note that the proposed amendment provides South Australian customers with less protection than is available, for example, in Victoria. I would ask: are our vulnerable consumers deserving of less protection than their Victorian counterparts? If you think so, you will vote for this amendment of the Hon. Mr Ridgway.

Similarly, the limits on hardship arrangements proposed in the amendment are inconsistent with national practice in the National Energy Customer Framework. I provide these examples to illustrate that customer hardship is a complex matter and not one that can be addressed through the narrow limits proposed in this amendment. The government takes the provision on hardship policy very seriously. That is why we have also retained the ability to direct ESCOSA on these

matters under clause 39(4)(c) of the bill. I note the opposition has not proposed an amendment to that clause.

The Hon. M. PARNELL: The Greens will not be supporting this amendment. The rationale of the Liberals seems to be that water operators, water companies, if you like, other than SA Water, should not be expected to respond to hardship in any way other than by offering an instalment plan. I think that, for the reasons the minister has given, all players in the water industry need to behave consistently and that the non SA Water operators need to go further than just this.

The other thing that is probably worth saying (and it might be speculative on my part) is that there is certainly a fear that the non SA Water operators are likely to be the types of people who have less experience of dealing with hardship cases and are probably more likely to handle them worse than SA Water would. SA Water has had to deal with this for a long time. I am not saying that they are perfect, but certainly I think there is a chance that new operators could be far worse, and I think that they should be obliged to do more than simply offer instalment plans to hardship clients.

The Hon. A. BRESSINGTON: I also will not be supporting this amendment, but I would like to ask the minister a question, and I am hoping that the answer will give me some hope. When he said that people who are suffering hardship will most likely contact the same government agencies about those hardship issues, is he telling me now that these departments and government agencies are actually going to start talking to each other? Is that what he meant by saying that there will be a better response to this, that we do have a communication system in place now that is coordinated?

The Hon. I.K. HUNTER: My comments were directed to those agencies that provide financial counsellors. When people are in hardship, they will contact those agencies.

The Hon. J.A. DARLEY: I will not be supporting this amendment.

The Hon. T.A. FRANKS: Could the minister clarify this. I thought the majority of financial counselling services the government had control over had child protection relations, and in fact this would be putting people at risk of potentially being subjected to child protection concerns if they were in difficulties.

The Hon. I.K. HUNTER: That is not my understanding. The majority of financial counsellors who are in the government sector provide services to those clients of the department of families. There are, of course, financial counsellors in the non-government sector providing those services to those who are not clients of the department of families.

The Hon. T.A. FRANKS: My understanding is that, with the cutbacks, the prioritisation is now going to those cases which have child protection concerns. That would lead one to imagine that if they are in that situation that is actually what you are opening yourself up to.

The Hon. I.K. HUNTER: I do not accept the premise. What our financial counsellors who work in the department of families are doing is providing services to those customers. We have provided other financial means and FTEs to the non-government sector to pick up the extra slack in financial counselling service demand.

The Hon. R.L. BROKENSHIRE: I have a question for the minister, particularly because of the minister's direct portfolio responsibilities, based on the answer that the minister gave to the opposition on why the minister, on behalf of the government, would not be accepting or supporting the opposition's amendment. Can we have some reassurance that, in relation to hardship provisions with Housing SA tenants and water supply and the like, the government will look after Housing SA tenants and other vulnerable people?

The Hon. I.K. HUNTER: As we usually do.

The Hon. R.L. BROKENSHIRE: There is plenty of evidence I want to put on the public record that the government does not actually show much heart for public housing tenants.

The Hon. I.K. HUNTER: I reject that assertion completely. The honourable member has obviously forgotten that Housing SA pays 30 per cent of the water bill on group tenancies.

The Hon. R.L. BROKENSHIRE: Because they do not have water meters.

The Hon. I.K. HUNTER: And they pay less.

Amendment negatived.

The Hon. I.K. HUNTER: I would like to take this opportunity to put on the record some answers to questions that were posed to me last night, I think. I undertook to get back to the chamber with some answers on whether towns where non-potable water is supplied are subject to the same prices as supplies of potable water. I advise that all SA Water non-potable water supplies are charged at statewide prices, except the following.

