LEGISLATIVE COUNCIL

Wednesday 14 March 2012

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

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answers to questions be distributed and printed in *Hansard*.

CONSULTANTS AND CONTRACTORS

300 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 Transport, 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 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 Transport and Infrastructure is advised:

Persons receiving separation packages from the State Government are required to sign an agreement requiring them to not directly undertake work for the State Government as an employee or third party (including contractors and consultants) for a set period of time.

As part of the Department's current contract conditions, proponents are made aware of the conditions applying to ex-government employees who have received separation packages.

All new employees of the Department, who are not existing public sector employees, are required to complete an employee declaration which includes information as to whether they have previously accepted a separation package from the State Government.

The Department for Transport, Energy and Infrastructure does not hold records of individuals that may have previously received a separation package from another Government agency.

The Land Management Corporation (LMC) is not aware of any persons engaged as an employee, consultant or contractor during the year 2010-11 that had previously received a separation package from the State Government.

LAND MANAGEMENT CORPORATION

321 The Hon. D.G.E. HOOD (14 September 2011) (First Session).

1. Can the Minister for Infrastructure advise whether the Government maintains its policy of precluding the Land Management Corporation from undertaking joint ventures?

2. Did the Government introduce this policy to ensure the South Australian taxpayer was not exposed to the significant risks associated with development industry investments?

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): The Minister for Transport and Infrastructure has been advised:

1. The South Australian Government does not have a policy that precludes the Land Management Corporation (LMC) from undertaking joint ventures. Any joint venture proposals from the Board of LMC are considered by the Government on their merits. An example of a recent joint venture entered into by LMC is the Lightsview Joint Venture at Northgate.

2. Not applicable.

LAND MANAGEMENT CORPORATION

322 The Hon. D.G.E. HOOD (14 September 2011) (First Session). Can the Minister for Infrastructure advise—

1. Why has both *The Australian* (9 December 2010 and 10 February 2011) and the Preston Rowe Paterson Report of December 2010 referred to the Penfield Development by AV Jennings as a 'joint venture' with the Land Management Corporation?

2. Why is it listed on the AV Jennings website as a 'joint venture' with the South Australian Government (Land Management Corporation)?

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): The Minister for Transport and Infrastructure has been advised:

1. The articles and reports quoted are inaccurate in their description of the development agreement entered into by the Land Management Corporation (LMC) and AV Jennings as a joint venture (see ii below).

2. The reference on AV Jennings' website to a joint venture was inaccurate and LMC has been advised by AV Jennings that it has been removed. AV Jennings has advised that the Penfield development deed is similar to other development agreements that they have entered into for large scale residential development. This type of arrangement enables LMC to retain ownership of the land whilst progressively granting AV Jennings development rights over portions of the land.

This structure is quite different to a joint venture structure which usually requires (amongst other things) that the joint venture parties own the land and that both parties contribute capital to fund development costs. LMC is not in a commercial joint venture with AV Jennings and does not contribute funding to the project. LMC received an initial development fee paid by AV Jennings to secure development rights over the land and will receive progressive payments for land sold under the terms of the development deed.

LAND MANAGEMENT CORPORATION

325 The Hon. D.G.E. HOOD (14 September 2011) (First Session).

1. Will the Minister for Infrastructure confirm a reference on the Land Management Corporation website which indicates that in January of this year the Corporation released a tender for the sale of 206 hectares of land at Blakeview?

2. Will the Minister assure South Australians that the Land Management Corporation will sell the land outright ensuring an immediate return of funds to South Australians and not enter into joint ventures with specific developers regarding this land?

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): The Minister for Transport and Infrastructure has been advised:

1. The Land Management Corporation (LMC) released 206 hectares at Blakeview to the market in January 2011. As noted in the answer to Question On Notice 324 the Fairmont Group has been successful in their tender for 107 hectares of the land released to the market.

There was no successful tender for the balance of the land at Blakeview. However, it is proposed that the balance of this land will be released to the private sector as market conditions dictate.

2. The terms and conditions of the tender provided private sector developers with a range of alternative land payment options to assist them to undertake residential development at Blakeview in light of the considerable difficulties private sector developers are experiencing in accessing finance. These options included:

(a) Purchase of the whole of the land with the purchase price paid in one lump sum payment at settlement.

(b) Purchase of the land in stages with the purchase price paid by a series of lump sum payments at the settlement each stage.

(c) Under the grant of a licence to occupy and develop the land requiring payment of:

- a lump sum development fee; and
- an agreed percentage of the revenue from the sale of each allotment.

LEGISLATIVE REVIEW COMMITTEE

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

Report received.

WINGFIELD WASTE DEPOT

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:20): I table a copy of a ministerial statement relating to Wingfield waste fuel depot update made in another place by the Minister for Emergency Services.

PROCUREMENT WORKING GROUP

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:22): Following the tabling of the Procurement Working Group Final Report yesterday, I lay on the table further attachments to this report.

ROYAL ADELAIDE HOSPITAL

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:23): I table a copy of a ministerial statement made today in another place by the Hon. John Hill, Minister for Health, on remediation of the new Royal Adelaide Hospital site.

QUESTION TIME

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:24): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations questions regarding the process for the former Chelsea Cinema.

Leave granted.

The Hon. J.M.A. LENSINK: The minister recently referred new complaints made to him about the lease process and actions of the Burnside council to the Ombudsman, the first of which I note was received last October. Both complaints accused the Burnside council of breaching sections of the Local Government Act prior to the announcement that the proprietors of the Trak Cinema would become the new leaseholder. My questions are:

1. Will the Ombudsman's report be made public?

2. Does the minister concede that the Ombudsman's powers under section 93A of the Local Government Act are less than his own investigative powers under section 272 of the act?

3. Does he acknowledge that problems within the previous council have not been fixed by the election of a new council?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:25): First of all, I read the article in the paper regarding me referring a second complaint to the Ombudsman. I must say that nobody ran the story past me. The story was written—

Members interjecting:

The Hon. R.P. WORTLEY: If a journalist is going to write a story regarding complaints about Burnside you would think they would contact my office—which they didn't. The complaints that we are talking about were both from the same person, who had just made the complaints. I do not know if there is any basis behind these complaints, but this person seems to be a serial complainer.

As I should have done and as I did, I referred any complaints regarding the Burnside council to the Ombudsman. Whether there is any substance to them or not I have no idea. I acknowledge the fact that the Burnside council now has an issue with the Chelsea Cinema, but the council seems to be governing Burnside in the way it should with good governance under the Local Government Act, so I wish them well in their future endeavours.

In regard to the powers that the Ombudsman has, they would be less than mine. As a minister I would prefer that every investigation about councils be done through the Ombudsman, who is at arm's length, and there can be no criticism of how the investigation takes place.

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:26): I have a supplementary question. Does the minister believe that there are some ongoing processes at Burnside council that could be rectified and that the public does not have any confidence in the council?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:26): For a start, I could not make a comment that the public does not have faith in the council. I do not get much feedback from the residents of Burnside complaining about the council, so I can only imagine that it is doing its job quite well.

Members interjecting:

The PRESIDENT: Order!

CAVAN TRAINING CENTRE

The Hon. S.G. WADE (14:27): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion a question about the report on the Cavan escape.

Leave granted.

The Hon. S.G. WADE: Last Friday the minister indicated that he had received an interim report on the Cavan escape but refused to reveal its contents and said, 'When I read the report and make those decisions you'll know.' This approach is consistent with the government's policy not to read reports because once it is in your head you might just blurt it out.

On Friday the minister was also reported as claiming that the Young Offenders Act prevents him from talking about the issues in relation to the escape. Section 63C of the Young Offenders Act 1993 states that a person must not make a report of proceedings which identifies a child or young person. My questions to the minister are:

1. When does the minister expect to receive the final report of the investigation into the Cavan escape?

2. Will the minister commit to publicly releasing the final report, if necessary removing identifying information?

3. Will the minister commit to tabling the final report in parliament, again, if necessary removing identifying information?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:28): I thank the honourable member for his important question. I need to say at the outset that the honourable member, I think, is incorrect in his interpretation of section 63C of the Young Offenders Act. Again, he is, as a constant from the opposition, misquoting me or only partially quoting me and not doing me the justice that I should be accorded when referring to my comments.

I said in the media, when I was referring to section 63C and my obligations there, that it was not just the names of the young offenders that are of concern in section 63: it is their offending—the matters that are before the court. When you have a publication that talks about the young offender and their offences—those that appear before the court—I believe that is what is captured by section 63C, not just their names and not just the fact that they have escaped from a detention facility.

I understand that the final report will be handed to me on 29 March. I think that is the date I have given previously. I hope honourable members here will understand that any release of such a report that goes to the very intense matters of security of a detention facility should not be released publicly. I have every intention of looking very closely at that report and seeing what information in the report I can release, but I will make that decision on the basis of reading the report; that is what I indicated last Friday.

PRINTER CARTRIDGE SCAM

The Hon. R.I. LUCAS (14:29): I seek leave to make a brief explanation prior to directing a question to the minister representing the Minister for Finance on the subject of 'cartridgegate'.

Leave granted.

The Hon. R.I. LUCAS: In the evidence taken at the Budget and Finance Committee earlier this month, the chief executive of the Department of Further Education, Employment, Science and Technology (DFEEST) confirmed that an officer in the ministerial office of Mr Caica, who at the time was the minister responsible for DFEEST, had purchased up to $20,000 worth of computer printer cartridges from the suspect companies whilst employed within minister Caica's office. Mr Garrand, who is the CEO, went on to confirm that there were ongoing inquiries in relation to those particular purchases and into that particular officer.

Information available to the Liberal Party indicates that the officer in minister Caica's office whilst he was the minister for DFEEST from 2006 to 2009 also transferred with minister Caica in early 2009, when minister Caica became minister for the environment and was transferred out of the DFEEST portfolio. In March 2009, minister O'Brien was in fact appointed the new minister for DFEEST. The Liberal Party understands that, when minister O'Brien took over the ministerial office of minister Caica in early 2009, some or all of these $20,000 worth of printer cartridges were still in the ministerial office and available for the use of minister O'Brien and his staff. My questions to the minister are:

1. When did minister O'Brien and Treasurer Snelling first become aware that the 'cartridgegate' scandal had extended to the office of their ministerial colleague Paul Caica?

2. Did either minister O'Brien or Treasurer Snelling discuss this issue with minister Caica? If so, what was the nature of those discussions with minister Caica?

3. When minister O'Brien took over as minister for DFEEST in March 2009 from minister Caica, did he or any of his staff at the time become aware of up to $20,000 worth of printer cartridges in cupboards in his ministerial office? If so, what action was taken by his staff, or by the minister, when they became aware of that fact?

4. Does the minister's reported figure from the procurement working group report of $1,205,000 of purchases from suspect suppliers include this figure of about $20,000 of purchases from a staff member in minister Caica's ministerial office?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:33): I would like to thank the honourable member for his questions. I will refer them to the Minister for Finance in another place and get an answer as soon as possible.

TOURISM

The Hon. G.A. KANDELAARS (14:33): I seek leave to make a brief explanation before asking the Minister for Tourism a question about tourist visitation to our state.

Leave granted.

The Hon. G.A. KANDELAARS: Domestic tourism underpins the sustainability of South Australia's tourism sector, providing the vast majority of visitors to our state. Can the Minister for Tourism update the chamber on the latest domestic tourism figures?

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) (14:34): Domestic tourism, both South Australians exploring their own backyard and also interstate visitors to South Australia experiencing our wonderful tourism attractions, is vital for the profitability of thousands of small businesses in our state and for the general economy of this state. The latest domestic tourism statistics were released by the federal government today and show that South Australia is travelling in the right direction. We have, in fact, recorded the biggest increases of any Australian state over this period.

I am advised that in the 2011 calendar year South Australia attracted 4.95 million visitors, which represents an increase of 8 per cent of domestic overnight visitor numbers in 2010. This is the highest growth in domestic visitor numbers to South Australia in the last 11 years, and it is twice the national growth rate, which came in at 4 per cent.

The Hon. T.J. Stephens: What about international visitors?

The Hon. G.E. GAGO: I can get you international figures; we are doing very well there as well, but I will finish our state achievements before going on to talk about our international achievements. I am very pleased to report that our state topped the nation in growth in domestic visitor nights. I am advised that last year we recorded 18.67 million domestic visitor nights, which

was an increase of almost 10 per cent over previous years. On a national level, domestic visitor nights grew by only 1.4 per cent.

You can see that compared to the national average we are punching well above our weight in this last survey. Domestic visitors also spent more while they were here last year. Domestic expenditure grew to $4 billion, which I understand is an increase of 8 per cent over 2010 and twice the average national growth. Many of the small businesses that make up the tourism sector are located in the regions, and these latest figures show that regional South Australia is enjoying a very large share of this growth.

I am advised that 63 per cent of domestic visitors to South Australia in 2011 visited regional South Australia, with almost 50 per cent of domestic tourism expenditure being spent in the regions, which I am sure honourable members agree is a fantastic result, and I am sure they acknowledge and appreciate these efforts. Across the regions, almost all of our regions through this period experienced growth. There are a couple that did not, but almost all of our regions experienced growth in tourism during that last survey period.

I am further advised that, when we include both international and domestic visitation, South Australia's total tourism expenditure for the year ending December 2011 was $4.731 billion, which represents an increase of 6.8 per cent from 2010. The national average was 3.1 per cent. Again, in terms of visitor rates, we are almost double when you combine both. While these figures are obviously very encouraging, the South Australian Tourism Commission will continue to work to increase this valuable sector of our tourism industry.

The SATC's Best Backyard intrastate campaign was launched in October and will run until at least the middle of the year. The campaign is designed to remind South Australians why they should take a holiday or break within South Australia and encourages them to do so. The campaign approach is also a shift from showcasing one or two specific regions to marketing the experiences of SA holidays, short stays and day trips.

To date the campaign has focused on two of five experiential themes, these being coastal and river, and national landscapes. Flinders and outback, food and wine, and journeys will make up the remainder of the 2011-12 campaign. In addition, a new campaign was launched last month which showcases one of our state's most unique assets (Kangaroo Island), targeted at potential travellers in Victoria, New South Wales and south-eastern Queensland. The campaign is centred on a very stunning commercial with music provided by Eddie Vedder of Pearl Jam. These domestic campaigns aim to inspire South Australians to reconnect with our wonderful regions.

The interjection was about our international visitation rates and, of course, the national survey that I have just reported on only looked at domestic visitation, but the last international figures that I have show that, whilst the number of international visitors to South Australia had decreased slightly, the international spend in South Australia had increased quite significantly. So what that means is, although we are attracting fewer people here, they are the higher end spenders. It is not surprising, given the way that our dollar is operating, that it is only really the big end of town taking international trips at the moment. As I said, although the numbers are down, the spend is up.

So we can be very proud not only of the really hard work that our Tourism Commission performs but also of our tourism sector. One thing we are very good at here in South Australia is the capacity of our tourism industry and operators to come together, work together, cooperate and partner together, particularly working in a regionally strategic way. We have seen some wonderful examples of that in our regions. They are to be congratulated for their hard work and endeavours, and we can see that their efforts are paying off.

DISABILITY SERVICES

The Hon. K.L. VINCENT (14:41): I seek leave to make a brief explanation before asking the Minister for Disabilities questions regarding disability services in South Australia.

Leave granted.

The Hon. K.L. VINCENT: On 1 March the front page of *The Advertiser* carried the banner headline, 'Cheap talk: Cappo says disabled fobbed off with nice words.' It quoted comments I had previously provided to *The Advertiser* on the ever-swelling unmet needs list and the particular concern I have regarding the burgeoning Category 1 housing needs list. That day I spoke, along with the Minister for Disabilities, on FIVEaa regarding Monsignor Cappo's Strong Voices report and that particular *Advertiser* article.

In reply to my comments on the disability community needing actions, not words, minister Hunter said, and I quote from the transcript:

> I can understand why people want this stuff delivered yesterday, but that's not how the real world works...let's face it, these problems have been a long time coming.

The Minister for Disabilities is quite correct: these issues have been a long time coming, and his government has had 10 years to solve them. His predecessor, minister Rankine, had many years to solve them and our current Premier, Mr Weatherill, had many years to address these issues while he was minister for disability. The fact that these issues have been so long coming just makes the currently deplorable situation of more than 1,000 people on the Category 1 accommodation needs list all the more ridiculous. There has been time to solve it but it has not happened.

The minister said that fixing things now is not how the real world works. I can assure him that my office understands exactly how the real world works, given that we are continually besieged with calls every day from constituents with disability-specific problems. They do not have housing; their wheelchairs are broken; they are waiting at the bus stop for an accessible bus; their service coordinator does not seem to care; their child has been abused; when they go to hospital they cannot get support hours to shower; or they cannot go to TAFE because they do not get education support. The list of problems is endless and complex and I hear about them each and every day in painful detail.

Later in his comments a fortnight ago, the minister said that he did not want to put any money into broken systems, and I completely agree, but he needs to provide urgent leadership, training and resourcing to a broken government department. Whilst I congratulate the minister on last Friday's announcement regarding the rollout of individualised and self-managed funding and dearly hope the introduction of a national disability insurance scheme is imminent, I remain very concerned about the ability of Community and Home Support SA, within his department, to cope with the administrative and cultural change that this will bring about. Without a significant attitudinal and cultural shift within all government disability service offices, it will be difficult to convince clients that a move towards self-management will be of benefit, such is their fear that they will lose—

The PRESIDENT: The honourable member should get to her question.

The Hon. K.L. VINCENT: —services and funding. I am doing that right now. My questions to the minister are:

1. What training and resources has the minister dedicated to educating the staff within Community and Home Support SA on the continuation of individualised funding?

2. What training and resources has the minister committed to ensuring disability services providers will cope with the implementation of the NDIS?

3. What cultural change is the minister cultivating within his department to maximise the performance of his public servants to service South Australians with disabilities?

4. Does the minister agree with former Thinker in Residence John McTernan that more innovation and innovative initiative are needed from our public servants within Community and Home Support SA?

5. Is the minister aware that Community and Home Support SA is mired in a culture of bureaucracy and fear against change to a system that actually empowers clients?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:45): I thank the honourable member for her epic question. While I am on my feet and before I answer—

The Hon. D.W. Ridgway: We had an epic answer from your leader before.

The Hon. I.K. HUNTER: I can give you an epic answer, if you like. While I am on my feet I need to correct the record in relation to an answer I gave the Hon. Mr Wade on his most important question. I think I said that, from memory, I am expecting the final report on 29 March. On checking my notes, I need to advise that I am actually expecting the final report on 23 March. Coming back to the thrust of the question asked by the Hon. Kelly Vincent, can I say that—

The Hon. D.W. Ridgway: Did you just get a text from your office?

The Hon. I.K. HUNTER: It is just a tip on a race actually, David, if you want in on that.

The Hon. D.W. Ridgway: So you're more interested in horseracing than answering the question. We can see where your priorities are.

The Hon. I.K. HUNTER: The Hon. Mr Ridgway should know I have no interest whatsoever in horseracing other than attending the wonderful festivities.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway should show some interest in what is happening here.

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: Mr President, the Hon. Mr Stephens will tell you that I would not know one end of a horse from the other, but I think he is probably ill-advised in that remark. In relation—

The Hon. D.W. Ridgway: Just answer the question.

The Hon. I.K. HUNTER: Well, I would answer the question, Mr Ridgway, if you allowed me the opportunity, but, in the usual manner of the Liberal opposition, you are shouting and screaming at the government when we are trying to give information to other members of the chamber when answering very important questions. I ask that you show some respect to the Hon. Ms Vincent and her question.

Members interjecting:

The PRESIDENT: Order! The honourable minister should not excite the opposition.

The Hon. I.K. HUNTER: I take your guidance on this, Mr President. I will calm down considerably now.

The Hon. J.M.A. Lensink: Hear, hear! Take a Bex and have a lie down.

The Hon. I.K. HUNTER: I do not think you can buy Bex anymore, Hon. Ms Lensink, but if you find a provider, let me know.

The Hon. D.W. Ridgway: Just lie down; that would be the easiest thing for you.

