HOUSE OF ASSEMBLY

Thursday 22 June 2006

The SPEAKER (Hon. J.J. Snelling) took the chair at 10.30 a.m. and read prayers.

NANOTECHNOLOGY

The Hon. R.B. SUCH (Fisher): I move:

That this house—
(a) urges the state government to give priority to making South Australia the innovative nanotechnology state;
(b) commends our three universities for their commitment to nanotechnology with regard to research and commercial application; and
(c) requests the state government to appoint a full-time coordinator/facilitator and support staff to help advance nanotechnology research and commercial application(s) in this state.

The reason I am passionate about this area of science and technology is that it represents the new wave of technology that is about to explode—and I do not mean that literally—in the community. Sadly, I have been trying to get the media interested in this topic. I have written an article, but they have chosen not to publish it. Perhaps one day they will. What is nanotechnology? The member for Morphett would understand because I believe his son has done a PhD in the field of nanotechnology, so I am sure that something has rubbed off from the son to the father. Nanotechnology is the science of the level of atoms and molecules that have application in the real world. A nanometre is a billionth of a metre—that is, about 1/80 000 of the diameter of a human hair or 10 times the diameter of a hydrogen atom. If you want to be mathematical, it is 10^{-9}. We are talking about things that are very small. I am suggesting that we think small but act big when it comes to nanotechnology.

Now, with modern research equipment, including the tunnel microscope, we can examine particles of that dimension. That was not possible until relatively recently. Members would understand that atoms and molecules are the building blocks of everything that we can see and feel and, if you rearrange that molecular structure, you can change something from its current form to something else so that the only difference between, for example, a piece of steel and a piece of wood or plastic is really the molecular structure. If you rearrange them, you can do all sorts of wonderful things.

Mr Hanna: You can play God.

The Hon. R.B. SUCH: And for those people who talk about playing God, we are in a position now where we can do those miraculous things. The developments in nanotechnology—and I understand that to many people it sounds like science fiction—mean that we can do so many things now, and the technology is improving. Our three universities are involved in varying aspects of this. We can build nanochips that interface with the human eye to help restore sight, and we can already do that; it is a marvellous thing. Clearly, it is not as good as the sight that most people are born with but, for someone who is blind, the prospect in the near future of being able to see as a result of nanotechnology applications is amazing. Likewise, for people with quadriplegia and paraplegia, we could create an artificial spinal cord. These things seem far fetched: they are not. That is why I want to get South Australia excited and the government involved, along with the universities, in exploiting this technology for the benefit of humanity and, also, to create jobs here in South Australia.

Currently, we can create microear implants, smaller than the current Cochlear implant. We can make materials 10 times stronger than steel and make miniature machines that need no lubricants by building tiny moving parts into a silicon chip. We can create molecules that can deal with particular bacteria, viruses or environmental pollutants. A few years ago, when he was president, in one of his speeches—which, sadly, did not get the wide coverage it should have—Bill Clinton pointed out that the computer of the near future (not the distant future) will be more powerful than any computer on the earth at the moment and about the size of a teardrop. That will be possible because of nanotechnology.

To give some other examples of what is happening with nanotechnology—and I have seen some of these things and had first-hand briefings—it is now possible (and it has been done) to develop a shirt, which would be of interest to the member for Waite, that cannot be penetrated by a knife. The police obviously would be very interested in that sort of application of nanotechnology. The military is very interested in it for a whole range of reasons which would be apparent to members. We can now produce long-life oils—and I cannot say too much about it because the research was done for one of the leading oil companies—which involves the traditional testing method of running the oil out of a BMW engine to see how long the engine lasts. When they did that with nanoparticles implanted in the oil, the engine went on and on because the nanoparticles had impregnated into the moving parts. So, even though the oil had technically run out, the engine was still able to function for an incredibly long period of time.

Some of the other things being developed as a result of nanotechnology include sophisticated diagnostic testing and the ability for people to have machines within their body that are able to control hormonal release—this is in terms of dealing with diabetes and all those sorts of things. There is also the gradual release of drug delivery. We now have transparents in cream. I know that many members in this place are very conscious of how they look—people in here generally would come into the category of 'beautiful people'—and they would be very interested to know that they can now get transparent zinc cream—or, if it is not commercially available now, it soon will be. So instead of looking like Surfer Joe from Bondi, members will be able to look like Megan Gale or, for the men, possibly like myself, which is a variation on the Tom Cruise look. There are also wood products with inbuilt UV protection and high speed nanocircuits to replace conventional electronic circuitry in computers. It goes on.

I will not go into all the technical aspects because I am not qualified to do that; my job is to push the concepts forward and to try to energise the state government into really getting a handle on this. We missed the boat in terms of some of the earlier technologies; we barely got on the coat-tails of the IT revolution. As I have mentioned in this place before, we developed the photocopier at Woodville here in South Australia but we did not get the benefit of that technology, which was developed by people out at Defence Science. We were slow off the mark in terms of IT applications, although we have done a bit since, and we were also slow off the mark in biotechnology. We are getting a little bit of action there now, more than we have had in the past. I want to make sure that we do not miss the boat in regards to nanotechnology.

We have two universities, Flinders and Adelaide, that both offer degrees in nanotechnology, and UniSA does very good work in the area of small particle research. However, at the moment we do not have someone within government who can coordinate, assist and promote this whole area. In the future we are going to be in a situation where we have to live off our brain power and our creative ability, and this is an ideal area for South Australia to lead in. I am not suggesting that the government does the work of the universities, that is not appropriate, but in the area of biotechnology we now have Bio Innovation SA. Former premier John Olsen sent me to America (he was probably hoping that I would stay there) with some experts from the state government to look at what was happening in the area of biotechnology research and, as a result of that, we now have Bio Innovation SA. I do not claim to have done all the work to set that up, but that was a consequence of the visit. On that visit some of us went to one of the research centres, where women with breast cancer were actually chaining themselves to the car park because they were desperate to get hold of the breast cancer drug Herceptin before it had been fully trialled. That is just one example.

We had a look at research in all sorts of areas—Boston and North Carolina—and could see the potential for biotechnology to be expanded in South Australia. The same applies in relation to nanotechnology. We need to get more active and the government needs to be fully focused on it, because our whole way of life will change dramatically as a result of this innovation. It is not pie in the sky, it is not science fiction. If members do not want to take my word for it they could talk to some of the people at Adelaide University (Professor Stephen Clarke, for example) or to some of the people at Flinders University, who would be more than happy to give them a briefing on aspects of nanotechnology and on what is happening in their respective universities (and I can give members the names of the people out there to talk to). We have these very capable people doing research and looking at commercial applications but they are basically operating outside of proper recognition and support of their efforts to translate that research into practical applications.

I mentioned clothing that you cannot put a knife through, and oils, and so on. They are just some of the examples of what we are capable of achieving; think of the potential of the applications of some of these things with super-technology-based computers and the medical benefits that would spin off. Think also of the human aspect (which is, to me, more important), of giving someone who has paraplegia or quadriplegia the capacity to walk again; or someone who is blind. Imagine the fantastic impact of that sort of technology, which is at hand now. There are new ways of transmitting electricity, so all the arguments that we have been having about how to transmit electricity in conventional ways may become redundant in the very near future.

The challenge is to get hold of this new technology. As I said before, think small but act big. The government is the body with the resources, not to necessarily put a lot of money in but to act as a coordinator and facilitator for research—in particular, commercial applications in nanotechnology. Some of the research people in South Australian universities have received federal grants, and Flinders is doing great work in terms of what they call Sol-Gel technology, which can involve making composites (the new generation of materials) that are stronger than steel, that do not rust and that have enormous applications in building and elsewhere.

I conclude by asking members to get on board the nanotechnology train, and invite themselves to any of our three universities—the vice-chancellors would be happy to facilitate visits—to talk to the people researching and doing the commercial applications and see for themselves some of the literally mind blowing technology which is about to come across our path and transform and change our way of life in a way which biotechnology in itself has not been able to do but is still progressing.

It will be even more dramatic than the IT revolution. It will be a greater and bigger revolution than either biotech or IT. Nanotechnology combines aspects of both, and makes the boundaries of physics and chemistry redundant. As we know, nature—the world at large—is not categorised into compartments of physics and chemistry. Nature does not present itself in some academic separation. Nanotechnology represents the new approach where the boundaries of traditional sciences are irrelevant, and we are now focusing on small particle technology in a way in which it was never possible before. I commend the motion to the house.

Mrs GERAGHTY secured the adjournment of the debate.

SIGNIFICANT TREES

The Hon. R.B. SUCH (Fisher): I move:

That this house calls on the state government to undertake a further review of significant tree legislation, with the aim of—

(a) determining an appropriate definition of significant tree;
(b) more adequately protecting genuinely significant native trees;
(c) ensuring that the public is more adequately notified of proposals to remove significant trees on private or public land;
(d) providing for appropriately qualified persons be used to prepare advice to councils and planning authorities regarding possible activities involving removal or pruning of a significant tree;
(e) ensuring that development and building laws and regulations allow refusal of new buildings closer than the outer canopy line of a significant tree and to be outside the possible limb dropping potential of a significant tree;
(f) ensuring that protection is given to native tree species which are often slow growing and may not meet significant tree status, as well as other smaller but ecologically important trees;
(g) providing indemnity to councils for any damage caused by significant trees; and
(h) providing for exotic trees not to be covered by the significant tree legislation, unless the tree has a special heritage or environmental listing.

I have been passionate about environmental topics and matters for a long time. The former minister for planning, the Hon. Diana Laidlaw, asked me to chair a report on urban trees. That group, which I chaired, reported in March 2000. The group came about because I had lobbied the Hon. Diana Laidlaw and others, and she could see the sense in trying to deal with a situation which was clearly unsatisfactory. Her reference was:

To report to me [the minister] no later than 21 March 2001 on appropriate policies and legal mechanisms which will provide the state and local governments with the ability to manage and prevent inappropriate and indiscriminate urban tree removal.

That report, which members can access if they wish, made a whole series of recommendations. Despite the fact that I chaired it, I did not agree with all of the recommendations, but that is sometimes the fate of people who chair committees. The group recommended that any tree in (basically) the metropolitan area with a circumference of 2.5 metres, measured at a point 1 metre above ground level, should be protected and subject to special application for pruning or removal. Protection was also recommended for rare and

endangered tree species, important areas and corridors of vegetation and other significant trees.

That outcome, which was reflected in changes to the law, did help save many significant trees. One of the recommendations which I personally did not agree with was to seek protection for all trees of that size. I think it is one of the reasons that we have a problem now, because it has been applied to all trees, including, in some cases, species which are often designated as weed species in some council areas. *Pinus radiata* is one of those. You can argue that *Pinus radiata* does serve a purpose, certainly in the South-East and in some of the other forest areas, but it does not necessarily serve greater purpose in the City of West Torrens. It was meant to be a mechanism to save the big old river red gums (*Eucalyptus camaldulensis*); it was meant to save those giant trees, some of which, contrary to popular belief, are close to 400 or 500 years old. They are very slow growing, are magnificent trees and, as far as I know, are no longer being made in that format. You cannot get one off the shelf at that age from anywhere I know.

The main thrust was to protect those big red gums that were facing or getting the axe simply because some people regarded them as a bit of a nuisance. It is a bit like we treated to the Aboriginal people many years ago; they got in the way, so we got rid of them. The unfortunate aspect is a bit like the implementation of the 50 km/h speed limit. It is good in its general thrust, but in its application sometimes you end up with a few aspects which are not what is really intended.

Subsequent to that report, the present government commissioned Commissioner Alan Hutchings from the Environment, Resources and Development Court to carry out a requirement under the law to review that original provision relating to significant trees, and he duly did that and reported in November 2002 in a report entitled *Review of the Operation of Significant Tree Controls*. Obviously, I cannot go into all the details of his report, but in his summary on page 3 he said that in particular there are two classes of significant trees, and he talked about some of the complexities of the system. He also highlighted the fact that the infill policy—urban consolidation or living on top of your neighbours, whatever you want to call it—is in conflict with the significant tree provision.

If you are going to have people living in Hong Kong style you are not going to have much room left for trees, and certainly not the big ones. That has been a consequence that Commissioner Hutchings highlighted in his report, and he made a whole lot of recommendations. I would ask leave of the house to insert this table listing the 19 councils in the metropolitan area and detailing the number of significant trees approved for removal, the number approved for pruning and the number where removal was refused. I ask that that be inserted in *Hansard*: it is purely statistical.

Leave granted.

Number of significant trees approved for removal or pruning or development applications for tree-damaging activities refused from 20/04/2000 to 30/9/2002

Council	Number of significant trees approved for removal	Number of significant trees approved for pruning	Number of significant trees whose removal was refused
Adelaide	n/a	n/a	n/a
Adelaide Hills	364	61	4
Burnside	264	n/a	71
Campbelltown	90	n/a	12
Charles Sturt	n/a	n/a	n/a
Gawler	n/a	n/a	n/a
Holdfast Bay	64	13	6
Marion	78	n/a	n/a
Mitcham	993	299	43
Norwood	n/a	n/a	n/a
Onkaparinga	149	36	2
Playford	10	1	0
Prospect	77	11	2
Port Adelaide	47	6	9
Salisbury	45	32	9
Tea Tree Gully	109	120	1
Unley	284	72	18
Walkerville	n/a	n/a	n/a
West Torrens	n/a	n/a	n/a
Development Assessment Commission	658	n/a	0

Notes on table: n/a = not available. Some councils were unable to provide the data for the entire period. To avoid confusion, the information these councils provided (if any) has not ben included in the table.

The Hon. R.B. SUCH: I will not list them all because members can read the table, but in the Adelaide Hills in that period of time the number of significant trees approved for removal was 364—and these are significant trees, not insignificant ones—61 were approved for pruning and only four were refused application to remove. In the City of Onkaparinga, 149 were approved for removal, 36 for pruning and only two were refused for removal. In fairness to the councils, if you look at Burnside you will see a very different story. The number approved for removal was 264, a large number, but it refused removal on 71.

Why is it that in one council there seem to be fewer approved for removal on a pro rata basis than in other councils? In fairness to the councils, the statistical table tells only part of the story, because some councils did not include data on tree-damaging activities and the table itself does not tell you the justification or otherwise for the removal application. All it does is give the crude figures. Nevertheless, it highlights the fact that one council can refuse on 71 occasions and another council has never refused an application. It might be justified, I do not know. One of the issues that still needs to be addressed, despite the good efforts of Commissioner Hutchings, is the fact that it is fine to protect big trees—and I support that, especially the native trees—but if you do not have little trees you eventually do not have big trees.

To allow the removal of trees below that size without justification means that ultimately you will come to a point where you do not have big trees because the little trees have never been allowed to become big trees. With urban consolidation you are not likely to have many trees planted anyway, which is another consequence of urban infill. I know that the member for West Torrens might speak later, but some councils are applying the current law in a way that, in my view, was never intended it be applied. That is not just in relation to pinus radiata but in Burnside it has been applied to any tree over a certain size, even though that tree might have no ecological or other significance.

Another deficiency in the current arrangement concerns the tree that you see when you go up around Windy Point. I know that many of you have probably passed the stage of going to Windy Point, except for a meal, but the tree that you will see up there is the grey box or eucalyptus microcarpa. Some people think it is a stringybark, but it is not. It has a bark that is somewhat loose and looks stringy, but it is not a stringybark. They are incredibly slow growing, hardly ever reach the size of a significant tree, yet they are now getting into the category of being under great pressure because a lot

of people do not realise that they are probably older than the oldest of the red gums.

The expert in this field is Dr Dean Nicolle, who is often used as a consultant in relation to native trees. We know very little about the grey box, although I know that there are a couple outside the house where I grew up. They have not changed in size in my lifetime: that is how slow growing they are. They are not protected, so that is another deficiency in the system. What we need to do is also protect grasslands that surround particular significant trees. Many people say 'I saved a tree on my property' and you think: you beauty; but that is like saying 'I've got a motor car but I've only got the wheels.' You do not have a motor car. What you have when you have saved a tree is a tree. You do not have an ecological system, other than a very micro one.

You do not have the understorey, the shrubs, the bushes and the grasses. You will see through the Adelaide Hills that people will save a tree here and there and say 'what a good boy am I.' Better than clearing them, sure, but the reality is that they have removed the understorey and the native grasses so the little birds have nothing much to feed on or get protection in, the environment is the big loser and ultimately we are the loser.

I think one of the areas that needs to be looked at (and this is alluded to in my motion) is that surely we should not let people build so close to a significant tree when, in a few months, or even less, they come along and say, 'The tree is a threat to our house.' People should not build under the canopy of a tree or in the root zone and, obviously, they should not build (and it is a related aspect) where a limb could fall on their house. In a subdivision called Craigburn Farm, which is in Davenport (or, as the developers call it, Blackwood Park), all the trees were numbered before building works commenced. However, I have asked Adelaide Development Company how many trees are left, and it cannot answer that question. I know why—because the company, or the people who moved in, have removed many of them.

It is amazing how bulldozers seem to have a mind of their own and remove a tree without anyone being able to control that bulldozer. It is obviously a technical error by the bulldozer; it has a mind of its own, and it has accidentally hit the tree. There was a recent case in Blackwood Park where the people wanted a tree cut down—they said that it was damaging and a threat, and so on—and they sold up as soon as the tree was removed. There are people who just do not like leaves, or trees. There are some people in my electorate like that. My view is that, if you do not like trees, or that sort of environment, please go and live at Wingfield, or somewhere that is more in keeping with your aesthetics.

Ms Thompson: In the dump?

The Hon. R.B. SUCH: There is nothing wrong with Wingfield, if that is what takes your fancy. I hope that, if I ever retire, I do not reach the point where I am obsessed about leaves. All members have had constituents come in to their offices and say, 'There are leaves in the reserve across the road.' I am not aware of anyone being hurt by a falling leaf—but maybe I have lived a sheltered life! We hear all these excuses and reasons for removing trees because people have built far too close to them. It should never have been allowed.

Another big issue is that, in order to avoid liability, councils err on the side of caution and say, 'Yes, that tree will have to come out.' We have just had a big fight over a tree in Heatherwood Drive. When it came down to the crunch, I said to the council, 'Have you considered pruning it?' and, in the end, that is what it will do. It is a 400 or 500-year-old red gum; it is a magnificent tree. It turned out that one the neighbours did not like the leaves. I had constituents in tears when the tree was under threat, and in tears of joy when the tree was saved as a result of pruning.

The point I am making is that we have it partly right, but we do not have it quite right, in terms of how we deal with the management of trees. I am not saying that people cannot remove a tree; we have to manage them. That is the difference between conservation, which is wise use and preservation, where you do not do such things, and management: we have to manage trees. Sometimes trees have to come down. However, we need a regime that is sensible and appropriate, where qualified people give advice—not Johnny the tree lopper coming in and saying, 'That tree has borers in it.' They nearly all have borers in them; that is how birds, insects and other creatures survive.

Time expired.

Mr HAMILTON-SMITH (Waite): I commend the member for bringing this motion to the house. I do not agree with all the motion, but I agree with a lot of it, in particular, paragraphs (a), (g) and (h), which talk about indemnity with respect to damage caused by significant trees, providing for exotic trees not necessarily to be covered by the tree legislation and determining an appropriate definition of a significant tree, because that is a concern in my electorate. I have received correspondence from a number of constituents—for example, Mr John White—who has raised with me concerns about safety in regard to significant trees. This issue concerns a very large significant tree that is too close to a home, and there is the risk of a branch falling off or the tree collapsing in a gale. There are plenty of examples (and I have some on my file) where there has been a storm and trees have collapsed. In particular, I refer to *The Advertiser* of 8 May this year, where it was reported that floods and gales caused chaos across the state, and significant damage was done by trees falling onto homes.

The point I would like to make to add some value to the debate is that I think councils need to interpret these regulations and these laws very sensibly so that we do not have a situation where, if a resident is concerned for their safety or the safety of their children, they engage in a battle with the council about whether they can or cannot remove a significant tree that they feel is too close to their backyard or their home. There are numerous cases of this in my electorate, where people are finding that they simply cannot get the tree chopped down legally because they are in a wrangle with bureaucracy over whether or not they are allowed to do so. It is particularly a problem if someone has a neighbour who feels they have some ownership of the tree in the adjacent yard, and they want to contest the removal of the tree. You have this whole neighbourhood dispute emerging and, in the meantime, children and people, as they sleep in their homes, feel unsafe and at risk. I think that is a real issue, and I ask the government to consider it in the context of any changes it might be thinking of with respect to this legislation, because there needs to be a way out. I think that safety is absolutely paramount, and there needs to be a recognition of that.

Certainly, in any new legislation, or any change to this legislation, there ought to be some provision for councils to very carefully consider safety before they approve any domestic building allotments on land on which there are significant trees. That may mean that they have to consider whether they do or do not approve the construction of

buildings at a particular point on an allotment or, alternatively, whether they give way and recognise that the sensible thing in that case is to remove the tree and perhaps plant a much smaller tree a few metres away or towards the back of the yard. There simply needs to be some commonsense with respect to how this is applied, and that is not occurring at the moment. I do not really want to—

Mrs Geraghty interjecting:

Mr HAMILTON-SMITH: Yes, that is right. I do not want to dwell on it, but I simply add that to the debate. The point my friend the member for Fisher is raising is that there needs to be a review of this legislation, and the points that I have raised, certainly, need to be a part of that review, because it is worrying and concerning people. A lot of complaints have come into my office about it. Over-zealous administration of this legislation is creating difficulty. As I mentioned, there is this concern that others feel they own the tree even though it is not on their property. I must say that, as a Liberal, I do have a fundamental feeling that people do have some right to say what will happen on their land.

I support the legislation and the need to preserve the trees, but we must remember that it is their land. They want to build an extension onto their property so that their family can enjoy a better quality of life and, if a tree is there, there needs to be a bit of flexibility between councils and residents. For example, can we chop down that tree and put in a smaller tree further away from the extension, so that, at the end of the day, the community will not suffer, but neither will the safety of the family? I believe that this area of legislation is not working and could work a little better.

Mrs GERAGHTY secured the adjournment of the debate.

YOUNG MEDIA AUSTRALIA

Ms THOMPSON (Reynell): I move:

That this house commends the Attorney-General for continuing the Rann government's support for Young Media Australia and calls on the federal Liberal government to show similar support for all parents in their difficult task of guiding their children's exposure to the media.

Several times in this place we have heard about the challenges of parents in dealing with modern media. Its complexity is often beyond some parents. They feel that their children are in an unsafe environment and they are not always sure what to do. One approach is to regulate. We have heard that some of the federal Liberal people this morning are looking to intensify regulation about what appears on television. Another approach is to educate, to enable parents to develop the information and skills to deal with their children facing an increasingly complex world.

My preference is to support parents to educate, because the development of the media is much faster than the development of any laws. What is important is for parents to develop, from their earliest years, a relationship with their children about their exposure to the media. This means that, as children become adolescents and are exposed sometimes to not very pleasant messages at all (messages that I do not choose to watch), the parents and the children have information and a relationship about responsible media viewing.

Of recent times, Young Media Australia has simply not been getting support from the federal government, and this is truly a disgraceful situation. It is a national organisation. Media issues are federal responsibilities. The responsibility for supporting a resource, such as Young Media Australia, rests with the federal government, but this has not been happening. The state government in South Australia has stepped in and provided much of the support that is enabling Young Media Australia to survive at the moment. For those members who do not know much about Young Media Australia, the simplest way for me to provide members with that information is to quote an extract from the message of the President of Young Media Australia in its annual report last year. In her message, the President of Young Media Australia, Jane Roberts, states:

> Over 48 years ago the Australia Council on Children and The Media was established 'to stimulate and maintain public interest in the provision of suitable entertainment programs for children and young people'. Media provision back then included back and white television, radio, record players and daily newspapers. In 2005, the media environment for children and young people bears little resemblance to this, and now may include two or three televisions in the home, DVD and video recorders, computers including portable laptops, access to the internet with instant communication via emails, electronic personal organisers, portable CD players, iPods that allow the listener to hear music everywhere and mobile telephones that can act as a small computer/camera/video recorder and still send and receive telephone calls.
>
> For many parents and educators who are raising children in this ever-changing media environment, all of this can be overwhelming and challenging. Young Media Australia has continued to support parents and those who work with children to promote quality media environments and provide information resources and strategies that allow parents to make positive choices for their children's wellbeing.

Only recently a constituent rang my office to ask what could be done about the material that was streaming into her child's telephone. I must admit that I did not quite understand how all this was happening, but I was at least able to refer her to the web page for Young Media Australia. This constituent had access to the web. Had she not (as many of my constituents do not have access to the web), I would have invited her to my office where one of my staff—not me—would have helped her work through the web page to get the information that she requires. I know that she could also have gone to the library.