Firstly, rates from the northern railway towns of Cockburn, Manna Hill, Olary, Oodla Wirra, Terowie and Yunta are applied under the Water Conservation Act 1936 as follows: the supply charge equivalent to the charge as required by the Waterworks Act 1932; all water used up to and including 30 kilolitres per quarter is charged at the normal statewide price; all water used over 30 kilolitres per quarter is charged at four times the normal second tier statewide price.

Secondly, rates for Marla are applied as follows: supply charge equal to double the statewide charge, as required by the Waterworks Act; all water used is then charged at double the normal statewide price. Thirdly, rates for Marree and Oodnadatta are applied as follows: the statewide supply charge as required by the Waterworks Act—

The Hon. R.L. Brokenshire interjecting:

The Hon. I.K. HUNTER: If the honourable member does not want to listen he can go and milk his cows. A free water allowance of 66 kilolitres per quarter applies related to highly saline supply; water used in excess of the allowance to be charged at the normal statewide price.

Clause as amended passed.

Clause 26.

The Hon. D.W. RIDGWAY: I move:

Page 23, line 3—After 'services' insert:

operated by entities licensed under this Part

For members in the chamber, it reads:

The minister must publish a report about third party access to water infrastructure and sewerage infrastructure services

Then we will add 'operated by entities licensed under this Part'. This amendment is consequential to the opposition's amendment No. 2, which contemplates that there will be reticulated services outside the regulated scheme, such as Salisbury council.

Now the minister moved an amendment—and I look for a bit of clarification from parliamentary counsel—which went some way towards addressing the concerns in our amendment No. 2, which was the community wastewater management schemes. I probably should have rushed across to parliamentary counsel and got some advice earlier; it is consequential on our amendment No. 2, but I am wondering whether it is still relevant. Is it still relevant? I think it is.

Basically, this amendment contemplates that there will be reticulated services outside the regulated schemes, and it causes the minister to publish a report about third party access to water infrastructure and sewerage infrastructure services operated by entities licensed under this part.

The Hon. I.K. HUNTER: I advise, and I think I am correct, that the amendment No. 2 that the Hon. Mr Ridgway is speaking to was defeated last night. Is that the one?

The Hon. D.W. Ridgway: But then you were coming back with another amendment which satisfied—

The Hon. I.K. HUNTER: Yes; thank you for that. The government will oppose this amendment as we believe it would limit the scope of a report on third party access to licensed vertically integrated retailers only, I am advised. It is inappropriate to limit the scope of the report to parliament on this important policy development in this way. It is entirely inappropriate in the development of the report that stand-alone water and sewerage networks be considered in scope.

Furthermore, to only consider licensed retailers in the development of the third-party access report would make it difficult to consider developments in other industries and a number of intergovernmental arrangements that have been developed under commonwealth legislation, such as the commonwealth Competition and Consumer Act 2010, and the commonwealth Water Act 2007. We urge the chamber to summarily reject this amendment.

The Hon. M. PARNELL: As I understand this amendment, the reason that the opposition has continued to push with it is that the government has potentially left the door open for some water entities to not be licensed, in particular, the very small ones. So, the door is open. We do not know whether anyone will fall into that category, but the door is open.

The question for us is whether, when it comes to the minister publishing a report, that report should be a comprehensive report in relation to all water operators or only licensed water operators. It seems to me there is no extra imposition on the unlicensed operators if the minister is to write a report that refers to them.

So, given that the amendment we are talking about is about the minister publishing a report about third-party access to water infrastructure, the minister's report should be comprehensive; it should include access by those people who are licensed, and those who are unlicensed, if there are any. It is actually a broader report if we reject the Liberal amendment, so the Greens will not be supporting the amendment.

The Hon. I.K. HUNTER: Yes, the Hon. Mr Parnell is correct, in my assessment. For example, any bulk water supplier who has no retail component to their business would not be covered under the Liberals' amendment. The Liberals' amendment is actually going to restrict what can be covered in the report, and we do not think that is a necessary amendment.