The PRESIDENT: Order! The Hon. Ms Vincent might want to hear the answer to the question.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Since 2002, the South Australian government has more than doubled its spending on disability funding, from $135.4 million in 2002-03 to $286.4 million in 2010-11. In 2011-12, disability support services were provided with $56 million in additional funding for services to people with disability over the next four years. This $56 million is to go directly to address unmet needs. We have more than doubled funding in this area since forming government, yet the unmet need still remains unacceptably high.

The question is: as a government, do we keep pouring money into a system that is broken or do we overhaul the system so that future funding is much more targeted and efficient? It is important to note that the need for disability services is increasing as our population ages. Certain disabilities are increasing in prevalence and people with disability are living longer. These trends are being experienced across Australia.

The move away from institution-style accommodation for people with intellectual disabilities and complex behaviour issues has also had a major impact on the unmet need list for accommodation. We need to provide clients with high needs smaller supported accommodation houses within the community. Typically, these houses are shared by four residents, and they often require 24-hour care. These houses are expensive to build and to operate. This is not an excuse: this is just the reality.

While we are focused on major systemic reform and the introduction of self-managed funding, the South Australian government has already committed funding to a number of supported accommodation projects that will boost the availability of supported accommodation for people with disability. These include a disability housing project, where $30.4 million of state government funding will deliver 61 new disability accessible homes, providing 132 accommodation places. To

date, 20 properties have been completed in Salisbury, Woodville Gardens and Port Augusta. Four homes in Mount Gambier and another 20 properties in metropolitan Adelaide, Loxton and Minlaton will be completed in the coming year.

The Bedford Homes for 100 Project, along with the state government, has committed $5 million, as did the Bedford Foundation, to fund 32 new developments to provide accommodation for 70 people with disability. A total of 28 have been completed, providing 61 additional places to date. The final four properties, providing nine places, will be completed in 2012.

The state government has committed $15.7 million to Minda 105 and, to date, 47 accommodation places have been created, with a further 41 places available in the coming year. Early intervention responses, including the provision of equipment that can assist people to remain in their own homes rather than require supported accommodation, also remains a priority for the government.

There is always more work that we can do in these areas of disability support, but I believe the reforms we are undertaking will provide people living with disability better opportunities and greater control, increased dignity and flexible support in areas where they really need it. The introduction of a self-managed fund, as mentioned by the Hon. Kelly Vincent, will have a flow-on effect to the whole system, and I anticipate that the levels of unmet needs for accommodation, respite and even equipment will dramatically reduce over the next few years.

In regard to how we are supporting NGOs, I can say that we are working very closely with the NDIS and Purple Orange, who are working with the NGO sector, to provide them with support and training as they need it. There are multiple taskforces already formed with the community sector to address some of these issues and to find out exactly where they need support from government. The department has met with the leaders of major NGOs and organisations already to map out the way forward in the coming 18 months.

DISABILITY SERVICES

The Hon. S.G. WADE (14:51): I have a supplementary question. I understood the member's question was: what is the leadership of the minister's department doing to facilitate the cultural change and changed mindsets of public servants to make self-managed funding real and effective?

The PRESIDENT: Order! The honourable member is quite capable of asking her own supplementary if she thinks the question was not answered.

The Hon. K.L. VINCENT: I was going to ask it anyway, so he may as well.

The PRESIDENT: Minister, do you want to respond to that?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:51): Let me just say that if the Hon. Mr Wade had listened to my answer he would know that I said that the department is working with the NGO sector, with Purple Orange. My department is working with the NGO sector to help them and support them through this transition.

DISABILITY SERVICES

The Hon. K.L. VINCENT (14:52): A further supplementary: will the minister be working to commit funding to assist the service provider sector in undergoing such training as the government has now started to do on a federal level?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:52): I have already committed. I made that commitment without giving any indication of the level of funding because we need to see what the services will be that are required by the NGO sector. But we also should know, as the honourable member just noted herself, that there are indeed NDIS taskforces already at work on this very issue.

INTERNATIONAL WOMEN'S DAY

The Hon. J.M. GAZZOLA (14:52): My question is to the Minister for Industrial Relations. In light of the recent celebration of International Women's Day, will the minister provide the council with details of how the South Australian government is supporting women to combine work and family obligations?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:53): I thank the member for his very honourable question. I also acknowledge the fact that as secretary of the ASU he was involved in many policies that helped women in the workplace. He did a very good job. Mr President, as you are aware, International Women's Day was celebrated across the world on 8 March. This annual event is about celebrating the vital role women play in enhancing economic security for their families, communities and countries as a whole by recognising that significant barriers to achieving women's economic security and equality continue to exist.

International Women's Day also provides an opportunity to consider the contribution of women in our workplaces and identify new and innovative work arrangements that will allow them the flexibility to achieve a better balance between their family life and job obligations. Since 2007, the South Australian Strategic Plan has included a work-life balance target to improve the quality of life of all South Australians through the maintenance of a healthy work-life balance. South Australia leads the nation as the only state to demonstrate its commitment to work-life balance in its strategic plan.

As the lead agency for this target, SafeWork SA is partnered with key stakeholders across the public and private sectors to develop a strategy in support of it. As part of its strategy, SafeWork SA has worked with and provided assistance to employers to promote legislation that supports work-life balance. One such area of legislation is the commonwealth government's Fair Work Act 2009, which provides the national employment standards—a set of basic minimum employment standards for the private sector. The national employment standards now provide mothers and fathers the right to request flexible work arrangements if they are the primary carer of a child aged under six years or a disabled child under the age of 18. SafeWork SA's work-life balance strategy has supported this addition.

Along with the promotion of legislation, SafeWork SA's work-life balance strategy has worked with employers to establish flexible work arrangements through government-led programs, such as the work-life balance innovations master classes. These master classes mentor flexible work innovations, with a deliberate policy of supporting maximum workforce participation, not just for women with family responsibilities but for everybody. The advantage of this approach is that it does not stigmatise flexible work and it ensures that both women and men are supported to engage in care and other community activities whilst maintaining their skills and experience in the workforce.

Another major project is examining how the quality of part-time work in South Australia can be improved. The quality part-time work project, which is being overseen by the Work Life Balance Advisory Committee, works with employers to make part-time work a high productivity and high satisfaction option that is accessible for both women and men at all levels, including management.

The South Australian government is a strong advocate for women's participation in the workforce and, through its work in the area of work-life balance, will continue to explore ways of supporting both women and men to work while allowing them to maintain their care responsibilities.

INTERNATIONAL WOMEN'S DAY

The Hon. T.A. FRANKS (14:56): I have a supplementary question. Will the government be making a submission to the federal member for Melbourne's work-life balance bill inquiry that is currently underway in the federal parliament?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:56): I have not been notified whether or not we have. That is left up to SafeWork SA, which does a magnificent job in working with work-life balance issues. But I will discuss that with them and ask them what is their intention and, if that is not the case, I would encourage them to do so.

COUNTRY FIRE SERVICE

The Hon. J.A. DARLEY (14:56): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion, representing the Minister for Emergency Services, questions with regard to the Country Fire Service and the CFS website.

Leave granted.

The Hon. J.A. DARLEY: Last weekend, a controlled burn-off in Portland, Victoria resulted in the Adelaide and Mount Lofty Ranges region being blanketed in smoke. A constituent who lives

at Meadows noticed the smoke when he awoke at 6am and tried to ascertain where the smoke originated. His neighbour, who is an active volunteer with the Country Fire Service, had no information about the smoke; nor did his CFS captain.

My constituent consulted the CFS website to investigate whether there was a fire in the region in order to determine whether he would need to make preparations on his property either to fight the fire or to evacuate. The CFS website merely stated that dozens of CFS staff had been called out for reported smoke.

It was not until 10.30am, when my constituent heard an announcement on the radio, that he learnt that the smoke was from the controlled burn-off in Victoria. The CFS website had no mention of this and, when my constituent contacted them to ask why this information had not been added to their website, he was informed that the website was used only for South Australian incidents. My questions are:

1. Was the CFS or MFS informed by the Victorian fire authority about the burn-off and, if so, when?

2. Given the resources wasted by the CFS sending out crews to investigate smoke, why was the information about the smoke not added to the website as a courtesy for those concerned about the smoke?

3. Was there a reason for the delay in informing CFS captains about the origins of the smoke?

4. Can the minister give an assurance that information will be more widely disseminated in future?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:59): I thank the honourable member for his four very important questions regarding the CFS website and smoke from a controlled burn-off in Victoria. I undertake to take those questions to the Minister for Emergency Services in the other place and bring back a response.

TOURISM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:59): I seek leave to make a brief explanation before asking the Minister for Tourism a question about international visitors to South Australia.

Leave granted.

The Hon. D.W. RIDGWAY: New figures released last week paint a grim picture for South Australia's international tourism industry. Tourism Research Australia's latest survey, which, of course, if the minister was not so lazy and disinterested, she would have read last week, shows that South Australia had fewer international visitors last year than any other mainland state. Others do a much better job attracting visitors to their state. Can the minister explain:

1. Why is our share of international holiday travellers' expenditure just 3 per cent of the total, the lowest of any mainland state?

2. Why did we have fewer visitor nights here from international tourists than any other mainland state?

3. Why has South Australia's share of international backpackers visiting Australia been dropping since 2007?

4. Why do international backpackers spend less time in South Australia than in any other mainland state?

5. Why do international tourists spend less money in South Australia than in any other mainland state?

5. Why do international visitors to Adelaide spend less money in Adelaide than in any other mainland capital city?

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) (15:00): I have already answered this question. This is how slow, lazy and indifferent this

opposition is. They are a disgrace, an absolute disgrace. They are just such a joke of an opposition.

The Hon. J.S.L. Dawkins: Why don't you get on and answer it?

The Hon. G.E. GAGO: I have already answered this question during an interjection during a government question. The honourable member interjected and asked after the international visitor rates.

The Hon. D.W. Ridgway: You said nothing about it.

The Hon. G.E. GAGO: I did answer the question.

The Hon. D.W. Ridgway: What did you say?

The Hon. G.E. GAGO: He didn't even listen, Mr President! That is how slow he is. He can't even remember the answer I gave about 15 minutes ago. He can't even remember the answer I gave him on international visitor rates 15 minutes ago. He is a disgrace, an excuse for a leader in this place, an absolute disgrace! He can't even remember that I answered this question before. He is so silly, he gets up and asks me the same question again. That is how slow, lazy and indifferent they are. They sit there asleep. They sit there in that front seat asleep, nodding off, dozing off. They are an absolute disgrace.

The information I gave in my first answer was that the international visitor numbers in fact had decreased slightly. However, the international spend had increased significantly. We are growing in terms of international visitor spend. I then went on to talk about how important that is, given the current climate, where we have a high dollar. It is much more difficult to attract backpackers with the Australian dollar the way it is—extremely difficult. How thick!

Our commission has a strategy of trying to attract bigger spenders. Backpackers, in terms of the way the Australian dollar is at, are very difficult to attract in this climate. So, we have been attracting higher spenders, people who can afford to visit Australia when the dollar is high. As I said in my previous answer, and as I have already stated—which the Hon. David Ridgway was too lazy to even listen to—I did say that our numbers were down but our spend was growing, and that is a very positive trend. That is something our commission and tourism operators should be congratulated for.

Not only is our international spend growing, but we are way above the national average on all the recent domestic tourism rates that have just been released today—way above, sometimes two or three times, the national average. So, our domestic growth rates are right up, right across the board. We are above the national average on all the current measures in terms of domestic tourism and, in addition, in terms of our international spend in relation to our tourism, the numbers are growing. The opposition should be thanking and acknowledging the tremendous efforts of the South Australian Tourism Commission and our tourism operators.

TOURISM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:04): By way of supplementary question, given the minister's strange answer, can she explain why international visitors spend less money in Adelaide than in any other mainland state capital, according to the latest results released last week by Tourism Research Australia?

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) (15:04): I have already answered the question twice and now he wants a third go. He needs to be less lazy and open his ears and listen.

TOURISM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:04): I have a further supplementary. Can the minister explain why last year we attracted seven international cruise ships and Victoria this year has attracted 58, with 60 booked for next year?

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) (15:04): Again, another success story for South Australia. We have significantly increased the number of cruise ships to this state in the last couple of years—a huge growth. Not only have we increased the number of cruise ship visits to South Australia (which is an absolute

credit to our Tourism Commission) but we are now having cruise ships visit our regions, as well—Robe and Port Lincoln. Again, it is growing and it is a fabulous achievement.

What is more, the successes only increase. Not only do we have that but we now have a cruise liner that uses our port as its home port. What that means is that it docks there, it exchanges hospitality, foods and suchlike, and it unloads and reloads. That has a significant economic benefit to this state, as well. Again, all the trends are in the right direction: growth in cruise ships; growth in domestic visitor rates; growth in international spending—achievements right across the board.

FINDING WORKABLE SOLUTIONS

The Hon. G.A. KANDELAARS (15:06): My question is to the Minister for Disabilities. Will the minister provide this place with information on his recent visit to Finding Workable Solutions, an innovative and award-winning disability employment service in Murray Bridge?

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): I thank the honourable member for his question and for his ongoing interest in this portfolio area. In January this year I had the great pleasure of visiting the Murray Mallee region, where I visited a number of service providers and not-for-profit organisations, including an NGO called Finding Workable Solutions, based in Murray Bridge.

I was extremely impressed by the innovative approach used by Finding Workable Solutions in providing meaningful employment opportunities to people living with disabilities. Through its award-winning Salvage & Save program, not only has it created jobs for people of varying ability but they are also diverting items from landfill. I first heard about the Salvage & Save program when I attended the National Disability Services Innovative Practice Awards last year. Indeed, I think the Hon. Kelly Vincent was there with me.

Finding Workable Solutions was awarded a high commendation for their Salvage & Save operation. I was so impressed by the small amount that I learnt about the program at that time, at the award ceremony, that I arranged to visit Murray Bridge to see this successful program in action. The Salvage & Save program encourages local communities to donate unwanted goods which are then recycled and sold back into the community through a low-cost retail shop. Electrical goods, furniture, building materials, whitegoods, garden equipment and bric-a-brac are just some of the items that are salvaged, cleaned up and then made available for purchase.

People living with disability can participate in the Salvage & Save project on a number of levels, including voluntary work at the outlet, work experience, traineeships, return-to-work programs, skills and career development, and permanent part-time or full-time employment. Finding Workable Solutions has three sites that run this recycling program—Murray Bridge, Hahndorf and Goolwa. The local communities come together to support the program, with private companies, NGOs and government agencies working together to support this very important initiative.

I was very impressed by the collaborative approach of the wider Murray Bridge community, which is working together to ensure the ongoing success of this initiative. I would like to congratulate the chief executive Adrian Pitt and his team for recognising the future growth of recycling and waste management and for harnessing this potential to deliver meaningful employment for people with varying abilities.

NUCLEAR WASTE

The Hon. M. PARNELL (15:08): I seek leave to make a brief explanation before asking questions of the Leader of Government Business, representing the Premier and also in her own capacity as Minister for Regional Development and Tourism, about the transport of nuclear waste through South Australia.

Leave granted.

The Hon. M. PARNELL: This morning the National Radioactive Waste Management Bill 2010 passed the federal parliament. This bill will impose a nuclear waste dump on the Northern Territory by overriding territory and state laws. This has huge implications for South Australia as it appears very likely that the radioactive waste will be transported through our state, not because it is the most direct route but, according to a federal government commissioned report assessing transport options from 2009, because transporting the waste via South Australia would 'avoid the emotive movement of waste through the Blue Mountains'. As a result, hundreds of trucks of

radioactive waste will instead be unnecessarily sent through our Riverland food bowl and along the River Murray.

When this issue was first raised at the end of last year, the South Australian Murray Irrigators chairperson, Caren Martin, said that despite the waste being classed as low level, any leak or spill could devastate the Riverland. She said, 'It is definitely a risk for food growers but a bigger risk for the whole of South Australia.' Berri Barmera Council chief executive officer David Beaton said:

> If we're a food bowl area, why would you do something that jeopardises it and if it's supposed to be low risk with the waste not very toxic, then why don't they take it to the Blue Mountains, why don't they take it the most direct routes?

To make it worse, this federal bill has an extraordinary clause in it that overrides any state laws that would attempt to regulate, hinder or prevent the transport of waste. Therefore, all the protections that our state has put in place that would normally cover the safe transportation of the this dangerous material will no longer apply.

In submissions on the federal legislation, legal experts have pointed out the absurdity of suspending any regulation of the transport of radioactive waste. This approach fails to take into consideration the fact that South Australian emergency service personnel and infrastructure will be needed should an accident or incident arise and that nuclear waste will be transported past the doors of many South Australian homes, often on roads prone to accidents and extreme weather conditions such as flooding.

Members will well remember that in 2002 and 2003 the SA Labor government fought vigorously to stop the transportation of nuclear waste into our state, as part of the campaign to prevent a nuclear waste dump being located here. At the time they argued that this campaign had the overwhelming support of South Australians, who didn't want this waste travelling into our state. My questions to the Premier are:

1. What negotiations, if any, have taken place with the federal government about the transport through South Australia of nuclear waste destined for the proposed nuclear waste facility in the Northern Territory?

2. Considering the government's previous vehement stand against the transportation of nuclear waste from New South Wales and the overriding of all state laws governing the safe transport of radioactive material, what will the Weatherill government do to ensure that hundreds of trucks containing radioactive waste are not transported through our state?

In her capacity as Minister for Regional Development and Minister for Tourism, I ask the minister: what will you do to ensure that this radioactive waste is not transported through our iconic 'clean and green' food bowl and tourist precincts along the River Murray?

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) (15:12): I will refer those questions to the relevant ministers in another place and will be happy to bring back a response. I think that the minister who has the most responsibility for the matters which you raise is in fact the environment minister, who is involved in ensuring that standards are maintained when the transport of radioactive material is in place. I believe it is the environment minister, but as I said I am happy to refer those questions to the relevant ministers in another place, including the Premier, and bring back a response.

As I said, this is not an area that I have responsibility for. It is outside my portfolio responsibilities. Nevertheless, I have a clean and keen interest in what goes on in our regions. The transport of commonwealth radioactive waste is regulated under the commonwealth Australian Radiation Protection and Nuclear Safety Act of 1998, which is administered by the Radiation Protection and Nuclear Safety Agency. I am advised the commonwealth does not require the EPA's approval to transport radioactive waste in South Australia, and I am advised that the federal agency ensures that the transport of commonwealth radioactive waste is carried out safely through compliance with a national code of practice for safe transport of radioactive material.

It is the EPA's view that the potential risk to people and the environment is in fact very small, as the honourable member mentioned. It is very low-level waste that is involved in these transportations. I am further advised that when the commonwealth has transported significant quantities of radioactive waste throughout South Australia in the past it has kept the state government fully informed of transport logistics and safety arrangements, and the EPA has

requested the Department of the Premier and Cabinet to distribute a notice to emergency response agencies (similar to notices of shipments of uranium oxide that relate to the Olympic Dam and Beverley uranium projects) to inform them of that transport.

It is anticipated that the commonwealth would enter into discussions and keep the state fully informed of any future transport of significant quantities of radioactive waste through South Australia. State government departments regularly involved in these discussions include the EPA; the Department of Planning, Transport and Infrastructure; and the Department of the Premier and Cabinet.

I am advised—and the last advice I received was that there had not been any final decision about routes so that matter was still being considered—that whatever route is chosen to transport radioactive waste it will be under very strict controls and will present, as I said, a minimal risk. As we know, many hazardous materials are routinely and very safely transported through our regions, including the Riverland, under state and commonwealth control. In relation to my response, I have written to the federal minister. I cannot for the life of me remember which one it was, because I write to so many of them regularly, but I have a feeling it was minister Ferguson.

I have written to minister Ferguson and he has responded to me, if I recall correctly. He advised me in that correspondence that no final decision had been made but, clearly, anything they would do would be in accordance with the requirements that have been established. He assured me that there would be minimal risk in relation to transportation but that no final decision had been made. I believe that was the response to my correspondence. If that is not quite right I will bring back a response.

The PRESIDENT: Mr Parnell has a supplementary.

NUCLEAR WASTE

The Hon. M. PARNELL (15:17): Arising from the minister's answer, has the government now abandoned its opposition (that has arisen in other states) to the transport of nuclear waste through our state and along our roads?

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) (15:18): As I said, we are always very mindful and watchful of any transportation of hazardous chemicals or substances on this state's roads, whether our own waste materials or other states transporting them through.