That gives members some information about the role and history of Young Media Australia. I want to say something about its composition. It is established with a national board of directors, with representatives from all states and territories. Steve Biddulph is its patron. Its board of directors for 2004-05 include the President, Jane Roberts; Vice-President, Elizabeth Handsley; directors Jennifer Barker, Warren Cann, Rosemary Crowley, John Gard, Leneve Groves, Elizabeth Handsley and Jane Roberts. Those names might not mean much to members, but they include representatives of parents' and citizens' associations, education unions, Early Childhood Australia, lawyers and researchers and lecturers in matters relating to the media.

Regarding the issue of funding, in 2002 the federal Department of Family and Community Services provided a grant of $207 000. This was to establish the Young Media Australia helpline and web site project for the period January 2002 to December 2003. Since then the federal government has contributed $2 500, in July 2005. That was also from the federal Department of Family and Community Services for national child protection awards, awarded in November 2005.

So, Young Media Australia gets recognition for what it does in child protection, but the federal government has simply abrogated its responsibility to fund YMA. Where its money has been coming from in the meantime—besides those individuals and organisations who take out membership, the Premier of South Australia gave an operational grant of

$25 000 in July 2004 and a further grant of $12 000 in December 2004.

The South Australian Film Corporation contributed $8 000 towards its operational grant. The Office for Women contributed $6 000 towards the Young Media Australia helpline, and this was in recognition of the fact that women have major responsibility for guiding their children's media exposure, particularly during school holidays, for instance, when they are deciding what films might be suitable. The Office for Youth provided $4 000 in sponsorship of the helpline and the South Australian Attorney-General recently provided $33 000 for the project 'Know Before You Go', which is about reviews of films.

The Advertiser and Telstra are providing support to Young Media Australia but, since January 2002, Young Media Australia has made about 15 unsuccessful applications for funding to the federal government. Something has changed since 2002. It is not Young Media Australia. There has been great continuity in the membership of the board of directors. There has been some changeover, but the general mission, philosophy and performance of Young Media Australia has continued to live up to its high reputation. But the federal government has suddenly decided that supporting the activities of Young Media Australia is no longer appropriate.

Young Media Australia covers issues such as childhood obesity and the advertising of food. It provides assistance on what to do when your child is frightened at a scary movie. It provides a huge range of services. Going through them briefly—as I am sure my colleagues will enhance these—there is a web site which provides comprehensive and up-to-date information relating to children and the media, including the movie review service, all solidly grounded in child development framework. There are parent strategies, topic development and writing. This translates information that comes in to the YMA into practical, concise and relevant topics for parents and caregivers. It converts research into practice.

The Helpline Call Centre provides 24-hour a day, seven day a week national freecall service for parents and caregivers to discuss media issues in respect of children. *Small Screen* is the monthly news digest of most recent developments in the field of children and the media. The media review service provides callers with descriptions of the content of movies and currently reviews all G and PG movies as they are released. These are reviewed from a child's point of view, with particular attention to violent material and material that young children may find scary. This will be expanded to review television programs and computer games if funding support is available.

The promotion of the helpline and web site is a campaign-based approach to sectors of the parent and caregiver community because, as we all know, it is no good having these wonderful facilities if nobody knows about them and ordinary parents are not able to easily access them. There are also research projects, including the sponsorship or conduct of research in the field of media for young children.

I have mentioned the need for the valuable work of Young Media Australia to be accessible and I point out that they are well aware of the need to reach a wide variety of people within the community. They work through many of the schools. I know some of my colleagues use extracts from Young Media Australia newsletters in their newsletters. Schools also provide information in the newsletters that they send home to parents on a weekly and sometimes daily basis. Schools use YMA material to inform parents in their school community about how they can support their child's involvement with the media.

There is a partnership with the Adelaide *Advertiser*, as I have mentioned. This is reported in the YMA Annual Report thus:

> In September 2004, YMA's Movie Monitor column was first printed in the movies section of the Adelaide *Advertiser's* Saturday edition. Movie Monitor is an abbreviated version of the full YMA Movie Review, as contained on the YMA website, and is now a regular fixture in the Saturday paper. The Adelaide *Advertiser* prints the Movie Monitor column as a service to South Australian parents and the wider community, and it provides YMA with an invaluable opportunity to raise our profile in South Australia. Discussions will be held with the *Advertiser*. . . about furthering the partnership. . .

YMA has a display stand which circulates in metropolitan libraries in Adelaide, and feedback includes this comment:

> I congratulate you for hosting the display in your library. The issues covered are both topical and of great importance to the community. Well done.

This was a comment made to a rural library that was hosting the YMA display stand, which was purchased in 2003-04 and moves around country venues including country shows. So, YMA is getting out there and reaching out to people in the community who may not have been aware of its services.

In conclusion, I would like to point out once again the range of people who are supporting Young Media Australia. I point out that while it is a national organisation with a national board of directors, one of the reasons for its support in South Australia is that, by historical accident, it is currently located in South Australia, but its web site, its help line, its movie reviews, serve the whole of Australia. With further support, its information stand, which circulates around country shows and libraries etc., could also service the whole of Australia. In the acknowledgments page in its last annual report, YMA begins by thanking St Peters Woodlands Grammar School for providing the rental accommodation that it currently enjoys. It thanks the Premier of South Australia, the South Australian Film Corporation and the Telstra Foundation for the support for two projects, Mind Over Media and Through Thick or Thin. This organisation deserves national support, and it is a disgrace that the federal government continues to legislate instead of supporting our parents.

Time expired.

Ms CHAPMAN (Deputy Leader of the Opposition): I move:

That the debate be adjourned.

Motion negatived.

Ms FOX (Bright): I heartily commend the state government for the support that it has shown to Young Media Australia. This unique national community organisation has a strong commitment to the healthy development of Australian children. Young Media Australia's particular interest and expertise is in the role that media experience plays in that development. A recent study from the School of Health Sciences at the University of South Australia shows that 10 to 13 year old schoolchildren spend nearly four hours a day in front of either a television or a screen—four hours! That is four hours when children are not interacting with each other or their families, four hours when they could be participating in a sporting activity—four hours in front of a screen. Seventy three per cent of that time is apparently devoted to television; 19 per cent to video games; and 6

per cent to non-computer game use. As a former teacher I hope that 6 per cent has something to do with homework.

What may you ask are children actually watching at this time, and are parents and caregivers as informed as they could be about the content of what their young charges are watching? Possibly not, but organisations like Young Media Australia are there to inform parents and caregivers. Their web site is outstanding, as the member for Reynell has already said, and contains many valuable fact sheets to inform and guide adults that deal with issues like 'Should my child have a television in his or her room?' 'What scares children?' and 'Watching the TV news'. As a former teacher I confess that my colleagues and I have used the resources provided by Young Media Australia, particularly the information on helping children to cope with tragic world events.

Today's media is all pervasive. Children today are growing up in a world so soaked by media messages at all levels—their mobiles and internet being media resources that you and I did not have to deal with as students—that they cannot get away from it. It is no longer a matter of just turning off the television. Young Media Australia recognises this and seeks to inform the community as best it can about the media world our young people face. Sadly, once again, the federal Liberal government has demonstrated its utter lack of interest in our nation's greatest resource, its young people. How so? By slashing its support for this outstanding group which provides up-to-date information about media and children. The parents, caregivers, professionals, students and researchers recognise their good work and we support them accordingly.

Dr McFETRIDGE (Morphett): I rise to support this motion, and I do so not with the same expressions of thought as the new member for Bright, that the federal government has been slashing and burning anything to do with children, children's education and children's services. That is not correct. In fact, I think that members will find that the federal government has been funding children, children's services and families to a greater value than any former government. Let us get back to this particular motion about what our children are watching and what Young Media Australia is trying to achieve, and that is a good thing. The federal government should be supporting organisations like YMA to the best of its ability, given all the other things that it is expected to fund nowadays. One would expect the state government to be putting into YMA, particularly with the huge truckloads of GST that are rolling into the state.

The particular issue that I have with young people and the media, and their interpretation in the media, is that there is a need for organisations like YMA to be out there educating young people about what is going on in the media, what they are being exposed to, how to interpret what they are being exposed to, and also how to help them form opinions in an informed, intelligent and cogent manner.

The saying that I often use in this place is that the most totalitarian despot is public opinion in a democracy. That is still very true, and a lot of our public opinion is guided by the media. Young people need to realise that shows like *Big Brother* are not real; they are not reality television. They need to be able to interpret what is going on out there—to take everything that they are being exposed to, whether it is a web site like the one my son showed me the other day. He said, 'Dad, have you seen this web site?' I will not name the web site here. On this site I was able to view videos of Arab terrorists hacking off the heads of captives and the aftermaths of motor vehicle accidents. Any kid could get onto these web sites. I note the issue of blocking the web against porn sites. I am not in favour of censorship, but I am in favour of guided education and guided use of the media in a responsible fashion.

The Hon. M.J. Atkinson: So, everything should be free?

The SPEAKER: Order!

Dr McFETRIDGE: That behoves those in the media, who produce web sites, to be mindful of the audience that they project to. I return to the point about *Big Brother*. The producers of the show put it out there as reality television.

I was invited to LeFevre High School a few weeks ago to be part of *Big Brother Uncut*. I was on the panel with a very intelligent young lady from Adelaide who was the first person to be evicted from the show called Tilly Clapham. This panel was organised by the year 12 students of LeFevre, and we had an audience of year 12s. We were asked questions about *Big Brother* and some of the things that were going on. I am pleased to say that this young lady emphasised the fact that it is not reality television. We talked about the issues and relationships. I talked about the company that promotes and produces *Big Brother*, which is a worldwide company which produces over 100 similar so-called reality TV shows and quiz shows. Last year, that company grossed 900 million euros. They are big in business and do not show life in its real sense; instead, they are there to make big dollars.

I said to the year 12 audience that 'big brother' was watching them. 'Big brother' is watching where their phone calls come from on their mobile systems because they use GPS technology. They knew where they lived and they knew how to develop their marketing. When you look at the marketing company involved in *Big Brother*, it is linked with huge multinational companies which are able to target their marketing. 'Big brother' is watching them: they are not watching it. The disappointing part in all this is that, after nearly an hour of to-ing and fro-ing, and being excluded and then coming back as an intruder, I thought that we had made the point to these young people that *Big Brother* was not real. However, at the end of the session, the principal asked the audience for questions for Tilly. They just reverted to the relationships and who was involved with whom, which relationship would work and which one would not, as though it were reality television. An hour of what I had thought to be a positive interaction with these kids, making them realise that this was just a marketing and money-making exercise of light entertainment—and, in some cases, voyeuristic entertainment on *Big Brother Uncut*—showed that they think it is real.

So, there is a role for an organisation like YMA and the media training that occurs in schools presently, but also for all media to make sure that they are educating the young people of our society so that they do realise that what they are watching, reading and listening to is not real and that it is not an excerpt of life and that some of the values, morals, ethics and opinions are not those shared by the vast majority of society. We need to hold some values dear. I encourage YMA to continue in its work. I hope that the federal government does spend more money on organisations like YMA. It is a cashed up federal government, just as this is a cashed up state government. I hope to see in the budget—for which we have to wait until September—increased funding for the Department of Education and Children's Services and the arts organisations in South Australia to make sure that we continue to educate our young people about reality and what life is all about, helping to make informed judgments and

opinions on the media. It is through organisations like YMA that we are at least making a start on this. I support the motion.

Ms SIMMONS (Morialta): I rise to support the motion and to praise the work done by Young Media Australia. The organisation does a lot of work in an area that I will talk about this morning which is in helping children develop a realistic understanding of the world. When I was working in the area of early childhood, we did quite a lot of work with parents in order to encourage them to help their children watch television in a sensible manner, because good quality television can help young children to explore past, present and future worlds and to develop an understanding about the world in which they live, including natural environments, human ingenuity and cultural diversity. However, as my own children have grown up through the phase of early childhood, I have also realised that it is all very well for parents to be able to help their young children and have some control over the off switch on the television set. As the children get older—particularly, those who are 11 years and over—they often have a TV in their room, or they are often at home or in the family room at a time when there is not a parent around, and it is seen as quite legitimate. I am not talking about late at night: I am talking about early in the morning.

Like the member for Morphett, I refer to *Big Brother* which is televised at 7.30 p.m. This is often a time in the household when the homework is finished, particularly for the 11 to 14 year olds. They have done their bit; they have been to school, had their supper and finished their home duties and their homework, and it is down time for them. They are allowed to put on the television to watch. The characters on this program become heroes to the kids. They are encouraged to back or support certain members of this television program, rather like a footy team. It is not just reality TV; it is actually interactive TV.

The Hon. R.B. Such: Unreality TV.

Ms SIMMONS: I disagree with the member for Fisher. Like the member for Morphett, I think that children believe this is reality TV because they are real people (not employed actors) interacting in a way that the children might see their big brothers or sisters interacting, and they think that the TV that they see between 7.30 p.m. and whatever time the program ends is normal, real interaction of young people between the ages of 18 and about 30; it is stuff they would observe in the world around them. It is sold as reality TV; part of the promotion of those programs is that this is real, this is reality TV. As the member for Morphett said, the kids he spoke to did not realise when the discussion moved from an agreement that these situations were unreal back to these being real people, and I totally support what he says.

The fact that it is interactive TV is even more important, because children have a vested interest in their person winning. There is actually a cost involved, with the children having to go to the phone and support their person to either stay or leave the place, and so they become extremely involved. That part of it does not really bother me apart from the fact that both the electronic and print media advertise that the adult version of the program is on later at night. Children who have a vested interest in the character they have chosen to support know that, because it is well advertised that if they tune in their TV sets later at night they will be able to see their favourite character again, will be able to back that person again, and will be able to follow what is going on and hear what they have to say. And children do tune in. The fact that it is an adult version, that it is uncut (as the previous series was called), does not bother them at all; however, it should bother their parents.

Young Media Australia does a lot of work to help parents in the family home to develop a realistic understanding of the world through television and they need all the support they can get—particularly financial support—to ensure that they are able to continue to do this. Young Media Australia is trying to work with parents to promote the view that the world children see through television should include a sense of personal safety and happiness, optimism that they can deal with the world's challenges, and an appreciation of diversity amongst people—and I think this is a particularly good idea. I do not believe that what is happening on television at the moment (through several so-called reality TV programs) is helping at all. We need to have far more control, not only on what is on our television sets for young children but also over the early evening promotion of what is to be shown later in the night. I commend this motion.

The Hon. R.B. SUCH (Fisher): I support this motion. I also remind members (and not for any ego trip) that we have the local Youth Media Awards which I created when I was minister for youth. Every minister since that time has continued with those youth media awards; however, I am not saying that they take the place of what Young Media Australia do, because they do not. At this point I would also like to note, with sadness, the passing of Des Colquhoun, one of the judges who gave a lot of time in respect of the Youth Media Awards here in South Australia. We will miss his expertise and generous contributions.

I believe that it is very important to encourage young people—people of any age, I guess—to be sceptical. I prefer a focus on being sceptical rather than being cynical, because I think cynical can be quite negative; however, people should be sceptical of what is in the media and we should encourage young people to look at the full picture, at what may actually be the underlying agenda behind what is portrayed in the media. As we know, we have limited ownership of the media in Australia—and I think that if some people had their way it would be even less widely owned than it is now. Sadly, I think the ABC should change its name to 'BBC Down Under', because it basically just buys programs from the BBC. Many of them are good quality, but we are not getting locally-produced programs—drama and other properly acted programs—which would help support professionals in this country and which would also, in a real sense, convey aspects of our own culture rather than just replicating what happens elsewhere.

What we are seeing—not just on the ABC but on the commercial channels as well—are programs that are cheap to produce and that require no real expenditure. There is nothing wrong with a simple quiz show, but it should not be the sum total of what we produce. We are getting economy-type programs that are cheap to produce and that do not really employ actors and actresses and other professionals. The other aspect is about the show *Big Brother*, which some other members have already mentioned. I have only seen a couple of extracts from it but that was enough for me. I am not prudish, and I do not get offended by people with not much clothing on, but I am offended at the crass, low-level, feral behaviour that we see on that program. To some extent that is, obviously, acted out and exaggerated, because that is what makes the entertainment, but it is not the sort of behaviour that we should be promoting or encouraging in our

community—and the member for Morialta may have misunderstood when I said that it was unreal TV. I do not believe that most people and their families in this country, or elsewhere, behave at that feral level that we see portrayed in shows such as *Big Brother*.

Someone in my immediate family worked for a company that was linked in with that type of show. The company sold images from the show to teenage boys, in particular, for their mobile phones. If they could get a shot of someone's breasts or some other aspect of the female anatomy, they would sell the image to young boys, in particular, to put on their mobile phones, and charge them a significant amount. It was one of my lads who said to the manager, 'Look; I don't agree with what you are doing here.' Part of the company's policy was to make it as difficult as possible for young people to get a refund. If customers lock in, the company does not make it easy for them to get their money back. The boss said, 'Look; we make a lot of money out of this, and we're going to keep doing it. It's not illegal, and if we can make money out of selling what you might call soft porn to teenage boys, well, we're going to keep doing it, because there's nothing to stop us doing it.' There is a loophole in the law at the moment which allows them to get away with that.

The other aspect is that, with shows like *Big Brother*, they are charging 55¢ a minute for people to interact. That is the biggest rip off of all time; it is a con. I bet there are some parents who get some big phone bills because their youngsters have been sucked into that sort of participation. The eviction that should happen should be of the program itself. Rather than *Big Brother*, people should stick with Big Sister, which was a Christmas pudding in tins that used to be around and, as far as I know, may well have disappeared. You would be better off digesting Big Sister than you would watching the sort of rubbish that comes under the category of *Big Brother*, on which you can put various connotations.

Recently, one of my close relatives was on a show called *Australia's Next Top Model*. I was not available, but one of my nieces was. She did quite well on that program. She, like a lot of young girls, wants to be model—and she is doing some modelling at the moment—but she had to sign a contract which stated that she was happy to be filmed naked at any time, that she would never take legal action with respect to that, and that she would never protest on moral grounds. And she and her mother said, 'Oh, they wouldn't do that, would they?' And I said, 'Yes, they will, because you are a young adult, and they will use those images whenever they like, and they will sell them to phone companies.'

In the show they did exactly that: they filmed those young girls naked at times, and they have all that on file forever. So, those young girls signed over those rights. We know the attraction for young girls to be models and that sort of thing and, once again, it is a form of exploitation. I am not aware that, in order to be a top model, someone has to get a photo of you naked when you are a young adult. I cannot see that there is any necessary connection.

A lot of people, particularly in some of the fundamentalist churches, become very upset about sexual activity portrayed in the media. As I said, I am not a prude. I worry less about that than the explicit and over the top violence, because research evidence shows that there is a link with that violence being imitated by a small section of the community. In the community, some people are fixated on sexual behaviour—and I do not think young children should be exposed to that, anyhow—but there is less harm, in my view, in seeing a naked body on TV than there is in seeing someone being bashed over the head with a steel bar. There seems to be this strange acceptance of violence, and yet there is an obsession with ensuring that no one gets hurt by pubic hair. I just cannot see the logic.

I am not suggesting that young people be exposed to nudity or sexual activity for the sake of it, because that is not appropriate. We have the most explicit coverage of violence and bad language. I have usually taken the view that people who resort to the F-word a lot are lacking in either a dictionary or basic training in English. I do not believe it is necessary, and I do not want to see films that are full of four-letter words like that; it is just not necessary.

I come back to the point. I support this motion. I think it is more important than ever that young and older people can see the underlying aspects of the media and put it in some context, and learn to distinguish between a propaganda piece and a piece of journalism which is well researched and reasonably objective, because I do not think you can ever be purely objective. There are degrees of presentation. I would like to see the local paper, *The Advertiser*, engage more in-depth research. It used to do a lot more, and I think it should be doing more of it now; it should be investigating issues in greater depth. I think it would actually increase its circulation. I know many people do not buy *The Advertiser* now, because they do not feel there is a lot of meat in there. You are getting three veg, but you do not get the meat, and they want some meat by way of in-depth investigation. Having said that, *The Advertiser* is our morning paper, and it generally provides a very good overall coverage of issues, but I think it is lacking with respect to in-depth investigation by some of the top journalists who they have there now and have had in recent times. I conclude on that point.

Mr RAU (Enfield): I also join with other members in supporting the motion that you have moved. I was very interested to listen to the member for Morphett, whose contributions are always well considered. I found myself, as is often the case, nodding in agreement with what he had to say. For what it is worth, *Big Brother* seems to be the story of the day. I noticed that a certain federal member, who has had her own difficulties at various times, is making an issue about *Big Brother* today—and good luck to her. I was just reflecting on this *Big Brother* thing, and I want to make clear that I think it is absolute rubbish. It is interesting that, if you look at the genre of so-called reality television, there are good and bad examples of this; it is not all rubbish, at least in my opinion. I can tell members two examples of reality television that I think have great merit.

The Hon. R.B. Such: Federal parliament!

Mr RAU: No, that is not one of them. One of these is still with us and one, sadly, has passed into that great television repository in the sky. I wonder if any members here can recall the first of these examples. It was a show called *Endurance* and it came out of Japan. The Japanese have quite a thing about these sorts of shows, and many years ago, before anyone else thought of this stuff, the Japanese were years ahead of us. A contestant would say, 'I agree to go on this show,' and they did not find out what was going to happen. I remember one example where some poor chap was covered in bananas—

The Hon. R.B. Such: That's expensive.

Mr RAU: He was covered in bananas, at great expense to the management, then put into an enclosure with three or four orang-outangs, all of whom were very hungry. They would come up to this chap, pick a banana off him and eat

them one by one. The question was how many bananas they would get before it got too hot for him and he had to leave, because he was clad only in bananas. They had a time clock going to see how long he would last. They had another one where they covered some bloke with honey and put him over an ants nest. There were all sorts of bizarre things, such as cows and blokes covered with salt; all sorts of strange things.

The point is that the Japanese were doing this years ago so they are light years ahead of us in this area. I want to put on record that I am sorry *Endurance* is not with us any more. I hope someone puts it back on TV because it will not date, it is classic stuff. The other great stuff is *Iron Chef*, which is still with us. A program that can start with a bloke eating a capsicum has a lot going for it. But let us bring ourselves back to the local stuff. *Big Brother* is not actually something new. I remember that when I was a bit younger than I am now there used to be a chap on TV called Martin St James, and the program was called *Spellbound*.

Punters would come into the audience and he would pick them out, apparently at random, take them behind the magic screen, wave a watch at them a few times and they would come out like, 'I'm completely spellbound: I'm hypnotised', and he would stick them on a chair and tell them that they were all in a bus and they all had to stand up and grab a seat; or they had to eat a sandwich with a spider in it, or something like this. That was great entertainment. That went on for half an hour a week for years. I think that what we are seeing with *Big Brother* is sort of *Spellbound* rebadged. You basically have a bunch of people put into a situation where they behave like they have a psychiatric issue, and people watch it and think it is amusing. So, *Big Brother* is not really new: it is just *Spellbound* rebadged.

There are other good shows, such as *Dancing With the Stars*. What a fantastic show that is. I cannot dance but, my goodness, I appreciate those characters who can, and don't they improve over the weeks. That little short fellow from the TV who won did a fantastic job, so that is one show that gets the tick as far as I am concerned.

The Hon. R.B. Such: Cheap to produce.

Mr RAU: It may be cheap to produce but it is good television. The other one, which is not so good—in fact, it is appalling—is called *It Takes Two*, where you get a person who cannot sing who goes on TV with a person who probably also cannot sing and they attempt to sing duets which are, in varying degrees, appalling. At the end of the session you try to boot off the person who sings the worst, and that is hard because it is hard to pick between them. That is not a good one. Then we have *Survivor* and *Australian Idol*. People do not mind *Australian Idol*, but how far back does that go? Reg Lindsay used to have *The Country and Western Hour* and used to have the equivalent of that, except that you did not have the 1900 numbers to make a fortune out of it. You had Patsy Biscoe or somebody coming on with a guitar and a straw hat. But the theme is the same: it has been going on forever.

There is nothing necessarily wrong with that, but the ones that I do find a bit obnoxious are these bachelor series, where you have some bloke who usually has contact lenses on and is built like an elephant and he gets 20 of these poor women who come on, he gives them a rose or he does not give them a rose and, if they get a rose, they get to play next week. God knows why they want to keep playing, because at the end they win him! I do not much go for that show. The other thing is—

Members interjecting:

Mr RAU: I have just had great news: I have been invited to participate in the next episode of *Dancing With the Stars*! My wife will be very surprised, because I have a war injury that prevented me even dancing at our wedding. But that is another story.

Members interjecting:

Mr RAU: It is only the knee, unlike the Hon. Trevor Crothers who I believe used to complain that he had a carnival groin! I want to come back to the main game here. If we are going to take *Big Brother* off the screens because it is a waste of time, what do we do with the *Bold and the Beautiful*? I do not know if that is supposed to be reality TV or what it is supposed to be, but there is a woman there who, to the best of my knowledge, has married the father of two of her husbands plus the husband of two of her daughters. And she is still only about 30! I honestly cannot follow the program. I am all for having that program taken off too, not just because it is in bad taste but because it is so damn confusing.