The Hon. D.W. RIDGWAY: Mr Acting Chairman, I have just had a discussion with parliamentary counsel; they have been around longer than all of us put together, and they seem to think that this amendment certainly would still apply, notwithstanding that it was consequential from amendment No. 2.

I ask the chamber to support it, and perhaps we could have some discussion. We are going to report progress on it shortly, and we will get to the Hon. Mr Brokenshire's amendments. We could even have some discussion between the houses. The opposition is certainly not going to die in a ditch over it, but I think it would be unfortunate to oppose it tonight, rather than perhaps give it a chance to be supported, and then we can take a further close look at it.

Amendment negatived.

The Hon. D.W. RIDGWAY: I move:

Page 23, after line 15—Insert:

(4) The Minister must use his or her best endeavours to introduce into Parliament within 9 months after the commencement of this section a Bill for an Act to provide for a third party access regime to water infrastructure and sewerage infrastructure services operated by entities licensed under this Part (after taking into account the contents of the report prepared under subsection (1) and any other relevant factor).

This is an important amendment, in the sense that it strikes at something the opposition has been arguing passionately about for some time, which is third-party access. The opposition has long argued that the government is not serious about third-party access and is really only paying lip service to the concept. The consultation on the bill received strong support from a wide range of stakeholders about third-party access.

The experience from New South Wales, where a regime has been in place for some years, is that no entity has successfully gained third-party access, as the law simply makes it too difficult. This amendment simply obliges the minister to use his or her best endeavours to achieve what the government claims is its aim.

It is quite a simple amendment, and I would certainly urge members to support it. Third-party access is something that the opposition has been arguing for some time, and we think it makes sense, certainly in some of our more remote communities, where there may be an opportunity for a third party to provide services and keep the costs for local consumers down.

The Hon. I.K. HUNTER: The government believes that the speaker for the opposition is putting the cart before the horse in this regard. The amendment pre-empts the outcomes of the review of third-party access and places this provision in the act before this chamber—the parliament—has had a chance to develop a view on that subject.

It also pre-empts the outcomes and limits the time in which we consider this issue without considering the complexities that might arise from the third-party access review. It simply places an arbitrary time line on this which may not reflect the complexity of the task required and may, in fact, prove counterproductive. The government cannot support the amendment.

The Hon. R.L. BROKENSHIRE: Family First will be supporting this amendment. I am happy to have time lines put into legislation. But even when time lines are in legislation—you only have to look at water allocation plans, for example in the Eastern Mount Lofty Ranges and the Western Mount Lofty Ranges, which the government are in breach of the law on, because they are three years overdue in bringing those water allocation plans in because of their incompetence.

If we do not put some time lines on here, we will drift along and, if this government happens to get back for a tired old fourth term, they could get so tired that we could have a situation where we are talking about this at the 2018 election. So, what is wrong with putting a bit of pressure on? The Leader of the Opposition can correct me if I am wrong, but we have looked at the bill and our analysis of this amendment is that the opposition has argued that the government is not serious about third-party access and is really only paying lip service to the concept.

The consultation on the bill received strong support for third-party access but the experience from New South Wales, where a regime has been in place for some years, is that no entity has successfully gained third-party access, as the law simply makes it too difficult. In summary, all this amendment does, as we read it, is simply oblige the minister to use his or her best endeavours to achieve what the government claims is its aim; therefore, we will be supporting the amendment.

The Hon. I.K. HUNTER: The honourable member is a little bit confused in his comments. The government is committing to a time line for the report—there was no equivocation there. What we are not doing is second-guessing the outcome of the report by putting the outcome that we think might be in the review into legislation at this point in time.

The Hon. M. PARNELL: I understand the logic of the Liberals' amendment, but where this fails to impress the Greens is that we are not as excited about third-party access as either the Liberals or as the Liberals say the government is. What we are talking about here is public infrastructure, largely, and, whilst the Greens have in the past supported initiatives such as sewer mining and the idea of accessing the pipes, our preference is for first-party access.