As I have said in my statement, we are very committed to making sure that we do maintain a safe environment and minimise any risk from hazardous materials being transported through or within the state. We ensure that there are protocols and standards in place to minimise any risk to South Australians, our property and our produce areas. My understanding is that no decision has been made in relation to this matter so, really, it is a matter of speculation.

HOUSING SA

The Hon. J.S. LEE (15:19): I seek leave to make a brief explanation before asking the Minister for Social Housing a question about Housing SA and the recent fires in Semaphore Park.

Leave granted.

The Hon. J.S. LEE: Reported on FIVEaa yesterday morning (which everyone will be interested in) with Leon Byner, Julie MacDonald, spokesperson for the Housing Trust Tenants Association, stated:

> There have been 15 fires deliberately lit in a public housing area in Semaphore Park in a short period recently, two of them serious house fires, several attempted house fires, a car, furniture, bins, outdoor blinds. One family of six were victims of this arson and have fled the property in fear, almost losing their lives.

It was also reported that Housing SA has added to the distress of the family of six by telling them that they must clean up by Tuesday or be charged for the cleanup. The poor mother involved in this incident was exhausted, traumatised, has four young children to care for and her partner in hospital has asthma, and she is expected to clean, move, and repair the house on her own to Housing SA's satisfaction. She has paid for the movers and the skip for the cleanup.

Another victim of a house fire has not been supported either, and is living in a smoke-damaged house with severe health problems. Miss MacDonald continued to say, 'Housing SA

should not be making a victim with asthma to clean up a smoke-damaged house.' My questions to the minister are:

1. Does the minister expect the tenants to live in properties that are badly damaged by smoke and fire?

2. Can the minister explain what duty of care, support and compensation Housing SA will provide to the poor tenants who are facing tragedy and crime?

3. Can the minister confirm whether Housing SA will reimburse the victims to cover the cost of the movers and cleanup arising out of the malicious act?

4. Can the minister advise whether any actions have been taken to advocate better support from SAPOL?

5. What measures will the government put in place to prevent such a horrible act in the future so that tenants relying on social housing are not put further at risk or living in fear?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:21): I thank the honourable member for her most important question, and I should take this opportunity to point out to her that a very salutary lesson in this regard is not relying on what is also reported in the media, because you can sometimes get it very wrong if you rely on those reports for the basis of your factual information.

Members interjecting:

The Hon. I.K. HUNTER: I know. It will shock many of you, but sometimes the media don't actually have the facts right and, when honourable members trot in here regurgitating those issues as facts, they can sometimes get it very wrong. I am very pleased that the Hon. Ms Lee put in quotation marks 'it was also reported', because that was very important to get her story right.

She is right in one respect, that there has been a spate of vandalism attacks and fires in the Semaphore Park area. The perpetrator or perpetrators are, as yet, unknown. Two Housing SA properties have sustained damage, with one family having to move due to significant damage. Housing SA became aware of the fires on 3 and 4 March and acted very quickly to provide support to both households.

A household in Ibis Court sustained only minor damage, and tenants are able to continue to live in the property while repairs are being carried out. I understand that the tenants requested to remain in the property during this repair period. The Hon. Ms Lee did not acknowledge that in her preamble, and it is very important to note it.

Another household in Plover Grove in Semaphore Park suffered quite significant damage. The tenants were given temporary motel accommodation on the night of the fire, I am advised, and their children stayed with grandparents close by. The very next day the family was offered, and accepted, an alternative Housing SA property in the same area—the very next day, is my advice.

Housing SA has requested that the tenants remove a considerable amount of rubbish that was not fire damaged, because they had been asked to remove it previously (I understand there had been quite a bit of rubbish that had collected at the house prior to the fire) and has since agreed to reimburse the cost of a mini skip which they had arranged for that purpose. Housing SA has negotiated with the tenants an extension of an extra week (until 19 March, is my advice) to clear the property of their personal items.

Housing SA has also spoken with local agencies and support services to assist them in getting back on their feet. The premise of the Hon. Ms Lee's question is completely wrong. She has relied on reports in the media which do not have the facts. She has relied on those reported issues to attack Housing SA when Housing SA has been exemplary in its actions in this regard.

ANSWERS TO QUESTIONS

MOUSE PLAGUES

In reply to the **Hon. J.S. LEE** (17 May 2011) (First Session).

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

1. The South Australian Mouse Working Party's final report and the Government's response to its recommendations are available on the Biosecurity SA website www.pir.sa.gov.au/biosecuritysa. The Working Party has no role in addressing the occupational health and safety concerns for mixing the zinc phosphide baits on farm. This is a matter between commercial proponents and the Commonwealth regulatory authority, the Australian Pesticides & Veterinary Medicines Authority (APVMA).

2. The SA Mouse Working Party did not recommend subsidies for mouse bait, but rather initiatives to reduce its retail cost. The Government is keen to facilitate a competitive marketplace for bait supply and there are now four companies supplying bait nationally (Animal Control Technologies Australia Pty Ltd, PCT Holdings Pty Ltd, Bell Laboratories and 4Farmers P/L), with further local regional bait manufacturers in the pipeline for SA. It is expected that local manufacturers in SA would be able to supply bait at a lower cost, due to less long-distance freighting and use of unsterilised grain.

A major constraint to bait manufacture in 2011 has been the rate at which sterilised (i.e. irradiated) grain can be supplied. As an alternative, Biosecurity SA facilitated permit applications by three manufacturers to allow for use of non-sterilised, cleaned, seed for sowing quality wheat grain to supply bait at the State scale. Sources of such grain (triple rust resistant wheat varieties) were located in SA for the manufacturers and 400 tonnes has been sent interstate. Such non-sterilised bait is available for purchase by SA farmers.

POINT LOWLY

In reply to the **Hon. M. PARNELL** (6 July 2011) (First Session).

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): The Minister for Sustainability, Environment and Conservation has been advised:

1. Giant Cuttlefish populations are characterised by high natural variations from year to year. Natural variability in abundance and recruitment is influenced by the impacts of environmental factors such as water temperature, salinity, water circulation and weather patterns. This variation in population numbers is considered normal.

A number of explanations have been put forward regarding the observed decline in Cuttlefish numbers, but all are speculative until we have quality data from which to draw informed conclusions.

2. Given the uncertainty surrounding the potential decline in numbers, the Government has taken a precautionary approach to the protection of Giant Cuttlefish and is:

- converting the existing temporary fishing closure in False Bay to a permanent and ongoing closure;
- closing an additional small area immediately adjacent to the Point Lowly headland that is known as a breeding area, but is not currently included in the closed area; and
- implementing a more comprehensive monitoring program for Giant Cuttlefish.

Scientists from the South Australian Research and Development Institute (SARDI) were deployed in August 2011 to commence a further scoping study ahead of establishing a research program for the next breeding season.

The Government has since received Commonwealth assistance to monitor the breeding and habitat of Giant Cuttlefish in Upper Spencer Gulf. SARDI has obtained a grant of $74,162 from the Fisheries Research and Development Corporation, in addition to a $31,111 contribution from SARDI over the next two years, to support a monitoring and evaluation program for Giant Cuttlefish, with particular reference to population biomass, water quality and habitat condition.

A whole-of government approach is being undertaken to implement this program.

3. The former Minister Assisting the Premier with the Olympic Dam Expansion Project has been advised that:

- The BHP Billiton Supplementary Environmental Impact Statement, page 375, Fig 17.1 and page 472, Fig 17.24 outlines the locations of the Giant Cuttlefish aggregation/habitat zones, where breeding occurs

- The outfall is 800m long with an additional 200m diffuser section
- The Black Point eastern edge of high density aggregation is 3km from the end of the outfall pipe
- The Backy Point aggregation area is 10km from the end of the outfall
- There also exists low and medium Giant Cuttlefish aggregation habitat areas adjacent to the outfall position at Point Lowly

4. The Minister for Sustainability, Environment and Conservation has been advised that the aggregation area is located within the Upper Spencer Gulf Marine Park. One sanctuary zone proposed by the Upper Spencer Gulf Marine Park Local Advisory Group is located inside the fishing exclusion zone managed by the Department of Primary Industries and Resources SA, where fishing for the Giant Cuttlefish is already prohibited. The Government is currently considering the advice from the Marine Park Local Advisory Group, along with advice from other stakeholders, in developing the park's draft management plan with zoning, which will be released for public comment.

BED RAIL SAFETY

In reply to the **Hon. K.L. VINCENT** (24 November 2011) (First Session).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): I am advised:

The Department for Communities and Social Inclusion (DCSI), along with partners including Novita Children's Services, provides equipment for people with disability through the Equipment Program. All beds with cot sides that are purchased by the Equipment Program meet Australian Standard AS/NZS 3200.2.38:2007 'Medical electrical equipment—Particular requirements for safety—mechanically operated beds for adult use'.

Whilst Australian Standard AS/NZS 3200.2.38:2007 does not specifically include use by children, DCSI and Novita have done a great deal of work to provide safe rails and beds for children and provide information and training to prescribers to manage the associated risks.

The Equipment Program also provides alternative beds with full-length cot sides and fitted mattresses for people who are at greater risk of entrapment, particularly children.

The Equipment Program and its partners have comprehensive resources and provide ongoing education to clinicians in relation to the prescribing of equipment, in order to manage the risks in the provision of equipment. Novita Children's Services has led the development of many clinical guidelines and screening tools to guide the prescription and use of beds and bedrails. Clinical staff who prescribe equipment must be approved prescribers under the Equipment Program, with additional training for higher risk items.

Community and Home Support SA also has a Safe Sleeping Guideline, which provides information for Disability Services staff to support parents/carers in providing a safe sleeping environment for their child, with the aim of reducing preventable injury and death.

Equipment bulletins and newsletters are circulated regularly to over 600 equipment prescribers in South Australia, with recent bulletins including articles about entrapment. These materials are freely available to government, non-government and not-for-profit agencies.

During 2012, my Department also intends to offer educational opportunities to equipment prescribers from agencies outside of the Department.

MATTERS OF INTEREST

JAYDEN'S LAW

The Hon. R.L. BROKENSHIRE (15:24): The MOI that I speak about today is a lead-in to a bill which I have circulated to honourable members today and will go into more detail on in the next private members' session. I will use this MOI to speak on what is known now as Jayden's Law Initiative, which is an initiative that a very brave mother, whom many of my colleagues would be aware of, Tarlia Bartsch, has raised with us regarding the tragic loss of her second child, Jayden, in the 20th week of her pregnancy.

The issue of real concern is the fact that, when Tarlia and her family made contact for a request for a birth certificate, it was denied. It was denied due to what I believe are archaic rules that need to now be addressed by parliament—which is the only place where this can be addressed—in order to bring birth certificate legislation up to date.

This is what I put up as a multipartisan opportunity for the parliament. People of all walks of life and politicians of all persuasions have been joining the support group on Facebook for what we will be introducing as Jayden's law. There are now actually 2,300 members. Also, as members will recall, 1,500 petitions have been tabled here. A lot of those are from the Port Lincoln region, where Tarlia Bartsch and her family come from, but another 500 have been provided to the clerk today. It was my intention to table the bill today but, due to time frames, it will not be tabled until the next sitting week.

I want to acknowledge the supportive work of the member for Flinders, Peter Treloar MP, and his cooperation in this campaign. I have been working with him in his office as he also supports this important amendment. I also welcome other MPs adding their support to this campaign, and I thank those who have already indicated their support.

By starting this process in South Australia, I hope to also achieve this reform nationally. I note that similar legislative amendments have been pursued by the Country Liberal Party (CLP) opposition in the Northern Territory under similar circumstances, involving a child with a similar name: Kaden.

I believe it is important to honour the women and the families grieving for their loss. This is one pathway to the healing process. It is not mandatory to get a certificate. A certificate will be issued by choice based on the individual desire of a particular family and, most importantly in my opinion, the mother of a child.

In my second reading speech I will actually detail all the technicalities of the bill and how it would work in practice. I have been enlightened and heartened by the number of families who have contacted our office since the initial discussion of this proposal. I believe that this is a chance for the parliament to be able to offer an opportunity for families who have gone through incredible trauma—trauma that none of us would wish to encounter and hopefully most of us will not have to encounter—to be able to formally request a birth certificate and be able to have that birth certificate approved through the appropriate agency.

I also wish to add that medical science has changed dramatically since the legislation was last deliberated in the parliament of South Australia. In fact, we have seen in recent examples children being born very prematurely—weighing 350 to 360 grams—and surviving.

In conclusion, I am sure that all colleagues would join with me today to support the strength and the tenacity of Tarlia—and her friend, Heather, who has been a rock of Gibraltar for her—together with the rest of her family. I look forward to members being able to contribute to this debate from next week. Hopefully, we can improve this legislation in the best interests of families in South Australia, giving them the best outcomes.

Time expired.

MEMBER'S REMARKS

The Hon. J.M. GAZZOLA (15:30): A few weeks ago we were treated to the marshmallow fist in the velvet glove of the Hon. Robert Lucas in one of his regular pummellings of members of the government, this time concerning the by-election successes of Labor candidates Zoe Bettison and Susan Close. No doubt, his remarks have been read by millions.

According to him, the non-disclosure by Susan Close of her two-year stint as ministerial adviser to the Hon. Gail Gago in a varied working career is a deliberate ploy designed by her to deceive her electorate. The sins of Ms Bettison, according to the confected indignation of the honourable member, are even greater. Heaven forbid that in a lengthy period of employment she has spent this in a variety of union or Labor Party union-related areas.

Evidently, having a degree from a university and an MBA (let alone her background) have no part to play in a rounded view of a person. If you are a member of the opposition, having an MBA would be de rigueur for admission to higher office. Likewise, for the new member for Port Adelaide, it appears that having a PhD, where I believe she places Labor politics under academic scrutiny, let alone her personal history and expertise in environmental issues and policy, are

irrelevant to her value and what she brings to politics and governance. We are asked to accept his straw characterisations. What we are witnessing here is petty and ad hominem.

Are we to assume then, according to the honourable member, that the Liberal Party in the interests of a broader recruiting strategy requires their candidates to demonstrate solid union experience to round out their CVs and world view. It would certainly be consistent with the views expounded in the Liberal Way, the philosophical bedrock of the Liberal Party, a platform which is at odds with the prevailing attitude of the honourable member.

What further prompted me to reply to these mutterings of illiberal irrelevance is the CVs of many members of the opposition, but none more so than the honourable member himself. According to his website, the Hon. Robert Lucas is a fully owned subsidiary of the Liberal Party, a Liberal hack (using his preferred terminology). After university and his stint as assistant state director of the Liberal Party, he has been in this council for almost 30 years—beating the runner up, according to my records, the Hon. Diana Laidlaw, by about nine years—and he is still going. No wonder the public are not listening. The salient point here is that the Hon. Robert Lucas has never had another occupation, but worse still, he is prepared to bag others for their supposedly narrow CVs as precursor for public office.

However, credit where credit is due. There is little doubt that the Hon. Mr Lucas is their most talented member, so little wonder that it is driving the honourable member to distraction to be spending so much time warming the backbench. Worse still, he does not have the Hon. Leigh Davis to bounce invective and insinuation around as some cynical palliative. Continuing this theme, Liberal members of the opposition past and present in the years from 2002 to 2006 have sat for an impressive total of 147 years, a record that could topple under the singular onslaught of the Hon. Robert Lucas. His performances, nevertheless, interest me—an equal balance of derision and analysis where, at times, the intended purpose of the vehicle is the former not the latter.

On reading his Address in Reply, I assume that the honourable member sees himself as, or implies that he is, some sort of reformer, though the honourable member never precisely argues for or differentiates between what is 'reform' let alone 'radical reform' or 'change'. If he is implying that he is a reformer, then he certainly missed his chance over reforms to the Legislative Council. My understanding of his reformist streak over the last 10 years is that it is marked by its absence. Obviously, any threat to his mountain of superannuation is to be sternly resisted.

In finishing, is all of this grandstanding by the opposition backbencher important? It is only important if you want to further negation and personal denigration as policy, something of a Liberal policy trait these days.

NATIONAL COUNCIL OF WOMEN

The Hon. J.M.A. LENSINK (15:34): I rise to speak today about the lack of recorded history of women in South Australia and the efforts to correct this by the National Council of Women's local South Australian branch. Every year, the National Council of Women has a commemorative tribute on Australia Day to the early women settlers of South Australia in the Pioneer Women's Memorial Garden. They participate in History Month at their displays at their South Terrace premises.

In 2010, they had some significant displays from the Midwives' Association, Girl Guides Association and in relation to a lady by the name of Miss Adelaide Miethke who was a past president of the National Council of Women who facilitated the raising of a large amount of funds for our efforts in World War II and later for the Royal Flying Doctor Service. Through this she conceived and founded the concept of the School of the Air, contrary to the beliefs of a number of her contemporary educators.

For last year's Australia Day speech, in the year of our 175th anniversary of the proclamation of the province, we were provided with a talk by Dr Lois Zweck who, in her address, First Fruits, outlined the story of our first German community, which settled in Klemzig, Hahndorf and Glen Osmond very early in the state's history. She said:

> The reports of this period of decision are all written by men, and I wonder how much say the women had in those debates, although there are records of wives or daughters making different choices from their husbands or families.

A pioneer trail from Hahndorf down through Beaumont, where the women used to walk with produce on heads and shoulders to the market in Adelaide, is still in existence.

It was my privilege this year to address the National Council of Women on Australia Day regarding legislative advances for the status of women, and that speech is on my website. In order to do research for that speech, the best record I could obtain was a book from the library, from Helen Jones, entitled *In Her Own Name: A history of women in South Australia from 1836*, which was written for the Centenary of Suffrage. Ms Jones herself remarked on the difficulty of obtaining access to historical materials which would cover the period prior to the 1960s as being lost or stolen. She says:

> While some records await further exploration, others are inaccessible; they have been lost, destroyed or even stolen. The last category includes the South Australian Housewives Association records which had been methodically accumulated for almost sixty years. They disappeared when thieves took the safe which housed them from the Association's office in 1980; it was not recovered. Sometimes the destruction of papers and photographs has been accidental, sometimes deliberate. Many records of the Adelaide City Mission's near-century of work, much by and for women, were thrown away in the 1950s. The Mary Lee papers were, according to family members, consigned to a Brompton pug-hole some years after her death. These papers may well have included the missing records of the South Australian Women's Suffrage League.

I note it is even more of a tragedy that the women's studies resource centre has been dismantled by this government for the sake of a few thousand dollars. That collection contained invaluable records, which would have assisted us in mapping our state's history, particularly in the more contemporary periods following the 1950s.

We are familiar with a number of the suffragettes and their life: Catherine Helen Spence, Mary Lee, Mrs Elizabeth Webb Nicholls and Lady Colton. Roma Mitchell, later our state's governor, has a prominent place in our history as well. We have celebrated 35 years of the Sex Discrimination Act. The Women's Housing Association has written a book for its 25 years, and the Housewives Association has had some significant work done by historian Professor Judith Smart, who has obtained information from the Mortlock records.

In doing my own research for my speech, it is apparent that lots of information does not exist: the history of our shelters, women's health centres, the Pregnancy Advisory Service and accounts of the Women's Information Service and, while we still have living memories from Carmel O'Loughlin and Steph Key regarding the Working Women's Centre, we ought to get that information. Francis Bedford is to be commended for her work on the Muriel Matters Society.

March is Women's History Month, according to the Australian Women's History Forum, with a focus in 2012 on Women with a Plan. However, I note the Eastern States focus, which does not contain any information about our South Australian forebears, as I have mentioned. I commend the members for Florey, Ashford and Bragg for their interest in history and I hope that we will all be able to do more in recording women's history for future generations.