Coming back to the main game, I want to say that not all reality television is rubbish. *Dancing With the Stars* is up there, it is hitting the high notes. It is the Placido Domingo, as someone once said. I agree that *Big Brother* is rubbish, as I said. However, it is nothing new. It has been happening forever, and it will continue to happen. I implore the people who are making these programs to move onto something that the Japanese were doing 20 years ago. Let us have Australian Endurance, or an Australian version of the *Iron Chef*—although I suppose we have that now, with the two Michaels, who get up there and cook a bit of seafood every now and again. That is a bit like the *Iron Chef*, is it not? Let us see whether we can get a bit more of that stuff in. There is nothing wrong with reality TV, but it has to be quality TV. I agree with the member for Fisher that the feral element is really the objectionable part of it. There are enough bad examples around the place without having it on television all the time. I commend the motion. I have great pleasure in supporting your motion, Madam Deputy Speaker.

The DEPUTY SPEAKER: Before I call the member for Waite, I draw the attention of the house to the presence in the gallery of students and teachers from McLaren Vale Primary School and welcome them to the parliament.

Mr HAMILTON-SMITH (Waite): I move:

That the debate be adjourned.

The DEPUTY SPEAKER: I do not hear a seconder.

Dr McFetridge: I second that.

Mr HAMILTON-SMITH: Madam Deputy Speaker, there is a seconder.

The DEPUTY SPEAKER: I did not hear one.

Mr HAMILTON-SMITH: I have moved; there is a seconder.

The Hon. M.J. Atkinson: There is now.

The DEPUTY SPEAKER: There is now: I will put the motion.

The house divided on the motion:

AYES (13)

Evans, I. F.	Goldsworthy, M. R.
Griffiths, S. P.	Gunn, G. M.
Hamilton-Smith, M.(teller)	McFetridge, D.
Pederick, A. S.	Penfold, E. M.
Pengilly, M.	Pisoni, D. G.
Redmond, I. M.	Venning, I. H.

AYES (cont.)

Williams, M. R.

NOES (30)

Atkinson, M. J.	Bedford, F. E.
Bignell, L. W. K.	Breuer, L. R.
Caica, P.	Ciccarello, V.
Conlon, P. F.	Foley, K. O.
Fox, C. C.	Geraghty, R. K. (teller)
Hanna, K.	Hill, J. D.
Kenyon, T. R.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
McEwen, R. J.	O'Brien, M. F.
Piccolo, T.	Portolesi, G.
Rankine, J. M.	Rann, M. D.
Rau, J. R.	Simmons, L. A.
Stevens, L.	Such, R. B.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.

PAIR

Chapman, V. A.	Maywald, K. A.

Majority of 17 for the noes.

Motion thus negatived.

Ms BREUER (Giles): Certainly, I hope that my contribution is worth all that effort. I was very interested to hear the comments of other members today and, certainly, I commend the member for Reynell for bringing this motion before the house today. I think it is a good day for this motion to be aired because of the current controversy about *Big Brother*. On Tuesday night this week I watched my last episode ever of *The Bill*. I must admit that, for some years, *The Bill* has ruled my life on Tuesday and Saturday nights. It has to be a very important or worthwhile invitation for me to skip *The Bill* and go out.

However, in the last 18 months it has got progressively more mundane, bizarre and boring, but I kept hanging in there, watching every second or third episode, waiting to see what happened to Gabriel. Finally, on Tuesday night, Gabriel got his just desserts. I lay in bed and I was saying, 'Jump, jump, jump.' I was so thrilled to see Gabriel disappear from our screens forever.

Honourable Members: Hear, hear!

Ms BREUER: But I no longer have any reason to watch *The Bill*. I do not think that I will miss it terribly much because it has become one of those awful soapies. From what used to be a great program, it has become an awful soapie. Probably they will bring some other storyline into it that will catch me again. I would say that I am a reasonably intelligent and mature adult, but the power of television in my life is really important. I would be interested to know how many young people sitting in the gallery today are fans of *Big Brother*. I think that we are kidding ourselves if we say that programs such as *Big Brother* are not affecting young people's lives.

One fact of life is that over half the children in Australia aged between eight and 14 have a television in their bedroom. How many parents are aware of what is going on when they go to bed? Their children are in bed, but how many of these children are turning on *Big Brother* 'late', 'uncut', 'adults only' or whatever the current version is and watching this late at night? *Big Brother* is worse to sit through than a particularly boring question time! I find mind-numbingly boring the trite comments and rubbish that goes on. However, in actual fact, in lots of ways, it is how young people talk.

Young people think it is an incredible show and they watch it night after night. My daughter informed me about an episode the other night. It must have been the 'up-late' edition. You can turn on your television and watch all these people sleeping in their beds, and it goes on and on, and, occasionally, there is a bit of action. There was quite a bit of action the other night, apparently, when one of the young women masturbated a young man and proceeded to follow up. I was a bit amazed at this. Apparently it went on. That was *Big Brother* live, late at night, and it did happen. I do not believe that young people should be watching that sort of thing on television.

I am not particularly prudish. I do not care what people watch, but I do question young people—as young as 10-years old, maybe even younger—watching that sort of thing on television. The media cuts across every major area of concern that parents have about their children and the sorts of things in which young people are involved. We constantly see aggressive behaviour on our televisions. We see violence, suicide, sex, drugs and issues about eating disorders, etc., and this does have an impact on young people's lives. We are kidding ourselves if we do not think that and we do not understand that.

The Hollywood myth that this is only fiction and purely fantasy entertainment is rubbish. Young people do watch these programs and, on many occasions, they form opinions of them. How many people in this state believe that, after next Thursday, all the politicians in this state will be on eight weeks' holiday—that we will not be working for the next eight weeks? This is the sort of perception the media puts around, and people truly believe it. How many priests get told they work only on Sundays, Christmas Day and Easter? Why do people think that we work only when we are in parliament?

If they understood they would know that we do far more work when we are not in parliament—when we are out in our electorates—than we do when we are in here. This perception has been put around by the media, and people believe it. We get questioned constantly. I think that we have all had our phone call from *The Advertiser* about where we are going for our holiday for the next eight weeks. The media does very much form people's perceptions and opinions, and it does have a major factor in our lives. We are all grown-ups, we are adults, but lots of young people are not able to form and understand the difference between a lot of these issues.

I do not believe that they understand the issues with respect to *Big Brother*. Another program that I have trouble with—and maybe I am more prudish than I thought—is *Sex in the City*, which a lot of young people watch. Lots of people rule their lives by *Sex in the City* and watch it constantly. I cannot watch it. I find it disgusting and boring, because every time I turn on the television that older woman (who has had more partners than I have had hot dinners) seems to have some sort of fetish for positions she takes. I have never seen her do anything else. I find that show quite off. I cannot watch it.

I know that lots of young women particularly watch that show. Okay, fair enough, but I do think that we need to stop this perception that it is okay to do what you like, when you like, particularly with the issues that we have to cope with in our society today. We must be very careful about the media. Studies have shown that infants spend something like 1.5 hours a day watching television. Four to five-year olds spend a third of their total play time watching television. Of course, the member for Bright mentioned that young

Australians aged between 10 and 13 spend up to four hours a day watching television.

How many parents here—and I bet every one of them has at some stage—have sat their child in front of the television to babysit them for a while? We all do that; we are all guilty of doing that. You sit them in front of the television because it keeps them quiet and hopefully they watch harmless shows like *Play School* and *The Wiggles Show*. There are many parents who not only do this when their children are young but for years and years. They go out, leaving the children at home watching television unsupervised. They are able to watch what they like.

When turning on the television at night, the sort of violence that we see in the news broadcasts and the current affairs programs is far beyond what we ever dreamed was possible in our young lives, in our adolescence. Children are exposed to this sort of violence night after night when watching the news. Then they watch the television shows that follow, where people get blown up, shot, pulled apart, dismembered, etc. It has to lead to desensitisation and the belief that violence is an acceptable solution to everyday problems. We cannot allow this to continue happening. I am very pleased that *Big Brother* is being hauled over the coals. The problem is that, the more attention you pay to something like this, the more the kids watch it, because they want to see what it is all about. So, I think we either have to stop it, really take a stand on this, or ignore it and hope that it goes away.

The motion moved by the member for Reynell is very important. I think, as a government, we need to spend more money researching the impact of the media, the impact of television shows on young people, particularly, and we need to see what harm it is doing to those young people. We need to make sure that young people understand that a lot of it is rubbish. I appreciate the member for Enfield's remarks, and I realised what drivel there is when I heard some of the comments he made about some programs on TV.

An honourable member interjecting:

Ms BREUER: Well, his comments were drivel! No, the programs were drivel. I look back on my experience with *The Bill* over the years and I think of all the wasted hours that I could have been doing something else rather than sitting watching that program. I love television. I have pay television in Whyalla and I absolutely love it. For me, there is nothing nicer than a Saturday night at home drinking a cup of tea and watching the drivel that is on television all night. I find that, with pay television you can watch a documentary, a whodunit, you can watch a weepie or a girl's movie, as they call them, and have a great night. But I can be discriminating and careful about what I watch, and I do not take any of it too seriously.

I think this is a big issue in our society now, far more than when we used to sit by the fire and listen to Bob Dyer on the box at night. The programs that we were exposed to are nothing like those watched by the young people of today.

Time expired.

Mr PICCOLO (Light): I would like to make a small contribution to this debate. I think it is an important issue. The perspective I would like to give is a bit different to the one given so far. I was a member of Young Media Australia some years ago, when I was a parent of two young boys, who are now young men. I confess that, had it not been for Young Media Australia, life would have been much more difficult for me, because I was at the time, and still am, a single parent. I tried to find material appropriate for young boys or young children to watch, and Young Media Australia had a library service in those days, videos, etc. I was able to borrow videos after work and know they would be safe material for my kids to watch, not so much boring or educational but just fun stuff for the kids to watch. I knew the material had been screened and was suitable for young minds.

That sort of thing is very important and that is why I support this motion. Young Media Australia provides an excellent service in that regard. At the time it was actually very hard to find quality material in video stores. Unfortunately, video stores tend to reflect the middle of the market, at best, and it is very hard to find material to bring home for your kids to watch when they are five, six, seven, eight, that sort of age group. I was very mindful of what my children would watch. I thought it was important that my children viewed material which reinforced the values I was trying to give them. The type of material I often borrowed was invariably ABC productions or quality productions produced by the ABC or the BBC. They were dramas or comedies or the like. They were not childish programs but programs which reinforced good, positive values. I think every parent tries to do that.

The difficulty we have today is that young people have greater access to different mediums now. When my kids were young it was essentially TV and not videos and the whole range of other things we have today. That is why it is even more important today that we have organisations such as Young Media Australia which can actually research, support and, if you like, change what production companies are producing because, invariably, a lot of material is done on the cheap. We have seen axed a number of quality shows—which are costly to make—and we see that when the new genre—which is cheap and nasty—is televised it unfortunately wins ratings.

So, as a parent I value the contribution that Young Media Australia makes to ensuring that we have quality media in this country. It is a shame—if I have read this motion correctly—that the federal government does not support Young Media Australia. For all its strong family values, I think ensuring that families have access to good media is something that should be applauded by any government, particularly at the commonwealth level, which has the power to control what comes in to the country. As I said, Madam Deputy Speaker, when I had young children it was very important for me to have access to quality media because, rightly or wrongly, it was my view that children need quality materials because what they see in the media in their formative years helps build their beliefs and values. What you see on TV these days, particularly on commercial TV, is not what I like my children to watch. Fortunately they are now older and they are able to be more discerning in what they should watch and what they should believe.

Nevertheless, it is still a struggle for parents to find useful media for their children. I think one of the great challenges for parents today is, how do you obtain these materials when, as I said earlier, kids have so much access? It is very hard to restrict your children from getting access to material which may be inappropriate, so, I think the greatest thing a parent can do is to educate their own children about what is right and wrong and, hopefully, have media which supports those sorts of values. I will make a couple of comments about some of the discussions in the media at the moment. Unfortunately, reality programs on television have an impact. As a student doing research, I learnt early in the piece about the Hawthorne effect, which looks at the idea that as soon as you

watch someone doing something their behaviour alters. So, it is not actually real. There were organisational behaviour studies done in England in the forties and fifties which said that as soon as you send in a researcher, and a person in a work environment knows that the researcher is around, their behaviour alters. So, a lot of reality television is not reality at all; it is only cheap entertainment. It is cheap to make, I understand, and it is entertainment for some.

I must confess that I am not sure what people see in *Big Brother*. I am not sure why people get so excited about it, but I think it is about trying to be famous, and the five minutes in the sun behaviour that we have in western culture, where for some reason we tend to lust over or would like to see famous people. I think that that kind of culture is quite destructive and not very helpful.

Margaret Thatcher, the former prime minister of England said—and I will paraphrase here because I cannot remember what Dame Margaret said some years ago, but it was along the lines of—there is no such thing as society, when somebody talked about the social influences on individuals and communities. I think, to paraphrase, she said there are only economies and no such thing as society, or words to that effect. I think that is a philosophy adopted by our federal government, unfortunately. But, basically, society does matter. All our behaviours are acted out in the context of our social and societal values, and I think that is why it is important to have institutions such as Young Media Australia to help influence what we see and learn about socially acceptable behaviours. Madam Deputy Speaker, I commend you for your motion, and I commend the Attorney-General for funding this organisation. I confess that I have lost track of this organisation since my children have grown up and I have not used its services but, as a former user, I can say that it is a highly commendable service. I commend the motion to the house.

Mr BIGNELL (Mawson): I rise to support this motion. I think Young Media Australia is doing a fantastic job. I congratulate the Attorney-General on his ongoing support of it, and I hope the Howard government will also show similar support. I would also like to see the Howard government put more money into the Australian Broadcasting Corporation. As a former sports reader and presenter for the ABC, I know first-hand what it was like trying to come up with quality television programming as the Howard government continued to take more and more money away from the organisation. It is a bit cheap for some of the federal Liberal politicians to come out and attack *Big Brother*. It is a two way street. The regulation happens in your own home. I tell my eight year old son what he will and will not watch. You cannot just sit there as a politician and say that *Big Brother* is bad. If you do not want to watch it, do not turn it on. If you do not want your children to watch it, do not let them watch it. At the same time, the federal government needs to put more money into the ABC so that the balance is better between quality television and very ordinary television.

Big Brother, and shows like it, started in Amsterdam in Europe and have gone throughout the world. The reason they are popular with the broadcasters is that the broadcasters (apart from the Australian Broadcasting Corporation) have only one responsibility, and that is to make money for their shareholders. That is what they are there for. They are making TV that costs nothing—in fact, they make money out of the 1900 numbers, or whatever the numbers are that people call, and they are charged at premium rates. Big Brother is a personal friend of mine, and I am not here to support his program and I must not divulge his identity, because I think that is a bit of a secret. Big Brother is a mate of mine. He is employed—he has a job out of this. If people want to watch the show, they can, and, as I said before, people can regulate their own viewing habits and those of their children.

I also mention Young Media Australia's relationship with the Adelaide *Advertiser*, and it is great to see that our local newspaper has an agreement to, each Saturday in its movie section, run Young Media Australia's *Movie Monitor* column, which picks out movies that are good for children to watch. I congratulate *The Advertiser* for its involvement with Young Media Australia. So, I support your motion, Madam Deputy Speaker.

Mr HANNA (Mitchell): I support the work of Young Media Australia. It is a real shame in this country that it is not given more funding and, ultimately, because the commonwealth has responsibility for communications and broadcasting in this country, it should be the federal government which provides greater funding to Young Media Australia. Many people in my community complain about the lack of values and sense of community in Australia today, and I think, in large part, this is due to the influence of television—the violence, the objectification of bodies in terms of sexuality that we see on television, and the lack of education about how to act respectfully and decently with other human beings.

Young Media Australia does powerfully good work to promote decent values on television and in the cinema. So, I support the motion. I hope that the federal government will listen because it is a highly charged issue in the community. I know that it is just not a matter of government agencies or non-government organisations, like Young Media Australia, which are responsible for raising the standard of values in Australia; ultimately, it comes back to parents and everyone else in the community. There is a significant role to play for those who have the time to scrutinise our television content and to advise our young people accordingly.

Motion carried.

SITTINGS AND BUSINESS

Mr HAMILTON-SMITH (Waite): I move:

That Notices of Motion Nos 5, 6, 7 and 8 be taken into consideration after Notice of Motion No. 9.

An honourable member: Divide!

While the division was being held:

The SPEAKER: As it appears that there is only one member voting for the noes, the motion is carried.

DRUG DRIVING LEGISLATION, MINISTERS' REMARKS

Mr HAMILTON-SMITH (Waite): I move:

That this house—

(a) condemns the Treasurer and the Minister for Transport for misleading the house during answers to questions relating to drug driving legislation on 20 June 2006;

(b) expresses its concern that factually incorrect statements made were either deliberate lies designed to effect a political advantage and deception or the result of a complete failure to check the facts and to ascertain the truth of the matters raised before stating them as fact in the house;

(c) notes that the misleading remarks made by both ministers constitute a breach of the Premier's Ministerial Code of Conduct which should require action by the Premier; and

(d) calls on both the Treasurer and the Minister for Transport to admit to the deception, apologise to the house and withdraw the misleading remarks.

Members will acknowledge that this motion is a matter of great importance to the house. It is a motion not moved lightly, but it is a motion of which every member should take careful note.

Mr Koutsantonis: Do it in question time.

The SPEAKER: Order!

Mr HAMILTON-SMITH: It is a most serious matter, moved by substantive motion, not moved as a matter of urgency, which, according to the Clerk, is not the appropriate way for this matter to be dealt with. As members would be aware, a motion of urgency cannot be voted on. There are only two speakers; it goes for only one hour; and it interferes with question time. But nor is the matter appropriate for a matter of urgency: it is appropriate to be dealt with in accordance with standing orders in exactly this way. It has to do with the Westminster system and South Australian parliamentary practice and declining standards in this place. It strikes at the Premier's Ministerial Code of Conduct, which states:

The Premier must take responsibility for his or her ministers and deal with their conduct in a manner that retains the confidence of the public.

In particular, the code binds ministers to conduct themselves strictly in accordance with the standing orders of the parliament and states under section 2.4, 'Honesty':

Ministers must ensure they do not deliberately mislead the public or the parliament on any matter of significance arising from their functions. It is a minister's personal responsibility to ensure that any inadvertent error or misconception in relation to a matter is corrected or clarified, as soon as possible and in a manner appropriate to the issues and interests involved.

On 20 June, I asked the Treasurer the following question:

Why has the government not empowered police to prevent drivers who return positive results for MDMA or ecstasy from driving for 24 hours, as is the case for cannabis and methamphetamines under the new drug-driving laws?

In his reply the Treasurer stated as fact the following:

...that nowhere in *Hansard* will one find a reference to the point that the member for Waite has just made.

He said:

...that none of these matters was raised by the opposition during debate.

He also stated:

...members opposite had a chance to ask officers and police and get any briefing they wanted—but they didn't!

He said:

They had the opportunity in parliament to ask questions about this matter—but they didn't.

I asked questions of minister Conlon, the Minister for Transport, later in question time. The question was directed to the Premier but answered by the Minister for Transport. My question was:

Why has his cabinet not followed the Victorian lead and included ecstasy as a prescribed drug in these new drug-driving laws?

The Minister for Transport stated as fact in his reply that, '. . . not only was it explained that the tests would be for two drugs, namely, marijuana and amphetamines, and the reasoning for that, but also it was never challenged.' In regard to the question of the opposition's stand on the testing of only two drugs he also stated as fact:

So, there they were, absolutely complicit in it after failing to do anything themselves. They agreed absolutely with the government about testing. If they did not agree then they were extraordinarily silent.

The truth of what was said was quite different, and I draw the attention of the house to the fact that neither minister is present. I find that regrettable, given the gravity of the motion.

Mr Koutsantonis: Where is your leader? Where is he?

The SPEAKER: Order!

Mr HAMILTON-SMITH: The then shadow minister for transport made it very clear. The truth is that the opposition is on the record clearly stating its concern about the government's plans to test for only two drugs. The shadow minister at the time, the Hon. Robert Brokenshire, said during the second reading debate on 18 October 2005, (on page 3647 of *Hansard*), 'I would have liked to see in the legislation the broadening of the scope of random drug testing to allow for the testing of illicit drugs other than amphetamines and cannabis.'

The record shows that the opposition spokesperson also said that day:

However, I am also concerned that some people might try to opt to use illicit drugs other than amphetamines and cannabis to avoid being charged with drug driving. I would have liked to see the legislation broadened from the beginning.

On the same day Mr Brokenshire acknowledged that he had received a briefing from officers, and thanked them for their assistance.

The opposition member for Schubert, Mr Venning, also stated:

I am very concerned, because this bill deals only with cannabis and methamphetamines. It is not hard to work this out. This legislation initially could cause a movement away from these two drugs to cocaine and heroin, and that would be a very bad thing. These two drugs can be detected by blood testing and urine testing. I believe that, if we trust the police by giving them those powers and that judgment, as far as I am concerned, if they are negative to the others, they should be able to do the blood test to screen for heroin and cocaine. After all, these are the heavy drugs; these are the deadly drugs.

In any event, Mr Speaker, the minister knows that the list of prescribed drugs can be set by regulation and need not have been moved as an amendment to the bill as a matter of necessity.

There are conflicting facts in what the two ministers have told the house and what the record shows. Clearly, the claims by the Deputy Premier and the Minister for Transport which I have described and which were stated by them as facts to the house are wrong. The facts as they reported them to the house are completely refuted by the record of *Hansard* during the debate on the Road Traffic (Drug Driving) Amendment Bill last year, which clearly shows that the members of the opposition did raise these matters during debate. The facts clearly show that the opposition did bring the matter of extending the test beyond marijuana and amphetamines to include other drugs to the house during the debate on the bill and expressed concerns about the limited scope of the bill. The facts also show that the opposition did express concern that people might opt to use illicit drugs other than amphetamines and cannabis to avoid being charged with drug driving, and did seek and receive briefings. Matters were raised.

The facts as put to the house by both ministers are plainly incorrect and have no basis. The systematic way in which

both the Treasurer and the Minister for Transport repeated the untruthful and inaccurate remarks suggests a prepared strategy and approach designed to effect a political advantage and a deception before members of this house. I put it to the house that both ministers knew that what they were saying was untruthful, but they said it anyway. In effect, they lied to the house.

Mr KOUTSANTONIS: I rise on a point of order, sir. Even though this is a substantive motion the member for Waite just used the word 'lied' in reference to two ministers. He has accused two ministers of lying, and that is unparliamentary.

The SPEAKER: I think that, given the terms of the motion, the member for Waite is able to use those words. The member for Waite.

Mr HAMILTON-SMITH: Thank you for your protection, Mr Speaker. It was based on an arrogant assumption that no-one would check and that, frankly, it did not matter. This is an affront and a contempt of the house. The only alternative explanation would have to be a complete failure to check the facts and to ascertain the truth of the matters raised before they stated them as facts to the house. If this was the case, the remarks remain misleading and a contempt that reflect a general incompetence on the part of both ministers. This leads to the point of whether or not the misinformation and misleading in both ministers' comments to the house was deliberate and wilful or accidental. Erskine May, 12th edition, page 149, is very clear on this. It states:

> The House may treat the making of a deliberately misleading statement as a contempt. In 1963 the House (of Commons) resolved that in making a personal statement which contained words which he later admitted not to be true, a former member had been guilty of a grave contempt.

I draw members' attention to the Profumo case, CJ (1962-63) 246.

These two ministers have staff to check the accuracy of their remarks and the facts they present to the house. However, they are responsible for what they tell the house as fact. Their comments suggested that these checks had been done, but, in any event, the ministers are, as I said, responsible for the accuracy and truthfulness of their comments. In this case, the remarks were untruthful. It is not an excuse for a minister, as the Treasurer attempted to do on this occasion, to qualify remarks he claims as facts by using words to the effect of 'I stand to be corrected,' or 'I am advised' when making untruthful, inaccurate or misleading statements. It is up to the minister to ensure that what he is saying to the house is factually correct, otherwise any outrageous claim, slander or misrepresentation could be put to the house and qualified and simply denied later. This cuts to the very core of the Westminster system and the rules of practice in this place, sir, which I am sure you are keen to uphold.

At the time these misleading remarks were made, the government was under pressure from the media and the opposition to prove that its drug driving legislation would work effectively. The untruthful remarks were made to seek a political advantage and to persuade the house into a particular political direction. The fact that the remarks were untruthful and plainly incorrect and that there appeared to be a systematic effort to coordinate and mislead by both ministers represents a deliberate contempt. Hence, I bring it before the house by substantive motion.

I ask members to reflect upon the declining standards of probity and accountability within this place and particularly within the government. The burden of elected office and of governments and of ministers of the Crown is that they must lead by example. They not only must lead their own backbench and parliamentary debate but they must lead by example the people of South Australia. We cannot expect the media or those who elected us to trust us and to have confidence in us to respect the laws we make if we misrepresent the facts and wilfully deceive during parliamentary debate on bills or in answers to questions.