We think that this is an important enough task that it should be managed by the state through a state-owned entity. So, we want SA Water to be doing more with the infrastructure that it has rather than starting with a philosophical assumption that private companies must certainly be able to do it better and, therefore, we have to legislate in a hasty fashion for them to have access to the pipes. I am just not convinced that that is necessary, and that is leaving aside the argument that the minister has given—which makes sense—that putting a nine-month time frame on it does actually pre-empt the results of any review.

I would also say that I am not sure, in my six years here, that I have actually seen a clause in legislation which provides for a minister to use best endeavours to introduce a bill into parliament. It is sort of verging on trying to sway a future parliament into something they should do. The decision as to when to introduce legislation rests with members of parliament. If the Hon. David Ridgway thinks that such a bill is a matter of urgency, he will introduce it to this place and we will all consider it on its merits.

A clause like this, obliging the minister to use best endeavours—which, of course, cannot be determined; it is a concept that defies interpretation—to introduce legislation to parliament within nine months after the commencement of this section, I just think has no place in legislation, leaving aside this philosophical position that we are not so desperate to see alternative entities enter the market that we think hasty legislation is the way to do it.

The Hon. D.W. RIDGWAY: I want to clarify this. I will read the amendment again:

> The Minister must use his or her best endeavours to introduce into Parliament within 9 months after the commencement of this section a Bill for an Act to provide for a third party access regime to water infrastructure and sewerage infrastructure services operated by entities licensed under this Part (after taking into account the contents of the report prepared under subsection (1) and any other relevant factor).

We are actually putting a time limit on the report. We are saying, 'Get off your bottom and get working. Prepare your report, and after you've taken into account'—

The Hon. I.K. Hunter interjecting:

The Hon. D.W. RIDGWAY: You have had your turn. 'After taking into account the contents of the report, and any other relevant factor, use your best endeavours to do so.' I cannot see what is so difficult about it. We are actually asking the minister to do all of that within nine months. He

might think that that is not possible. SA Water is a huge entity and the government is a massive organisation. If they cannot achieve that within nine months then they might as well pack up now.

The Hon. A. BRESSINGTON: I am inclined to support this, but—

The Hon. D.W. Ridgway interjecting:

The Hon. A. BRESSINGTON: Inclined.

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

The Hon. A. BRESSINGTON: No, there's no punchline; I am just wondering. I remember participating in an interview with Colin Pitman on FIVEaa probably about 2½ years ago, where he was complaining about the complexities that Salisbury council has faced in trying to get into the water market because of legislation and SA Water having the monopoly, and on and on we go. I ask the Hon. Mr Ridgway whether Salisbury council, or other councils that take on these wetlands projects that have potable and non-potable water supplies, will have an improved chance of gaining third-party access into the market, in your view?

The Hon. D.W. RIDGWAY: In our view it will, but of course it is, sadly, up to the government. We have laid a time frame out for the inquiry and the report to be tabled and for the government to act. Of course, if they choose not to use their best endeavours or choose not to instigate a third-party access regime, it will not happen, but this certainly goes some way towards allowing that to happen.

The Hon. A. BRESSINGTON: In that case then, I will be supporting this amendment, because I, like the Hon. Robert Brokenshire and other members in here, have heard for six years promises of reviews and God knows what else, and here we are still sitting on native vegetation that I think we debated nearly three years ago. It is still on the books and is no further advanced, because there are no time lines in those kinds of promises that are made. On that basis—and NRM as well—I will be supporting this amendment to try to hold the government to a reasonable time frame for this to be achieved.

The Hon. R.L. BROKENSHIRE: If this amendment were not to get up—and I have already flagged that we will be supporting it—can the minister guarantee the house that the government will not procrastinate to prevent third-party access on the basis that they want to continue to fleece the people of South Australia? We have seen outrageous water increases, particularly in agriculture, and over a six-year period, some of the charges, based on the amount of water that farmers are now taking, have gone up 470 per cent. Is that the reason the government does not want to be held accountable, so that it can continue to rip people off?