BORDERLINE PERSONALITY DISORDER

The Hon. K.L. VINCENT (15:39): Today, I would like to share with you comments from a constituent responding to my question in this place on 28 February. He says:

> I was diagnosed with borderline personality disorder or BPD when I was an adolescent. Whilst it is not normal for a teenager to be diagnosed with BPD at such an early age due to their changing personality I was nevertheless slapped with this label.
>
> The disorder is stigmatising. The very professionals who are supposed to treat you instead mock you and do not recognise it as a psychiatric disorder. SAPOL charged me a few times with disorderly behaviour, which is ironic in that BPD is a behavioural disorder. Whilst I take responsibility for my actions now, out of impulsivity I did not at the time.
>
> My prognosis was very bleak. I have a severe history of self-harm, overdosing and self-sabotaging behaviour. My interpersonal relationships were a nightmare and I was involved in a revolving door of hospital admissions for a long period of my life. Little was told to my family about the disorder and as a consequence of my behaviour, I was relinquished from my parents care under the Guardianship Order living in community residential facilities with adolescents whose problems did not reflect my own. These were violent offenders and the time spent in these facilities was traumatic.
>
> I later developed anorexia nervosa. It was another method of numbing my feelings that I could not deal with at the time and I spent time in hospital for this.
>
> Slowly, over the years, my self-harming behaviour reduced to the point where I no longer self-mutilate and I refuse to take medication as it just numbs my feelings, which I had to learn to deal with. I used alcohol for many years, often excessively, to numb these feelings again.
>
> The problem with BPD is that persons who suffer from it are extremely difficult to treat and a person with BPD can only start to recover once they accept that they have an illness. I did not for many years. It was not until I was charged with an offence that I seriously believed I had a problem.

Unfortunately, a person with BPD will usually incur a number of criminal convictions for petty offences that are generally a frustrated attempt at police being sick and tired of dealing with individuals who are not viewed as mentally ill by medical standards and therefore not detainable under the Mental Health Act 2009. This makes the risk of suicide very real.

It is practice for people with BPD who continually present to hospital to be refused admission, to literally become 'stitched up' and sent home. Only physical complications are treated and then a discharge follows.

Most of my past behaviours have been out of fear and desperation to feel normal, to be accepted and to fill an empty 'void' I had, not out of maliciousness or manipulative intent.

Many people if not all with BPD are labelled as 'manipulative' and 'attention seeking' where any person who actually [understood the disorder]...would see a fearful individual who gains nothing but embarrassment and humiliation by acting out in such a manner.

I have completed a treatment program known as Dialectical Behavioural Therapy in the western suburbs of Adelaide. The course taught me skills of mindfulness, emotional regulation and dealing with stress. This course helped me more than words can say. The demand for the course from my awareness is extremely high and I understand there is a rather lengthy waiting list. It is generally recommended that a person with BPD complete the course twice...I am now almost 30 years old, have left my old life of destruction... behind. I now take responsibility for my actions and believe that any person with BPD can overcome their problems with the right support and guidance.

The unfortunate fact that you highlighted in parliament is that [the risk of suicide is very high]. The first five years from being diagnosed are the most risky, as persons with BPD...research [the symptoms and become frustrated at the stigma], contradicting statements and rhetorical psychiatric jargon. I know I certainly did.

I seem to have the ability now to get back up when I get knocked down, to take life [a day at a time] and not become emotionally volatile...Whilst I now know what I want in life, I can certainly say it was no thanks [to the professions] in which my problems seemed to exacerbate with the unstable and contradictory treatment I received...I thank you so much for raising the important issue of BPD within parliament. I hope one day the stigma will be reversed, health services dedicated to treatment for BPD and a more compassionate approach will be taken to this particular disorder.

NO-INTEREST LOAN SCHEMES

The Hon. G.A. KANDELAARS (15:43): Today I would like to speak about no-interest loan schemes, or NILS for short. It has been 30 years since the first NILS loan was taken out at the Good Shepherd Youth and Family Services Collingwood office. Those 30 years have been a time of exponential growth and have brought about an increasing recognition of microfinance as a means to turn around people's lives.

In 1981 the Good Shepherd Youth and Family Services started its first NILS program in Victoria, with funding, foresight, vision and generosity of the Good Shepherd Sisters. During the 1980s, the program was refined and the core principles and practices underpinning the program were consolidated. In the early 1990s, two more Good Shepherd Youth and Family Services NILS programs were developed at different sites and the Good Shepherd buying service was established. The wider community and services network became aware of NILS, and a number of other community NILS programs were started, with funds provided by philanthropic organisations.

Since the first NILS loan was approved in 1981 the rapid growth of NILS now sees it firmly placed as the largest microcredit network in Australia. A major contribution has been made to NILS by the National Bank of Australia, which has provided over $23 million to expand the NILS program across Australia. Over time, NAB support for the NILS network is expected to treble the number of interest-free loans currently offered to Australians living on low incomes. With the NAB's support, NILS expansion is focused on communities experiencing disadvantage, including Aboriginal and Torres Strait Islander communities. I commend the NAB for its commitment to NILS.

Let me give you an example of NILS in use in our community. This particular case is from North-East NILS. The client was a single woman in her 50s receiving a Centrelink Disability Support Pension and in Housing SA accommodation. She had been assigned a financial counsellor who kept in touch with her to ensure that she managed her finances successfully. She had successfully completed her first NILS loan. The loan was used to purchase a washing machine. She really appreciated the opportunity of obtaining household goods without having to pay interest and charges.

An application for a second loan was successful and the client purchased a fridge. She was very thankful when the trader whose quote she had chosen agreed to deliver the goods and accept payment on delivery. Traders who are members of the NILS charter commit to supporting and providing good service to the client group. Approximately four weeks after taking delivery of the new fridge, the client telephoned the North-East NILS quite distressed and advised that she was concerned about her financial situation.

Unfortunately, her cat had taken ill and required veterinary assistance and she was concerned about how she was going to manage the account from the vet. She asked if the amount could be added to a NILS loan. It was explained that this was not possible under the NILS process, but her financial counsellor could negotiate on her behalf for a loan repayment for the vet account. The client was most relieved, and the financial counsellor negotiated with the veterinary surgeon a repayment program that was manageable for the client. This case clearly indicates the positive impact that a NILS loan can have on the health and wellbeing of clients.

NILS offers people on low incomes an opportunity to access safe and affordable credit for essential household items without fees, charges or interest payments. In an environment where mainstream credit for people on low incomes is limited and the fees and charges levied by fringe credit options such as pawnbrokers and payday lenders are high, NILS makes a considerable difference to the nature of economic participation by individuals and families living on low incomes. I also acknowledge the commitment from many of the volunteers who help run NILS. They provide an invaluable service to those less fortunate than ourselves, and I commend them for their efforts.

ADELAIDE CULTURAL VENUES

The Hon. T.A. FRANKS (15:48): Today I would like to talk about saving small cultural venues in Adelaide, or 'renewing Adelaide' as one organisation sees it. We have five days to go of the annual Adelaide Fringe and this mad March, as it has become known, is a fabulous time for enjoying the arts in all of their forms in Adelaide. It should and could be all year round, and I take this opportunity to highlight the tale of two small venues that serve the arts and music in this capital city of South Australia. They are both driven by the toil of younger South Australians with a passion for the arts.

They are linked not only by their names, with reference to animals, but also by the passion they have for renewing Adelaide: they are the Tuxedo Cat and the Jade Monkey. The Tuxedo Cat actually lost its Synagogue Lane premises in the 2010 Fringe. At the end of that Fringe it was unceremoniously dumped for a student housing development that went into Synagogue Lane where Tuxedo Cat had previously been for many festivals. After temporarily occupying the Electra space on King William Street for the last Fringe festival, it has now reopened just across the road from Parliament House, at 199 and 200 North Terrace. It has six theatres, two bars, an alleyway and much more, and I would encourage any members who have the dinner break this evening to go over and have a look, and see what Bryan and Cass and the Pigeon Island team have managed to do with that space that has lain vacant and dormant for some decade now.

They have put an enormous amount of work into the fit-out of it. I would also like to acknowledge the work of the Renew Adelaide team and people like Ianto Ware; also lawyers, Nick Gurner from Le Cordon Bleu, Steve Maras of the Maras Corporation and the Renew Adelaide Board, who have all pitched in and made something quite special happen in Adelaide that I hope will go well beyond the next five days of this Fringe.

The hope is that the Tuxedo Cat will thrive and reach a point where it can keep going all year round. The volume of charity and pro bono support that has been undertaken so far to get the Tuxedo Cat up and running on 199 and 200 North Terrace is really heartening. What is disconcerting, though, is that in eight days of the Fringe that venue has been raided at least four times by Liquor Licensing, which has also called in SafeWork SA to investigate what have been termed 'trip hazards' in the venue.

I would like to compare that to the approach to Barrio, just behind Parliament House here, which I would say is certainly a trip hazard in the making. I think the treatment by Liquor Licensing of that particular venue speaks volumes about the treatment of the fine arts compared to the mass arts, or the unpopular cultural arts. Small venues are treated very unfairly, I think, in this state, compared to what we see as the traditional and more exalted arts. On one hand we pride ourselves as a festival state, yet we punish people who try to make that festival available for more than the absolute mainstream, for a more accessible, broader, alternative audience

The other venue that has been in the news in recent weeks is, of course, the Jade Monkey, which is a small live music venue that has been going for 10 years in this state. That venue is in Twin Street in the city and is slated to close, again because it is to be developed for, I understand, housing and possible retail. That venue, as a small music venue, is indicative of the loss that we have seen in our music scene in Adelaide. The outpouring, with over 4,000 signatures to a petition in less than 48 hours, I understand, and the Premier and the Lord Mayor stepping in to try to save

the Jade Monkey, just shows how important these small live music venues are not only to the music scene but in our broader cultural fabric.

The fact that there is such an outpouring I think is because that Jade Monkey is such an endangered species. I do hope that the Premier comes to the party in terms of helping the Jade Monkey continue. I certainly call on the Premier to have a look at that $0.5 million fund that was set aside to support live music back in 1992 and not only increase it to at least a CPI indexation that they should have been owed but make sure that that fund is used to ensure that we do have small live music venues in our capital city. If we are to have a real renewed Adelaide, that is what needs to happen.

BUSINESS SA

The Hon. S.G. WADE (15:53): I rise to speak today about Business SA and my concern for its disregard for the democratic values of this state. Firstly, Business SA has shown a disregard for the democratic institutions of our state in particular. In early 2010 in the lead-up to the state election, Business SA released a Better Democracy manifesto. One of their demands was the abolition of this council. Mr Vaughan said the upper house's power to frustrate a government elected with a policy mandate led to uncertainty in the private sector and stifled investment.

What a bizarre claim! The business community, including Business SA, repeatedly uses the circuit-breaker of the Legislative Council to try to force the government to think again about its policies. It is not hard to think of examples: real estate reform; WorkCover; work, health and safety. If Business SA wants certainty, then it should just take what the government does to them and not come in here asking us to change legislation.

On the basis of Business SA's purported desire for certainty, it is astonishing to read their other recommendation in that manifesto that said that deadlocks between the House of Assembly and the Legislative Council should be resolved by a double dissolution of the parliament and a subsequent election. Business SA is trying to tell us they would prefer to see an election held every time the House of Assembly and the Legislative Council have a disagreement. Don't they think that would lead to more elections and that more elections would lead to more business uncertainty?

Also interesting is their call for four-year terms for legislative councillors while also retaining the 22-seat membership of this place. This would inevitably lead to even more fracturing of the vote through lower electoral quotas, amplifying the democratic pluralism which Business SA wants to abolish. Business SA's zealotry against this council also fails to represent its own membership. Only 36 per cent of its membership indicated that they thought reform of the Legislative Council was necessary.

Business SA, on the one hand, accuses others of not being representative and, on the other, betrays the people it claims to represent. Business SA claims to be the 'voice' of South Australian businesses of 'all sizes'. Yet the actions and advocacy of Business SA indicate that it is primarily concerned with representing the demands of a minority of big businesses in this state. It is in the game of big business doing deals with big unions and big government.

We see Business SA's arrogance in its deal with the SDA to alter shop trading hours, trading more public holidays for deregulation of the labour market. This is a deal that will hurt small businesses the most. In the last few weeks we have seen an outpouring of discontent from the business community. The Australian Hotels Association, the Motor Trade Association, the Shopping Centre Council of Australia, Restaurant and Catering South Australia and the list goes on: all of these groups will be hurt by changes in which they had no say at all, so much so that they have created their own representative voice to oppose the changes, the SA Business Coalition.

Business SA also decries the diversity of our federal system and calls for national uniformity. In an ABC radio interview last Tuesday, Peter Vaughan heavily criticised the diversity of our federation in matters such as regulation, taxes and so on. He ignored the fact that a healthy federal structure is better at dealing with local distinctives and promotes competition and efficiency. One only needs to look at WorkCover levies, for example, to see where competitive pressure between the states helps businesses by helping to keep rates below what they would otherwise be.

In the same ABC interview Mr Vaughan insisted that the group being formed for national consultation on business deregulation by the federal government needs to have 'representatives of states and territories'. Why? If Business SA thinks that state and territory distinctives are so insignificant that national uniformity is utopia, what would representatives of states and territories

bring to the table? In fact, if Business SA is so confident about national uniformity, why don't they do us all a favour: disband and let the Canberra business advocates run the show?

National uniformity will be the end of interstate competition, a pressure that sees constant improvement and innovation in businesses around Australia. I urge Business SA to reassess its direction. I hope that Business SA will become more respectful of the democratic institutions of this state. I hope that Business SA will be more respectful of the interests of the range of businesses in South Australia. I hope that Business SA will become more aware of the positive economic contribution of competitive federalism.

MOUNT BARKER DEVELOPMENT

The Hon. M. PARNELL (15:59): I move:

That this council, pursuant to section 16(1)(a) of the Parliamentary Committees Act 1991, refers the following matters to the Environment, Resources and Development Committee for inquiry and report—

1. The processes followed by the Department of Planning and Local Government and the Minister for Urban Development and Planning in relation to development at Mount Barker and surrounding areas including—
   (a) the Planning Strategy for the Outer Metropolitan Adelaide Region published in August 2006;
   (b) the 2010 Planning Strategy (incorporating the 30-Year Plan for Greater Adelaide); and
   (c) the ministerial Mount Barker Urban Growth Development Plan amendment approved by the minister on 16 December 2010.
2. Whether any issues of conflict of interest involving the minister, the department, landowners, property developers, planning consultants or any other parties were identified in relation to future urban development at Mount Barker and surrounding areas and, if so, how such conflicts were avoided minimised or managed;
3. The adequacy of infrastructure planning and funding to support urban expansion at Mount Barker and surrounding areas; and
4. Any other matters the committee considers relevant.

This is a motion to refer certain aspects of the rezoning of farmland around Mount Barker for urban development to the Environment, Resources and Development Committee for inquiry and report. These matters include the process that the government went through prior to the rezoning, issues around conflict of interest and also the planning and provision of infrastructure for an expanded Mount Barker.

On 29 February this year, I spoke at some length about the ongoing travesty that is the Mount Barker Urban Growth Development Plan Amendment. On that occasion I went through, in some detail, the documents that I had obtained under the Freedom of Information Act after a lengthy legal challenge. It is those documents, the new information that we now have, that has resulted in this current motion.

Back in February, the Mount Barker motion I had on the books was calling on the minister to immediately suspend the operation of the Mount Barker Urban Growth Development Plan and to reinstate the zoning that existed prior to 16 December 2010 when the DPA was approved, and also calling on the minister to prepare a new plan for development of Mount Barker and Nairne that represents the wishes of the people of the district and the District Council of Mount Barker. That is a motion that is on the books of this council and that will be going to a vote shortly.

Just to remind members about the Mount Barker Urban Growth Development Plan Amendment, I point out that it is one of the most contentious and controversial rezoning exercises that we have ever seen in this state. There were 539 public submissions, the vast bulk of which were individualised, thoughtful letters and emails to the Development Policy Advisory Committee rather than the form letters that we often see. I will quote briefly from the Development Policy Advisory Committee's report to the minister on the Mount Barker Urban Growth Development Plan Amendment. Under the heading of Public Meeting they say the following:

One hundred and thirty...representors requested to be heard in support of their submission. Due to this comparably high number—

I think what they meant was record number—

the public meeting held comprised five sessions. These sessions occurred on 31 August 2010, 1, 8 and 14 September 2010 and 13 October 2010. As mentioned previously, a depth of feeling was expressed at each of the

five public sessions. It should be noted that none of the representations made at the public meeting expressed support for the draft development plan amendment.

None, not a sausage, not one submission made at that record five-night hearing was supportive of the draft development plan amendment. That is what we faced as a parliament and it is what the community of Mount Barker faced, that is, overwhelming opposition, yet the minister went ahead and approved that development plan amendment.

The current motion is for an inquiry by the Environment, Resources and Development Committee and this inquiry goes to the process of rezoning rather than the merits of the rezoning. My other motion refers to the merits of the rezoning. In my view, the Mount Barker urban expansion DPA has very little merit and, according to the terms of that motion, it should be scrapped. However, the process that the government went through in, effectively, handing over Mount Barker to big property developers is just as diabolical and I believe should be thoroughly investigated.

Shortly, I will go through some of the reasons this inquiry is needed but let me first address the choice of forum. I could have called for a select committee, and I am sure members would have appreciated another select committee. Members of the government, I know, are always keen to get to the bottom of decisions that have been made, but I felt in this particular case that it was more appropriate to refer the matter to the standing committee of this parliament that already has responsibility for Development Act issues, including zoning decisions that are made by local councils or the minister, and that is the Environment, Resources and Development Committee. I also think that it is appropriate because the committee has already looked at the Mount Barker urban sprawl rezoning as part of its statutory function following the minister's approval and gazettal of the Mount Barker Urban Growth DPA back in 2010.

When the ERD Committee first looked at this, we did not have the advantage of all the information that we now have before us. Nevertheless, there was still a great deal of opposition on the part of the community and also the local council. The office of the Mayor of the District Council of Mount Barker put in a submission to the ERD Committee which, amongst other things, states:

> Notwithstanding council's opposition, the council acknowledges the minister's power to pursue the proposed expansion and the role of the DPA in achieving the minister's objectives.

What that means is that the council acknowledges that the minister had the power to do what the minister did. Nevertheless, the council went on to state:

> The council remains concerned about serious shortcomings of the DPA in terms of how the proposed expansion is to be delivered and its implications for the council and the local community in terms of the provision of essential infrastructure and services.

I have made sure that this inquiry will also look at that key issue—the issue of infrastructure—as well as the issue of conflict of interest.

When the ERD Committee looked at this on 27 January 2011, we did not have all the information that we now have; in particular, in relation to the conflict of interest and some of the other problems with infrastructure and planning to which I have referred.

To remind members briefly, there are three things in particular to which I want to draw attention. These are three things that we now know more clearly than we did back in 2011. First, it is now absolutely clear that the Mount Barker rezoning was driven by, and written by, property developers and that it was counter to both the pre-existing planning strategy and also the department's own advice as to the proper planning processes that should be followed. That is clear from the documents that I got under the Freedom of Information Act.

Secondly, we also now know that the blatant conflict of interest that arises from having the same planning consultants advising the government about urban growth options and also advising and leading a consortium of property developers who own much of the land under consideration was, in fact, well known to the government, and that the government sought to put in place strategies to reduce the perception of conflict without actually dealing with the conflict of interest itself.

Thirdly, we now know for certain that the provision of infrastructure was known to be a critical factor in the future expansion of Mount Barker. We know that the payment for that infrastructure was used by the consortium of property developers as a threat to ensure the fast tracking of the rezoning. Those are things that we may have suspected back in 2011 but we now know them with more clarity. They are now even more deserving of a thorough investigation.

I have raised the issue of conflict of interest on many occasions in this place. Taking just a quick look back through the archives, I raised the issue of Connor Holmes representing the consortium as well as the government. I raised it at least twice in June 2009, three times in July 2009 and probably a half a dozen or more times since then.

The other thing I want to say is that I have already done what I believe is the right thing. I invited the Environment, Resources and Development Committee to look at this matter of its own volition, and I am disappointed to say that the committee has declined to do so. Having reached that disappointing result, I now find myself in the position where I need to obtain the authority of this council to require the Environment, Resources and Development Committee look into this.

Just for the record, at the ERD Committee meeting on 29 February, I moved that the committee invite the Minister for Planning and the Department of Planning to appear as witnesses on 28 March 2012 to brief the committee and to take questions on the Mount Barker Development Plan Amendment. That is a very simple motion. It was simply inviting the committee to get the minister and department in to answer some questions.

I appreciate the support that I received on that occasion from the Hon. Michelle Lensink and also Mr Tim Whetstone of another place who supported the motion. But as members know, the structure of these standing committees (and this one in particular) is that the government always has the numbers. They exercised those numbers to decline to look into this; therefore, the Legislative Council can fix the situation by insisting that the ERD Committee have another look at Mount Barker.