I put it to the house that the Treasurer and the Minister for Transport have committed a grievous and wilfully apparent travesty and contempt of this place. What should occur is that the Premier should enforce and insist upon his ministerial code of conduct and require the appropriate action. That is a matter for the Premier, and he will be judged by the public and by the house accordingly. Most importantly, my motion calls on the Premier and the Minister for Transport to admit their deception, to apologise to the house, and to withdraw these misleading remarks.

The government has a clear majority, but this is a parliament. It does not mean that a majority of members opposite can have their way with 160 years of truthful, honest and soundly-based Westminster practice. This house stands by its record and on its reputation over an extended period. If the arrogance and hubris, evident from the government since the last election, are to manifest themselves constantly in untruthful and misleading remarks in the house, then this place will fall into disrepute.

In seeking the support of members for this motion, I particularly ask the Independent members of the house to think of the significance of the issues that I have raised, and, when we vote on this matter, as they said to their constituents, to vote accordingly. It is a most serious motion. It is a matter that must be put. It may not be put today, given the time; it may go on. I know that there are a number of members who seek to speak on the motion, as indeed they should. But I note with regret that, although this is private members' time, both ministers are not here to listen to my address. They should face up to the issue and explain their position on the matter. I ask members to support the motion.

Mr KOUTSANTONIS (West Torrens): I have never heard such drivel in all my life. Talk about an important motion before the house! This is the man who was offered prime time viewing. We are not talking about 4.30 in the morning in SBS time; we are talking about 6 o'clock, 1.2 million viewers, 2 o'clock question time. And what happened? He got rolled by his own party room. He talks about the two ministers not being here. Well, if this is such a serious motion talking about the 160 years of tradition in this place, where is his leader?

Mr Piccolo: Deputy leader.

Mr KOUTSANTONIS: Where is his deputy leader? Where are his other shadow ministers? I suspect that, yet again, it is the power of one. It is the colonel taking the hill on his own, coming in here and lecturing us about the dangers of drugs and about what he perceives to be misleading information. I was stunned by what I heard the member for Waite say when he talked about how important it is that this house stands up against people who he perceives to have lied.

His former premier, the Hon. John Wayne Olsen, was found by an independent judicial officer to have lied 27 times, yet he wanted to defend him. He argued that he should stay. That was proven by an independent judicial officer, but here we have the colonel and the court martial all on his own, coming in here, the kangaroo court, telling us,

'Look, I've made my mind. I can't convince my leader; I can't convince my deputy leader; I can't convince my party room to have this as matter of urgency during question time. I'm going to do all this on my own, and take the hill by myself, and I have decided that they are guilty. But, no-one is going to back me up.' But it is okay when a judicial officer, appointed by his government, his cabinet, finds that his premier lied 27 times, and then he gets up and argues that he should stay but our ministers should go. I have a word for that—hypocrisy.

Dr McFetridge: Two wrongs do not make a right.

Mr KOUTSANTONIS: The very good member for Morphett, the only hard-working member on the front bench, says that two wrongs do not make a right. The member for Waite claimed to have quoted the member for Schubert in his speech about the evils of our two ministers, and how the member for Schubert was very unhappy with the legislation the government passed. I have a quote from the very same debate. The member for Schubert stated:

> After all the humdrum, I thought that the government would have put up a soft bill, but it has not. This bill is stronger than I thought it would be.

Mr Hamilton-Smith: The bill is not the issue.

Mr KOUTSANTONIS: The bill is not the issue! Run away again! 'I'm sorry, General. I thought there were flares in the bunkers, but they're not there. I'm sorry, I have to retreat again,' or, as his colleague in the other place would say, 'Advance to the rear.' He comes in here with no party support, no facts, no evidence and no leadership—nothing—and expects us to believe that this is not about the bill. Can I just humbly put to the house that only one member of this place in the last parliament thought that ecstasy was an issue—and that was me.

Mr Griffiths: They didn't listen to you.

Mr KOUTSANTONIS: I know. That happens a lot. I am a voice crying out in the wilderness. But I will tell you who else did not listen to me, member for Goyder: the member for Waite did not listen to me. The former member for Mawson, who has been rejected and evicted from his local area—the former member for Mawson—did not listen to me. The member for Schubert did not listen to me. In fact, the entire Liberal Party did not listen to me. I am used to my own party not listening to me, but I get very disappointed when members opposite do not listen to me, because I have such high regard for some of them.

The member for Waite walks in with his indignation about the fact that we are not testing for ecstasy. What an outrage! Where was he? As I said in my remarks, ecstasy was not discovered in March 2002 when we formed government; it is a drug that has been available since the 1960s. I have very strong views about whether we should test for other drugs, but the one point that the member for Waite does not understand about illicit drug use and testing is that it is like any base drug sold commercially and illegally in South Australia: it is always mixed with methamphetamine. It is mixed for a very simple reason, and I thought that members opposite would know this, given that that they are all small business experts. These young entrepreneurs, these criminals who are out there trying to sell ecstasy, do not sell it in its pure form. Why would they? Why would you sell ecstasy in its pure form when you can dilute it by 90 per cent with methamphetamine and get the same result?

That is why the police know that, if you want to catch ecstasy users, you test for methamphetamine. You do not test for ecstasy, because no drug dealer in his right mind is going to sell ecstasy in its pure form. In fact, in Victoria where they are testing for pure forms of ecstasy, out of all the cases prosecuted for illicit drug use I understand that they have caught only six, and those six have not bought it illegally from a traditional drug dealer. I stand to be corrected, and I will get more evidence for the house and provide it personally to the member for Waite. Ecstasy in its pure form is not sold. It is like saying you buy only pure heroin or pure cocaine. People who are in the know—the drug rehabilitators, the people who are on the coalface of this industry helping addicts get out—know that, if you want to test for illicit drug use, you test for methamphetamine. It is what they use to cut and mix these drugs to make it more profitable, because methamphetamine is cheap.

Ecstasy is expensive, heroin is expensive, cocaine is expensive, and methamphetamine is cheap—the member for Morphett knows that. It is basically Sudafed. This is why the state and federal government in coalition have worked tirelessly together to take Sudafed off general sale and put it onto prescription. So, the idea that our not testing for pure ecstasy is somehow a great big loophole letting people out through the door and getting away with pure ecstasy is a myth. If they were so concerned about it and so outraged about it, why did they not move an amendment to include ecstasy? Why?

Mr Hanna interjecting:

Mr KOUTSANTONIS: I stand condemned. I lost the argument. The member for Mitchell may not understand this, but I believe in solidarity and in standing with my comrades. I know that that is a foreign concept. When I lose a debate, I stand with the majority in that debate because we are here as one. I do not walk away. So, I lost the argument, but I say that if members opposite were so outraged by this why did the member for Schubert, the member for Waite and the former member for Mawson get up and move an amendment, rather than just talk about illicit drugs? We are talking about ecstasy. Why did they not do that? Do you know why they did not do it?

Debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

VENUS BAY GARFISH FISHERY

A petition signed by 336 residents of South Australia, requesting the house to urge the government to re-open the Venus Bay Garfish Fishery to commercial fishing and provide a SARDI representative to conduct a scientific study of the fishery, was presented by Mrs Penfold.

Petition received.

QUESTIONS ON NOTICE

The SPEAKER: I direct that the written answers to questions as detailed in the schedule I now table be distributed and printed in *Hansard*: Nos 11 to 14 and 16.

SCHOOLS, VALEO SYSTEM

11. **Dr McFETRIDGE:**

1. Has the department had any problems in implementing the VALEO Human Resources Management System and if so, what are the details?

2. What has been the total cost of implementing this system and has it been fully implemented?

The Hon. J.D. LOMAX-SMITH: The Valeo HRMS has been successfully implemented for Children's Services sector in July 2004, PSM Act employees in March 2005 and Education Act employees in July 2005.

After a review report in 2003, the options for the Department of Education and Children's Services (DECS) were investigated and considered. A timeline and strategy for completion and implementation of the Valeo HRMS were adopted in March 2004. Since that decision, the project has met predicted timelines and the $22m budget established for the implementation of the VALEO HRMS system at that time.

The new system is being used for both payroll and other human resource functions within DECS, and the improved accuracy and information available via the payslips has been well received by employees. Recent history of the new system is that it is stable and predictable.

The new Valeo system for Education Act employees is tightly integrated with another system, Employment, Staffing and Placement (ESP) that also went 'live' in July 2005. Because of the high level of integration and the complexity of managing the pay for approximately 23 000 employees, changing to these new systems resulted in some under and overpayments and delays in payment to some staff. These issues have been rectified.

Some of the post implementation issues occurred due to data quality issues that have existed over the life of the previous systems and have been addressed. Although an intensive data cleansing exercise occurred prior to the new systems going 'live' some data errors were imported into the new system.

Most importantly, the new system provides the basis for ongoing development such as 'web enablement', which will significantly improve capacity to manage locally by inputting and extracting data currently held centrally. The new system supports improvements to business processes including the development of shared services, which will enable a more effective and efficient service to sites.

SCHOOLS, MATERIALS AND SERVICES FEE

12. **Dr McFETRIDGE:** What is the current materials and services fee for public schools, has there been an increase from 2005 and is there any plan to increase this fee next year?

The Hon. J.D. LOMAX-SMITH: Section 106A of the *Education Act 1998* allows for a standard sum to be indexed annually by the June quarter City of Adelaide CPI.

In the 2005 school year, the 'standard sum' of the Materials and Services Charge was $171 for primary students and $230 for secondary students.

The 2005 June quarter City of Adelaide CPI index was 2.2 per cent. Therefore the 'standard sum' for the 2006 school year is $175 for primary students and $235 for secondary students.

SCHOOL CARD

13. **Dr McFETRIDGE:**

1. How many South Australian families have registered for the School Card in each year since 2000?

2. What postcode areas have the greatest number of School Card holders and how many card holders are there currently in each of the following areas – Glenelg North, Novar Gardens, Glenelg, Glenelg East, Glenelg South, Glengowrie, Somerton Park, North Brighton and Warradale?

3. What was the total cost for administering the School Card in each year since 2002-03?

The Hon. J.D. LOMAX-SMITH:

1. The following table details the number of School Card students approved each year since 2000. The School Card system does not record statistics of the number of families who register for School Card.

Year	Government	Non-Government	Total
2000	69 523	15 476	84 999
2001	62 291	14 455	76 476
2002	51 428	13 096	64 524
2003	56 914	13 085	69 999
2004	57 208	13 512	70 720
2005	54 874	15 386	70 260

2. The postcodes with greatest number of School Card approvals are 5108 (Salisbury), 5112 & 5113 (Elizabeth) and 5162 (Morphett Vale and Woodcroft).

The numbers of School Card approvals in the requested areas are:

Areas	Number of approved students
Glenelg	51
Glenelg North	93
Glenelg East	59
Glenelg South	20
Novar Gardens	41
Glengowrie	95
Somerton Park	82
North Brighton	36
Warradale	97

3. School Card is administered centrally through the School Card section of DECS and at the individual schools.

The School Card section costs are:

Financial Year	Cost
2002-03	$407 972
2003-04	$388 762
2004-05	$396 104

The cost of administering School Card at the school level is unavailable, as each school would need to be contacted to ascertain this information. Schools are not required to report the costs of administering School Card.

SCHOOLS, RANDOM INSPECTIONS

14. **Dr McFETRIDGE:** Does the department undertake random health, safety and curriculum inspections of private and community based child care centres, family day care centres, kindergartens and other pre-schools, and early learning centres?

The Hon. J.D. LOMAX-SMITH: The Department of Education and Children's Services licenses and inspects private and community based child care centres and family day care agencies, as well as approving and inspecting individual family day care providers. Scheduled and random inspections are undertaken to monitor and promote compliance with required health, safety and curriculum standards. Additional unannounced visits are undertaken when complaints are received or non-compliance with required standards is observed.

Department preschools and kindergartens have the same accountability and reporting requirements as schools. They must ensure that required health, safety and curriculum standards are maintained and they are regularly visited by departmental staff.

Licensed early learning centres are inspected in the same manner as child care centres.

SCHOOLS, MAINTENANCE BUDGETS

16. **Dr McFETRIDGE:**

1. What is the maintenance budget for schools in 2006 and how will this be allocated?

2. What is the Statement of Resource Entitlement for each South Australian public school in 2004-05 and 2005-06?

The Hon. J.D. LOMAX-SMITH:

1. Breakdown Maintenance is allocated to schools on a formula basis, which takes into account the type of school and the total enrolment at the school. The rates are indexed for inflation each year.

In 2006 the total allocation for breakdown maintenance in schools is currently $15.5m.

2. Resource Entitlement Statement funding is provided to schools based on a funding formula.

The Resource Entitlement Statement describes the funding entitlement formula for schools according to various criteria. The document is available to each school via the DECS website.

MOTOR ACCIDENT COMMISSION, CHAIRMAN

The Hon. K.O. FOLEY (Deputy Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.O. FOLEY: Dick McKay will complete his term as chair of the Motor Accident Commission on 30 June 2006. Mr McKay was appointed to the Motor Accident Commission's board on 1 July 1995 and became chairman in April 2002. It has been an outstanding tenure. Mr McKay's significant business knowledge and experience has been a major reason for the remarkable turnaround in the Motor Accident Commission's financial position over the last four years. Under his leadership, the Compulsory Third Party

Fund has been restored to a strong and solvent position. Indeed, Compulsory Third Party Fund solvency as at 31 December 2005 stood at 151.5 per cent compared to a negative 1.9 per cent in September 2002.

It is an outstanding achievement by Mr McKay, along with the Motor Accident Commission board and management, which has allowed the government to reduce compulsory third party premiums over the last two financial years to South Australian motorists. The premium reduction in 2005 was the first such drop in 16 years. I wish to thank Mr McKay for his contribution to the Motor Accident Commission, to this government and to the former (Liberal) government. To ensure the continued sound performance of the Motor Accident Commission, I have great pleasure in announcing the appointment of Mr Roger Cook as Chair of the Motor Accident Commission board from 1 July 2006.

Mr Cook is a highly skilled businessman, particularly in property management and development and is passionate about improving road safety. As a current member of the Motor Accident Commission board he has also acquired significant knowledge in compulsory third party operations. I consider that all these skills and experience make him an ideal person to chair the Motor Accident Commission board. Mr Cook is committed to road safety, and is also currently the Chair of the South Australian Motor Sport board. In this role, Mr Cook has skilfully used the Clipsal 500 event, along with high profile drivers, to promote road safety awareness right across the community.

I would like to thank Mr Cook for his acceptance of this important role and congratulate him on this appointment. I look forward to continuing a close working relationship with the Motor Accident Commission board and to a good performance from the organisation.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Health (Hon J.D. Hill)—

Eyre Peninsula Bushfire and Native Vegetation—
Government's Response to the Fifty Fifth Report of the Environment, Resources and Development Committee

By the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen) on behalf of Minister for the River Murray (Hon. K.A. Maywald)—

Murray Darling Basin Agreement 1992—
Schedule E—Transferring Water Entitlements and Allowances, Part I—Preliminary
Schedule H—Application of Agreement to Australian Capital Territory.

QUESTION TIME

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): Why does the Treasurer claim that he requires a Public Service cap in order to 'get a firm handle on the exact numbers of people employed in government departments'? The opposition understands it has been a longstanding requirement that every government chief executive officer provides the government with a monthly bona fide report on staffing levels.

The Hon. K.O. FOLEY (Treasurer): That is a very good question. One of the disappointing features of government record keeping is this very issue of the exact number of employed persons—FTEs—within government. That should not be so, and I accept criticism that we are not able to do it as well as we should (and that is not a feature of the last four years; it has been a feature of governments for many years). We have a published number from the Office of the Commissioner for Public Employment, we have a number from the Auditor-General and we have a third set of numbers that is compiled as part of the Treasury function, as I understand.

An honourable member interjecting:

The Hon. K.O. FOLEY: Beautiful set of numbers, did someone say? However, there is a variation between them, and it is all to do with the various classifications of government organisations, the part-time nature of the work force, contracts, consultants and various other categories of employment. I have not been satisfied with the quality of data and nor have the Premier or the government. So, we are undertaking an exercise to get a better set of numbers.

What I did not elaborate on to the house yesterday (I went back and checked the cabinet recommendation at the time) is that we are looking at the work to see whether we can put in place (and we are yet to be convinced that we can, but we will look at the work and, hopefully, we can) a good set of options for government. We are looking not only at a numbers cap—that is, FTEs—but also the option of a wages cap; a salaries cap. It may be that it is a better management tool. It might be better to have a salaries cap, a payroll cap, than an actual set of numbers. They are the sorts of options that Treasury has been asked to work on, and that is exactly what is occurring. No final decision has been made, and I would be more than happy to keep the house apprised of the details. However, as I said, it is a very good question.

WOMEN IN LEADERSHIP POSITIONS

The Hon. P.L. WHITE (Taylor): Can the Premier inform the house of the progress being made on the State Strategic Plan target to lift the number of women in leadership positions on government boards and in parliament?

The Hon. M.D. RANN (Premier): I thank the member for her question, because I know that she has an ongoing commitment to this issue, as do all women in this parliament and, certainly, as far as I am concerned and also many other members on this side of the house. I, too, have been doing all I can to lift the number of women participating in our democratic process and becoming involved in leadership positions. We all remember that fateful election in 1997 when a record majority Liberal government nearly lost the election. At that election, a record 10 ALP women were elected to this house, along with three Liberal women, and overnight we went from a single digit percentage to a 27 per cent representation of women in this place.

I am pleased to say that the number of women members has grown in the past two elections since then, and it is great to see them here. Today there are 13 ALP women, three Liberal women (that is down from five in 2002) and, of course, one National Party woman member, the Minister for the River Murray, who is without voice today. So, the representation of women has grown from 27 per cent to 36 per cent in this house in eight years. In my view, that is still not good enough, but the State Strategic Plan target to increase the women members of parliament to 50 percent within 10 years is at least on track. However, I make this point: the Labor Party in this house has nearly reached the target years ahead of schedule—and I can see the Minister for the Status of Women nodding.

Women make up 36 per cent of Labor members in this house, and what a better government and party we are for that. That represents the highest percentage of women in state lower houses in the nation. Hear that? It represents the highest percentage of women in state lower houses in the nation. I can only urge the Liberal Party to follow our lead and to help us achieve our strategic plan target within the 10-year time frame; because, after all, this target can only be achieved with bipartisanship. It is not a target for the government, like many of the State Strategic Plan targets: it is a target for our state. The government also made a commitment to increase the number of women on all state government boards and committees to 50 per cent by 2006.

Unfortunately, we will not reach that target, but it is not through lack of trying. We will be pushing ahead with strategies to ensure that we reach the target as soon as possible. At the start we found a number of impediments to that. For instance, we announced the target but, of course, some boards are appointed for three or four-year terms and you must wait for the roll-over of positions. Also, we found that lots of boards and committees required the appointment by outside organisations; they were not directly under the authority of the government.

It might be, for instance, that the AMA or the LGA was asked to appoint three members, and so on. When we came to government in 2002, women made up 33 per cent of the membership of state government boards and committees; and, through the dedicated work and advice of the Premier's Women's Council (first, of course, chaired by Dr Ingrid Day and then by Suzie Roux and others, such as successive ministers for women and the Office for Women), we have today lifted that number to 40 per cent as of 1 June this year. So, the figure is up from 33 per cent to 40 per cent.

That means there are 1 659 women on government boards and committees compared to 2 475 men. I remain confident that we will reach the target soon because the number of women being appointed to boards and committees has been growing by the month, and let me give the house an example of that. I am very pleased to tell the house today that, of all the new appointments made to boards and committees, in the month of May 55 per cent were women, in April women made up 47 per cent of new appointments, in March they made up 49 per cent of new appointments and in February they made up 46 per cent of new appointments.

This shows that the Acts Interpretation (Gender Balance) Amendment Act proclaimed in July last year (which now requires community, industry and professional groups to nominate equal numbers of men and women for vacancies arising on government boards and committees) is working, and that has been the difference. Rather than asking people, 'Come on, do the right thing. Appoint more women to these boards,' it actually requires community, industry and professional groups to nominate equal numbers of men and women. Our State Strategic Plan target to increase the number of women chairs of those boards and committees to 50 per cent by 2008 may not be achievable, although I do remain optimistic.

In 2004 we had nearly 24 per cent of those boards and committees chaired by women. As of 1 June this year, we have increased that to 30 per cent. In other words, we have 121 women chairs. There still remains a rich pool of eminently qualified South Australian women who could substantially improve the performance of our boards and committees. I still believe that some of our best and brightest people are being overlooked. We need to find these women and appoint them into leadership positions as part of our ongoing measures to address inequalities for women in our community.

The Premier's Women's Council and the Office for Women are now helping to identify and register a wider diversity of women with board potential. They are also identifying a skill gap and strategies to identify suitable women for appointment. I am proud that South Australia has become an exemplar for promoting women into leadership positions at a state government level. We must continue to work harder so that we actually reach future strategic plan targets. I know that—and I can tell from the members here who are excited—history was made in the South Australian Court of Criminal Appeal this morning with the first all-female bench in the state. Justices Margaret Nyland, Ann Vanstone and Robyn Layton presided over sentencing appeals. That has never happened in this state's history.

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): Does the Treasurer agree that he is attracted to reducing the Public Service by some 3 000 to 4 000 people each year? Yesterday the Treasurer described a freeze, to which he said he was attracted, as not replacing people who leave the Public Service. Today on ABC Radio the Treasurer said:

> There are 3 000 to 4 000 people every year who leave the Public Service. A freeze would mean that you don't fill these positions.

Government documents confirm the attrition rate is closer to 10 200 people a year—7 000 women and 3 000 men.

The Hon. K.O. FOLEY (Treasurer): I have to say that I would be very surprised if there was ever a Treasurer who was not attracted to ways in which they could free up resources and apply those resources elsewhere in government. But a freeze—should a freeze be adopted as a policy—has to be—

Members interjecting:

The Hon. K.O. FOLEY: Well, they are different things.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: He doesn't see the difference between a cap and a freeze. I will give you an example. If we had a cap on MPs we would have 69 members of parliament. Okay? No more. If we had a freeze that meant you could not replace them—

An honourable member interjecting:

The Hon. K.O. FOLEY: No; if somebody retired or died in office, you would not fill it, you would have 68 MPs. That is a freeze. They are quite different things. So, I cannot be more illustrative than that probably.

Members interjecting:

The Hon. K.O. FOLEY: Raise the sea level in Port Adelaide? You want to flood my electorate? King tides in the port get pretty hairy at times, I have to say.

Members interjecting:

The Hon. K.O. FOLEY: You remember a king tide in Port Adelaide.

The Hon. P.F. Conlon: I sure do, mate. They had to sandbag the Birkenhead Tavern.

The Hon. K.O. FOLEY: They had to sandbag the Birkenhead Tavern. What was the question again? I am losing track now. What you have to work through with the freeze is exactly that. There are skills that clearly would have to be replaced. There would be exemptions and exceptions that you would need to ensure orderly government continues to function. But can I say that this government is carefully

considering these as options, which is the appropriate thing to do, unlike the Liberal Party, which came out and said that it would essentially sack 4 000 people. Good management of the budget requires fiscal discipline and it requires careful planning, which is exactly what the government is doing.

VACCINATIONS

Ms PORTOLESI (Hartley): My question is to the Minister for Health. What has been the government's success in vaccinating South Australians, especially children, against serious but preventable diseases?

The Hon. J.D. HILL (Minister for Health): I thank the member for her question. This is an important question and it is part of the government's primary health care agenda. It is better to make sure that we immunise children, in particular, to ensure that they do not get some of the diseases that we know can attack people.

Ms Chapman: Like salmonella.

The Hon. J.D. HILL: The Deputy Leader of the Opposition is so clever.

An honourable member interjecting:

The Hon. J.D. HILL: That's right. She was left with egg all over her face. The latest figures from the Australian Childhood Immunisation Register show that our child vaccination programs are up with the best in the nation. For one year olds, two year olds and year 8 students, we are, in fact, beating the national average. For children aged 15 months, South Australia's immunisation rate stands at 90.6 per cent and by the time children reach the age of two, 94.3 per cent will have received their first dose of measles, mumps and rubella vaccine. The success of vaccination programs for the early years is a credit to our early childhood program and the state government funded immunisation coordinators in every division of general practice.

The Hon. P.F. Conlon: My daughter is fully vaccinated.

The Hon. J.D. HILL: I am pleased that the minister's daughter is fully vaccinated. Living with him, I imagine that is a very wise thing. I apologise to my colleague.

In year 8 of school, the government funds a local council run immunisation program in every secondary school in the state. Through this program 85 per cent of students receive vaccinations against hepatitis B, diphtheria, tetanus and whooping cough. The meningococcal C vaccination program has also proved successful, securing coverage of around 90 per cent of all adolescents who attended school during 2003 to 2005.