The Hon. I.K. HUNTER: I wonder why people bother to ask questions in this place when they are going to give the answer in their speech. However, let me advise the council of this: under clause 26—Third party access regime:

> (1) The Minister must publish a report about third party access to water infrastructure and sewerage infrastructure services...
>
> (3) The Minister must publish the report within 1 month after the commencement of this section and cause copies of the report to be laid before both Houses of Parliament within 12 sitting days after the report is published.

There will be no prevarication whatsoever.

The Hon. D.W. RIDGWAY: I am glad the minister has said that, because all we are doing with this amendment is then asking the minister within eight months—

The Hon. I.K. Hunter interjecting:

The Hon. D.W. RIDGWAY: Because, if you read the amendment, it says 'after taking into account the content of the report'. If the content of the report says it is not viable or it is not practical, which I would be very surprised if—

The Hon. I.K. Hunter: You have already written it.

The Hon. D.W. RIDGWAY: I see no reason why this should not be supported.

The Hon. J.A. DARLEY: I will support the amendment.

Amendment carried; clause as amended passed.

Clauses 27 to 34 passed.

Clause 35.

The Hon. D.W. RIDGWAY: The opposition has not yet taken the Hon. Mr Brokenshire's amendments to its party room, so I therefore move:

That progress be reported.

The Hon. I.K. HUNTER: If we allow people to come into this place—

The CHAIR: We cannot debate it—we have to put the question.

The Hon. I.K. HUNTER: —and hold up their amendments just to delay the whole process, it is a travesty. They have had months and months to get these amendments tabled. When did you table them? Yesterday! It is absolutely outrageous.

Members interjecting:

The CHAIR: Order! I will put the question: we cannot debate it. It has been moved by the Hon. Mr Ridgway that progress be reported; is that seconded?

An honourable member: Seconded.

Motion carried.

Progress reported; committee to sit again.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

Adjourned debate on second reading.

(Continued from 28 February 2012.)

The Hon. T.A. FRANKS (21:03): I rise to indicate that the Greens will support the Statutes Amendment (Community and Strata Titles) Bill. The intent of the bill is to improve protections for consumers who buy into or own units in strata and community titled developments. Currently when a community corporation comes into existence the lots are owned by the developer, who has control over the corporation and can appoint the body corporate manager.

Some examples, in particular interstate examples, have shown that developers have auctioned body corporate management rights for terms as long as 25 years. In some cases, this has meant that incoming owners have to pay management fees that are well above the market rate.

The Greens support provisions that a community corporation may revoke a delegation of its function to a body corporate manager at any time, even if there is an agreement to the contrary. This bill provides the same for strata corporations. For future contracts the bill provides that a body corporate can end the contract with a manager at any time. The bill also limits the term of a body corporate management contract to two years to prompt corporations to periodically review the manager's performance.

Overall the Greens welcome the aim to increase the accountability of body corporate managers and note that there will be a national occupational licensing system scheduled to commence in mid-2012. The passage of this bill is therefore long awaited but still timely, and we look forward to bringing in a national licence for property agents. Those jurisdictions that currently regulate body corporate managers will be bound to adopt that licence with the intent being able to re-examine the issue of licensing body corporate managers under the national licensing system once that is operational.

The Greens note that the government has indeed consulted with the key stakeholder groups, and that the former attorney-general first released a discussion paper in late 2003 with relevance to this bill before us tonight. The consultation led to the drafting of a bill to amend the Community Titles Act and the Strata Titles Act, which was consulted on in December 2008. Many, many years later, of course, we are finally seeing this bill before us.

I do have concerns about the process of this bill, and the Greens certainly indicated previously that we were not happy to proceed without being absolutely confident that it had been appropriately consulted on, hence some delays in the debate of this bill last year before the parliament. I note that it was an extraordinary occasion that both the Greens and the opposition shadow attorney-general had to FOI the submissions made in the consultation process for this bill, and—

The Hon. S.G. Wade interjecting:

The Hon. T.A. FRANKS: Yes. We had to divide it up between us and we were quite happy to share the information, but it is extraordinary that consultation on a piece of public legislation that affects the whole sector could not actually have the transparency to allow parliamentarians to see the submissions, which were in no way intended by those who had made the submissions to be private. In fact, many of them were contacting us, indicating that they really wanted us to read their submissions, and had we got them earlier we would have been able to vote on this bill last year.