With those brief words, I urge all honourable members to refresh their memory if they need to in relation to the recent revelations about Mount Barker obtained through the freedom of information documents, and I look forward to all members supporting this when it comes to a vote shortly.

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

RIGHT TO FARM BILL

The Hon. R.L. BROKENSHIRE (16:11): Obtained leave and introduced a bill for an act to ensure that properly conducted farming activities are adequately dealt with under planning and development laws and are given protection from certain liability; and to make related amendments to the Development Act 1993, the Environment Protection Act 1993 and the Land and Business (Sale and Conveyancing) Act 1994. Read a first time.

The Hon. R.L. BROKENSHIRE (16:12): I move:

That this bill be now read a second time.

This bill essentially focuses on the right to farm. I will refer honourable members to previous comments on the Environment Protection (Right to Farm) Amendment Bill tabled twice and passed once by this chamber. I acknowledge support of the Liberal Party and other colleagues with respect to previous initiatives. This bill is entitled 'Right to Farm' because it has additional elements, (1) clarifying immunity from liability and prosecution for farmers engaged in normal farming activities and (2) requiring right to farm principles to be enshrined in development plans through a consultation process.

This is a bill I believe is very important to the state's future, particularly now supported by the government's commitment in the Governor's speech to ensure that we capitalise on food production, food sustainability and the economic growth that concurs with those initiatives. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

CRIMINAL LAW CONSOLIDATION (LOOTING) AMENDMENT BILL

Second reading.

The Hon. S.G. WADE (16:15): I move:

That this bill be now read a second time.

I have addressed this bill in a previous session—it is a restored bill under the Constitution Act—and it was not my intention to reiterate my remarks, but the Hon. Robert Brokenshire has stressed to me how helpful that would be to him, therefore I will. However, I will, nonetheless, be brief because the President seems concerned.

The PRESIDENT: I was concerned that the Hon. Mr Brokenshire is not here to listen to you.

The Hon. S.G. WADE: The bill seeks to amend the Criminal Law Consolidation Act to adopt aggravated penalties for looting in not only the circumstances where an emergency declaration is in force but also where there has been advice to put in place a bushfire action plan. This bill is an initiative of the member for Davenport (Hon. Iain Evans) and it has the strong support of the Liberal opposition.

As the honourable member explained in his second reading contribution in the other place, this bill was introduced in response to bushfires in South Australia, Western Australia and Victoria, where there were reports of people scavenging through half-burnt houses and businesses and stealing from them. The issue was reinforced in 2011, with disasters occurring throughout Australia, particularly Cyclone Yasi and the floods in Queensland. We could now, unfortunately, add to that list the Queensland and New South Wales floods of recent times.

It is a sad fact that during such times for communities, some people prey on the misfortunate and vulnerability of others by looting homes and businesses. Deputy Commissioner Ross Barnett, in Queensland, last year said:

> One of the many pressures people face is uncertainty about the security of their property and homes and businesses and their incapacity to protect what they own.

I would reflect, though, that in the most recent disaster in Queensland, authorities were known to acknowledge the very positive contribution, particularly of young people, in their pitching in to produce sandbags to secure towns and homes. I think we need to be balanced here in that, whilst natural disasters do at times bring out the worst in people, they also often bring out the best. Nonetheless, it is incumbent on this parliament to protect people affected by such tragedies through the imposition of appropriate penalties for offences such as looting.

This bill does that by treating theft and robbery as aggravated offences when committed during an emergency situation. This would mean that the penalty for theft would increase from 10 years for a basic offence to 15 years for an aggravated offence and for robbery from 15 years to life imprisonment. In closing, I reiterate the opposition's support for the legislation, initially introduced by the Hon. Iain Evans in the other place, and commend the bill to the house.

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

POLITICAL PARTY REGISTRATION

The Hon. S.G. WADE (16:18): I move:

> That the regulations made under the Electoral Act 1985 concerning registration of political parties, made on 29 September 2011 and laid on the table of this council on 18 October 2011, be disallowed.

In October 2009, the Electoral Act 1985 was amended, amongst other things, to allow the Electoral Commission to prescribe the manner in which political parties maintain their registration under the act.

The bill was assented to on 22 October 2009, but the changes to party registration were not proclaimed. On 22 October 2011, the party registration provisions of the act were automatically proclaimed two years after their enactment, in accordance with section 7(5) of the Acts Interpretation Act 1915. Regulations were promulgated and tabled on 18 October 2011. Under the changes, every political party registered in South Australia must provide an annual return to the Electoral Commissioner by 30 September each year, proving their eligibility to remain as a registered party.

There are two ways for a political party to qualify for registration: first, a political party can be sponsored by a current member of the parliament of South Australia or a member of the House of Representatives or Senate, provided they were elected by South Australian electors. The second way a political party can qualify for registration is to prove that the political party has a membership which includes at least 200 South Australian electors.

Electoral Act Regulation 5B would require a parliamentary party to provide a document that sets out the name and address of the member on whom the party relies for the purpose of qualifying as an eligible political party and 'a declaration of membership of the party completed and signed within the period for which the annual return relates by the member on whom the party relies for the purpose of qualifying as an eligible political party'.

However, the regulations provide that, to be registered, relying on the membership of at least 200 South Australian electors the declaration must be signed within the declaration period by the members on whom the party relies for the purpose of qualifying as an eligible political party; that is, the declaration must be signed by at least 200 electors each year per return.

The reality of modern political parties is that few political parties require their members to sign a fresh membership application each year. Many offer two-year memberships and many offer online memberships and other forms of electronic renewal. A person may well never sign a hard copy membership form. In any event, the regulations are written such that standard membership forms and renewals could not be used to establish eligibility. Each year parties without parliamentary representation would need to get at least 200 signatures on a form.

While the provisions are easily complied with for registration of parties which have a parliamentary representative, the Liberal opposition's view is that the regulation would place an onerous administrative burden on parties which do not have a sponsoring member of parliament. In my party's view a declaration from the registered office of the political party listing the names and addresses of members should be sufficient to assess registration rather than requiring a document to be specifically signed for the purpose of the declaration by each member.

Where the Electoral Commissioner questions the integrity of the declaration, they may request in writing at any time that a registered political party provide information for the purpose of determining eligibility for registration under section 43A(4) of the act. Small parties are an important part of a pluralist democracy in raising community concerns, particularly around specific causes.

At the 2010 election such groups included Save the RAH, the National Party, the Democratic Labor Party and Dignity for Disability. I notice that in that sense Dignity for Disability is a cross-over parliamentary group. Before the last election it would have been subject to the parts of the regulation that referred to parties without parliamentary representation and now it is able to avail itself of the status of, if you like, a type 1 political party because of the presence in this chamber of the Hon. Kelly Vincent.

There were a number of groups involved in the 2010 election that did not have a parliamentary representative at that time. For want of a better word, I will call them micro-parties and, for the sake of the Hon. Ann Bressington I might stress that micro-parties include Independents, as I have certainly included them in the count. Micro-parties and Independents received 7.3 per cent of the vote in the House of Assembly and 16.7 per cent of the vote in the Legislative Council.

Of course, by definition none of the members of this place are members of micro-parties. The fact that they are here means that, if they wanted to register as a political party they could do so without seeking the signature of 200 people. By their presence here they absolve the party of what we believe are onerous requirements.

The Labor Party has shown an ongoing resistance to pluralism, and in our view this regulation is another example of Attorney-General Rau continuing in the traditions of attorney-general Atkinson. Like his predecessor, he is not interested in a political system that is fair to the small as well as the big. It is politically expedient to make life hard for other parties: damn the health of the body politic.

For its part, the Liberal Party is moving to disallow this regulation. We expect a fair electoral system and we respect the rights of other political players to be treated fairly. In moving this disallowance of the Electoral Regulations Parliamentary Party Registrations we would urge the government to back down and promulgate a new regulation which is not unnecessarily onerous for parties without a parliamentary representative.

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

FORESTRY (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (16:25): Obtained leave and introduced a bill for an act to amend the Forestry Act 1950. Read a first time.

The Hon. R.L. BROKENSHIRE (16:26): I move:

That this bill be now read a second time.

After a lot of deliberation, Family First has decided to put amendments to the Forestry Act, irrespective of whether ultimate privatisation occurs or not with respect to the three forward

rotations and also, at this point in time, not being presumptuous about what the final report may be with respect to the select committee.

Obviously, whilst I acknowledge the select committee is difficult for the government, I acknowledge the cooperation of the government members on the committee in being able to do our work, as has been approved by this house for that select committee, and whether or not there is a minority report and a majority report, all those sorts of things remain to be sorted out in the next several weeks.

However, what has become very clear in recent times in particular is the fact that we need to ensure that, together with sustainable agriculture, sustainable manufacturing—hopefully, that is the goal—and sustainable mining, we also need to see sustainable forestry. Sustainable forestry is paramount to the long-term future of this state as, indeed, has been illustrated over a long period of time by successive governments of both colours.

The elements of this bill are the key things that I really want to put on the record today. One of the key elements of this bill is to require a state forestry plan to be developed under law. It is paramount now that we have legislative requirements for state plans. I am forever doing this and I will continue to do so as long as I am in this chamber—and I am a dairy farmer from a dairy farming family—but under the former Liberal government, we had a dairy plan that was initiated by the Hon. Rob Kerin. When the Hon. Mike Rann came into office he finalised that plan and released it. That plan had a shelf life on it like all plans and, unfortunately, it expired towards the end of 2010. Since then there has been no dairy plan.

That is just one example that I know very well. I believe that we need to start to get these plans enshrined in law so that we can give continuity to the people, corporations and companies involved in that industry sector. This will also, I believe, help assist with a commitment to forestry in South Australia. Dick Adams' federal bipartisan parliamentary committee presented a view that forestry in Australia has a bright future. While the economy is having problems, why would you put at risk and talk down an industry like forestry?

Just to put it on the public record, it is an interesting dynamic at the moment because the government is saying that forestry is not really looking all that good for the future. In fact, it has said more than that: it has said that the government owning forestry is a risk. That is what Treasury has said: it is actually a risk for the government to own those forests. Before we finish our work, I am sure we will explore with Treasury more how they can qualify forestry as a risk.

With respect to Mr Dick Adams, who is a member of the federal Labor Party, and the chair, I believe, of this bipartisan committee, he saw that forestry in Australia has a bright future. Of course, given the fact that *Pinus radiata* is a very flexible renewable timber, a quick growing timber (in 32 or 34 years, you can get a fully matured tree), South Australia, I believe is probably positioned better than a lot of the other states to actually capitalise on that bright future.

Clearly, the federal Labor government would not have put people on the Future Fund board to look at investments and where they spend that money if they did not have the expertise and capacity to manage that huge investment for Australia's future called the Future Fund. It is interesting to see that the people who are actually assigned to invest that money wisely chose to put some of that Future Fund money into a Canadian company, which is an international company, and that company happens to be in forestry.

The reason the Future Fund federally put that money in there is that it also clearly sees a bright future for forestry. Here we have a federal Labor bipartisan parliamentary committee reporting on forestry having a bright future. We have a federal board of the commonwealth Labor government allowing that board, by virtue of the people appointed to that board, to put money into forestry because it sees it has a bright future, but here the government is saying we have to get rid of it and flog it off because it is a risk.

I think, irrespective of whether it is privatised or not, based on all the evidence thus far it is time to implement an amendment to the bill so that we have a state forestry plan. I would appeal to the government to support that because, if the government gets its way and goes ahead and privatises the plantations, one of the things that will really damage even further the confidence of the investors and those who currently have an enormous amount of money in it, and the four, five or six thousand jobs directly and indirectly in forestry will be if the government walks away from forestry. If the government still has a responsibility to a plan for forestry, then it cannot walk away. It also shows that the state takes forestry very seriously.

There will be a review period in the bill with respect to that state forestry plan, but the main intent of one of the elements is to have a state forestry plan. Just on that, when I was down in the South-East at a public meeting at the Sir Robert Helpmann Theatre, one of the speakers was a union official, who knows the industry and who has actually been in there trying to convince the government not to privatise. What he said was that it is important for South Australia's forestry future that we have a forestry plan. By that he meant a plan that is legislated, as I understood his discussion, and one for which the government of the day is then to be held accountable.

The second one is that this bill requires the tabling of the sale of the contract. Clearly, like any other aspect of this bill, we are open to debate and amendment on this aspect. Some members may say—rightfully so, as is a democratic right in this house—that it might not be the perfect model. We appreciate the commercial in confidence issues and we realise that the commercial in confidence has to be removed from this process. If colleagues have a better way of trying to get to where I believe we need to go with this, then obviously, as they all well know, they can move further amendments and we will consider those amendments with an open mind. The key issue in the intent here is to ensure that all of the conditions of sale proposed by the South East Forest Industry Roundtable are in fact included in the contract.

Because this contract will go for so long if the privatisation goes through, it will go through lots of parliaments. It will go for at least 100 years. There is some debate as to whether it will be 99, 100 or maybe even up to 110 or 120 years. We have an obligation, as the current legislators of this parliament on behalf of the existing community and the future community, to ensure that whatever contractual conditions are there in principle (notwithstanding the exclusion of some commercial-in-confidence parts) are enshrined in law. Sometimes in debate it is hard to remember what happened a year or two ago; sometimes it is hard to remember what happened 10 years ago. I suggest that, when you have something for 100 years, it is going to be very difficult to know exactly what the intent was at that time unless it is enshrined in law and interlocked.

'Interlocked' is an interesting word at the moment. We hear about interlocking shop trading hours with penalty rates and two half public holidays. It is probably going to be a buzz word in this house in a few weeks' time. We need to interlock the contract conditions and ensure that they are also interlocked with the South East Forest Industry Roundtable, which the government said would be a big factor for consideration with respect to a sale.

In other words, we need to question if we do not do this how those conditions will be enforced into the future, because I project that, in the next 100 years, there will probably be many Labor and Liberal governments, and maybe some other party, running this place—who knows? I am sure the Labor and Liberal parties will still be here but there could be another player in the field when it comes to being able to form a government. It could be anything. It could be a cross-section of parties and independents. We need to understand that the roundtable recommendations that the government has properly implemented and committed to are enshrined in law.

The third and final point, and a very important part of this spiel, is a South-East economic stimulus fund. I have been talking about stimulus funds for some time. We moved amendments during the Roxby Downs indenture agreement debate to the effect that there should be royalties for regions. That did not get the required numbers in the house—that is the way it goes—but at least we put it up for debate. In that debate I note that the Liberals said that, whilst they were sympathetic to what I was proposing, they were doing more work on it. I took from that that probably they would be looking at royalties for regions as a policy come the next election.

Clearly, the government has listened to some of this debate and there has been quite a bit of media comment on this argument as well, bearing in mind that the Hon. Karlene Maywald, the former coalition minister with the government in its last term of office—she being a member of the National Party—was over there eagerly looking at the Western Australian model and flouting that as a concept. I raise that and say that there is a lot of debate and it is on the radar now that we need to start to look at royalties for regions and the like.

Premier Jay Weatherill has a pretty good radar and antenna on this. He could see that he had to do something on it and I understand we are going to have put before us (hopefully some of us in this house will be able to be part of that) a working bipartisan committee to look at the merits of a royalties for regions fund, a stimulus fund or some sort of future fund. That is what I took from the Governor's address to us in the joint sitting. Of course, that is fine and that is talk. We need action, and we need action urgently.

The South-East, the Green Triangle area in particular, has been one of the most vibrant regions in this state for a very long time. In fact, I cannot remember in my lifetime when the South-East and Mount Gambier, as a big regional city, have not been a fundamental part of the economic stimulus and development of this state. I am sure, sir, you have some compassion for the South-East, given the connections you have there.

The PRESIDENT: Hear, hear!

The Hon. R.L. BROKENSHIRE: Sir, when you retire, I hope you spend quite a bit of time down there. I will look forward to meeting with you and, hopefully, you can help me lobby. You would be a good lobbyist for the interests of the South-East and rural South Australia which, obviously, you have put a lot into and probably got a fair bit out of, originally as a shearer and developing your career from there.

Coming back to this point, as I said, the people of the South-East have made a massive economic, social and emotional investment in state forestry for over 100 years. Therefore, I have put on the table that 20 per cent of the sale proceeds need to be dedicated to an economic stimulus fund for the South-East, that is, 20 per cent of an investment that has primarily been put in and nurtured by the people of the South-East.

The reason for that is that I think the government will walk out of the area with a bagful of money. I would not say a truck full of money, because I am not convinced this sale is going to get anywhere near what is needed, as suggested by people with higher knowledge like Dr Jerry Leech. But there will be a big bagful of money come out of there and I think a small bagful should be left there. We are advocating for 20 per cent and I will be interested to hear the remarks of colleagues on that and any amendments they might like to move.

This would be quarantined and dedicated for the South-East. It says economic opportunities are going to change in the South-East and there will be a stimulus fund needed there. They are particularly going to change if the government walks away from Forestry SA, the R&D work and the underpinning of facilitating opportunities for the whole of the forestry industry, because not only is Forestry SA the largest player and owner of estate in the South-East but it also underpins and facilitates the growth through the private sector.

I was down in the South-East just last week checking a few things. I know it is tough everywhere at the moment—not just in this state but everywhere, but it is particularly tough in this state—and we have seen some figures in recent times that none of us would be pleased about. Some of the shops that members of the select committee went to for a cup of coffee and bite to eat were closed. Other shops in the South-East were closed, and other businesses are very concerned. If this goes ahead, it would be one way of reinvigorating confidence.

I put on the public record again that in my own personal opinion I do not believe we should be privatising, but let us see what happens when we get other witnesses back in and the final report. I personally do not see the evidence to privatise but, if we are going to, surely we have an obligation as a government and parliament to ensure that there is an opportunity for things to still grow very strongly in the South-East.

I would finish by saying that the South-East is not only a prime forestry area but also a prime dairy, beef, lamb, cereal and legume crop growing area and, because of its water, soil type and climate, I believe the South-East has huge opportunities, with stimulus, to go into fully value-added horticulture. It is fantastically located geographically to capitalise on the eastern seaboard markets—as, indeed, also is the Riverland.

That would help offset the problems in the Virginia area at the moment because of the growth and road infrastructure that are making it hard for them to farm and also, if we are to have anywhere near the growth that is projected in the 30-year Plan for Greater Adelaide, we are going to need quite a lot more food being produced. They are just some of the opportunities available to the South-East. I believe that it is paramount that the economic stimulus fund be dedicated to creating real jobs through direct and indirect support to encourage the growth of businesses, and, importantly, to the infrastructure that is needed to assist with our growth.

With those remarks, I commend this bill to the council and look forward to input from members. Sometimes, in private members' time, we are able to put bills on the table and leave them there for months—if not up to a year—before we put them up to debate. That is right and proper depending on what the situation is at the time. I think there is a degree of urgency with this particular bill, so I will be giving notice in probably three to four weeks that I would like to draw this

bill to the attention of members and put it to a vote within the next couple of sitting months. I commend the bill to the council.

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

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

Adjourned debate on motion of Hon G.A. Kandelaars:

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

(Continued from 29 February 2012.)

The Hon. R.L. BROKENSHIRE (16:46): I will just let the Leader of Government Business know that I will not spend too much time on this because it may give the government a chance to get to some government business a little earlier perhaps than it had anticipated. Having said that, I do want to make a few remarks. On behalf of all members in the Natural Resources Committee, I commend the Hon. Gerry Kandelaars, and the Hon. John Dawkins, who has already commented on this matter. I do not want to go over ground that they have already covered. We unanimously supported the report of the committee.

I want to basically talk about two or three things. First, if members have not visited this area and they happen to be down there at any time, I encourage them to actually go and have a look at even just a small part of the Upper South East Dryland Salinity and Flood Management project. It is actually a significant investment and one that was very much needed. Historically it goes back a long way but, in fairness to both major parties, both have been committed to the expansion of the South-East drainage scheme.

There is clear evidence that that South-East drainage scheme generally is working really well. There are few areas of concern. There is a court case around one of those at the moment, which I will not go into because it is sub judice. However, apart from one or two examples like that, I think it is fair to say that the bulk of the South-East community is very pleased with the results of that drainage scheme.