It is not only children who benefit from immunisations. At this time of year it is vital that adults protect themselves, particularly against the flu. The government has dispatched over 220 000 flu vaccines to GP clinics across the state. For people aged over 65, this vaccine is offered free of charge. In previous years, the over 65s' flu vaccine program has been very successful. Last year 83 per cent of people 65 years old and over were vaccinated, compared with a national average of 79 per cent. This is very good for our health system, and very good for keeping people out of the acute care end of the health system. This year our hospitals have improved immunisation rates for their own employees. An extra 10 000 shots have been distributed this year to be used by hospital staff.

I stress once again that it is not too late for South Australians to get a flu shot this year, particularly people who work in a healthcare setting, who are elderly, or who are at risk of disease. I would encourage all members of this place to consider having a flu shot if they have not already done so. This weekend the government will be placing an advertisement in the *Sunday Mail* reminding these high risk groups to see their GP to protect themselves during the winter months.

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): Why did the Treasurer tell the house yesterday that there was no cap for each public sector agency then say on radio this morning that the police had a current cap? Yesterday in response to this question from the opposition, 'Has Cabinet decided to introduce a full-time equivalent cap for each public sector agency?', the Treasurer replied, 'Not at this stage.' On radio this morning, the Treasurer stated:

> As from 1 July, we will commence recruiting a hundred extra police above the current cap.

The Treasurer also stated:

> Well, the present cap is really a Clayton's cap.

The Hon. K.O. FOLEY (Treasurer): Yes, I called it a Clayton's cap because we are preparing the options that are available to government. You can either go above a number or below it, so it really is a very esoteric argument or debate. Regarding the police—

Mr Williams: Esoteric is a big word for you.

The Hon. K.O. FOLEY: It is, but don't ask me to spell it because I would be absolutely knackered. I would be in more strife than the early settlers.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: C-A-P, cap.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: I can spell that one. The high school dropout can do cap, C-A-P, cap.

Ms Chapman: You said it was a Clayton's cap.

The Hon. K.O. FOLEY: That is what I said yesterday. It is one that you can exceed or go under. I said it yesterday. Now, I am going to give you a good explanation here, sir. The police—

Members interjecting:

The SPEAKER: Order! The Deputy Premier has the call.

The Hon. K.O. FOLEY: The police have an effective cap. They have a complement that they are funded for. Whatever the number is before we start adding the extra 400, I think it is just over 4 000, the police have a staffing complement, that is, the effective number of men and women in uniform that the police are funded to employ. That is a cap. Mal Hyde cannot just go out there and say, 'I am going to hire another 300 coppers.' He is funded to a complement. We are increasing that complement; we are increasing the cap, the level at which he is able to employ his numbers.

The Under Treasurer provided the minute to me this morning, which I will read to the house, titled 'Full Time Equivalent FTE numbers'. It states:

> I refer to my minute of 5 June on the above topic. It has attracted some Parliamentary and media attention. The minute was prepared in response to a Cabinet Decision of 22 May which asked for work to begin on scoping and options to be provided for Cabinet for the establishment of a cap on the number of Full-Time Equivalent (FTE) staff. The decision approved 22 May as the date to establish existing FTE numbers of agencies.

As I referred to yesterday, that was the target date for which we wanted to apply the census. It continues:

> The last paragraph of my minute of 5 June asks agencies to come forward with any suggestions they might have on both the reporting and the broader management of an FTE cap. Agencies have been

responding to my minute and information on FTE numbers and suggestions as requested.

We are currently collating the information and will take agency suggestions into account when preparing the further advice requested by Cabinet. This advice will address both the arguments for and against a cap, as well as the scope and logistics of implementing a cap. We believe that this is consistent with your recent public comments.

That is exactly what I said yesterday. Work is being done—scoping work is being done—options are being given to cabinet as to whether or not it is an enforceable instrument and whether or not the government wishes to put an enforceable cap in place.

SCHOOLS, BULLYING

Mr PICCOLO (Light): My question is to the Minister for Education and Children's Services.

An honourable member: She needs the light.

Mr PICCOLO: I am the light; yes. What is the latest progress—

The Hon. P.F. Conlon: Are you the way or the light?

Mr PICCOLO: I'm enlightened. Opposite the darkness over there, yes. What is the latest progress to address schoolyard bullying in South Australian schools?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Light for his question; I know that he is very interested in education and has been aware of the blight that affects so many Australian children in the way of bullying. Statistics suggest that one in six children in Australia have been the subject of bullying on a weekly basis and, as part of our strategy over recent months, we have developed a coalition for the opposition of bullying. That has involved leaders from the three education sectors, as well as experts from universities and nationally acclaimed writers and authorities on this issue. One of their approaches has been to hold a conference for 250 elite school leaders, counsellors and members of the community to disseminate information on the latest ways of managing this scourge. The conference will take place on 29 and 30 June, and it will deal with ways to open up this issue in the community, look at the dynamics of school bullying within a school environment and, also, give additional feedback and advice on ways of breaking this vicious cycle. Two of the international experts who will attend the conference are Professor Peter Smith, Professor of Psychology and Head of the Unit for School and Family Studies at Goldsmith College, University of London, and Professor Debra Pepler, Professor of Psychology at York University and Senior Research Associate at the Hospital for Sick Children in Toronto.

South Australia already has a leadership role in anti-bullying strategies, and we have local leaders and experts, including Ken Rigby, Barbara Spears and Shoko Yoneyama. They will work together to promote this agenda, because we know that 100 per cent of South Australian public schools now have an anti-bullying policy in place, and we take this issue very seriously. If it is not dealt with, as we know, it leads to workplace and domestic bullying, and it is something that needs to be tackled with unremitting energy in every school. We want teachers, counsellors and parents to be equipped in the best way available, and this is another approach that we are taking, numbering one of our many strategies, because reducing school bullying is essential, not only for life in schools and the achievement of young people. Very often it affects those children who are different, whether they are disabled, very bright, a little slow or of a different ethnic background; it is a scourge which can attack any sort of child, in fact. We want to reduce this problem and allow our children to have a good school experience that gives them ongoing advantages in their life and to reduce taunts, abuse and intimidation. We have a zero tolerance policy.

PUBLIC SECTOR EMPLOYMENT

The Hon. I.F. EVANS (Leader of the Opposition): Why is the Treasurer asking Treasury to look at establishing caps when he has just admitted that they already exist? The Treasurer has just advised the house the police have a cap because they are funded for a set complement of public servants. All agencies are funded to a set number of public servants; so, by the Treasurer's definition, they already have a cap.

The Hon. K.O. FOLEY (Treasurer): If someone is switched on to this debate, they have a very boring outlook on life. As I said in my earlier answer, we are looking at both an FTE cap option and a salaries cap option. It would appear, on anecdotal evidence to the government, that we fund new services within agencies. We expect a certain level of FTEs will be hired to fulfil those functions. In our opinion, it is clear that more public servants have been employed than needed to be.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I just said it earlier. The opposition raised a figure of 7 000, but I do not believe that, and the advice I am given is—

Mr Venning: We were right after all.

The SPEAKER: Order!

The Hon. K.O. FOLEY: That is what I said yesterday and what I said today. We do not think that the figure of 7 000 is correct, but we do accept that numbers have grown larger than we would like. That is occurring in a number of states, where growth in expenditure has been exceeded by growth in employment. If we went back over the tenure of the Liberal government my guess is that we would find a similar occurrence—and perhaps for the completeness of the exercise I should have a look at what the FTE growth rates were under the Liberal government as against the growth in outlays under that government.

The Hon. I.F. Evans: You had eight years to look at it.

The Hon. K.O. FOLEY: All right; we were not a very good opposition. I wish we had been a better opposition, because then we might have been in government. Hello; we are in government! If we had been a better opposition we might have had a lot more members of parliament. Hello; we pretty well have all of them! Clearly, we were not a very good opposition.

Mr Venning: Fifteen beats 10.

The Hon. K.O. FOLEY: Yes, 15 beats 10. However, an $1 billion budget with about 70 000 public servants across hundreds of different agencies, some as large as SA Water and some down to small boards and organisations, is a very difficult task, a very difficult business, to manage. We are not perfect, and I have not been perfect as Treasurer; however, I do know that we have delivered four surplus budgets, have put more money into health, schools and police, have cut taxes, and most importantly have had the AAA credit rating restored to this state. Can we do better? Absolutely.

JOBFEST 2006

Ms BEDFORD (Florey): My question is to the Minister for Employment, Training and Further Education. What contribution is the state government making to support local job initiatives that help to connect job seekers with employment and training?

The Hon. P. CAICA (Minister for Employment, Training and Further Education): I thank the member for Florey for her question and acknowledge her interest in all issues relating to job opportunities. Through the highly successful SA Works in the Regions program, the South Australian government has contributed $25 000 for a local jobs initiative to be held at the Adelaide Entertainment Centre on 4 July. JobsFest 2006 will promote direct job opportunities to people of all ages who live in the western and eastern regions of Adelaide. The event gives local job seekers the chance to make personal contact with the numerous employers who are participating in the event. I am pleased to say that the project is gathering momentum, with an ever increasing number of employers and industry groups seeking to participate in this event. So far 30 organisations—including job networks, group training companies, industry groups and employers—have registered to offer full-time, part-time and casual positions to job seekers. The jobs on offer will include engineering, the motor trades, defence-related work, sport, police, building industries, aged care, child care, retailing and banking.

This is the second year running for JobsFest. Last year the event was run by the Western Adelaide Employment and Skills Formation Network and had approximately 200 jobs on offer. This year, the western and eastern regions have joined forces, and it is anticipated that at least another 200 jobs will be offered. In fact, I am told that that is a very conservative estimate of the amount of jobs that will be on offer. Every person who attends JobsFest 2006 can register for either training or work opportunities, which will then be followed up with tailored assistance in these areas under SA Works. This important event is yet another illustration of a successful partnership between government, training organisations, business and the community. It is a partnership that is focused on providing real job opportunities for South Australians. This event also contributes to our state's strategic plan targets in relation to growing employment opportunities and lowering unemployment.

APY LANDS

Mr WILLIAMS (MacKillop): My question is to the Minister for Aboriginal Affairs and Reconciliation. What does the government think is the appropriate response for management of the APY lands, given *The Australian* article of this day reporting that:

> Living conditions faced by petrol sniffers have become so desperate that in one reported case this month a dog was seen dragging the severed head of a 30 year old woman through the streets of a remote South Australian community.

The Hon. J.W. WEATHERILL (Minister for Aboriginal Affairs and Reconciliation): I suppose that on one level the most appropriate response is not to play politics with this issue, and I think that is probably the most fundamental point that needs to be made. I was horrified as I watched the revelations last night on *Lateline* about the suggestion of a dog apparently with a human head. It, of course, horrifies any the South Australian to think that conditions are so degraded in any part of our community that it has come to that. I do not know the precise details about that report. I only know what I heard last evening. I have, of course, asked for a complete report about precisely what has occurred. I understand that the police are investigating the matter, and we expect to hear more about that particular incident.

I think what is clear about our response to the APY lands is that we confronted many of the issues that are presently being confronted on the national scene, and which will be the subject of the summit on Monday the 26th of this month. We confronted many of these issues ourselves through the revelations that occurred through numerous reports of the Coroner into petrol sniffing deaths on the lands. All those members who were in this place in the last parliament would be aware of the extent of the shock and, indeed, the distress of all members of parliament when they were confronted with the nature of those issues. I know that members of the government and the police minister at the time travelled to the lands, as did his successor. The Minister for Health travelled to the lands, as did, of course, the Minister for Aboriginal Affairs and Reconciliation. Everybody who participated in listening to the stories of people, especially the women's stories—and it was the women who approached us—heard that conditions on the land had got to the point where they were so degraded that they were pleading with us for help. Their first request was to restore some basic semblance of law and order. We responded with the provision of an additional eight sworn officers on the lands and, indeed, 10 community constables.

We confronted the same thing that is being confronted in the present national debate, and that is that, while a law and order response is important and while we do need to restore some semblance of normality, we need to be very clear about the fact that we cannot normalise what are appalling and abnormal circumstances and there is much more to be done than just one law and order response. What we did after that was, putting aside all of our political concerns about whether we came from different perspectives about how to handle Aboriginal affairs, we sat down with the commonwealth government and engaged to in, I must say, the most comprehensive degree of cooperation that has existed in South Australia in relation to dealing with the issues that confront us in remote Aboriginal lands.

There is an Aboriginal lands task force, which works on a regular basis, giving great attention to the issues that exist in the lands. While we can be horrified—and we ought to be horrified—about these things that we are hearing, and no doubt further revelations will continue to occur as people find their voices and as they feel less scared about speaking up, we also need to recognise that this should not be just a moment when we express horror and distress and then get on with normal business. We have to commit ourselves to a sustained, long-term commitment, and not a long-term commitment by just one level of government but a long-term commitment by all levels of government until we can say with pride that the Aboriginal lands have been restored to some degree of normality.

ABORIGINAL LANDS, ACCESS

Mr WILLIAMS (MacKillop): Does the Minister for Aboriginal Affairs and Reconciliation still believe that it is in the public interest for the news media to be prevented from entering the APY lands to report upon instances such as has been highlighted in my previous question and, if so, why does

he still believe that? Today an Adelaide-based journalist was hung up on by both the community council and the health clinic in the APY lands when making inquiries concerning this incident.

The Hon. J.W. WEATHERILL (Minister for Aboriginal Affairs and Reconciliation): I am happy to answer that question, but I understand that this is a matter that is presently before the parliament. Those opposite have moved a motion concerning access of media to the lands. If I am in order, I am happy to answer it.

The SPEAKER: As I understand it, the amendment on that matter was defeated so it is no longer before the house, so the minister is free to answer the question.

The Hon. J.W. WEATHERILL: I simply repeat the remarks that I made in the house concerning the debate in relation to this matter. We took the position we did in relation to expanding the scope of access to the lands for a number of reasons, but they included the fact that unlimited access to the land, unregulated by any permit system, would be a dangerous proposition and one that is likely to unfairly and inappropriately intrude upon what is essentially land held by a particular private owner. It is something that would not be expected in any other circumstance. It also needs to be borne in mind that permits to enter the lands are routinely granted to media outlets.

Members interjecting:

The Hon. J.W. WEATHERILL: That is right. I did acknowledge that, if the contention is that there is some difficulty with this, it was incumbent on those opposite who sought to agitate that case to put that material before the parliament. The best we got during the debate is that it was suggested that perhaps one journalist at some time in the future had their access delayed. That was the suggestion about the nature of the permit system and how it operated on the APY lands. We expressed a view that we remained open to be persuaded about there being difficulties with access to the lands, and they were things that we were prepared to entertain. However, on the basis of the material put before the parliament, it was not something that we believed needed to be addressed at this time.

I also indicated that the Aboriginal Lands Parliamentary Standing Committee had itself chosen to inquire into the question of the permit system, to inform itself about this contention about there being difficulties for the media having access to the land, to actually get to the bottom of whether that was the case. That process is going in in the Aboriginal Lands Parliamentary Standing Committee.

The bill we were dealing with in this house was about having a five-fold increase in penalties for those people who traffic petrol and other illicit substances on the lands, and the plea that I made to those opposite was to pass this bill unamended. If members opposite want to agitate this issue about media access to the lands, they should do it on their own account and move a bill. We are prepared to look at that question if they have a basis for saying it. But they should not hold up this important piece of legislation that we promoted in the last parliament, when they tacked on amendments that made it unacceptable for us.

With respect to the question of access to the lands, I really believe that it is a little rich for those opposite to agitate questions of openness on the lands, because during the eight years of their time in government they did not permit the Aboriginal Lands Standing Committee to meet once—not once. For them to come into this house now and agitate questions of openness is the height of hypocrisy.

HOMELESS PEOPLE

Mr HANNA (Mitchell): My question is to the Minister for Social Inclusion, the Premier. When homeless people in the Parklands are given so-called eviction notices by the Adelaide City Council, where are they taken to if they do not comply, how are they forced to get there and what is the Premier doing to stop this practice?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I am happy to answer this question on behalf of the—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I, of course, have responsibility for delivering the homelessness agenda on behalf of the Premier. Can I say about those remarks that were made about the behaviour attributed to the Adelaide City Council that I share the concerns of Monsignor David Cappo, the Social Inclusion Commissioner, about that behaviour. If it is the case that the Adelaide City Council is moving on homeless people in a way that is not connecting them with support services, that is a matter of grave concern. A graver area of concern is that the Adelaide City Council ought to be aware (because it has arrangements to work cooperatively with us concerning homeless people; people sleeping rough in the Parklands area) that we have established a new service that specifically relates to the metropolitan area, which focuses a lot of its attention on the Adelaide city area, called Street to Home. It is a newly configured service that is precisely about what the name suggests: taking people from the street and case managing them and walking with them all the way in the often difficult process for them to get into some stable accommodation. We do not want some punitive approach being applied to homeless people. We would rather the Adelaide City Council work cooperatively with us to put in place the supports that connect people with stable accommodation.

We know that many homeless people have come from some form of stable accommodation that has broken down, for one reason or another, commonly due to domestic violence, sometimes due to mental illness, often because of being discharged, perhaps, from some other institution—maybe a gaol—people travelling long distances to come to the city for medical treatment and not being able to arrange alternative accommodation, or for some other reason. We have put in place a number of measures as part of the social inclusion response to tackle homelessness, primarily at the front end, and try to close the door on homelessness. However, we have a specific service that is dedicated to picking people up off the ground and walking with them to help to connect them with services and taking them out of homelessness. The Adelaide City Council should be working in partnership with us on that. It has an agreement to do that, and if it is not doing so I will be very disappointed.

EYRE PENINSULA BUSHFIRES

Mr PENGILLY (Finniss): My question is to the Treasurer. Has the government requested the Country Fire Service to cover the costs of the coronial inquiry into the Wangary fires? The opposition has been advised that the Country Fire Service has been requested to cover the costs of the coronial inquiry into the Port Lincoln fires from the next two years' budgets.

The Hon. K.O. FOLEY (Treasurer): I do not think that is the case, but I will check that. There is a budget allocation for the coronial inquiry, but I am not aware whether or not the CFS has been asked to bear other charges or costs. I am advised by the Attorney-General that, in fact, we are funding legal representation for CFS volunteers who may be in conflict with other members of the CFS to ensure that they have proper legal representation before the inquiry. As I said, I do not believe that to be the case, but I could be wrong. I will get it checked and come back to the house.

EDUCATION, SCIENCE TEACHERS

Mr KENYON (Newland): My question is directed to the Minister for Education and Children's Services. What is the state government doing to provide teachers with an opportunity to learn about new developments in science?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Newland for his incisive question, because he knows that around the world there is a critical shortage of science teachers, and there has been a significant decrease in the uptake of science and maths in both senior secondary and university tiers of education. In order to improve the way in which science is taught to make it exciting, relevant and more recognisable as a good career option, whilst maintaining the intellectual and academic rigour, we have embarked on a range of strategies to reskill and encourage teachers to help them play a vital role in keeping not just abreast of the new developments that occur in science and maths but also finding new ways of teaching and giving that information to students in the classroom.

I am pleased to inform the house that one of our latest strategies was an initiative of the Baroness Professor Susan Greenfield (a past Thinker in Residence), who led us to develop a twinning program between active scientists in research in universities and institutes around the state and teachers, not only to reinvigorate their enthusiasm for teaching but also to give them more up-to-date information about activities, research and opportunities for their students. So far, we have 98 research scientists signed up to the program.

We would ask all members with close links to teaching groups—whether primary or secondary—to encourage those teachers to sign up to this twinning program, because we really believe that that link with the classroom will reinvigorate teaching. Anecdotal evidence from the very start of this program has been that teachers have enjoyed and gained from these relationships. This is one initiative that we have developed as part of our $2.1 million science and maths strategy. We hope that these complementary initiatives will help build the profile of science careers through our schools, because we know that science is the key to a good economic future in South Australia.

EYRE PENINSULA BUSHFIRES

Mrs PENFOLD (Flinders): Will the Premier confirm that a complete set of all CFS audio tapes, other electronic records and incident logs relating to the Wangary fire is still in the possession of the government and available to the Coroner? The transcript from the Coroner's inquiry into the Wangary fire on 26 May 2006 states:

> Some transcripts provided to the inquiry appear to be an incomplete copy of what happened in the fire. . . and that someone has had some discretion as to what is included from all regional talk groups.

The Hon. M.D. RANN (Premier): Whilst I am a member of the CFS, I am not aware of that. I will inquire of the emergency services minister. Certainly, neither have I seen nor do I have in my possession any transcripts or tapes. I will inquire to find out the provenance of the transcripts.

CONSUMER SCAMS

Mr KOUTSANTONIS (West Torrens): Will the Minister for Consumer Affairs provide information about the latest attempts by scam artists to use high-tech methods to dupe South Australian consumers?

The Hon. J.M. RANKINE (Minister for Consumer Affairs): I am constantly amazed at the ingenuity of shysters looking at new ways to exploit and take advantage of South Australians. People in our community need to be wary of new electronic tactics being used by scam artists. They are using old scams but adapting them with the use of technology.

Currently two scams are infiltrating South Australia: a David Rhodes style chain letter via email, and an SMS dating scam where consumers are invited to unsubscribe via a web address.

Members interjecting:

The SPEAKER: Order! The Minister for Consumer Affairs.

The Hon. J.M. RANKINE: The David Rhodes style chain letter now involves people receiving emails offering them supposed testimonials from people claiming they are making more than $200 a day. They are given instructions to forward the email to numerous people after sending $5 via an electronic payment system to the first email address on the list.

With the SMS scam, people are receiving unsolicited text messages on their mobile telephones stating they have subscribed to a dating service, of all things, and will be charged $2 a day unless they contact a web site and unsubscribe. Those who have unsubscribed via the web site may be left with a trojan virus, putting them at risk that their personal information, including banking details, stored on the computer may be forwarded to the fraudsters.

Members interjecting:

The Hon. J.M. RANKINE: The best advice for both these scams is to ignore them—and I would suggest the member for West Torrens ignore members opposite as well—and delete them.

Members interjecting:

The Hon. J.M. RANKINE: We could implement something like that for the opposition—ignore them and then delete them. There is a range of these sorts of schemes operating and scammers are using technology to catch people out. I remind South Australians that if the offer sounds too good to be true then it probably is. People can check the scams alert section of the Office of Consumer and Business Affairs web site for information about rip-off schemes in circulation in South Australia.

PORT STANVAC

Mr PENGILLY (Finniss): My question is to the Treasurer. Has the government been provided with any indication of Mobil's plans for the Port Stanvac site, and can the Treasurer guarantee that work to clean up the site will begin on 1 July as promised? In January 2006, just prior to

the election, the Treasurer assured South Australians that the government would force Mobil to reveal its plans for the Port Stanvac site by 1 July this year. At that time the Treasurer said he was confident that an agreement would be reached, that we would see Mobil commence action and work to clean up the site. It is now 22 June and we have heard nothing.

The Hon. K.O. FOLEY (Treasurer): I thank the member for his question. I advise the house that at a meeting in February this year Mobil put a proposal to the government to commence remediation of the Port Stanvac site, but due to the impending election and caretaker period, the government did not sign an agreement to commence remediation.

An honourable member interjecting:

The Hon. K.O. FOLEY: Why not? Because you are in caretaker; you are not allowed to.

An honourable member interjecting:

The Hon. K.O. FOLEY: Well, can you just wait? You cannot sign and commit a future government during caretaker; that is the convention. Goodness, golly. The Minister for the Southern Suburbs announced on 27 February 2006 that the government and Mobil were finalising an agreement to commence remediation. In line with this announcement, the government expects to sign an agreement before 30 June 2006.

Mrs Redmond interjecting:

The Hon. K.O. FOLEY: Negotiations on the final agreement to be signed. That is what happens; that is what you do to ensure that we have the remediation plan in place. These things take some time.

Mr Williams interjecting:

The Hon. K.O. FOLEY: No; I will go back. At a meeting in February this year, Mobil put a proposal to the government to commence remediation of the Port Stanvac site. Due to the impending election and caretaker period, the government did not sign an agreement to commence remediation. As I said, on 27 February 2006, it was announced by minister Hill, Minister for the Southern Suburbs, that the government and Mobil were finalising an agreement to commence remediation. In line with this announcement, the government expects to sign an agreement before 30 June 2006, and remediation is then expected to commence in July. Remediation research will be undertaken by the South Australian-based Cooperative Research Centre for Contamination Assessment and Remediation of the Environment. In conjunction with Flinders University and Exxon Mobil's environmental consultants, an independent environmental auditor will sign off on the remediation in accordance with processes approved by the EPA. I hope that that, to some extent, has provided a comprehensive answer to the very good question from the member for Finniss.

OFFENSIVE WEAPONS

The Hon. S.W. KEY (Ashford): Will the Minister for Multicultural Affairs tells the house what effect the law of carrying an offensive weapon has for the adherence of the Sikh faith, who carry a kirpaan to comply with the requirements of their religion?