I note that the sector was widely consulted, and the Greens were particularly pleased to see that the Property Council (SA Division), the Commissioner for Consumer Affairs, the Law Society, the Legal Services Commission, the Real Estate Institute of Australia, the Australian Institute of Conveyancers, several strata managers and a number of strata owners, as well as the National Community Titles Institute, have all participated in that process. With that, we are happy to commend this bill to the chamber.

Debate adjourned on motion of Hon. Carmel Zollo.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 February 2012.)

The Hon. J.M.A. LENSINK (21:07): I rise to make some comments in relation to the Tobacco Products Regulation (Further Restrictions) Amendment Bill 2011 which is supported by the Liberal Party and which, indeed, builds on the very good work of the Liberal leader in this place, the Hon. David Ridgway, who previously introduced a private member's bill, known as the Local Government (Miscellaneous) Amendment Bill. That bill sought to provide councils with powers to make by-laws to prohibit smoking in specified public places and the ability to enforce such by-laws.

I note that the government, in its usual dog-in-the-manger style, chose not to support that particular bill and has now introduced its own version which we have before us and which, as I said, builds on that good work. So it does include those provisions, and it includes some others such as public transport locations, which may include bus shelters, bus stops, tram stops, railway stations, taxi ranks, airport or similar places; shopping precincts (such as Rundle Mall and Jetty Road); and locations close to and in children's playgrounds, in particular within 10 metres of prescribed children's playground equipment.

It may also cover certain special events, such as the Christmas Pageant, and may include parks and areas close to fast-food outlets and other venues. You would have to be living on Mars, I think, not to be aware of the damage that second-hand smoke can do to people, which is the main driver behind this piece of legislation.

I note with interest that the legislation means that people who are 15 years of age or older can be penalised, which is in line with the Passenger Transport Act. I think that that is an important provision. As much as we support our youth, I think there are some young people who, at times, choose to flaunt the law, and they are aware that they do not suffer the same penalties. So, I think that is an important provision. I note that the penalties are a $200 fine or a $75 expiation and that those who would be responsible for prosecuting offences would be authorised officers under local government, South Australia Police and tobacco control officers within the health department.

It is not a long bill. I note that the government has two amendments which we need to take back to our Liberal Party party room, so we reserve our right on those. The health spokesperson will seek a briefing and we will be able to debate those amendments in future. With those remarks, I indicate support for the bill.

Debate adjourned on motion of Hon. Carmel Zollo.

VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 16 February 2012.)

The Hon. R.I. LUCAS (21:11): I rise to support the second reading of the Vocational Education and Training (Commonwealth Powers) Bill 2011. Late last year, some time in October, the government introduced this bill to allow for the transfer of South Australian powers through the

adoption of the commonwealth National Vocational Education Regulator Act 2011 and the National Vocational Education Training Regulator (Transitional Provisions) Act 2011.

Members will remember that we have broadly addressed this particular issue in the recent past. Certainly prior to the last election, in about 2009, COAG agreed to the creation of a national VET regulator with powers to register training organisations and to accredit courses. This is part of this ongoing push, in essence, for the feds to take over almost everything that moves. This, as I said, is a number of years down the track.

One of the issues in this legislation—and we will address it tomorrow when I deal with the work health and safety legislation—and one of the concerns that I certainly have is the weakness of ministers in this government when they go to ministerial council meetings. I think there is just this automatic knee-jerk response from ministers to these proposals from very well-prepared federal government—and sometimes Eastern States jurisdiction—officers and ministers in terms of national arrangements.

There is always the argument of whether it is harmonisation or whether it is the need for national regulation of this or the national regulation of that. With the respect that this government deserves, I do not believe that this government has demonstrated—or will demonstrate in the next two years—its capacity to sit back and think independently and on behalf of a small state like South Australia whether this headlong rush, this knee-jerk response, to say that everything that is national, regulated or harmonised (or whatever latest jargon the commonwealth and the Eastern States might use) is automatically good for South Australia.