There are issues still to be worked out about ongoing maintenance, and that to me is an issue that we will really have to focus on. Part of that involves who is going to pick up the bill for the maintenance of the scheme. Whilst it appears to me that the construction of that drainage scheme has been very good—and we had the opportunity of meeting with some of the key people involved in the management of that construction—like any scheme, particularly a drainage scheme and one in a high rainfall area, there will be significant ongoing maintenance.

Whilst primary producers did contribute to the drainage scheme—and, of course, so did taxpayers across the state—the fact of the matter is that this drainage scheme is for the public good. It is for the public good because it allows economic opportunity and economic growth through primary production in the region. So it is for the general public good.

It is also pretty important when it comes to food security. As well as that, it is for the environmental good, and that environmental good is something that should not be underestimated. That is why I have said to the community privately and publicly in the South-East that, on behalf of Family First, I for one will be opposing any cost in the maintenance to primary producers. We have a pretty significant budget in this state; it is a matter of how we prioritise the management of that. We spend a reasonable amount of money on maintenance of infrastructure that is for the public good. I see no reason or justification as to why primary producers should now be asked in a region to cough up millions of dollars a year to maintain something that they have already put a direct investment into.

Also, I must say on the public record, as part of their goodwill to their project, they have some fairly inconvenient farm management issues to address because the drains obviously had to go in the most suitable places and farming management practices would be harder for some as a result of that. They are putting goodwill into it as well, but I believe there is a very strong argument that we should not be seeing them paying for this maintenance on an ongoing basis. I will have more to say about that when we get to the specific legislation. With those few words, I commend this report to the council. I am very proud to be part of the committee that went down there and put this report together.

The Hon. G.A. KANDELAARS (16:51): I thank the Hons Robert Brokenshire and John Dawkins for their contributions. Certainly, from my perspective, the Upper South-East Drainage

Scheme appears to have brought some great benefit to the local community, particularly in enhancing farm production and reducing the consequences of salinity in much of the Upper South-East. As I said previously, there are some issues, and the Natural Resources Committee have decided that they will revisit the Upper South-East drainage system to see whether some of the environmental outcomes that the scheme had hoped to achieve are achieved. I commend the report to this council.

Motion carried.

SOUTH SUDAN

Adjourned debate on motion of Hon. J.S.L. Dawkins:

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.

(Continued from 29 February 2012.)

The Hon. J.S. LEE (16:53): I rise today to support my wonderful colleague the Hon. John Dawkins for his motion towards congratulating the Human Rights Development Organisation South Sudan, Australian Chapter, HURIDOSS. It was officially launched in Adelaide on 28 January 2012. We were informed that the 2011 establishment of this non-profit, apolitical organisation is to ensure awareness and protection of human rights remains evident in the newly formed country, the Republic of South Sudan.

HURIDOSS promotes human rights through community education, advocacy, research and consultation in order to advance important policy and legislative reforms. Bringing this motion to the council recognises HURIDOSS for their commitment to the South Sudanese community and acknowledges their vision and core principles in promoting the rule of law and improving the livelihoods of those residing in South Sudan as well as their families living in Australia.

The policy centrepiece of the Human Rights Organisation came after Sudan endured one of the longest and most brutal wars of the 21st century, with civilians witnessing the killing of two million people and another two million becoming homeless. South Sudan formally became independent from Sudan on 9 July 2011 as a result of an internally monitored referendum. This led to the admission of the Republic of South Sudan to become a new member state by the United Nations General Assembly on 14 July 2011.

The Republic of South Sudan is the outcome of a 2005 peace deal that ended Africa's longest-running civil war. I acknowledge and pay great tribute to the South Sudanese people who fought hard and endured a life-long dream to achieve independence. The people of South Sudan will now be given the opportunity to work hand in hand to write the future for the new nation.

Last week, we celebrated International Women's Day in Adelaide and across Australia. For the first time in history, International Women's Day was celebrated in South Sudan. As a strong advocate for women in our community, it is incredibly humbling for me to learn that the South Sudanese women's liberation movement dates back to the 1940s, when women were actively involved in the search for their rights.

During the 22 years of civil war, women's contributions were well acknowledged across South Sudan. Fifty-two per cent of the votes during the 2011 referendum that led to the country's independence were from women, and many of them returned to the south after years of displacement to take part in the historic vote. Sixty per cent of families that returned to South Sudan to vote in the referendum were reportedly led by a single woman. The influence, determination and capacity of women to drive change cannot be underestimated.

Despite the independence succession, the acute social and economic challenges faced by South Sudan are still far from over. Research shows that 65 per cent of women form the majority of the 8 million people in South Sudan. These women happen to be the most disadvantaged: 92 per cent of these women cannot read or write; more than 70 per cent aged between 15 to 49 have no knowledge of HIV prevention; and domestic violence and other forms of gender-based violence are most common. Also, a recent UN report indicates that the number of girls who die during pregnancy is higher than the number who graduate from high school each year.

With all these challenges in mind, that is why HURIDOSS is so important. HURIDOSS is currently working with Sudanese women and girls to challenge blatant discrimination in law, policy

and decision-making, as well as hidden forms of discrimination embedded in culture and tradition in South Sudan. Above all, HURIDOSS is leading the campaign to end all forms of violence against women in South Sudan.

Throughout the establishment of HURIDOSS, it has acknowledge the achievement the republic has made in passing legislation such as the Land Act, which recognises women's equal rights to property and the Child Act 2008, giving rights to children and also preserving affirmative action provisions for women.

South Australia has a growing and active multicultural society. The vision and core principles of HURIDOSS are important to the South Sudanese migrants residing in South Australia and Australia as a whole. Throughout the last 13 years, South Australia has received a greater than average share of refugee settlement, according to the Australia's Refugee and Humanitarian Program for 2011-12.

Within South Australia, my office has estimated that there are now approximately 30 established Sudanese community groups. During the last six months of 2011, a number of South Sudanese community groups took the lead in celebrating the independence succession of the Republic of South Sudan. The South Sudan Equatorian Communities of South Australia organised a function on16 July 2011, in Enfield, to celebrate the new nation.

Today, I speak to this motion not only as the shadow parliamentary secretary for multicultural affairs and someone who supports the multicultural development in South Australia but also as a strong advocate for human rights and social justice. I wish to pay tribute and convey my warmest wishes to the South Sudanese community in South Australia. I also pass on my best wishes to the people of the new nation of South Sudan, wishing them a better future.

HURIDOSS is not only paving the way for positive change for the residents of South Sudan but also continuing its advocacy and making its mark in Australia through its Australian chapter. As a member state of the United Nations, the Republic of South Sudan will continue to engage with the international community on domestic and international human rights issues. The organisation believes Australia has expertise and can play an important role. I also believe Australia can help support this new nation to enable it to develop its legal framework and democracies so that the social, economic and cultural rights of the people of the new nation can be upheld.

I thank the Hon. John Dawkins for moving the important motion in the Legislative Council, and I join him and my Liberal colleagues to congratulate the Human Rights Development Organisation South Sudan (Australian Chapter) on its launch and I wish them all the success in their current and future endeavours in promoting awareness and protection of human rights in the Republic of South Sudan through community education, advocacy, research and consultation. I support the motion.

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

SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

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) (17:02): I move:

That a message be sent to the House of Assembly granting a conference as requested by the house, that the time and place for holding it be the Plaza Room on the first floor of the Legislative Council at 15.45 on Tuesday 27 March 2012, and that the Hons Gerry Kandelaars, Ann Bressington, Terry Stephens, Stephen Wade and the mover be the managers on the part of this council.

Motion carried.

SERIOUS AND ORGANISED CRIME (CONTROL) (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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) (17:03): I move:

That this bill be now read a second time.

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

Leave granted.

In 2007—2008 the Government began the process that would lead to the enactment of the *Serious and Organised Crime (Control) Act 2008*. Section 4 of that Act says:

4—Objects

(1) The objects of this Act are—

(a) to disrupt and restrict the activities of—

(i) organisations involved in serious crime; and

(ii) the members and associates of such organisations; and

(b) to protect members of the public from violence associated with such criminal organisations.

(2) Without derogating from subsection (1), it is not the intention of the Parliament that the powers in this Act be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest, dissent or industrial action.

Section 10(1) of the Act provides that:

If, on the making of an application by the Commissioner [of Police for South Australia] under [Pt 2 of the Act] in relation to an organisation, the Attorney-General is satisfied that—

(a) members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity; and

(b) the organisation represents a risk to public safety and order in this State,

the Attorney-General may make a declaration under this section in respect of the organisation.

Section 14(1) of the Act provides that:

The [Magistrates Court of South Australia] must, on application by the Commissioner, make a control order against a person (the defendant) if the Court is satisfied that the defendant is a member of a declared organisation

On 14 May 2009, the then Attorney-General for South Australia made a declaration about 'the Finks Motorcycle Club operating in South Australia (including but not limited to: the Finks MC, Finks M.C. Incorporated, Finks M.C. INC and the Finks)' under Part 2 of the Act. After the declaration was made, the Commissioner of Police applied to the Magistrates Court for a control order directed to a Mr Hudson. The application was not served on Mr Hudson. The magistrate, being satisfied, on the balance of probabilities that Mr Hudson was a member of a declared organisation (the Finks Motorcycle Club operating in South Australia), made a control order. By that order (made on 25 May 2009), Mr Hudson was prohibited from associating with other persons who are members of declared organisations (unless, in effect, the association occurred between members of a registered political party and not less than 48 hours prior notice was given to police). The order also prohibited Mr Hudson from possessing a dangerous article or a prohibited weapon. Shortly after being served with the order, Mr Hudson gave notice of objection. A control order was also sought against the first respondent, Mr Totani, but that application was stayed pending further proceedings.

Those pending proceedings ended in the High Court. On November 11, 2010 the High Court, by a majority of 6-1, decided that, at least in so far as the Magistrates Court was required to make the control order on a finding that the respondent was a member of a declared organisation, that Court was acting at the direction of the executive, was deprived of its essential character as a court within the meaning of Chapter III of the Commonwealth *Constitution* and that section was, therefore invalid (*South Australia v Totani* [2010] HCA 39). The net effect of that decision was that a key part of the legislative scheme in the Act was inoperable.

The State of New South Wales enacted the *Crimes (Criminal Organisations Control) Act* in 2009. That Act was a version of the South Australian Act, with this significant exception. Section 6 of the Act provides that the Commissioner of Police may apply to an 'eligible Judge' of the Supreme Court (rather than the Attorney-General) for a declaration that a particular organisation is a 'declared organisation' for the purposes of the Act.

On 6 July 2010, the Acting Commissioner of Police for New South Wales applied to a judge of the Supreme Court of New South Wales for a declaration under Part 2 of the *Crimes (Criminal Organisations Control) Act 2009* (NSW) in respect of the Hells Angels Motorcycle Club of New South Wales. Wainohu is a member of the NSW chapter of the Hells Angels. He commenced an action in the original jurisdiction of the High Court seeking a declaration that the *Crimes (Criminal Organisations Control) Act 2009* was invalid. On 23 June, 2011, the High Court, by a majority of 6-1, held the entire Act to be invalid, essentially because there was no requirement to provide reasons.

Considerations of General Policy

It is quite clear that the Government must respond decisively to the High Court decisions and do so comprehensively. Advice has been taken from the Crown Solicitor and the Solicitor-General about the effect and content of the decisions in *Totani* and *Wainohu* and how the Government might best respond to repair the legislation. That imperative has acquired an additional urgency and seriousness by reason of the recent outbreak of gun violence between individuals who clearly belong to groups where the individuals and groups care nothing for

civilised society, nor the safety of the public. Difficult as it is, we, representatives of ordinary people who do not wave guns around and parade through public places wearing intimidation as a badge of honour, must draw lines and come down hard on these outlaws and bandits.

The Government tried to do so with special legislation four years ago. This did not work. The will of the Parliament and the elected representatives of the public offended complex legal principles. The High Court has effectively nullified the process in the *Serious and Organised Crime (Control) Act 2008*. Moreover, the High Court was very critical of the current South Australian provisions dealing with control orders. We must and will try again. It is timely to explore whether another, more constitutionally sound, method of tackling the general problem of criminal associations can be found.

The decision in *Wainohu* was indirectly relevant to the South Australian legislation. The *Crimes (Criminal Organisations Control) Act 2009* (NSW) explicitly and directly conferred the exercise of administrative powers (under Part 2) upon the Supreme Court judges in their personal capacity. Section 13(2) states:

> *'If an eligible Judge makes a declaration or decision under this Part [ie Part 2], the eligible Judge is not required to provide any grounds or reasons for the declaration or decision (other than to a person conducting a review under section 39 if that person so requests).'*

All members of the majority held that section 13(2) was invalid because it is an essential component of the judicial function required by Chapter III of the Commonwealth *Constitution* that a judge give reasons. The South Australian Act has such a provision, albeit in relation to an administrative process, and that will be removed.

Our governmental policy was informed by five factors:

- All seven judges in *Wainohu* rejected challenges to the Act based on supposed infringements of the implied freedom of political communication and freedom of association said to be inherent in Chapter III of the *Constitution*. The reasoning is shortly expressed and little more can be said definitively about it except that express reference to freedoms in the Act under examination seemed to be significant.

- There can be no guarantee that the High Court will not pick on another ground on which to act against the legislation. There is a challenge to section 14(2) orders at the present. French CJ and Kiefel J, in *Wainohu* quoted Gummow J in *Fardon v Attorney-General (Qld)* (2004) 223 CLR 575 who said:

  > *'the critical notions of repugnancy and incompatibility are insusceptible of further definition in terms which necessarily dictate future outcomes.'*

This means, in effect, that there is a measure of uncertainty. We have, however, followed the High Court's judgements in these matters closely.

- That being so, the Act must be amended so that it meets current understanding of the requirements of the Constitution. In light of the purposes for which it was enacted, there is a difficult balance to be struck between law enforcement interests (on the one hand) and civil libertarian interests (on the other).

- The High Court in *Wainohu* dealt with an Act which used the model of the 'eligible judge' as declaration decision-maker rather than the Attorney-General or a judge acting in his or her judicial office. New South Wales' 'eligible judge' model was not invalidated on that ground, the Court making it clear that, in this respect, it is the whole legislative package that is the issue, not one component of it. While Queensland has retained its judicial office, it has been decided that it would be wise to go along with Western Australia and the Northern Territory and use the 'eligible judge' model. The intentions of New South Wales are not clear.

- That all being so, the redraft was to be based on the Western Australian Bill when in doubt, on the assumption that the States should stand together on the basic issues so far as is possible. For example, the corresponding laws/mutual recognition provisions are very much based on the Western Australian model.

The Government is determined to legislate so that (a) the effectiveness of the Government policy to harass and disrupt criminal gangs, particularly bikie gangs is restored and (b) the intent of the Government's policy is not thwarted by constitutional flaws.

There has been extensive consultation on the response that should be made. In August 2011, 5 draft Bills on the subject were released for public comment. One was a series of amendments to the *Serious and Organised Crime (Control) Act 2008* to repair the constitutional damage and to make some changes that, on advice, would improve its effectiveness. The other four were aimed at serious and organised crime by attacking what they do, rather than what they are. They will be the subject of a separate proposal. Lengthy and sometimes complicated comments were received from the Law Society/Bar Association, the Commissioner of Police, the Crown Solicitor, the Legal Services Commission, the judiciary and the DPP. It is no surprise that the comments varied from plain opposition to the view that the proposals did not go far enough.

There followed extensive and exhaustive consultation with the Solicitor-General, the Crown Solicitor and the police about all matters, from the basic structure of the reform Bill to the most intricate detail in drafting.

The amendments that are proposed in the repair Bill will be detailed below.

The Bill

The Declaration Process

The basic structure of the Act being divided into the declaration process and the control order process remains. But both have been extensively renovated. In terms of the declaration process, the most obvious change is that the declaration is not to be made by the Attorney-General but by a person designated as an 'eligible judge'. An 'eligible judge' is a judge of the Supreme Court who is appointed on his or her consent as an 'eligible judge' by the Attorney-General. While the judge retains all of his or her status in exercising this function, the function is not a judicial function but an administrative one. That is not unusual—judges have exercised administrative functions in their judicial capacity for a very long time (in issuing a listening device warrant, for example).

The process is that the Commissioner of Police may make a formal application to the eligible judge for a declaration that a specified organisation is a declared organisation. It is critical to note that, if a declaration is granted and the organisation is declared a declared organisation, it is just that—a declaration and no more. Individual rights and liberties are affected only consequentially after further action is taken.

The Bill then sets out the way in which the process flows. Since the eligible judge is not a court as such, any residual judicial rule-making power does not apply and some details will have to be left to regulations. In addition, the Bill provides that the practices and procedures of the proceedings before the eligible judge are to be determined by the eligible judge. The provisions dealing with the process are, nevertheless, quite detailed. The content of the application, provision for lodgement, disclosure, publication of the notice of application and, if necessary, notice of declaration with accompanying details and the making of submissions at hearings are all provided for.

The Bill sets out the criteria that apply for the making of the declaration. The test is set out in what is proposed to be section 11(1). Section 11(2) sets out the criteria to which the eligible judge may have regard, and, in so doing, enumerates a non-exhaustive list of the topics around which argument should be centred and section 11(4) makes it clear that members of the association may associate for the purposes of the Act merely by being members of the organisation. Nevertheless, it is clear that, for the test to apply, they must be members for the proscribed purposes. Section 11(5), by contrast, sets out matters which the legislature thinks are not of definitive consequence. It is made clear that the declaration may be made whether or not anyone turns up to contest it.

Extensive provision is made for the revocation of a declaration. Key points of interest are that (a) a respondent can only make one application in any given 12 months period; and (b) the revocation can only be made if there are no grounds for the making of a declaration at the time that the application for revocation is made. There are extensive and detailed process provisions dealing with notice and allied matters. The general provisions about submissions at hearings apply.

If a declaration or revocation is made, then reasons must be given for that decision and those reasons must be made available to any parties and published in the Government Gazette. This provision addresses the constitutional concerns raised by the High Court in *Wainohu*.

It is important to note that there are two provisions made about confidential information. The first and most obvious is about criminal intelligence. There is little additional that needs to be said about this. The Bill proposes to amend the existing Act along the lines already proposed in the *Statutes Amendment (Criminal Intelligence) Bill 2010*. Countervailing considerations of law and policy have already been extensively rehearsed in the context of that Bill. This Bill also allows for a respondent to make 'protected submissions' on a confidential basis. The provisions are to be found in proposed section 15. These provisions have been adapted from the New South Wales Act and the corresponding Western Australian Bill.

Lastly, it is not to be contemplated that a declaration can be thwarted or the process of declaration voided by the simple process of reorganisation of the declared organisation. There is a deeming provision that attaches to the same organisation in a substantially reformed state and provisions for the Commissioner of Police to certify that an organisation is a declared organisation. Such certification is proof of that fact in the absence of evidence to the contrary.

Control Orders

Although the High Court did not in any case declare that the control orders as such were constitutionally impermissible, the opportunity has been taken to extensively renovate and replace the provisions of the Act dealing with control orders. The application for the making of a control order is to be made to the Supreme Court. Proposed section 22(2) sets out the criteria for the making of a control order. It suffices if the respondent is a member of a declared organisation. This is where the declaration process begins to bite. That and the other criteria closely resemble those that currently exist. As with the declaration process, the provisions contain a list of matters which are a non-exhaustive list of those matters which the legislation suggests the Court should take into account.

The Commissioner of Police may apply for a control order or an interim control order. An interim control order may be made ex parte but, if that is so, the control order does not take effect until personally served and, once served, there are extensive rights for the subject of the control order to go back to court and contest the order. In either case the control order or interim control order (as the case may be) stays in force for the period specified in the order itself.

Proposed section 22(5) sets out a menu for the contents of a control order. These have been extensively renovated to include prohibition from exercising a licence of any kind prescribed, possessing articles, weapons and a specified amount of cash and specifying what kind of electronic communication (in particular) the subject of the control order may use.

There are supporting provisions made for the variation or revocation of control orders and the consequential or ancillary orders that the court may make. Particular provision is made for securing and confiscating any article or weapon that is the subject of a control order and which the court orders to be seized and confiscated.

It is an offence to knowingly or recklessly contravene a control order, punishable by a maximum of 5 years imprisonment. Other associated offences are described below.