The Hon. M.J. ATKINSON (Minister for Multicultural Affairs): The member has asked about those adherents of the Sikh faith who carry a kirpaan for religious purposes. Some members of the house, I am sure, will know that a kirpaan is one of five religious items worn by practising Sikhs.

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: The leader asked what are the other four, and I shall tell him now. The kirpaan is a small sword worn by orthodox Sikhs, as an article of faith, in a shoulder belt which hangs the sword at the waist. The other items worn by those who have taken Sikh baptism are kesh, which is unshorn hair; kangha, which is a wooden comb; kashehra, which is a special pair of shorts for agility of movement—

Members interjecting:

The Hon. M.J. ATKINSON: I am sorry that the opposition is so mirthful about the fundamental tenets of the Sikh faith. Another article of faith is the kara, an iron bangle usually placed on the right wrist.

When the Summary Offences (Offensive Weapons) Amendment Bill was being debated in September 2003, I made clear the government's intentions about those who carry knives for the purposes of complying with the requirements of their religion. On that occasion I said in the house:

> I understand the concerns of people who carry knives, daggers or swords or other things that the police might regard as an offensive weapon or a prohibited weapon as part of their traditional costume or in compliance with a religious requirement. These are not the people who are causing the trouble on our city streets. These are not the people who are the cause of incidents in licensed premises at night or in car parks outside licensed premises. So, it is appropriate that the law grant them an exemption or at least a lawful excuse.

Those laws were designed to crack down on knives in and around pubs, clubs, discos and nightclubs. When new laws about offensive weapons were introduced, some members of the Sikh community were concerned that orthodox Sikhs wearing a kirpaan had no defence against a change of carrying a prohibited weapon.

The South Australian Multicultural and Ethnic Affairs Commission discussed this matter with the Sikh community to clarify their concerns. The Commission then raised the matter with me in my capacity as the Attorney-General and Minister for Multicultural Affairs. Consequently, as of last month, the regulations have been changed to exempt kirpaans. To be exempt, a Sikh must be wearing the kirpaan for religious purposes only. This is a sensible change to the law. I am pleased to inform the house that under the Summary Offences (Dangerous Articles and Prohibited Weapons) Variations Regulations 2006, a member of the Sikh religion is exempt from the offences of possession and use of a knife under section 15(1c)(b) of the act to the extent that the member possesses, wears or carries the knife for the purposes of complying with the requirements of the Sikh religion. This is exactly as was always intended, and I am sure that most members of the house, particularly the member for Chaffey, who represents so many of our Sikh South Australians, would welcome this measure, which makes it possible for members of the Sikh faith to comply with the requirements of their religion without any doubts about their legal right to do so. I welcome the question of the member for Ashford and I look forward to the first question, when it comes, from the opposition spokesman for multicultural affairs.

PERPETUAL LEASE ACCELERATED FREEHOLDING

The Hon. J.D. HILL (Minister for Health): I lay on the table a copy of a ministerial statement relating to perpetual

lease accelerated freeholding made earlier today in another place by my colleague the Minister for Environment and Conservation.

HACKETT-JONES, Mr G.

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: I am sure the house joins with me in wishing to record our appreciation of the outstanding service that our Parliamentary Counsel, Mr Geoffrey Hackett-Jones, has provided to parliaments over many years. Geoffrey has given notice of his retirement, and I understand that his last day on duty was 19 May. It is nearly 40 years ago that Geoffrey Hackett-Jones joined the then South Australian Parliamentary Draftsmen's Department. He was soon engaged in major drafting projects, although he was then only a young legal practitioner. That he should, in his first year, complete the drafting of an important and long bill for a new liquor licensing act would perhaps not have come as a surprise to those aware of his keen intellect and prowess as a student. I understand that he was awarded university prizes in both Law and Classics; indeed, a Classics graduate, I believe, can adapt to almost any vocation.

Mr Hanna: There should be more of them.

The Hon. M.J. ATKINSON: Yes; as the member for Mitchell says, there should be more of them. His excellence as a legislative drafter was recognised when he was appointed to the top position as Parliamentary Counsel in 1978. Geoffrey's work, over many years, is evident in every area of South Australia's statute book. He forged a South Australian style of drafting that is widely admired for being clear and concise. Those who have worked with him are struck by his capacity to cut through to the essential elements of complicated legal issues and to devise elegant solutions. Still, parliamentary counsel's use of the phrase 'in relation to' instead of versatile prepositions such as 'for' is perhaps an exception, in my opinion.

His legal abilities received further recognition when he was appointed as Queen's Counsel in 1986. Geoffrey's struggles with Matthew Goode of the Policy and Legislation section of the Attorney-General's Department over stylistic matters are legendary. On one occasion, Geoffrey made an appointment to see me, as Attorney-General, to complain about the drafting of a particular bill which I proposed to bring to parliament. He said in his very soft voice, 'Attorney, you realise it's frightful rubbish.' To which I replied, 'Then we shall call it the Criminal Assets Confiscation (Frightful Rubbish) Amendment Bill.'

Mr Hanna: And everyone still voted for it.

The Hon. M.J. ATKINSON: Yes, that's right; and everyone still voted for it.

Early in my time in parliament it was common for bills to contain a statute law revision schedule that changed the language of our law by substituting new words for forbidden words. Parliamentary counsel had decided to purge the word 'shall' from our statute law and replace it with 'will'. As the youngest backbencher in the parliament I took objection to this on the Attorney-General's caucus committee. This provoked a magisterial reply or put down from Geoffrey Hackett-Jones that I can still feel to this day, and he introduced me to a case in our English language of which I had hitherto been completely unaware—that was the ablative case.

Geoffrey's abilities are not confined to the law. He pursued an interest in languages and has taught himself to read Russian, German, French and Italian. Geoffrey is also a highly accomplished musician who studied the oboe at the Elder Conservatorium of Music, where his musical ability was recognised with prizes. On occasion he performed with the South Australian Symphony Orchestra (as it then was), and I understand that he continues to perform in various local orchestras and ensembles. Music and language will continue to be fulfilling activities for Geoffrey when he ceases legal work.

On behalf of the house I thank Mr Geoffrey Hackett-Jones for his outstanding contribution to the state's legislative drafting, and wish him and his family well on his retirement from the state's service.

Honourable members: Hear, hear!

GRIEVANCE DEBATE

SOUTH ROAD LAND ACQUISITION

Mr PENGILLY (Finniss): Members may recall that in a recent grieve in this house I brought up the issue of land acquisition on South Road and the problems some residents there are encountering in dealing with the government and getting a satisfactory response to their requests for a decent valuation. In last week's *Sunday Mail* the Minister for Transport was quoted as saying that, 'We do this by negotiation to allow property owners to have their say,' that most people had been happy with the negotiations so far, and that, 'Most people deal sensibly with these negotiations and the best way to do it is to sit down and talk about it.'

Members interjecting:

Mr PENGILLY: Can I get on with my grievance, Mr Acting Speaker?

The ACTING SPEAKER (Mr Koutsantonis): Who is stopping you?

Mr PENGILLY: I am still referring to the South Road land acquisition issue. The person who has corresponded with me says, 'Disappointingly, my experience with the Department for Transport has not been like this.' The private valuation that this person got on their property was for $250 000 plus another $20 000 for disturbance costs. The value put on by the departmental valuer was considerably less than this—indeed, when my correspondent went back to them they came back with another value and a final offer of $250 000 all up. In threatening terms they then said that otherwise there would be a compulsory acquisition; that was their final offer, take it or leave it. Quite clearly, the item in the *Sunday Mail* has raised an issue which is affecting a considerable number of people in that area, and I recall asking the minister to pay more attention to the matter to make sure that people were getting a satisfactory price for their properties. We all want the South Road/Anzac Highway traffic situation improved—no-one has any argument with that. My correspondent says:

> Before the valuation I spent considerable time researching and inspecting townhouses and units in the area and gave [the government valuer] a summary of this. . . I therefore knew the market. I could not find a suitable replacement townhouse so I signed a contract for one in another area with the proviso that my townhouse would be sold for not less than [the figure required]. I also made it subject to the agreement to be signed by 3 June and settlement by 3 July 2006. . .

There is still an inadequate response by the government to the situation down there. People are still being undersold. People are still not getting adequate compensation value for their properties to enable them to buy another house. For a government that claims to have a social conscience when it deals with the battlers, I do not think it is doing too well on this issue. I think that the transport minister ought to get his hands dirty, get down there, sort it out, and make sure that the officers in his department are treating people with some decency and respect. My correspondent also said that she was most upset. She was given a take it or leave it attitude and she felt threatened. Her letter states:

> While I was not expecting to be offered my valuer's full valuation, I was expecting to be offered more than a pittance of $20 000.

I say to the house, I say to the Minister for Transport and I say to the government: you need to get down there, sort out this mess on South Road with property acquisition, and start treating people with fairness and equity, and look after people such as the author of this correspondence.

CAMPBELLTOWN CITY COUNCIL

Ms PORTOLESI (Hartley): Today I rise to speak about an issue that has been of great concern to me since I became the candidate for Hartley in 2004, and continues to this very day, that is, the current state of affairs in the Campbelltown City Council. It is with great regret that I rise today to say that the Campbelltown City Council has lost its way. I can be no clearer about it.

Ms Chapman: Joe Scalzi for mayor.

Ms PORTOLESI: Yes, the member opposite says 'Joe Scalzi for mayor.' Well, thank you for declaring his position. I am a resident in the Campbelltown area. I live in Tranmere. I am a member of the local community. I am also a member of the Campbelltown Residents and Ratepayers Association. I represent in this place about half the ratepayers and residents of the Campbelltown City Council. It is a great honour for me. I am qualified and entitled to speak about these matters; in fact, it is my obligation. I do not turn people away from my office because their issues may be local government or federal. This is particularly relevant in my area where English is a second language for so many people.

When I started campaigning in October 2004 it became obvious that a significant issue for residents in the area is their relationship with the local council. In Campbelltown, the community's disquiet came to a head at a meeting I attended over a year ago. The meeting was organised by a couple of councillors concerned about a proposed new development. The meeting, which was put together at very short notice, and held on a shocking winter's night, attracted over 300 people. The residents came together to ask questions and, hopefully, get answers about the proposed new civic centre. This was a good thing. At the time I thought it strange that the person giving those answers to the crowd was the CEO, and not the mayor—an indication about where the real power lies in the Campbelltown City Council; in fact, in most councils.

At that meeting the crowd overwhelmingly voted for council to take its proposed building to a referendum—a motion I did not support, in fact. I see no merit in a referendum and said so, even though it went against the mood of the meeting. So I was prepared to do that. What I did suggest, however, which was also overwhelmingly supported by the residents, was that the Campbelltown City Council consider deferring a decision on this matter, which was imminent, pending further public consultation. I also declared that I wanted to play a constructive role and work with both parties.

I thought my intervention that night was measured and conciliatory. I did not call anyone names nor make any accusations. I simply called for more public consultation. But the council's behaviour towards me and those who dared speak out since then has been nothing but aggressive and hostile. How dare I suggest that residents needed more time to consider these matters? In Campbelltown, if you do not know the right questions to ask, they do not give you the right information; it is a stab in the dark. If the state government conducted itself in this way, there would be rioting in the streets. This Labor government welcomes dissenting views. But not in Campbelltown.

Let me give an example of one of the many personal experiences I had with the Campbelltown City Council. Some may be aware that the Hartley campaign erected a massive billboard on the Glynde corner. The sign was unique, had never been done before, and was obviously a source of great aggravation to the Liberal Party. About three weeks after the sign had been erected the Liberal party complained to the Electoral Commissioner to bring down the sign. It was a complaint which was soon rejected because she found that we complied with the act. Not satisfied with the determination of an independent umpire, the Liberal Party then sought to use their Liberal Party mates on the Campbelltown Council to do their bidding for them. So, what did they do? In the final days of the campaign the council demands to inspect the building to which the sign was attached. A mutually agreed date was made between the parties, that date being 21 March, I think. Anyway, it was the week after the election, but it was agreed to by the inspector.

It must have dawned on someone in the Liberal club on council that 21 March did not suit because that was after the state election. All of a sudden, the council officer appears unannounced at the building demanding access. Shortly after, I had a call from *The Advertiser* asking me to comment on information provided to it, which raised questions about the billboard. Information that was council information and about internal council business was clearly designed to embarrass me and my campaign. It failed, obviously. But who was the information provided by? A Mr Max Amber, area councillor and a much-loved member of the Liberal Party and leading light of the Liberal club on council.

Why does this matter, might you ask? Do members think that residents elect councillors to engage in this kind of conduct? Is this what councillors like Max Amber and his mates should be doing when the community is bleeding from excessive rate rises, so they can have their Taj Mahal? We do not even have footpaths on both sides of the streets in many council areas. I can only conclude that all this was because I dared to speak up against the club running council. I dared to voice the concerns of my residents, and I would do it again.

Time expired.

SDA NEWSLETTER

Mr PISONI (Unley): One thing I have noted since I have been in politics is that you end up on everyone's mailing list. The winter 2006 edition of the SDA members' news came across my desk this week and actually reminded me of my kids' *Where's Wally?* books, although this publication could be called *Where's Don?* The challenge in the *Where's Wally?* books is to find Wally. It is no challenge to find State

Secretary Don Farrell in the 28 pages of the booklet. His photo appears no fewer than 34 times, including the back cover and eight times on a single double-paged spread. Perhaps SDA stands for 'spot Don again'. My initial view, from the cover and the brief flick through this glossy, led me to believe that it would be quite a jolly newsletter, what with all the smiling and happy union members smiling at festivals and protest rallies, positively blissful at barbecues and zoo days and beaming with joy in their work places.

However, the happiest photos are those of the large number of union officials who seem to be readily enjoying themselves scaremongering and frightening their members into renewing their memberships. Perhaps they are hopeful of the reward of preselection to a safe Labor seat or, even better than that, to that other place where the Hon. Bernie Finnigan sits. He also cuts a very handsome figure in the magazine. As members can imagine, with so many photographs of people over the moon with their lot in life, I was quite shocked to read the dark news and ridiculous propaganda included in the text. The text is littered with references to unscrupulous bosses, ruthless employers and draconian industrial laws, a very bleak picture indeed.

The union even has a competition and awards for retail worker of the year. This is not an award based on attendance, efficiency, productivity or drive but on written entries describing how bleak the future apparently is for workers. Awards are given to those SDA members who write something closest to the union's doom and gloom script, a script that it has recycled from the first round of industrial relations changes introduced by the Howard government in 1996. But what has happened since then? Under the Howard government, real wages for Australian workers have increased by 16.8 per cent. Under the 13 years of the Hawke/Keating Labor government, they increased by a paltry 1.2 per cent, and in the early years of the Hawke government, under the accord, real wages actually fell.

According to ABS statistics, workers on AWAs are on average 13 per cent better off than workers on collective agreements and 100 per cent better off than those on awards, yet these are the agreements that Kim Beazley will abolish if he has the chance. As in National Socialist Germany, old communist Russia or North Korea, those who recite the party line are rewarded with a bigger flat or a new uniform or, in this case, a framed award and a luxury trip for two to the Gold Coast with five nights accommodation, and 10 runners up who receive $100 shopping vouchers. The new assistant secretary quite modestly and, presumably, with a straight face said that there is no future for Australian retail jobs without the SDA's protection.

Someone should point out to the assistant secretary, who has probably never actually had the responsibility of personally employing anyone, that there is certainly no future for Australian retail jobs without retailers and employers. The SDA spiel to its members and potential members conveniently neglected to mention the measurable and obvious positives delivered by the Howard government reforms, such as sustained economic growth, low inflation, low interest rates and, of course, the lowest unemployment rates nationally for decades. It is self-evident that our current national unemployment rate of 4.9 per cent under the Howard government is better for workers than the double digit unemployment under Keating's Labor government. Workers are also better off with mortgage rates at their present low levels rather than the record 17 per cent mortgage rates under Labor.

Seasonally adjusted, there were 56 000 more Australian workers in jobs in May than in April. However, South Australia punched well below its weight, with only 400 new jobs, or just 0.7 per cent of the national total, when, in fact, we have over 7 per cent of the population in Australia. However, as Don Farrell assures members in his secretary's report, with a beaming smile from the accompanying Studio 2000 portrait, he and the SDA will protect them from all this. But as Joseph Goebbels, the Nazi propaganda minister, said: 'The bigger the lie, the more people will believe it.' I am personally looking forward to the spring issue of the SDA members' news, or the 'Spot Don Again' magazine.

Time expired.

LOCAL GOVERNMENT

Mr PICCOLO (Light): I rise today to speak about the state of local government in South Australia. I would like to preface my comments today—

Ms Chapman: You were a good mayor.

Mr PICCOLO: I was a good mayor, yes.

Mr Venning: You should still be a mayor.

Mr PICCOLO: I should still be a mayor, yes. It is a pity I can count numbers better, though. Most councillors—most elected members—are great volunteers, and they enter local government with great intentions. They play an important role in the governance of our communities. I agree with the comments made yesterday by the member for MacKillop that local government, and people in local government, should be respected. In terms of respect, one earns it, one just cannot demand it, and I think that at the moment local government is not being respected.

In my inaugural speech I mentioned that local government needed to improve its governance. My comments were made not so much to condemn or be critical but, rather, were a gentle suggestion that some in local government needed to start the reform process moving along. Mergers in themselves do not lead to better performance. We have seen quite a few examples where councils have got bigger, but not necessarily better. In many cases where councils have merged, the mergers have not led to the cultural change required for better performance, and they have performed just as badly as they did before; their old practices went with them. It has been my direct experience (and I can speak with some authority, having been involved in local government for many years) that the performance of local government has, indeed, been very patchy. Since I was elected to this place, this view has been reinforced.

Last Sunday, I attended a community forum at Wasleys, one of the communities in my electorate. The forum was organised by me to gain a better understanding of my communities. It was in response to concerns raised by a number of residents about the performance of their local council.

Mr Venning: Not Gawler.

Mr PICCOLO: It was not Gawler; that is correct. Gawler is a good council.

Mr Venning interjecting:

Mr PICCOLO: Yes. The major issue raised by residents at this meeting was that their council was not engaging its community in the decision-making processes and, in fact, did not establish structures, procedures or the processes to encourage community participation. A number of the councils in the region meet during the daytime or early afternoon, which prevents a lot of people from attending council

meetings, because they work. More importantly, if a council meeting is held in the morning or in the afternoon—in the daytime—it deters a number of potential candidates from running for council. It does limit the democracy in our local community.

Residents sought a community forum time (just as the Gawler and other councils have, which are a little like parliament's question time) only to be told that the act did not allow it. What nonsense! Over 100 people attended this community forum—almost a third of the community. There was standing room only. They complained very strongly about the lack of communication between the council and its residents. Other communities within this council area have made the same comments. Some of the councils have lost the confidence and trust of their communities to the point where residents' associations have established a council-watch program, which I will explain.

Council watch is about keeping your eye on your local council to ensure that they do the right thing. They now have a roster of residents who attend council meetings—

Ms Chapman interjecting:

Mr PICCOLO: —well, it is not common to my council—to ensure that their council is acting in accordance with the requirements of their residents. This is a bizarre state of affairs. It is probably not as bad, I think, as that suggested by my colleagues the members for Enfield and West Torrens, but local government has something to answer for. Last week the Premier mentioned the feedback he received from a metropolitan council (the Campbelltown City Council) which was less than favourable and which was mentioned today by my colleague the member for Hartley. Then we have the ongoing saga of the Port Adelaide Enfield council. It is clear that something is not quite working in local government. Part of the problem, in my view, is the current act.

Time expired.

CHILDREN IN CARE

Ms CHAPMAN (Deputy Leader of the Opposition): I am sure that other members of the house would also have been concerned to read the determination of the state Coroner, Mark Johns, arising out of the death of a two year old boy, Myles Smith. Myles died in 2000 as a result of morphine toxicity essentially from medications prescribed for his father. A number of children had imbibed this medication and, tragically, Myles died. One of the recommendations of the Coroner was that there be an investigation into the Department for Families and Communities.

It has been concerning to me that, while the government has been keen to tell us good news all week, we have not heard any confirmation that the Minister for Families and Communities has taken note of that recommendation and immediately directed the investigation into his department—largely an investigation to consider the introduction of childproof packaging on medicines. This is an alarming situation. A child has died. Action is recommended, yet we have no indication from the government that it has got on with this. Also, this matter precedes the announcement this week that South Australia has a very critical situation.

We know already that, as a result of the inquiry by Mr Ted Mullighan, there are serious issues relating to institutional and foster care and child sexual abuse. We are having a big inquiry about it. Also, we are now aware of an ad hoc arrangement whereby we occasionally need to employ the services of other persons, non-government agencies and facilities and accommodation, such as hotels, for emergency and sometimes transitional care of children. The minister was quick to come into the parliament this week and tell us how he valued the contribution of foster carers. Although there had been some increase in the number during the term of the government, there had been a massive increase in demand for foster care, as well as a major increase in the complexity of issues surrounding children who needed assistance in this regard, and the minister is obliged to provide a safe and secure environment for these children.

Given that background, it was particularly alarming that I had received correspondence from a foster carer who had written to the department earlier this month, setting out her concerns in relation to, in particular, having been placed in a position of having to receive a two month old baby into her care and being required to administer morphine on a four-hourly basis. Her complaint to the department was that she had not been given any notice. She had not been given any notice of her obligation to receive this two month old infant into her care, which had occurred in May. She posed the question: 'Why on earth wasn't I informed in relation to this task?'

Another complaint was that she had not been provided with any documentation regarding the needs of or plans for the infant. That is obviously important in the sense of the management of a child who clearly has a high medical need. I am not familiar with this particularly, but sometimes children are born into situations where they require medication arising out of the conduct of the mother and what she might have imbibed in the past. So, we are looking for those answers and I would expect the government to give us a response.

Time expired.

HOSPITALS, LYELL McEWIN

The Hon. L. STEVENS (Little Para): A few days ago, the beginning of this week, the Lyell McEwin Hospital received a very prestigious award. The redevelopment took out the Property Council's 2006 Rider Hunt Award. This award focuses on the efficient use of capital and recognises buildings which meet a wide range of criteria to provide an outstanding return on the investment of funds. Each year the Property Council of Australia awards one building for excellence in each state. It then joins finalists from across Australia to select an overall winner.

David Klingberg AM, the Chancellor of the University of South Australia, led a team of eight judges from across the property industry to decide on Adelaide's most cost effective developments, including entries from the University of South Australia, West Lakes Mall and Horizon Apartments. Mr Klingberg said:

> Not only was the Lyell McEwin Redevelopment delivered within budget, but savings of $1.7 million were achieved and redirected to the hospital's equipment budget.
>
> As part of the redevelopment, approximately 80 per cent of the existing hospital's infrastructure was replaced, while maintaining full operational capacity.

That is no mean feat. He continues:

> From both a capital and recurrent perspective, the project benchmarks well against local and interstate equivalents.

The redevelopment at the Lyell McEwin has achieved the following objectives:

- improved women's and children's health services through

construction of dedicated facilities;
- enabled increased levels of surgery through the provision of a new operating theatre facility;
- enabled increased levels of ambulatory care through the refurbishment of existing spaces;
- facilitated a broader range of diagnostic services through the development of expanded imaging (including an MRI), and laboratory departments;
- enhanced the main entry to the hospital and provided close proximity to carparking, improving access to the hospital for all; and
- improved occupational health and safety factors through the removal of old buildings.

The facility is 30 per cent more energy efficient than any other metropolitan hospital with the following environmentally sustainable design initiatives integrated into the project:
- 100 per cent recycling of all non-toxic demolition waste;
- intelligent lighting systems;
- high efficiency chiller sets;
- 100 per cent window shading with louvres that double as maintenance access walkways;
- on-site rainwater harvesting, treatment and mixing with potable water for re-use throughout the building;
- solar hot water;
- waste sorting and recycling systems;
- low maintenance building materials throughout; and
- fully computerised and monitored building management systems.

The Lyell McEwin Hospital team and associated contributors were congratulated by the Executive Director of the Property Council of South Australia, Bryan Moulds, who stated:

We congratulate the project team led by the Department of Health and its major contributors, DAIS, Hansen Yuncken, Beslac, Rider Hunt, Cheesman Architects, Wallbridge & Gilbert and Silver Thomas Hanley.

I would like to add my congratulations to all of those people, because it was a fantastic project and one that will serve the community in the northern suburbs well for the short to medium term in terms of their health needs.

STATUTES AMENDMENT (ROAD TRANSPORT COMPLIANCE AND ENFORCEMENT) BILL

The Legislative Council agreed to the bill, with the amendment indicated by the following schedule, to which amendment it desires the concurrence of the House of Assembly:

Clause 14, proposed new section 41J, page 52, line 26—
After 'taken' insert:
or, instead, at the option of the operator of the vehicle or the occupier of the premises, the Crown must pay reasonable compensation for the damage caused to the vehicle, equipment, load or premises.