The Hon. A. Bressington: Dodging responsibility.

The Hon. R.I. LUCAS: The Hon. Ann Bressington says 'dodging responsibility'. I think in some cases that is right but, in other cases, I think it is just a combination of plain laziness and negligence. It is hard when you are a new minister from a small state at a ministerial council. The entrenched interests sit at the meeting and say, 'Okay; we've been working on this at an officer level for the last three years. Here's the proposition. Who's got a problem with it?' Someone has to actually have the political intellectual grunt to be able to stand up and say, 'Hold on, we're not going to be pushed into this; we're not going to be rushed. We will actually question it'. We are seeing a bit of that from Western Australia, and it is a perfect case in point in relation to this particular legislation. That is a bit of the Western Australian culture. Half of them would probably agree to secede from Australia if they were given the opportunity.

Let me accept that in some cases national regulation and coordination can be demonstrated to be in the national and state interest. I am not railing as a states' righter against everything in relation to some of these issues. I accept that in a number of cases a cogent and reasoned argument can be made. I think that, at the very least, even if you do accept that there is an argument for national regulation or harmonisation, there can be the opportunity to argue South Australia's case, or the small states' case, in the development of those arrangements. I have seen precious little evidence from this government and this group of ministers of the willingness or the capacity (or both) to even engage in that particular debate at the national level.

Again, with the respect that this ministry deserves, the concept of the Hon. Russell Wortley, the Hon. Tom Koutsantonis, the Hon. Gail Gago or the Hon. Tom Kenyon arguing cogently for South Australia's case at a ministerial council meeting is not a likely prospect. We see the difficulties they have in handling their portfolios back here in the state. Their capacity to drive South Australia's case at the national level is clearly, in a number of those cases, a laughable prospect. That is sad from South Australia's viewpoint in relation to these sorts of debates.

As I said, there are two states—Victoria and Western Australia—which in essence are standing alone in relation to their particular arrangements. This arrangement is about a referral of state powers to the commonwealth. I note that the system that is to be put in place will not be national because Western Australia and Victoria are going to maintain their separate regulatory systems. It will result in parallel systems operating in both those states with the registered training organisations that operate across borders having to comply with both systems.

Those two states have agreed to enacting mirror legislation. There will be a range of issues, obviously complicating issues, in relation to the coordination of those two state-based systems within some sort of agreed legislative framework operating with the Australian Skills Quality Authority, which is being set up in this. I make that point because it is one of the issues that registered training organisations are raising.

With these things, it will be a year or two (or three) down the track when the detail of what has been agreed will become apparent when particular issues arise. At this early stage, one of the issues being raised is about costs. What is being agreed to with this arrangement is that the new national authority is going to be operating on a cost recovery basis after a transitional period. A number of the registered training organisations are already pretty anxious about what the new fee structure will be, in particular in our small state of South Australia.

We are not proceeding with the committee stage today; we will proceed with it tomorrow. The only question at this stage that I am putting to the government—and I seek a response—is: what guarantees is the government able to give to registered training organisations and to young people and older people who undertake courses with these registered training organisations about the level of fees that will be charged to them under the new arrangements?

I think it is incumbent on the state government, and the state minister in particular, to indicate what the government has negotiated as part of this package in terms of protecting our state. Is the level of fees that exists within this VET sector in South Australia generally lower than the national average? I have had varying claims made to me. I am not an expert in this area. I seek a response from the government as to whether that claim is correct, that generally the average fee chargeable in South Australia is less than the average in the Eastern States and less than the national figures. If that is the case, is that differential going to be lost as we move to the national arrangement?