Evidentiary Provisions

It should be noted that, in relation to the declaration process, it is provided that the rules of evidence do not apply (this being an administrative proceeding). By contrast, control orders being a judicial proceeding, the ordinary rules of evidence apply, subject to proposed section 22G.

There is another significant evidentiary provision dealing with control order applications. It is to be found in proposed section 22G. The idea here is that evidence, documents and material found established by another court in convicting or sentencing an offender should also be admissible in control order proceedings and the court permitted to draw such conclusions as it likes from those facts. This accords with the general principle, well established in civil and criminal law, shortly referred to as *res judicata*—or, slightly more accurately, as *transit in rem judicatam*. This provision also allows for the admissibility of police antecedent reports. The general idea is extended to court reasons and sentencing remarks. It might be thought odd to refer to court reasons—but they may be relevant. In *Warren v Coombes* (1979) 142 CLR 531 at 551, the rule was stated that:

> *[I]n general an appellate court is in as good a position as the trial judge to decide on the proper inference to be drawn from facts which are undisputed or which, having been disputed, are established by the findings of the trial judge. In deciding what is the proper inference to be drawn, the appellate court will give respect and weight to the conclusion of the trial judge but, once having reached its own conclusion, will not shrink from giving effect to it.*

New Offences and Liability

There are a few new offences proposed in this Bill. Proposed section 34A makes it an offence to permit premises to be habitually used as a place of resort by members of a declared organisation. It will also be an offence to be knowingly concerned in the management of premises habitually used as a place of resort by members of a declared organisation. These offences, and the presumptions that back them, are designed not only to attack club-houses and the like, but also regular gatherings at particular licensed premises (for example). They cannot be criticised as being unconstitutional—for they are based on very similar summary offences aimed at prostitution, bawdy and gaming house and brothel-keeping. It is thought that this is an apt analogy.

It is to be an offence for any person who is a member of a declared organisation or who is subject to a control order to recruit, or attempt to recruit anyone to be a member of a declared organisation, or encourage anyone to associate with a member of a declared organisation. The offences will require proof of knowledge or recklessness as to the declared organisation and member of the declared organisation elements.

It is to be an offence to disclose information that has been properly classified by the Commissioner of Police as criminal intelligence. It will be a defence to an offence under this provision for the accused to establish that he or she did not know and had no reason to believe that the information was classified as criminal intelligence.

All of these offences are punishable by imprisonment for 2 years—that is to say, at the top of the summary range.

Section 39X is novel. The essence of this section is to create a new civil remedy. Where a member of a declared organisation is found to be civilly liable in damages and where that liability arose from conduct done for the benefit of the organisation or at the direction of or in association with the declared organisation, then, in addition to that liability, the organisation and all the members of that organisation are liable for the damages.

Corresponding Orders

The Bill contains extensive and detailed provisions about a scheme of registration and enforcement of corresponding declarations and control orders. These are based on the Western Australian model and should not be controversial. The essence of the policy behind the provisions (without all the detail) is that the co-operative nature of the scheme dictates that, if another jurisdiction makes one of these orders, then we should enforce it by administrative registration so far as is possible and that, if those with an interest in having it revoked or varied want to do so, they must return to the originating jurisdiction and make the relevant application there in accordance with the law by which the order in question was made.

Miscellaneous Provisions

The Bill states that, in the context of both control orders and declarations, if a particular person is displaying the insignia of an organisation (say, by a tattoo), then that person is presumed, in the absence of proof to the contrary, to be a member of that organisation.

The Act is to be, at base, a no costs jurisdiction. People who litigate proceedings under this Act can do so at their own expense. There are two exceptions to this. The first is the obvious exception relating to frivolous or vexatious proceedings or applications, or where one party has unreasonably caused another party to incur costs. The second exception addresses the case where a representative of a party causes costs to be wasted, in which case the presiding authority may choose from a menu of options by which to visit the consequences of negligence or incompetence on that representative.

There are special provisions dealing with the application of these provisions should a respondent be a child. These are modelled on the Western Australian provisions.

There are transitional provisions. While a declaration made under the previous incarnation of the Act will no longer remain in force, a control order made under the previous provisions will remain in force. There is one such control order.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal

Part 2—Amendment of *Serious and Organised Crime (Control) Act 2008*

4—Amendment of section 3—Interpretation

This clause makes consequential amendments to the definitions contained in the current Act. In particular, definitions are introduced to allow for registration of corresponding declarations and orders of other jurisdictions and the definition of declared organisation is altered to reflect the contents of proposed new Part 2, which provides for the making of declarations in relation to organisations by eligible Judges.

5—Insertion of section 5A

This clause inserts a general provision dealing with the use of criminal intelligence in proceedings under the Act.

6—Substitution of Parts 2 and 3

This clause substitutes new Parts as follows:

Part 2—Declared organisations

This proposed new Part provides for the making of declarations by eligible judges in relation to organisations.

Under the proposed Part, the Commissioner may apply to an eligible Judge for a declaration in relation to an organisation. An eligible Judge is a Judge who has been appointed as such by the Attorney-General. An appointment can only be made if the Judge has consented to being the subject of an appointment.

The Part sets out various requirements in relation to the content of applications to eligible Judges by the Commissioner and the way in which notice of applications is to be given.

An eligible Judge may make a declaration in relation to an organisation if he or she is satisfied as to both of the following:

- members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity;
- the organisation represents a risk to public safety and order in South Australia.

The matters to which an eligible Judge may have regard in considering whether or not to make a declaration include—

- information suggesting that a link exists between the organisation and serious criminal activity; and
- any convictions recorded against current or former members of the organisation or persons who associate, or have associated, with members of the organisation; and
- information suggesting that current or former members of the organisation or persons who associate, or have associated, with members of the organisation have been, or are, involved in serious criminal activity, whether directly or indirectly and whether or not the involvement resulted in convictions; and
- information suggesting that members of an interstate or overseas chapter or branch of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity; and
- anything else the eligible Judge considers relevant.

The Commissioner and the organisation to which an application under the proposed Part relates are entitled to make oral submissions to the eligible Judge and may, with permission, provide written submissions. A member or former member of the organisation, or another person who may be directly

affected by the application, may provide written submissions and, with the permission of the Judge, make oral submissions.

A member or former member of the organisation, or another person who may be directly affected by the application, may, if he or she does not wish to appear at the hearing, apply to the Judge to make a protected submission, that is, a submission (whether oral or written) made by a person who has reasonable grounds to believe that he or she may be subjected to action (whether directly or indirectly) comprising or involving injury, damage, loss, intimidation or harassment in reprisal for making the submission. If the eligible Judge is satisfied that the applicant is eligible to make a protected submission, he or she must notify the applicant and the Commissioner accordingly. The Judge is required to take steps to maintain the confidentiality of the protected submission, though the Commissioner, or a legal representative of the Commissioner, is entitled to be present when a protected submission is made.

Reasons for the making of a declaration or decision under the proposed Part must be made available by the eligible Judge to the Commissioner, the organisation and other persons who made or provided submissions. The Judge is also required to ensure that written reasons for the declaration or decision are published in the Gazette.

A declaration remains in force unless and until it is revoked under proposed section 14, which provides that an eligible Judge who has made a declaration in relation to an organisation may revoke the declaration at any time on application by the Commissioner, the organisation, a person who made or provided submissions at the hearing of the application or (with the permission of the Judge) any other member or former member of the organisation or a person directly affected by the declaration. Section 14 sets out various requirements and restrictions in relation to applications under the section.

A change of name or in membership does not affect a declared organisation's status and if members of a declared organisation substantially reform themselves into another organisation, that organisation is taken to form a part of the declared organisation (whether or not the organisation named in the declaration is dissolved).

It is also made clear that nothing prevents the making of a declaration in relation to an organisation that has been the subject of a previously revoked declaration.

Part 3—Control orders

Proposed new Part 3 provides for the making of control orders by the Supreme Court (on application by the Commissioner of Police) and makes provision in relation to the sorts of prohibitions that may, or must, be included in a control order. Unlike the current section 14(1), proposed new section 22 does not purport to direct the court to make a control order in any circumstances. A control order remains in force for the period specified in the order or until revoked. The Part also provides for the making of interim control orders (while the application for a control order is being determined) and for the variation and revocation of control orders. An appeal would also lie under the Supreme Court Act in relation to judgements under the Part.

Under proposed section 22, a control order may be made in relation to a person if the Court is satisfied that—

- the respondent is a member of a declared organisation; or
- the respondent—
  - has been a member of an organisation which, at the time of the application for the order, is a declared organisation; or
  - engages, or has engaged, in serious criminal activity,

and associates or has associated with a member of a declared organisation; or

- the respondent engages, or has engaged, in serious criminal activity and associates or has associated with other persons who engage, or have engaged, in serious criminal activity.

The Court must also be satisfied that the making of the order is appropriate in the circumstances.

An interim control order may be made on an application under section 22 if the Court is satisfied that it could make a control order under section 22 in relation to the respondent. The Commissioner or the respondent may apply to the Court for an order for variation or revocation of a control order. If an interim control order or interim variation order is made without notice to the respondent, the respondent has a right to object to the order.

Proposed section 22G provides for the admissibility of certain evidence (such as evidence or material tendered or relied on in other proceedings, criminal history reports and reasons given by a court in sentencing a person or deciding an appeal) in proceedings under the proposed Part.

Under proposed section 22I, it is an offence to contravene or fail to comply with a control order or interim control order. The maximum penalty is imprisonment for 5 years. This section differs from current section 22 only insofar as the proposed new section refers to interim control orders as well as control orders.

7—Amendment of section 29—Disclosure of reasons and criminal intelligence

This clause makes consequential amendments to section 29.

8—Amendment of section 30—Service and notification

This clause makes consequential amendments to section 30.

9—Insertion of section 33A

Proposed section 33A provides that in proceedings under Part 4, which deals with public safety orders, a court is not bound by the rules of evidence but may inform itself as it thinks fit. The proposed section requires a court to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms. These principles do not apply to proceedings for an offence.

10—Insertion of sections 34A and 34B

This clause inserts two new sections. Under the first, an owner, occupier or lessee of premises commits an offence if he or she knowingly permits the premises to be habitually used as a place of resort by members of a declared organisation. This section also makes it an offence for a person to be knowingly concerned in the management of premises habitually used as a place of resort by members of a declared organisation. The maximum penalty in each case is imprisonment for 2 years.

This clause also inserts a new provision under which a person who is a member of a declared organisation or is subject to a control order commits an offence if he or she recruits, or attempts to recruit, anyone to become a member of a declared organisation or encourages anyone to associate with another person who is a member of a declared organisation. The penalty is a maximum of 5 years in prison.

11—Substitution of Part 6

Proposed new Part 6 sets out procedures for registration, by the registrar of the Supreme Court or, in the case of corresponding declarations, the holder of a prescribed office, of declarations and control orders made in other States and Territories (*corresponding orders*).

Proposed Division 2 provides for the registration of corresponding declarations on application by the Commissioner. On registering a corresponding declaration, the registrar is required to specify the date on which the registration will expire, which will be the date on which the declaration would cease to be in force in the jurisdiction in which it was made. If the corresponding declaration remains in force for an indefinite period, the registration is for an indefinite period. A registered corresponding declaration comes into force in South Australia on the day after the day on which notice of the registration is published in the Gazette in accordance with the requirements of proposed section 39B. A registered corresponding declaration remains in force until the date specified by the registrar as the date on which it is to expire or until the registration is cancelled under proposed Division 3. That Division provides for cancellation by the registrar of the registration of a registered declaration where the registrar receives notice of the revocation of the corresponding declaration. The Division also provides for cancellation of registration by the Supreme Court on application by the respondent and cancellation by the registrar at the request of the Commissioner.

A registered corresponding declaration that has come into force has effect in South Australia as if it were a declaration under proposed Part 2.

Proposed Division 4 provides for the registration by the registrar of corresponding control orders on the application of the Commissioner. Proposed section 39I sets out requirements in relation to an application and also specifies certain circumstances in which an application cannot be made. If the registrar is satisfied that an application for registration of a control order has been properly made and that the order does not need to be adapted or modified for its effective operation in South Australia, the registrar is required to register the order. Proposed section 39K provides a mechanism by which a corresponding control order can be referred to the Supreme Court for the purpose of making an adaptation or modification that is necessary for the effective operation of the order in South Australia.

On registering a corresponding control order, the registrar is required to specify the date on which the registration will expire, which will be the date on which the order would cease to be in force in the jurisdiction in which it was made. If the corresponding order remains in force for an indefinite period, the registration of the order does not expire.

A registered corresponding control order comes into force when a copy of the order is served on the respondent and remains in force until the registration expires or is cancelled. While in force, the registered corresponding control order has effect in South Australia as if it were a control order made under proposed Part 3.

Proposed Division 5 deals with the consequences of a corresponding control order being varied or revoked in the jurisdiction in which it was made and also provides for the cancellation of the registration of a corresponding control order by the Court if satisfied, on application by the respondent, that the control order should not have been registered. The registration of a corresponding control order may also be cancelled by the registrar at the request of the Commissioner.

12—Insertion of sections 39T to 39Z

This clause inserts new sections as follows:

39T—General provisions on service of applications, orders and other documents

This proposed section gives the police certain powers in connection with personal service of documents under the measure. In addition, in certain circumstances, a document may

be served on a person by leaving it for the person at premises with someone apparently over the age of 16 years or affixing it to the premises at a prominent place at or near to the entrance to the premises. A court may also make such orders as to service as it thinks fit.

39U—Representation of unincorporated group

This proposed section makes provision in relation to representation for an unincorporated group. In proceedings under the Act, such a group may be represented by a person or persons who satisfy the court or eligible Judge dealing with the proceedings that he or she is, or they are, appropriate representatives of the group or a part of the group

39V—Application of Act to children

Proposed section 39V provides that the Act applies in relation to a child in the same way as it applies to an adult. However, a control order may not be made in relation to a child who is under 16 years of age. Notice of a control order relating to a child is to be given by the Commissioner to a parent or guardian of the child in addition to any other prescribed person or person of a prescribed class.

39W—Costs

Generally each party to proceedings under the Act must bear the party's own costs for the proceedings. However, the court or an eligible Judge may make other orders in accordance with this section where an application is frivolous or vexatious, an unreasonable act or omission has caused another party to incur costs or proceedings are delayed through the neglect or incompetence of a representative.

39X—Joint and several liability

If member of a declared organisation is found to have civil liability for damage or loss resulting from conduct engaged in for the benefit of the organisation or at the direction of, or in association with, the organisation, the organisation and each member is jointly and severally liable for the damage or loss.

39Y—Use of evidence or information for purposes of Act

Evidence or information obtained in accordance with an Act or law is not inadmissible in proceedings under the Act merely because the evidence or information was not obtained for the purposes of the Act.

Information properly classified by the Commissioner as criminal intelligence may be used by law enforcement and prosecution authorities for the purposes of the Act, and may be admitted in evidence or otherwise used in proceedings under the Act, despite the fact that the person who provided the information to the Commissioner has not consented to that use or has refused consent to such use.

39Z—Presumption as to membership

For the purposes of proceedings under the Act, a person will be presumed, in the absence of proof to the contrary, to be a member of an organisation at a particular time if he or she is, at that time, displaying the insignia of the organisation.

13—Repeal of section 41

This clause repeals section 41.

14—Insertion of section 42A

This clause inserts a new section requiring the Attorney-General to conduct a review of the operation of the Act as soon as practicable after the fourth anniversary of the commencement of the section. A report on the review is to be prepared and laid before each House of Parliament.

15—Amendment of section 43—Regulations

This clause amends the regulation making provision of the Act so that regulations under the Act may—

- make different provision according to the matters or circumstances to which they are expressed to apply; and
- provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Attorney-General, the Commissioner or some other prescribed body or person.

Schedule 1—Related amendments and transitional provisions

Part 1—Related amendments to *Summary Offences Act 1953*

1—Amendment of heading

2—Insertion of section 6

This clause inserts a new section into the *Summary Offences Act 1953* prohibiting the disclosure without lawful excuse of information properly classified by the Commissioner as criminal intelligence under any Act. The maximum penalty is imprisonment for 2 years.

3—Amendment of section 74BA—Interpretation

This clause makes minor related amendments to the interpretation provision of the Part of *Summary Offences Act 1953* dealing with fortifications.

Part 2—Transitional provisions

4—Declarations made before commencement of section 6

This transitional provision applies in relation to declarations made under section 10 of the *Serious and Organised Crime (Control) Act 2008* as in force before the substitution of Parts 2 and 3 by section 6. Such a declaration will be of no force or effect.

5—Control orders made before commencement of section 6

This transitional provision provides that control orders made under section 14(2)(b) of the *Serious and Organised Crime (Control) Act 2008* as in force before the commencement of section 6 continue as if made under Part 3 of the Act as in force after the commencement of new Parts 2 and 3.

Debated adjourned on motion of Hon. S.G. Wade.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

Adjourned debate on second reading.

(Continued from 29 February 2012.)

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) (17:04): I believe there are no further second reading contributions. Given that this bill was reinstated, I understand that those members who have an interest in this particular bill have either spoken at the second reading stage now or previously. I thank those members for their contributions to this bill and take this opportunity to address concerns raised about members of the government not providing copies to the opposition of submissions that the Attorney-General received during consultation on the bill. It has not previously been standard practice for the Attorney-General to make public or hand over to other members of parliament copies of submissions received in response to invitations to comment on draft legislation. Therefore, there was nothing unusual in not doing so with respect to the submissions received on this bill.

Further, it was not simply a question of handing over copies of submissions when the member requested them. There are privacy principles that apply and, in the case of the most recent round of consultation on this bill during which the draft bill and an explanation of the provisions were sent to peak bodies representing interested parties, those invited to comment were not warned that their submissions might be published, nor invited to indicate whether they wanted their submissions or part of their submissions to remain confidential. Members were able to obtain the submissions via a Freedom of Information process which enabled parties who made those submissions and any people referred to in the submissions to be consulted before their submissions were released.

The second reading speech for this bill outlines in detail the consultation process and the key people and organisations consulted and who made submissions. The government also made various amendments to the bill in the other place in response to additional submissions that were made by, in particular, the National Community Titles Institute, representing strata managers. After the bill was introduced in parliament, amendments also arose out of correspondence that the Attorney-General had in the period after the bill was introduced by the Law Society and the Real Estate Institute of South Australia.

It was suggested by the opposition in its contributions on this bill that the second reading speech misconstrued the submissions from the National Community Titles Institute (the NCTI) on this measure. The second reading speech of the bill in the other place, in fact, stated almost exactly the argument that was contained in the submissions made in both rounds of consultation by the NCTI about the proposed termination right in the draft bill. It was not until after the bill was introduced that the NCTI wrote to the Attorney-General complaining about the measure being draconian and that at least a notice period should be allowed.

As I said, that was after the bill was introduced. The Attorney-General responded to those late submissions by securing amendments to the bill to modify the provision. There has been a

right to revoke delegations to a manager at any time in the Community Titles Act since 1996. The intention was to give full effect to that right by allowing corporations to also terminate at any time a contract relating to those delegations. The intention is to increase the accountability of managers about whom the Attorney-General, and I understand other members, receive a steady number of complaints.

In light of the further submissions made after the introduction of the bill, the government decided to adopt a compromise position which would see an initial period of up to 12 months during which a manager could rely on future business from the corporation and plan accordingly but after which a corporation would be free to terminate the contract at any time with 28 days' notice if unhappy with a manager's services.

Although, after having a contract or contracts with a manager for 12 months, a corporation may review or extend the manager's contract for another fixed term, the corporation will have a statutory right to terminate that subsequent contract after giving notice. This will give managers an initial period of certainty in which to establish the relationship with the corporation as well as address arguments from managers that there needs to be a period of certainty when setting up new developments. Those amendments were passed in the other place and are in the bill as introduced to this house, and I look forward to dealing with the committee stage expeditiously.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I would seek the patience of the committee. To facilitate government business we expedited the finalisation of amendments and we expedited our preparation for the presentation of those amendments, so I apologise for the limited notice that has been given to honourable members in relation to the amendments. We will certainly try to explain them as we go along.

In relation to the minister's point about consultation in terms of what has been government practice in the release of documents in relation to consultation papers, in our comments both myself and the Hon. Tammy Franks were very strong in our criticism of the government in committing to provide the submissions and then requiring us to go through the FOI process. I was not arguing that the Attorney-General was not reflecting convention. I see this as part of the ongoing development of modern democracy. There is a higher expectation of disclosure, as reflected by the evolution of FOI laws themselves.