Consideration in committee.

The Hon. P.F. CONLON: I move:

That the Legislative Council's amendment be agreed to.

Motion carried.

WATER EFFICIENCY LABELLING AND STANDARDS BILL

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

STATUTES AMENDMENT (NEW RULES OF CIVIL PROCEDURE) BILL

Received from the Legislative Council and read a first time.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill be now read a second time.

The Supreme Court Act 1935 provides for any three or more judges of the Supreme Court to make rules that regulate the practice and procedure of the Supreme Court. The District Court Act 1991 contains a similar provision that allows the Chief Judge, and any two or more other judges, to make rules regulating the practice and procedure of the District Court. Over the years the existing rules of civil procedure for both the Supreme and District Courts have been completely rewritten. The new rules have been drafted by the Joint Rules Advisory Committee in consultation with judges, staff of the court and members of the legal profession. The reasons behind the new rules are to have rules of court that are in plain English and that are arranged in a logical order which is easy to follow.

They have been drafted with those aims in mind and with a view to removing (Alas!) archaisms and anything that obscures the meaning and operation of the rules. Many acts refer to court procedures and use words that no longer appear in the court rules. These discrepancies will be increased by the new Supreme Court and District Court Rules that are expected to come into force this year. The Statutes Amendment (New Rules of Civil Procedure) Bill 2006 is to amend those acts so that they are consistent with the new rules of civil procedure. The bill will ensure that the statute book does not refer to discontinued practices or archaic terms. I seek leave to insert the remainder of the second reading speech in *Hansard* without my reading it.

Leave granted.

Terms such as "motion", "petition", "ex parte" and "leave" are no longer used. The Bill removes these terms from various Acts and, where appropriate, substitutes replacement terms. For example, both section 60 of the *Trustee Act 1936* and section 47 of the *Administration and Probate Act 1919* provide for legal proceedings to be commenced by petition. The Bill will update those Acts so that they provide for proceedings to be commenced by *application* rather than *petition*.

The Bill also makes amendments to clarify uncertain or ambiguous provisions. For example, section 350 of the *Criminal Law Consolidation Act 1935* provides that an application to have a relevant question reserved for consideration by the Full Court may be made. However, it is not clear how such an application might be made. The Bill amends section 350 so that it is clear how an application is to be made.

The Bill removes redundant provisions. For example, section 26 of the *Royal Commissions Act 1917* provides that *there may be an appeal in respect of proceedings in respect of offences against the Act*. However, because both the *District Court Act 1991* and the *Magistrates Court Act 1991* provide a right of appeal to parties to criminal actions, section 26 is unnecessary. The Bill repeals section 26.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that operation of the Act will commence on a day to be fixed by proclamation. Section 7(5) of the *Acts Interpretation Act 1915*, under which the Act or any provision of the Act would ordinarily come into operation on the second anniversary of the date of assent unless brought into

operation at an earlier time, will not apply in relation to the commencement of the Act or any provision of the Act.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Supreme Court Act 1935*

The amendments proposed to be made to the ***Supreme Court Act 1935*** by Part 2 of this Bill remove terminology that is not used in the *Supreme Court Rules of Civil Procedure* and is no longer to be used in legislation. For example, the definition of ***petitioner*** is removed from **section 5** (Interpretation). The word "petitioner" is deleted wherever it appears in the Act; "leave" is replaced with "permission"; and "motion" is replaced with "application".

The definition of ***plaintiff*** is recast so as to remove references to the words "action", "suit", "petition" and "motion".

Subsection (1) of **section 49** (to be renamed "Questions of law reserved for Full Court") is recast so that it refers to "reservation of a question of law" rather than "any case or any point in a case". The new subsection provides that the court constituted of a single judge or master may reserve a question of law for the consideration of the Full Court.

It is proposed to delete existing **section 50** and substitute a new section. Under the proposed new section, an appeal lies to the Full Court against a judgment of the court constituted of a single judge; and an appeal lies against a judgment of the court constituted of a master. An appeal against a judgment of a master is ordinarily to the Court constituted of a single judge but may, if the rules so provide, be to the Full Court.

There is no right to appeal against—

- an order allowing an extension of time to appeal from a judgment; or
- an order giving unconditional permission to defend an action; or
- a judgment that is, by statute, under the rules, or by agreement of the parties, final and without appeal.

An appeal cannot be made from a consent judgment or a judgment given by a single judge from a judgment of the Magistrates Court unless the court grants permission to appeal.

The proposed section also provides that an appeal lies only with the permission of the court if the rules provide that the appeal lies by permission of the court. However, the rules cannot require the court's permission for an appeal if the judgment under appeal—

- denies, or imposes conditions on, a right to defend an action; or
- deals with the liberty of the subject or the custody of an infant; or
- grants or refuses relief in the nature of an injunction or the appointment of a receiver; or
- is a declaration of liability or a final assessment of damages; or
- makes a final determination of a substantive right.

However, if a judgment is given by a single judge on appeal from some other court or tribunal, the rules may require the court's permission for a further appeal to the Full Court even though the judgment makes a final determination of a substantive right.

Section 51 is repealed. This section provides that an application for permission to appeal may be made without notice unless the judge or the Full Court otherwise directs. The section is to be deleted because it is proposed that all applications for permission to appeal are to be heard on notice.

Section 72 (Rules of court) is amended to allow the making of rules to empower the court to do the following:

- to order the carrying out of a biological or other scientific test that may be relevant to the determination of a question before the court;
- to include in such an order directions about the carrying out of the test and, in particular, directions requiring a person (including a party to the proceedings) to submit to the test or to have a child or other person who is not of full legal capacity submit to the test;
- if a party is required to submit to the test, or to have another submit to the test—to include in the order a stipulation that, if the party fails to comply with the order, the question to which the test is relevant will be resolved adversely to the party.

Part 3—Amendment of *District Court Act 1991*

The clauses included in Part 3 amend the *District Court Act 1991*. The recasting of subsection (3) of **section 43** (Right of appeal) makes it clear that an appeal against a judgment of the District Court lies as of right, or by permission, according to the rules of the appellate court. In the case of an appeal against a final judgment of the Court in its Administrative and Disciplinary Division, permission is required to appeal on a question of fact.

It is also proposed to insert into **section 51** (Rules of court) provisions in identical terms to those to be inserted in section 72 of the *Supreme Court Act*.

Part 4—Amendment of *Magistrates Court Act 1991*

A minor amendment is proposed to **section 40** (Right of appeal) of the *Magistrates Court Act 1991* to delete the word "leave" and substitute "permission".

This Part also amends **section 49** (Rules of Court) by inserting into the section provisions in similar terms to those to be inserted in section 72 of the *Supreme Court Act* and section 51 of the *District Court Act*.

Part 5—Amendment of *Administration and Probate Act 1919*

The amendments proposed to be made to the *Administration and Probate Act 1919* remove terms that are no longer to be used, such as "motion", "petition", "*ex parte*" and "leave", and, where necessary, substitute replacement terms.

Part 6—Amendment of *Aged and Infirm Persons' Property Act 1940*

The amendments proposed to be made to the *Aged and Infirm Persons' Property Act 1940* remove terms that are no longer to be used, such as "*ex parte*", "of its own motion", "at the suit" and "by leave", and, where necessary, substitute replacement terms.

Part 7—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

The amendments made to section 20 of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* modify the language of the existing provision so that an arbitrator may refer a question of law for the opinion of the Full Court of the Supreme Court.

Parts 8 to 15

The amendments made by the clauses included in Parts 8 to 15 remove from the Acts to be amended terms that are no longer to be used, such as "*ex parte*", "of its own motion" and "by leave", and, where necessary, substitute replacement terms. For example, "of its own motion" is replaced with "on its own initiative" and "by leave" is replaced with "with the permission".

Part 16—Amendment of *Commercial Arbitration Act 1986*

Most of the amendments to the *Commercial Arbitration Act 1986* have the effect of changing "leave" to "permission". Part 16 also recasts subsection (6) of **section 3** to make it clear that a court that refers a matter to arbitration may direct that the Act is to apply to the arbitration. In the absence of such a direction, the Act will not apply. New subsection (7) provides that the Act does not apply to an arbitration under the *Fair Work Act 1994* or an arbitration or class of arbitrations prescribed by the regulations as an arbitration, or class of arbitrations, to which the Act does not apply. The opportunity has also been taken to update obsolete references in the Act (such as, references to "local courts") and repeal the Schedule, which is otiose.

Parts 17 to 21

Most of the amendments made by the clauses included in Parts 17 to 21 remove from the Acts to be amended the word "leave" and substitute "permission". An amendment is also made to Schedule 4 of the *Co-operatives Act 1997* to replace "of its own motion" with "on its own initiative".

Part 22—Amendment of *Criminal Law Consolidation Act 1935*

The majority of amendments made to the *Criminal Law Consolidation Act 1935* substitute the word "permission" for "leave". An amendment is also made to **section 281** to remove the words "demurrer" and "motion" and substitute "application". An amendment is also made to **section 364** to remove the phrase "case is stated".

More significant amendments are made to sections 350 and 352. It has been noted that subsection (2) of **section 352** (Right of appeal in criminal cases) is an historical anachronism. This subsection provides that if an appeal or application for leave to appeal is made to the Full Court under section 352, which provides a right of appeal in certain specified circumstances, the Full Court may require the trial court to state a case on the questions raised in the appeal. This seems unnecessary as, in any event, questions in an appeal can go to the Full Court as of right or with the permission of the Court and there is therefore no need to retain the power of the Full Court under section 352(2) to direct the trial court to refer questions in an appeal to the Court. It is therefore proposed that the subsection be repealed.

Section 350 (Reservation of relevant question) refers to section 352(2) and has therefore been re-drafted. This section

provides that a court by which a person has been, is being or is to be tried or sentenced for an indictable offence may reserve a relevant question for consideration and determination by the Full Court.

The section as presently drafted implies in subsection (2)(a) that an application to have a relevant question reserved for consideration by the Full Court may be made under the section. However, it is not clear how such an application might be made under the section (other than where the Attorney-General or Director of Public Prosecutions has made an application following an acquittal). The provision also suggests that the Full Court may require a trial court to reserve a question for its consideration on an application under another provision. The only provision under which such an application might be made is section 352(2), that is, the provision that is to be repealed. Section 350 has therefore been recast so that no reference is made to section 352(2) and the circumstances in which an application may be made under the section are specified. Under the proposed new section, an application for an order to require a court to refer a relevant question to the Full Court may be made to the Full Court by the Attorney-General, the Director of Public Prosecutions or a person who—

- has applied unsuccessfully to the primary court to have the question referred for consideration and determination by the Full Court; and
- has obtained the permission of the primary court or the Supreme Court to make the application.

Parts 23 to 50

The amendments made by Parts 23 to 50 remove from the Acts to be amended terms that are no longer to be used, such as "*ex parte*", "of its own motion", "suit" or "at the suit", "state a case on" or "case stated" and "by leave", and, where necessary, substitute replacement terms. For example, "of its own motion" is replaced with "on its own initiative"; "by leave" is replaced with "with the permission"; and "state a case on" is replaced with "refer". The term "ex parte" is replaced with words that make it clear that an application or order may be made without notice to a party.

Part 51—Amendment of *Mines and Works Inspection Act 1920*

Sections 25 and **26** of the *Mines and Works Inspection Act 1920* are redundant and are to be repealed. Section 25 provides that there may be an appeal in respect of proceedings in respect of offences against the Act. This section is unnecessary because rights of appeal to the Supreme Court for parties to criminal actions are included in the *Magistrates Court Act 1991* and the *District Court Act 1991*. Section 26, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 52 to 57

The amendments made by the clauses included in Parts 52 to 57 remove from the Acts to be amended the terms "leave" or "by leave" and substitute "permission" or "with the permission".

Part 58—Amendment of *Optometrists Act 1920*

Sections 42, **43** and **44** of the *Optometrists Act 1920* are redundant and are therefore to be repealed. Section 42 provides that proceedings in respect of offences against the Act will be disposed of summarily. This section is not necessary because offences against the Act are categorised by the *Summary Procedure Act 1921* as summary offences. Section 43 provides that there may be an appeal in respect of proceedings in respect of offences against the Act. This section is also unnecessary as rights of appeal to the Supreme Court for parties to criminal actions are included in the *Magistrates Court Act 1991* and the *District Court Act 1991*. Section 44 of the *Optometrists Act 1920*, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 59 to 63

Most of the amendments made by the clauses included in Parts 59 to 63 remove from the Acts to be amended the terms "leave" or "by leave" and substitute "permission" or "with the permission". A reference to stating a case is removed from the *Police (Complaints and Disciplinary Proceedings) Act 1985*. The relevant provision will now state that a question of law may be referred by the Police Disciplinary Tribunal for the opinion of the Supreme Court.

Part 64—Amendment of *Real Property Act 1886*

A number of amendments are to be made to the *Real Property Act 1886* to remove terminology that is no longer to be used. Some provisions (**section 191** and **section 223**) have been redrafted, without changing the effect of the provision, so that, in addition to removing redundant language, they can be more easily understood.

Sections 224 and **225**, which provide for the making of rules in respect of actions before the Supreme Court and the fixing of fees payable in respect of proceedings, are no longer required and are therefore to be repealed. **Schedule 21**, which contains rules and regulations for procedures in respect of caveats, is also repealed.

Parts 65 and 66

Parts 65 and 66 include amendments that remove terms such as "petition", "motion" and "leave" and substitute "application" or "permission", as appropriate.

Part 67—Amendment of *Royal Commissions Act 1917*

Sections 26 and **27** of the *Royal Commissions Act 1917* are redundant and are therefore to be repealed. Section 26 provides that there may be an appeal in respect of proceedings in respect of offences against the Act. Offences against the Act are categorised under the *Summary Procedure Act 1921* as summary offences. Section 26 is unnecessary because both the *District Court Act 1991* and the *Magistrates Court Act 1991* provide a right of appeal to the Supreme Court to parties to criminal actions. Section 27 of the *Royal Commissions Act 1917*, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 68 to 76

The amendments made by the clauses included in Parts 68 to 76 remove terms that are no longer to be used, such as "leave", "petition", "motion" and "ex parte". There are many instances of the use of the word "petition" in the *Trustee Act 1936*; this word is removed and "application" substituted. Similarly, "applicant" is to be used instead of "petitioner".

Part 77—Amendment of *Unauthorised Documents Act 1916*

Sections 9, **10** and **11** of the *Unauthorised Documents Act 1916* are redundant and are therefore to be repealed. Section 9 provides that proceedings in respect of offences against the Act will be disposed of summarily. This section is not necessary because offences against the Act are categorised by the *Summary Procedure Act 1921* as summary offences. Section 10, which provides that there may be an appeal in respect of proceedings in respect of offences against the Act, is unnecessary because both the *District Court Act 1991* and the *Magistrates Court Act 1991* provide a right of appeal to the Supreme Court for parties to criminal actions. Section 11 of the *Unauthorised Documents Act 1916*, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 78 to 81

The amendments made by the clauses included in Parts 78 to 81 remove terms that are no longer to be used, such as "leave", "petition" and "case stated". The terms "permission", "application" and "refer" or "reference" are substituted, as appropriate.

Mr HAMILTON-SMITH secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT (JURISDICTION) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

SUPERANNUATION (ADMINISTERED SCHEMES) AMENDMENT BILL

The Legislative Council agreed to the bill with the amendment indicated by the following schedule, to which amendment the Legislative Council desires the concurrence of the House of Assembly:

Clause 7, page 4, line 20—

After 'circumstances' insert:

(but only insofar as the Board determines it to be fair and reasonable in the circumstances)

Consideration in committee.

The Hon. M.J. ATKINSON: I move:

That the Legislative Council's amendment be agreed to.

Motion carried.

STATUTES AMENDMENT (DISPOSAL OF HUMAN REMAINS) BILL

The Legislative Council agreed to the bill without any amendment.

EVIDENCE (USE OF AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Evidence Act 1929. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

This bill amends the Evidence Act 1929 to provide for the use of audio-visual links or audio links to courts. The bill fulfils the government's promise to improve access to the courts and recognises the benefits of this technology. It makes it clear that a court may receive evidence or submissions by audio or audio-visual links rather than requiring a person to appear physically before the court.

Currently, the only legislative provisions dealing with audio-visual links in courts are about interstate evidence and the use of closed circuit television to receive evidence from vulnerable witnesses, yet some magistrates courts are already receiving evidence by way of audio-visual link under rules of court. This bill will allow an audio-visual link in any court and give legislative recognition to the current practice of the Magistrates Court. I seek leave to have the remainder of my speech inserted in *Hansard* without my reading it.

Mr Venning interjecting:

The ACTING SPEAKER (Mr Koutsantonis): Before I grant leave I warn the member for Schubert for continually interjecting.

Leave granted.

The Bill sets out a general rule to be applied in criminal cases where a defendant is in custody before trial. The rule provides that those proceedings should be dealt with by audio-visual link unless the proceeding is the defendant's first appearance before the court, a preliminary examination that involves the taking of oral evidence, or a proceeding where the defendant's personal attendance is required by regulation. In these situations the defendant has the opportunity to ask the court to be allowed to appear by audio-visual link.

The rule does not apply to proceedings that investigate the defendant's fitness to stand trial, or where the court is of the opinion that there are other good reasons for personal attendance of the accused or if there are other matters to be dealt with for which personal attendance is desirable.

Parties will have a reasonable opportunity to object to the use of the audio-visual link, and in those circumstances, the court can deal with the arguments using the audio link or audio-visual link.

The *Summary Procedure Act 1921* allows the court to excuse the defendant from attendance during a preliminary examination for any proper reason. This power remains unchanged by the Bill.

The rule will only operate in courts where the proper means are provided for audio-visual links and regulations have extended the rule so that it applies to a particular court.

At present, persons who are arrested and refused bail by a Magistrate are remanded in custody to appear before the Court at a time and place fixed in the order for remand. A person accused of a crime may be held in custody, on remand, until he is released on bail or the criminal proceedings are completed and the person is sentenced or released.

Every time a remandee's case comes before the court the accused must physically appear at the Magistrates Court. For these appearances the accused is usually transported from the prison to the Court, although on some occasions, with the consent of the accused, they now appear by audio-visual link.

The Act currently defines the terms audio link and audio-visual link as follows:

> ***audio link*** means a system of two-way communication linking different places so that a person speaking at any one of the places can be heard at the other;
>
> Example—An audio link may be established by facilities such as a two-way radio or telephone.
>
> ***audio-visual link*** means a system of two-way communication linking different places so that a person speaking at any one of the places can be seen and heard at the other;
>
> Example—An audio visual link may be established by facilities such as a closed-circuit television.

These definitions remain unchanged.

The Bill also deals with procedural matters, including the administration of the oath or affirmation in cases where an audio or audio-visual link is used.

When the link is in operation, the person who is giving evidence or submissions is taken to be before the court and any law or rule of practice about contempt applies. The Bill also clarifies that, where a law or rule of practice requires personal appearance, using the audio visual link satisfies this requirement while the link remains in operation.

The Bill seeks to ensure that, where an audio-visual link is used and the lawyer is in the courtroom and the client in a remote location, appropriate means exist for private communications between the lawyer and client. The Bill also makes it clear that such communications are absolutely privileged.

Installation of video-conferencing equipment has been completed within the Adelaide and metropolitan Magistrates Courts, Yatala Labour Prison, Adelaide Remand Centre, and Mobilong Prison. A pilot project will be run from the Adelaide Remand Centre to ensure that the changes to prisoner appearances before the courts happen in a managed way.

Similar technology and underpinning legislation have been operating in other parts of Australia. The Federal Court has had the authority to receive evidence by telephone or audio-visual link since 1989.

Both Western Australia and Victoria have carried out statutory schemes to promote the use of video-conferencing in criminal cases and have enjoyed cost savings from a reduction in prisoner transfers and a reduced risk of prisoners escaping while being transported or held in the cells.

The experience in W.A. is that once the amendment to the *Justices Act, 1902* was made, the use of audio visual link rose from 25% to 90% of remand hearings. It has now become the accepted practice in W.A.

The interstate experience has also been that prisoners prefer to appear via audio-visual link as opposed to the process of transfer to the Court, which requires an uncomfortable ride, strip searches and being held in court cells for extended periods.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that the measure will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Evidence Act 1929*

4—Insertion of Part 6C Division 4

This clause inserts a new Division into Part 6C of the *Evidence Act 1929*. Part 6C Division 4 comprises two new sections. Proposed section 59IQ(1) provides that a court may, subject to Division 4 and relevant rules of the court, receive evidence or submissions from a person who is within South Australia but not physically present in the court by means of an audio or audio visual link.

Under subsection (2), a court that is making use of an audio or audio visual link may administer an oath or affirmation by means of the link for the purpose of taking evidence. A person from whom evidence or submissions are taken by means of the link, and anyone else present in the place from

which the person gives evidence or makes submissions, is taken to be before the court.

Subsection (4) deals with the situation of a defendant in custody prior to trial. If facilities exist for dealing with a proceeding in relation to the defendant by audio visual link, and the court is one to which the provisions of subsection (4) are extended by regulation, the court should deal with the proceeding in that way without requiring the personal attendance of the defendant. This general rule is subject to a number of qualifications. If the proceeding is the defendant's first appearance before a court, the preliminary examination of an indictable offence, an inquiry into the defendant's fitness to stand trial or a proceeding of a category excluded from the general rule by regulation, the general rule does not apply. The court may also require the defendant's personal attendance if of the opinion that, in the circumstances of the particular case, there are good reasons for doing so. If there are other matters to be dealt with on the same occasion for which the defendant's personal attendance is necessary or desirable, the court may require his or her attendance.

Section 59IQ also provides, in subsection (6), that the court should provide the parties with a reasonable opportunity to object to the use of an audio visual link or audio link. The court may use the link for the purpose of hearing an objection.

New section 59IR provides that evidence or submissions are not to be taken by audio visual link or by audio link if a person who is to give evidence or make submissions is represented by a lawyer who is physically separated from his or her client and there are no facilities available to enable private oral communication between lawyer and client. Any communication between lawyer and client by means of such facilities is absolutely privileged.

Mr HAMILTON-SMITH secured the adjournment of the debate.

DEVELOPMENT (PANELS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 June. Page 604.)

Mr HAMILTON-SMITH (Waite): I think I was just shortly into my 20 minute address on this bill, and I am sure the Clerk will know precisely where I was at. I think I was about one minute in, and was telling the house a story about when I was in business and had occasion to take two councils to the Environment Court to resolve a planning dispute. It is worth telling the story, because it strikes to the heart of the bill. Both cases concerned the construction, extension and establishment of childcare centres and in both cases the facilities were urgently needed by the local communities. In both cases there had been an extensive array of letters in support of the construction of the centres. On one occasion, I advertised for unqualified childcare workers to be employed in the centre. I advertised three positions. I received 247 written applications for the jobs. I was able to stand up in the council in supporting my application, hold the job applications in my hand, and say, 'Here are 247 reasons why this development needs to be approved.' Needless to say, in the face of advice from their own professional officers, a majority of council members rejected the application. It was quite apparent—

The Hon. M.J. Atkinson: Which council is this?

Mr HAMILTON-SMITH: We will not go there, Attorney. It was quite apparent that the development would comply and was legal, and it put me in the unfortunate position of having to appeal the matter to the environment court, so off we went to the environment court. That involved nearly a week in court. It involved the engagement of expensive consultants. I think that, in the end, it cost me $20 000. The development was resoundingly approved by the environment court. The council ran away with its tail between its legs, and the development proceeded as I had planned.

I have been through that process twice. On each occasion it cost me $20 000 to get approved a simple development—a childcare centre that was urgently needed by the local community and in great demand. I persevered with it. Others simply pack up and go elsewhere. Others simply pack up and go home. Others simply do not go ahead with the development. I have sat in council chambers and listened to a very small group of rowdy, vocal and angry residents cry down or shout down elected members in the face of the silent majority, many of whom do not come to council meetings, but who want a particular development to proceed, whether it is, as I mentioned, a childcare centre, a cafe or a small business. It can be any one of an array of things. To be frank, it is not the councillors' money; it is the ratepayers' money which is ultimately spent in attempting to defeat such applications that go to the environment court and are, of course, approved.

Councils around the state are wasting their ratepayers' money, fighting developments that either comply or, although they may be non-complying, fit in with the development plan. Clearly, as is known to the councils' legal officers, and councils even receive advice to this effect, those applications will be upheld in the environment court. It is a nonsense. It is an absolute travesty. It is a waste of ratepayers' money and it holds up development. For those reasons I can say that I have been there first-hand. I have done it, I have seen it, and it hurts, and it is stopping development and getting in the way of people's businesses. It is getting in the way of people extending their home, or building some sort of a development or addition to the house which is clearly complying, or, if it is not complying, would certainly fit within the development plan, and it is upsetting people right, left and centre. There has to be more than some sort of a star chamber as the basis from which to go forward.