We have seen that happen with the so-called simplified national awards. The cost differential or advantage that the state of South Australia had for decades has disappeared under the new national industrial relations system. A similar question should be asked, and should be answered by the minister, before we conclude the committee stage of debate. With that, I indicate the position of the Liberal Party of South Australia, as enunciated by our shadow minister in charge of the legislation; for some time, it has been to support it, and we do not envisage that the committee stage should be too long at all.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (21:22): I take this opportunity to briefly thank those members for their contributions. This is obviously an extremely important bill. It brings about synergies with the commonwealth for a national approach to vocational education and training to bring about national consistencies. We believe that these proposed changes are sensible and are in the interests of our young people and others who seek further education and training. I thank members for their second reading contributions and look forward to the committee stage to be dealt with expeditiously.

Bill read a second time.

BUSINESS NAMES REGISTRATION (TRANSITIONAL ARRANGEMENTS) BILL

Adjourned debate on second reading.

(Continued from 15 February 2012.)

The Hon. J.M.A. LENSINK (21:25): I rise to make some comments in relation to the Business Names (Commonwealth Powers) Bill 2011 and the Business Names Registration (Transitional Arrangements) Bill 2011, which are a pair, so I will discuss those in cognate. Having followed my experienced colleague, the Hon. Rob Lucas, and hearing his remarks in relation to the manner in which our ministers, like lemmings, agree to things at COAG meetings, I do concur.

On the occasion of this particular legislation, however, it is uncontroversial and straightforward and probably one of the ones which has arisen from the national partnership to deliver a seamless national economy which actually makes some sense, that agreement having been signed in December 2009, from which a number of pieces of our consumer laws have been referred to the commonwealth. These include the Occupational Licensing National Law (South Australia) Bill 2010, the Statutes Amendment and Repeal (Australian Consumer Law) Bill 2010, the Credit (Commonwealth Powers) Bill 2010 and the Credit (Transitional Arrangements) Bill 2010.

This legislation, we are hopeful, will reduce red tape and costs for a business registering or renewing a business name in that businesses which have had to register in multiple jurisdictions will have to register with only one agency, that being the Australian Securities and Investments Commission (ASIC). Protections are provided for existing business names holders in that they will be migrated to the new system and can continue to use that name and be renewed. They will need only one registration. The bill is to take effect from 28 May 2012.

The Business Names (Commonwealth Powers) Bill refers the state powers to the commonwealth to enable them to legislate for the new national business names registration system. I do note that businesses will be able to register online at any time, which will be a good innovation for them, if not particularly timely.

The national legislation of the commonwealth is the Business Names Registration Act 2011 and the Business Names Registration (Transitional and Consequential Provisions) Act 2011. These two bills are not particularly lengthy. They really do refer the laws. The second one, the transitional arrangements bill, adopts the commonwealth legislation and applies those constitutional powers required to do so. There are transitional provisions as well, and I do trust that this particular measure will make life somewhat simpler for small businesses, in particular, operating across various borders. With those comments, I endorse the bills.

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

BUSINESS NAMES (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 15 February 2012.)

The Hon. J.M.A. LENSINK (21:29): This is in relation to the Business Names (Commonwealth Powers) Bill. For anybody who may be an avid follower of *Hansard*, please apply my previous remarks to this piece of legislation. This is a bill of some nine clauses. The relevant section of the Constitution is section 51(xxxvii). There are references to continuing business names matters. The commonwealth legislation, as I understand it, has already been passed and I am advised that the relevant and appropriate consultation has taken place with all stakeholders and that the business community is looking forward to the passage of this legislation with great enthusiasm.

The Hon. G.E. Gago interjecting:

The Hon. J.M.A. LENSINK: The minister is interested in specific clauses, perhaps I could refer her to clause 4—Continuing business names matters. There are several subclauses in this which are particularly interesting. One of them provides:

> (e) the prohibition or restriction of the use of business names by an entity because—
>
> (i) the entity has engaged in unlawful conduct, or
>
> (ii) a person involved in the management of the entity has engaged in unlawful conduct.

I think it would be beneficial for the council if the government could advise what sort of circumstances that may arise from, and furthermore, if these provisions are identical to those which already exist within our own state legislation. I think that particular subclause was of very specific interest to the council. I might leave it at that. If there is anything else I will raise it during the committee stage of the debate.

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

SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council.

At 21:33 the council adjourned until Thursday 1 March 2012 at 11:00.