In terms of the privacy principles that the minister referred to, we (when I say 'we' I am talking in that context of the Liberal opposition rather than purporting to speak for the Hon. Tammy Franks) are happy to sit under the broad principles of the FOI Act. At times I think that the FOI Act is used too aggressively. For example, my reading of the FOI Act is that a third party does not need to be consulted about the potential disclosure of a document unless the FOI officer has reason to believe that there would be disclosure of personal or commercial interests.

In that regard I think from time to time FOI officers go beyond the law, and perhaps not in the spirit of the law. After all, the spirit of the law is disclosure, not non-disclosure. After all, these are public submissions to a public consultation paper. Let me let that rest. I think it will be an evolution of practice.

On a positive note I acknowledge the fact that the Attorney-General has published on the Attorney-General's website the submissions that were received in relation to the Serious and Organised Crime Act. I would just put it to the government that, if the government finds itself able to release submissions on such a sensitive piece of legislation, it seems to me that it is quite viable for it to become established practice.

I also want to acknowledge the fact that FOI documents reflect that the Attorney-General has responded significantly to feedback on the consultation draft. There is a large number of matters that he has not acceded to. The nature of public consultation is that there is a series of irreconcilable demands, and we appreciate that the Attorney has constructed and engaged in the consultation process. We also acknowledge that, through discussions he had following the initial House of Assembly debate, amendments were made in the House of Assembly which significantly improve the legislation so, again, we believe this bill is getting better as it goes along.

As I said, significant issues remain. We believe that a two-year review would give the industry an opportunity to test whether the theory works in practice, and we are moving amendments to that effect. To balance on the other side, the opposition is still of the view, which we made plain in the House of Assembly, that we do not agree with the Attorney-General's decision to put aside the development enforcement contract issue. We think that that should be addressed in this legislation, and we think that is a flaw.

In terms of the evolution of the industry and its consumer protection, I think it is also important for the house to remember that the National Occupational Licensing Scheme that this house supported is expected to broaden into the property occupation licensing in the next year or so. I am told that it is scheduled to happen on 1 July but that all the indicators are that that will not be achieved.

Be that as it may, this industry is not living in a static environment. Many of the complaints that were not addressed by the Attorney-General I think could be handled through property licensing schemes, so it may well be that the Attorney felt that they could remain unaddressed in that context. We think, in relation to a number of them, that would be a reasonable response. Having made those brief remarks at clause 1, I look forward to considering some possible amendments as we go through.

The Hon. T.A. FRANKS: On behalf of the Greens, and as the other member who requested to see the submissions before proceeding, I would like to know from the government if it intends to change its procedures in the future for submissions that are made to inquiries for legislation to ensure that members have adequate information on which to make informed decisions.

Clause passed.

Clause 2.

The Hon. S.G. WADE: I move:

Page 4, lines 5 and 6—Delete clause 2 and substitute:

2—Commencement

(1) Subject to this section, this Act will come into operation on a day to be fixed by proclamation.

(2) The operation of section 40 of this Act, insofar as it inserts section 142A into the *Community Titles Act 1996*, will be suspended until a day 12 months after the day on which this Act, or the first day on which any provision of this Act, comes into operation.

This issue was raised with us by the Property Council. They expressed concern at the proposals for deposits for off-the-plan sales to be held in trust. While the council acknowledges that this appears to currently be standard practice within the development industry, it claims that the development sector is still suffering under the financial constraints placed on it by the finance sector, and the risk is that any new regulations that increase red tape and/or put at risk the ability of residential developers to obtain finance will raise concerns.

The Property Council recommends, if the government intends to maintain this amendment, that the implementation of the amendment be delayed for 12 to 24 months to allow time for the finance sector to return back to pre-GFC levels. The opposition is not proposing to amend the primary clause, but we would suggest to the government that it is reasonable to provide some breathing space for the property sector to recover from the GFC.

The Hon. G.E. GAGO: The government opposes this amendment. This amendment would provide for delayed commencement of the clause in the bill that would amend the act to require deposits paid on purchase of a new apartment or lot in a new development to be held on trust by a land agent or similar. The reason for requiring deposits to be held on trust is that until the plan is deposited there is a risk that the new development may not proceed.

Lots are often sold even before planning consent is obtained, and developments may not proceed if a certain level of presales is not achieved. If a development does not proceed, a purchaser is at risk of not receiving back their deposit, especially if the developer becomes insolvent. The requirement was identified as a significant gap in the existing consumer protection regime for purchases off the plan. The requirement already exists in Victoria, Queensland and Western Australia.

In consultation with the Property Council, I asked that the commencement of the provision be delayed until the effects of the global financial crisis on credit availability had passed. The government intended to delay bringing the provision into effect for a period. This amendment would remove any flexibility in choosing the appropriate delay period. It would bring the provision into operation automatically 12 months after the commencement of the first provision of this bill.

The Attorney-General is happy to undertake to not commence the provision earlier than 12 months after the commencement of the earliest provision of this bill unless the Property Council agrees. The Attorney-General is happy to undertake to not commence the provision earlier.

Members interjecting:

The Hon. G.E. GAGO: I hate double-negatives! The government opposes the amendment, because it would remove any flexibility to commence the provision at a date later than 12 months. It should also be remembered that it is already standard practice to hold deposits on sale of units off the plan in trust, notwithstanding the GFC impacts.

The Hon. S.G. WADE: On the basis of the undertakings given by the minister on behalf of the Attorney-General, I am happy to withdraw that amendment. As I understand it, the undertaking from the minister is that the Attorney would give more than 12 months, which is more than the amendment asks. In other words, that is more breathing space for the property sector, and we welcome the Attorney-General's commitment to consult with the sector accordingly. I seek leave to withdraw the amendment.

Leave granted; amendment withdrawn.

Clause passed.

Clauses 3 to 16 passed.

Clause 17.

The Hon. S.G. WADE: I move:

Page 11, line 17 [inserted section 78B(4)(a)]—After 'contract' insert:

(other than a contract that is for a period of 12 months or less)

By way of preface to this amendment, I acknowledge the significant improvement that the government made by way of in-house amendments in the House of Assembly. What we are trying to do here, and I appreciate that I may need to fall back on the assistance of parliamentary counsel in this context, is make sure the government is achieving its objective. The concern that has been raised with us is that, without further clarification, it is possible the legislation could be read such that a series of sequential one-year contracts could be read as one and that, once a contract had gone beyond one year, the party would lose its right to the 28 days' notice.

My understanding is that it is common practice in the community titles and strata titles industry for contracts to be for one year. My understanding is one of the key objectives of the government is to make sure that people are not locked into long-term contracts which undermine, if you like, the power—this bill is primarily about consumer protection. If the government and parliamentary counsel believe that there is a better way of doing it we would be open to that, but we are trying to ensure that the government's objective is, in fact, reflected in the legislation.

What was suggested to us is that, without this amendment, we could have a situation where people are forced to do one-year contracts, have a one-day hiatus and then another one-year contract to make sure that the business protects their interests. The point made to us was that, if you are a good property manager and you manage to get all your portfolio beyond the one year, you actually run the risk of having all your portfolio subject to no notice, and that would be a serious risk to your goodwill. We are more than happy to get the government's understanding. This is not meant to be a contrary amendment; it is meant to reflect what we understand to be the government's will.

The Hon. G.E. GAGO: The government opposes this amendment. This amendment would have the effect of providing that only contracts with a body corporate manager over 12 months in duration can be terminated by the community corporation after giving notice. It must be remembered that the community corporations presently have the right under the act to revoke a body corporate manager's authority to act at any time. The provision in the bill would give full effect to that by also allowing them to terminate the contract as well, after giving the required notice.

The government opposes the amendment because it would undo what the provision is trying to achieve in making the body corporate managers accountable. However, it is recognised that the same need—to be able to terminate a body corporate management contract—is not required where a fixed term contract is for a short period. On that basis, the government would be prepared to agree to an alternative amendment that provides for an exception for contracts of six months or less rather than 12 months or less, as set out in the opposition's amendment.

The Hon. S.G. WADE: The opposition does not feel it is in a position to digest the full ramifications of this. As I said earlier, we expedited the amendments to facilitate the business of the council. I suggest that this might be a matter that might appropriately be parked as a potential re-committal item. We will otherwise be persisting with our amendment.

The Hon. G.E. GAGO: I gather that what you are saying is that you need more time to consider this in detail and that, if we did not agree to recommit, you would report progress.

The CHAIR: The Hon. Mr Wade did not say that. He said that he would insist on his amendment; that the amendment would be put.

The Hon. G.E. GAGO: Then our view is that we have an opposing policy. We have a different point of view on this and—

The Hon. S.G. WADE: With all due respect, minister, I am not sure if that is the case. We certainly understood that all we were doing was underscoring what the government was seeking to achieve. What we are told by the industry is that it is standard practice to have 12-month contracts and that, if they had the reassurance of our amendment, they would be confident that the government would allow them to continue to do 12-month contracts and continue to have access to a 28-day notice period.

Your suggestion of going down to six would significantly change industry practice. They would have to go to six-month contracts to ensure the former notice period. That is my understanding. I may be misunderstanding this, so, rather than legislate in the dark, I would prefer to recommit this and allow for the recommittal to be in tomorrow's business. There are two or three other matters which I think we could constructively progress. However, I would stress—I might be wrong—that I do not think we will have daggers drawn on the policy. All we are discussing is the best way to implement that policy.

The Hon. D.G.E. HOOD: It may assist the minister to be aware that Family First intends to support the Hon. Mr Wade's amendment if it were put to a vote in the immediate term.

The Hon. G.E. GAGO: I do not have any problem with agreeing to recommit this. Obviously we are keen to progress this bill but, if the honourable member needs more time to consider this, that is fine, we can recommit. We can come back and debate this at recommittal, but my understanding is that there is in fact a policy difference. The policy underlying this bill is to allow to terminate at any time, notwithstanding that there is a fixed contract, after the initial 12-month period. Anyway, we can come back and debate that.

The CHAIR: The Hon. Mr Wade has not moved his amendment yet. We can postpone clause 17 until after the schedule.

Consideration of clause 17 deferred.

Clauses 18 to 35 passed.

Clause 36.

The Hon. J.A. DARLEY: I move:

Page 21, lines 30 and 31 [clause 36, inserted subsection (4)(a)(i)]—

Delete 'the amount prescribed by regulation' and substitute:

$20,000

Section 137 of the Community Titles Act currently provides that a community corporation must prepare a statement of accounts in respect of each financial year, showing the assets and liabilities of the corporation at the end of the financial year, and the income and expenditure of the corporation for the financial year.

Clause 36 of the bill amends the auditing requirements in relation to this provision. In the first instance, it provides an annual statement of accounts in respect of a financial year need not be

audited if (1) the aggregate of the contributions made or to be made by members of the corporation in respect of the year does not exceed the amount prescribed by regulation and (2) the balance standing in the credit of the fund and the sinking fund at the commencement of the year does not exceed any amount prescribed by regulation.

It is my understanding that the amount to be prescribed by regulation in relation to the first provision is $10,000. The amendment seeks to prescribe an alternative amount of $20,000. Having regard to increases in management fees, rates and taxes, insurance and maintenance fees, the amount of $10,000 as proposed by the government is in my opinion too low. This is a very straightforward amendment that speaks for itself. It simply seeks to provide a little more flexibility in relation to auditing requirements. I commend this amendment to the committee.

The Hon. G.E. GAGO: The government rises to oppose this amendment. Although we agree to prescribing an audit threshold of $20,000, we prefer to have that prescribed by regulation. The second reading speech for this bill explains that it is proposed to increase from $3,000 to $10,000 (the threshold amount for owner contributions) or sinking the administration fund balances under which the community corporation is exempted from the requirement to have its accounts audited. It is suggested that an even greater increase—perhaps $20,000—is warranted as the amount is to be prescribed by regulation. This suggestion can be consulted on during development of regulations to support the amendments to the act.

It should be borne in mind that in New South Wales, the New South Wales corporations of fewer than 100 lots are exempt from the requirement to have the accounts audited; therefore, it is proposed that the regulations be drafted for consultation containing Mr Darley's proposed $20,000 threshold, rather than the $10,000 referred to in the second reading. The government prefers the flexibility of prescribing the amount by regulation because this would allow the figure to be adjusted from time to time—for example, to reflect the effects of inflation.

Amendment negatived; clause passed.

Clauses 37 to 39 passed.

Clause 40.

The Hon. S.G. WADE: I move:

Page 25, line 15 [inserted section 142B(3)(b)]—

Delete ', or has an interest in,'

My understanding is that the government wants the development control period to relate to the period where the developer, in fact, has control. Our reading of proposed section 142B(3)(b) would go beyond that. The fact is that a person might have an interest in the lots but not actually have control, so we are suggesting the deletion of those words would remove ambiguity.

The Hon. G.E. GAGO: The government rises to oppose this amendment. This amendment would change the definition of the 'developer control period'. The bill aims to address complaints about developers entering into various types of agreements and arrangements whilst still in control of a new development, which the new owners are then bound by. These can include long-term maintenance contracts or letting agency business for apartments in the complex.

The bill provides that, during this developer control period, the developer is the fiduciary of the incoming body corporate and must act in its best interests. The proposed amendment would narrow the scope of the definition of 'developer control period'. For example, it appears that, if a developer held onto units in the development through a separate company or a spouse, the developer may no longer be considered to control the corporation under the definition as narrowed by this amendment; that is, this would not meet the definition of 'developer control period'. It is for these reasons that the government opposes this amendment.

The Hon. D.G.E. HOOD: Family First supports the amendment.

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

The Hon. T.A. FRANKS: The Greens would like to hear from the opposition again.

The Hon. S.G. WADE: This point was made by the Community Titles Institute of South Australia. As I understand it, the Community Titles Institute of South Australia was not challenging the policy behind this in relation to developer control period. As we understand it, the policy behind the legislation is whether or not the developer has control of the corporation. But the insertion of the

words 'has an interest in', in our view, means that a person who merely has an interest, does not have any control and therefore should not be seen to have a fiduciary duty, is being drawn in. Some of these blocks may be quite large and merely having an interest in the development does not mean that they should be regarded as controlling it.

The Hon. T.A. FRANKS: The Greens will not be supporting this amendment.

The committee divided on the amendment:

AYES (10)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Hood, D.G.E.	Lee, J.S.
Lensink, J.M.A.	Ridgway, D.W.	Stephens, T.J.
Wade, S.G. (teller)		

NOES (9)

Finnigan, B.V.	Franks, T.A.	Gago, G.E. (teller)
Gazzola, J.M.	Hunter, I.K.	Kandelaars, G.A.
Parnell, M.	Vincent, K.L.	Wortley, R.P.

PAIRS (2)

Lucas, R.I.	Zollo, C.

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 41 to 43 passed.

Clause 44.

The Hon. S.G. WADE: I move:

Page 26, after line 14 [after inserted section 155A]—After line 14 insert:

155B—Review of operation of Act.

The Minister must, as soon as is practicable after the second anniversary of the commencement of the Statutes Amendment (Community and Strata Titles) Act 2011 or any provision of that Act—

(a) cause a report to be prepared on the operation of this Act insofar as it was amended by the Statutes Amendment (Community and Strata Titles) Act 2011; and.

(b) cause a copy of the report to be laid before each House of Parliament.

This has been specifically asked for by the Real Estate Institute of South Australia. This is a proposal for review after two years and has a corollary amendment at [Wade-1] 8. Not only is it good for the concerns of the Real Estate Institute but also there are a number of concerns, particularly from consumers, about ways they thought the legislation could be improved.

I do not dispute that the Attorney-General needed to make some hard decisions, and he has left some of those concerns unaddressed. As I said in my clause 1 remarks, the theory often does not move to the practice; a two-year review gives the government an opportunity to assess the operation of the bill in practice. I understand the government is inclined to support this amendment, so with that hope I will not speak any further at this point.

The Hon. G.E. GAGO: The government supports this amendment. It will insert a requirement in the bill that minister review the operation of the amendments in this bill two years after commencement. In this case the government is prepared to concede this proposal. The objective of the bill is to increase accountability of body corporate managers and community and strata corporations, and this will allow a review to ensure that the amendments do have that result. For that reason the government supports the amendment.

Amendment carried; clause as amended passed.

Clauses 45 to 52 passed.

Clause 53.

The CHAIR: Mr Wade, this is consequential, isn't it?

The Hon. S.G. WADE: Yes, Mr Chairman, through you, rather than say consequential could I say by the precedent of deferring the earlier clause, could I suggest to the government that it might be appropriate, because the same issues arise here as are raised in the previous deferred clause, that we defer the whole of clause 53 for later consideration.

Consideration of clause 53 deferred.

Clauses 54 to 71 passed.

Clause 72.

The Hon. S.G. WADE: I move:

Page 44, after line 14 [after inserted section 50A]—After line 14 insert:

50B—Review of operation of Act

The Minister must, as soon as is practicable after the second anniversary of the commencement of the Statutes Amendment (Community and Strata Titles) Act 2011 or any provision of that Act—

(a) cause a report to be prepared on the operation of this Act insofar as it was amended by the Statutes Amendment (Community and Strata Titles) Act 2011; and

(b) cause a copy of the report to be laid before each House of Parliament.

I regard it as consequential. It is a similar review to that supported by the committee in [Wade-1] 5.

Amendment carried; clause as amended passed.

Clause 73 passed.

Schedule passed.

The CHAIR: We now have clauses 17 and 53.

Progress reported; committee to sit again.

ZERO WASTE SA (MISCELLANEOUS) AMENDMENT BILL

Second Reading.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:47): I move:

That this bill be now read a second time.

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

Leave granted.

The *Zero Waste SA (Miscellaneous) Amendment Bill 2011* amends the *Zero Waste SA Act 2004*—an Act that has since 2004 represented the legislative underpinning for the State's waste management objectives and practices.

This Bill seeks to make two amendments to that Act.

First, the Bill seeks to clarify that the *Public Finance and Audit Act 1987* applies when Zero Waste SA is performing or exercising its functions or powers (including in connection with the management, investment and application of the Waste to Resources Fund). This measure resolves the uncertainty that has arisen in recent times as to whether or not the Treasurer's instructions apply in those circumstances and will ensure that Zero Waste SA's financial management practices are consistent with financial management practices across State government.

Secondly, the Bill introduces a power of delegation for Zero Waste SA. It has come to light recently that the absence in the Act of such a power of delegation is resulting in a degree of inefficiency in the administration of that Act. Powers of delegation may be found in the legislation of many other statutory Boards and authorities, and it is now considered appropriate to include one in this Act.

This Bill proposes to provide Zero Waste SA with the power to delegate any of its functions or powers to a person or committee. It will enable a function or power to be delegated to the Chief Executive of Zero Waste SA and

further delegated to a Public Service employee should the need arise. It is anticipated that this measure will result in the streamlining of Zero Waste SA's administrative practices.

The amendments contained in this Bill will assist the Board of Zero Waste SA and the Office of Zero Waste SA in the delivery of outcomes in accordance with the Zero Waste SA Business Plan and in progressing South Australia's Waste Strategy in a timely and efficient manner.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Zero Waste SA Act 2004*

3—Insertion of section 7A

This clause inserts section 7A into the principal Act.

7A—Application of *Public Finance and Audit Act 1987*

This section will ensure that the *Public Finance and Audit Act 1987* applies when Zero Waste SA is performing or exercising its functions or powers (including in connection with the management, investment and application of the Waste to Resources Fund). For example, when Zero Waste SA is using money from the Fund, it must do so in accordance with any relevant Treasurer's instructions and any other relevant provisions under the Public Finance and Audit Act.

4—Insertion of section 13A

This clause inserts section 13A into the principal Act.

13A—Delegation

This section will give Zero Waste SA the power to delegate a function or power (except a function or power prescribed by regulation) to a person or committee. For example, it will enable a power or function to be delegated to the CEO of Zero Waste SA and then further delegated to a Public Service employee should that be necessary.

Debate adjourned on motion of Hon. D.W. Ridgway.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without amendment.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

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

STATUTES AMENDMENT (COURTS EFFICIENCY REFORMS) BILL

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

At 17:52 the council adjourned until Thursday 15 March 2012 at 14:15.