For all those reasons, I understand where the government is coming from with this bill, and I am empathetic. On the other hand, as I have mentioned—and I have read into the *Hansard* comments given to me by Mitcham council and residents in my electorate—I can also see the other side of the argument; that is, that residents are quite rightly very concerned that the amenity and character of their suburbs are not destroyed by rampant, unruly and unlawful development.

This is particularly an issue in my electorate of Waite. We have a lot of well-established and older homes, and I live in one which has local heritage significance. Some of them do not have local heritage significance: they are simply beautiful old buildings that give character to a street. Developers are coming in and wrecking the streetscape. They are doing enormous damage to the amenity of the suburb.

This is equally true in commercial precincts within suburbs where even commercial streetscapes are being wrecked. King William Road is not in my electorate but it is characteristic of what was at one point in parts of my electorate, the lovely old verandahs and shops and so on. That sort of streetscape has been wrecked by development that has been forced through and thrust upon the community. Those beautiful verandahs and character business fronts have been ripped down and ugly glass and concrete monstrosities have been erected. Frankly, they are an eyesore and ruin the character of the suburb and people do not like it.

The other side of the coin is that members of the community want to be assured that rampant development will not destroy their streetscape or their particular suburb and

wreck their amenity and, over time, change the character of the suburb they have chosen to live in. There are two sides to this coin and I can see both of them. I have been part of both of them, and I have been through the mill on both sides. For that reason, the bill as amended, should the government agree to it—and I am hearing positive noises from opposite that the amended bill might be the bill we get—is probably a pretty good compromise, in requiring DAPs to be formed.

That is the nub of the matter, the DAPs and their construction, and the DAPs will be formed; a majority of independent members will be in control, if you like, of those DAPs; but, unlike the original bill, in its amended form the new bill will actually give the councils a much greater say in who those independent members are and their selection and, therefore, will retain to the council an appropriate degree of control while ameliorating and reducing the sort of village court atmosphere that sometimes presently surrounds development applications when they are heard in council before a majority of elected members. That is a positive step forward.

I should say that, in my view, the answer here is for councils to get right their development plans and, particularly, their planning amendment reports (PARs). That is where the community, through its council, should have its major say in how its suburbs are to be developed. On that score, I commend Mitcham council, because I was closely involved with the former minister (Hon. Diana Laidlaw) in getting through the PAR for Colonel Light Gardens. Members may not be aware, but the suburb of Colonel Light Gardens within the electorate of Waite is an historic precinct. It is a garden suburb. It was designed on the basis of an English design for a garden suburb. The streetscape and the layout of the entire suburb is now a matter of state heritage significance and I think it is hoped that ultimately it will become part of the national register.

Although it took some time, there was a bit of cooperation between the council and the state government of the day, which happened to be a Liberal government (although the same processes are going on now in other cases with the present government), and we eventually got a PAR that changed the ground rules for that suburb. Now you cannot build a block of flats, for example, in Colonel Light Gardens. You cannot rip down a lovely old building and put up a monstrosity and, if you replace a front fence, it needs to be consistent with the other fences in the street. It is a very good example of how councils and communities can control how particular parts of their precinct are to be developed. Mitcham did it again with the Mitcham Village PAR, another historic precinct.

I would say to my friend the member for Bragg that it is incumbent on Burnside and other councils to also go through that process. If other councils do that and get their PARs right, a lot of the problems with development will dissolve because councils' planning staff and the professional officers who deal with applications will very clearly know the ground rules and we will not have this sort of chaos management where the PAR is not right and councillors on DAPs are trying to get it right, based on the perception of the need at that time. PARs are where councils need to focus. Government needs to be swift and effective in the way it deals with councils' applications for PARs to be approved so that they are dealt with quickly. They need to be reasonable and they need to give councils flexibility and a fair bit of say.

There are certain parts of council precincts in suburbs like Mitcham and Unley where you could say, 'We'll have very dense development in that particular patch, there and there, but we will preserve the streetscapes there and there.' If PARs get into that degree of detail you can have different rules for different parts of the council precinct and you can set up a framework that will work effectively and which will get rid of the problems. Having set up the framework, councils and communities then need to stick to the plan. I think the DAP construction that we are now going to get with this amended bill will be able to work with those PARs and development plans and, I hope, take some of the steam out of some of these applications.

Therefore, I look forward to supporting the measure. For those in local government who will be aggrieved by the passage of this bill, who would have preferred that it not come forward, I simply say that the current government moved this bill in the last parliament. It went to an election with this bill as part of what would be coming forth should it win. It won the election and now we are getting the bill. I would just say to people in local government that, if they are not happy, they should reflect on how they approached the state election, because you get what you vote for.

They should also be very thankful that the Liberal Party has always taken the best interests of its constituents to heart and ensured that it has used its good offices in the other place to soften, shall we say, or knock some of the rough edges off the legislation that the government put forward as, indeed, it so often needs. The government often comes up with legislation that needs a little bit of massaging and corrective attention from the other place. Of course, that is a testament to our bicameral system of parliament and the effectiveness of having two houses, where good and proper scrutiny can be applied to bills. I think my honourable friends in the other place have done a fine job working with their colleagues to improve this legislation. I commend the shadow minister for the way in which he has managed the bill in the other place, and also the shadow minister's shadow here, for the way in which he has taken it through this place. I commend the bill to the house and hope to see it pass forthwith as amended.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I rise to close the second reading debate. I thank members for their contribution and their intimation that they support the broad thrust of the government's bill and, indeed, that they support it in the amended form in which it arrived from the other place. I wish to begin by making some general points in response and then go to some of the specific issues that have been raised by members in their contributions.

I think the broad point that needs to be made is that we are now operating in an environment where there is a much greater degree of complexity in our planning system. An incredible amount is expected of the development assessment process in the modern era than perhaps was the case in the past. We expect community values to be protected in terms of amenity, and local residents have very lively concerns about that. We expect state objectives in relation to economic development and the protection of environmental values: it could be a question of stormwater, energy efficiency or a whole host of policy imperatives, depending on the nature of the environment in which the development occurs. With all that comes a desire by developers to have speed and consistency in the way in which their development applications are determined, and they are entitled to that.

I suppose the fundamental thrust of the bill is to shift the role of local government in relation to this area. The shift that we are seeking to bring about in relation to the role of local

government is not in any way to denigrate the role of government or to take away from the role of government. It is to elevate and make the role of local government a much more ambitious one and, indeed, I would argue, a much more fulfilling one. I say that for the following reasons.

We want local government to concentrate on planning policy and ensure, in that way, that it genuinely protects community values. There is nothing more self-defeating than a group of councillors who wait until the development assessment process to attempt to hold off a development they see as inappropriate, when that development is otherwise authorised by the development plan. Ultimately, it involves a trip to the Environment, Resources and Development Court by the developer, which ultimately prevails if its development is consistent with the development plan. To give members some idea of the cost of that at a local level, Burnside council in the last quarter (according to the figures I have) spent $103 972 on legal fees in relation to development applications, and it was by far and away ahead of the field in relation to those matters. So, not only is it a financial cost to ratepayers, ultimately it is also a pointless exercise, because they invariably lose those proceedings when they resist applications that were otherwise consistent with the development plan. The real opportunity to protect community values is to ensure that the development plan meets those community values.

One of the things that we have been at extraordinary pains to protect is the value that exists in the current planning system. South Australia has a very good planning system, and the ambition here is to make it the very best in the nation. On that point, it has certainly been evaluated by independent bodies (including developer organisations such as the Property Council of Australia) that, if these reforms pass, it will ensure that South Australia has by far and away the best practice development assessment system in the nation.

One of the values of our system which it is absolutely crucial to protect (and it is very important that in all our reforms we remember this) is that South Australia has a development plan that seeks at a local level to capture both state and local interests in the one document. We do not have state policies and local policies existing in separate places creating confusion for people about exactly what is the regime. Here in South Australia all those policies are brought together in one document, reflected at a local level. It is crucial that we never lose that feature of the South Australian system, which does not exist in other states and which can cause enormous difficulty in other states.

Ultimately, these reforms, by moving to a hybrid model of experts and a minority of councillors, are about driving cultural change. Even with these reforms, ultimately it will be a question for local government about whether it accepts the legislative policy that is embedded in these documents. There is no doubt that local government could choose to defeat the legislative policy that exists here, if it were minded to do so. One needs to cast one's mind back to the 2001 amendments, when there was a voluntary opportunity for regional panels and a majority of experts on those panels. It was not taken up by local government, despite there being a clear legislative policy in favour of that.

We have gone a step further and made it very clear. It would be very difficult. In fact, some pretty inappropriate devices would have to be used by local government if it were to escape the legislative policy in this instance. Ultimately, it is a question of cultural change. While we have reluctantly accepted the amendment of the upper house to remove the role of the minister in the composition of those panels, we will watch with great interest the role that local government plays in accepting this legislative policy. If it defies the legislative policy, we will be back here seeking to amend this legislation.

As I say, it is not the first best position of the government to have these amendments in this fashion, but we hope that local government accepts this very clear message from the legislature that it should direct its attention to the development policy and leave development assessment to a separate process, and one which should not involve the element of political considerations. Having said that, there is no doubt that there are limits in the way in which planning can be used to resolve all neighbourhood disputes. One of the grave difficulties of our planning system is not anything to do with the planning system: it is that a whole host of neighbourhood disputes all coalesce when someone lodges an application for development; and so a range of issues that are not in fact within the province of the Development Act are brought to bear. It is the only location where local people feel they have an opportunity to be heard, so they bring all those hopes and fears into the dispute process for development assessment. This is where the role of local government will be very crucial. Local councillors have a capacity to participate not only as a representative of the people but also by playing a role as a mediator in these disputes.

One concern I have with the system as it has existed up to this point is that, by councillors participating in the development assessment panel process (effectively through a number of judicial interpretations), they have removed themselves from the opportunity of participating in the dispute resolution function around issues broader than development assessment. Some of the flexibility that once existed before the 2001 amendments about development assessment panels, where councillors would participate in informal dispute resolution functions, was wrung out of the system. I think it is important that councillors do return to that role of trying to settle some of these neighbourhood disputes around development when they have the potential to threaten and delay developments. I will respond to specific points raised by members of the opposition in debate, but general points were made by a number of opposition members that somehow the Labor Party had not properly recognised local government and was not recognising the value of local government.

The broad point I make is that only one party in this nation has ever attempted to recognise local government in the most fundamental way possible (that is, through amendment to the constitution), and that is the Australian Labor Party. We did that successfully at a state level in 1993, and we did it unsuccessfully at a federal level when that proposition was resisted by the Liberal Party in an attempt to amend the federal constitution.

Mr Pengilly interjecting:

The Hon. J.W. WEATHERILL: Well, we took it to the people. We needed a constitutional reform, and those opposite and their predecessors opposed that legislation. The most fundamental way in which one can recognise local government is in the constitution, and the Labor Party has always stood for that recognition. The member for Bragg raised interstate comparisons, suggesting that somehow our system was deficient. It is generally accepted (and the Property Council of Australia has made it clear) that, in development assessment terms, this puts us in national best practice. Should it pass, this legislation will be the envy of other states.

The member for Bragg also made some points about the concurrence role in relation to the amendment made in the other place. The deputy leader suggested that this is something for which the Liberal Party was responsible, and that somehow it had ameliorated the effect of that legislation by removing the minister's role in ensuring the composition of the development assessment panels. Can I say that we were reluctant to accept that reform. The Liberal Party is warranting, I suppose, that that reform will not be taken advantage of and that, as a result of the amendment to delete the minister's role in the composition of the panels, local government will not take advantage of that to create what are de facto council appointments through the process of the independent members of the panel. We earnestly hope that the confidence of members opposite is well placed.

The member for Bragg also raised the question of awarding costs in the ERD Court as somehow some solution to the perceived deficiencies in relation to the development assessment process.The first thing about that is that there is already a cost provision in the ERD Court for frivolous and vexatious appeals. If the honourable member is seriously suggesting that costs should follow the event for the Environment, Resources and Development Court, essentially, she is saying that ordinary citizens would suffer the consequences of a costs order should they be unsuccessful in pursuing an attempt to overturn an approval or rejection of a development assessment. The point about a no-cost jurisdiction is that it is more accessible to people who have less financial resources, so it would indeed be—we would argue—a retrograde step, making the ERD Court a much less accessible jurisdiction.

The member for Schubert raised the point about public officers and asked a number of questions. First, we confirm that the public officer can be any person. However, it is envisaged that it will not be a separate paid role but, rather, this role will be undertaken by a senior officer of council, such as the CEO. The length of term of the appointment of the public officer will be a matter for each council to determine. Finally, it is not envisaged that this will be a full-time role, as the public officer is there only to ensure that complaints are appropriately processed. The public officer need not do the investigating but merely must ensure that due processes are followed in relation to the investigation of complaints. There should be few complaints if the development assessment panels make decisions in accordance with the policies of the relevant development plan.

The member for Schubert also raised the issue of exemptions for small rural councils and asked what number we had in mind. The clause was inserted by the opposition, so we would imagine that they had a number in mind. In the first quarter of 2006 there were 11 rural councils that received 10 or fewer development applications. Annualised, this means that these councils receive about 40 applications in total for the year or less than one a week. Before jumping to conclusions based on raw figures, I think it would be prudent to determine the nature and complexity of these applications. I envisage a council in this category having a number of options before requesting to be exempted pursuant to the provisions of the minister. The government is keen to take advantage of its ability, under existing provisions, to form a reasonable development assessment panel or, alternatively, delegating those decisions to an officer of council. Another advantage of a regional development assessment panel is it will allow small councils to share the costs of appointment of specialist panel members.

Indeed, one thing that needs to be borne in mind here—and this is an important issue of consistency—is that there is an opportunity for councils to share independent experts across the whole state. I think there would be real advantages if presiding members were in fact presiding members in a number of councils. There would be no surer way of ensuring consistency of decision making than ensuring that the personnel were the same.

Mr Pengilly: If they are hundreds of kilometres apart, it is a huge—

The Hon. J.W. WEATHERILL: Well, they can get in a car. That is what we have vehicles for these days. With regard to the panel meeting procedures, in accordance with the amendments to the act passed last year, a code of conduct for all panels is being prepared with consultation to occur with the Local Government Association. Once gazetted, this code will give clear guidance to panel members on actions they take in relation to the assessment of development applications before the panel, and that may go in part to address the question that was raised about the way in which councillors should participate in that process.

The member for Bragg also made a point about the fact that the council development plans—presently called plan amendment reports—are dealt with in a bill presently before the house. In fact, it was introduced yesterday when the member for Bragg was making a contribution, but it also comprises part of the Sustainable Development Bill. So, this suggestion that our legislative policy for development plans is somehow a secret is a bit of a nonsense, because it has already been introduced in the upper house. It was already part of the Sustainable Development Act when it was introduced by the Minister for Planning in the other place before it was broken up into these various components.

I commend the bill to the house. This is not, in any sense, an attack on the rights of local government. It is about lifting the ambitions of local government where, rather than sit and judge each development application and, ultimately, in a fairly fruitless exercise where more often than not they are overturned in the ERD Court, they can actually participate in the framing of real policy, grapple with the real issues, the difficult issues, of development assessment policy, and interpreting that policy in a very fine grain way in development plans at a local level. So, they can genuinely enshrine community values in their suburbs and not just have a temporary victory where they knock off a development application at a council meeting one night, go and celebrate with the gallery, and then, three months later, the matter is overturned in the Environment, Resources and Development Court.

This is about giving them a real say and a real role, and it is about shifting their attention from development assessment and placing it where it belongs, where councillors can make an incredibly valuable contribution. They are the people who best understand local circumstances. They understand the fine grained issues that exist at a neighbourhood level. They are the ones who can take state policy and objectives and interpret them in a detailed and satisfactory way at a local level. I commend the bill to the house and look forward to its speedy passage.

Bill read a second time.

In committee.

Clauses 1 to 9 passed.

Clause 10.

The Hon. J.W. WEATHERILL: I move:

Page 13, line 18—After 'panel' insert:

(but a council is not responsible for any liability arising from anything done by a member of a panel that is not within the ambit of subsection (10))

I understand this is the amendment that was negotiated between the houses that deals with the question of liability.

Mr GRIFFITHS: I wish to seek clarification of subsection (27). I understand and appreciate the fact that the minister has confirmed that this is a Liberal Party amendment from the other place. The unfortunate part is that, had I actually been involved in it, I would have sought some additional clarification, because it talks about the number of applications actually lodged with council upon which they base an application to the minister for an exemption for the need to establish a development assessment panel. However, in effect, it should be the number of applications that would be considered by a development panel itself, and not the number of applications that a council itself would receive.

The Hon. J.W. WEATHERILL: I think it is appropriate for this issue to be raised when we reach that clause. This is a proposition about a further clause. As I understand it, this amendment is acceptable in relation to this clause.

Amendment carried.

Mr GRIFFITHS: I have an issue for clarification, because I know that the question will be asked about what would be the minister's opinion as to the number that constitutes the ability to actually seek an exemption?

The Hon. J.W. WEATHERILL: Can you repeat that please?

Mr GRIFFITHS: Referring to subsection (27)—the amendment which came down from the other place—in respect of the number of applications, have you had any opinion at all from the minister as to what he would consider fair and reasonable?

The Hon. J.W. WEATHERILL: No, because it would not solely be a question of addressing the number of applications; it would depend on the complexity of those applications. There may be a relatively small number of applications which might be extremely complex in nature which may bear on that question. So, there will have to be an assessment on a case-by-case basis.

Clause as amended passed.

Remaining clauses (11 to 13), schedule and title passed.

Bill reported with amendment.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I move:

That this bill be now read a third time.

Because this bill has had a very long history, I would like to acknowledge the work of a number of officers, including, back at the very start, Neil Savery, former head of Planning SA. I also acknowledge the work of parliamentary counsel, Richard Dennis, Bob Teague, Chris Welford and Mark Duncan, who, I understand have also participated in the drafting of what is a very complicated piece of legislation which has been the subject of numerous iterations.

I can also recall numerous consultations with the Local Government Association and, whilst I appreciate that the Local Government Association is constrained by the views of its members and formally is required to put certain propositions, I know that we have been greatly assisted by the expertise of officers of the Local Government Association and the way in which they have helped us refine this very important piece of legislation. So, it has had a very long genesis. I also acknowledge the particular assistance that the government has been provided by members of the Economic Development Board, including John Bastian and Fiona Roche, and I wish to thank all members—both on this side of the house and opposite—who have contributed to refining this important piece of legislation.

Mr GRIFFITHS (Goyder): It has been obvious to me that a variety of opinions have been expressed about this bill within the community at large and within this house. I am somewhat disappointed, though, that many members on the other side who spoke seemed to be consistently attacking local government, which would disappoint the hundreds of good people who actually commit many hours of service to the community for very little recompense. I want to enforce the fact, and we have mentioned this many times, that 95 per cent of applications are considered under delegated authority. I would hope for—and certain provisions of this bill allow for that fact—more delegation to occur to officers and, with a better plan amendment report process, I am sure that that will occur.

There is no doubt that, within local government itself, the absolute biggest concern has been the issue of cost. Many have heard the stories of sitting fees between $250 and $300 per panel member—and goodness knows what it will cost for the presiding member. For councils that are already facing very difficult budget framing processes for the next financial year, this will be a bit of an unknown. Unfortunately, the issues related to cost recovery have not been covered in the bill. I wish to acknowledge the good work that was done and the amendments made in the other place. I believe what has occurred has given local government far more surety that it will be able to be managed by them.

I also want to enforce that, as one of the other opposition speakers indicated, this bill is not a Liberal Party proposal. If we had been submitting the legislation, it would have been in a very different form.

The Hon. M.J. Atkinson: Would you? And what form would that be? Help us out.

Mr GRIFFITHS: I have not had an opportunity to think about it.

The Hon. M.J. Atkinson: So, you don't know what form.

Mr GRIFFITHS: I am happy to debate the issue with you.

The Hon. M.J. Atkinson: That is what I'm doing. Off you go.

The DEPUTY SPEAKER: Order! We have been progressing well.

Mr GRIFFITHS: In a general sense, the bill would have been in a very different form.

The Hon. J.W. Weatherill: It's the bob each way amendment.

Mr GRIFFITHS: Is it? That's how government works—I see that.

The Hon. M.J. Atkinson: The former member for Unley used to say it is the prerogative of the opposition to have a bob each way.

The DEPUTY SPEAKER: Order! The Attorney will cease interjecting and the member for Goyder will ignore the Attorney's interjections.

Mr GRIFFITHS: My appreciation to you, Madam Deputy Speaker. I raised briefly in committee an issue regarding section 56A(27) on the exemption opportunity—

The Hon. M.J. Atkinson: How old will you be, Ivan, in 2014?

The DEPUTY SPEAKER: Order! The Attorney will cease interjecting.

Mr GRIFFITHS: —that exists for local government. I wish to clarify my comments there, and I apologise if I mentioned that in the wrong forum before. It is interesting that the amendment that came through relates to the number of applications submitted to the council. I believe that, if I had been involved in the process at an earlier stage, I would have tried to influence that to be the number of applications that actually were referred to the development assessment panel, because I think that is the critical area. Many people have actually highlighted the fact that the planning amendment report process is the critical part of this matter. I look forward to the submission of future bills which highlight this area and ensure everyone in South Australia that PARs will be concluded in a timely manner and which actually allow councils—and the communities they serve—to prepare the best possible document.

I thank the minister and his staff for clarifying the public officer issues, the point raised by the member for Schubert. The minister was asked a question, in reply to which he referred to the ability of—I think he highlighted—11 small councils in regard to considering applications. He talked about people just jumping into a car: for those residents of the West Coast, jumping in the car often involves a trip of 250 or 300 kilometres. For development assessment panel members who take their job seriously, when there is any contentious issue and the need for the panel to have a physical impression of the application they are considering, that is what they do. They adjourn their meeting and inspect the site. On the West Coast especially, where the tyranny of distance applies more so than anywhere, that is not an easy task.

Bill read a third time and passed.

TOBACCO PRODUCTS REGULATION (PROHIBITED TOBACCO PRODUCTS) AMENDMENT BILL

Second reading.

The Hon. J.D. HILL (Minister for Health): I move:

That this bill be now read a second time.

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

Leave granted.

Tobacco smoking is unrivalled in terms of its impact on the health of populations. It kills and disables more people than any other human behaviour. It imposes substantial economic and social costs on the South Australian community and has been estimated to cost Australia $21 billion a year in health care, lost productive life and other social costs. Smoking is also the most significant cause of health inequalities in Australian society as it has greatest impact among those in most need. Thirty South Australians die each week from illnesses caused by smoking tobacco and smoking related illness accounts for 75 000 hospital bed days in South Australia each year.

A particularly alarming aspect of smoking rates in South Australia is the prevalence of smoking among our young people which shows that young people are still taking up this behaviour in large numbers. The smoking rate for young people aged 15 to 29 years in South Australia is 21.7%. The Government is committed to addressing this issue. South Australia's Strategic Plan has a target to reduce the prevalence of smoking of our young people by 10% over the next decade. We are on track to achieve this target. The rate of youth smoking has reduced from 27.9% in 2004 to 21.7% in 2005. This has come about because of a raft of strategies that this Government has introduced, including legislation banning all forms of tobacco advertising and tightening the restrictions on tobacco sales to children. While the Government is experiencing considerable success in this area, youth smoking rates are still too high and we must make further progress.

In 2005 the Government became aware of the sale of flavoured cigarettes in South Australia. While flavouring has been added to tobacco for many years, recently distinctive fruit and confectionary flavoured tobacco products have emerged. Vanilla, strawberry and apple are a few of the tobacco flavours that are available for sale in South Australia. It is clear when inspecting the products in question that they are likely to be very attractive to young people.

While the market in these products is minimal in South Australia at present, the potential for this market to grow and significantly impact on youth smoking rates is one the Government is not prepared to ignore. In the United States, the flavoured tobacco product market is extensive. Flavours include coconut, pineapple, twista lime, caribbean chill, midnight berry, mocha taboo and mintrigue. Like all tobacco products, these new tobacco products still cause cancer and lung disease, and have significant potential to encourage young people to try smoking cigarettes and thereby establishing another generation of smoking youth.

There is also evidence emerging which shows the impact that these products are having in the United States. Researchers at the Roswell Park Cancer Institute in Buffalo New York recently released the results of several surveys that showed that 20 percent of smokers aged 17 to 19 smoked flavoured cigarettes in the past month while only 6 percent of smokers over the age of 25 did. Also, 8.6 percent of Year 9 students in Western New York State had tried flavoured cigarettes in the past month.

It is important that Parliament introduces legislation that puts a stop to the sale of these products in South Australia. The longer we wait, the greater the potential impact on our youth. The longer we wait, the greater the impact a ban will have on our retail sector. The Government is being proactive in relation to this issue.

Retailers and wholesalers will be provided with information to ensure that they are well informed of the new restrictions being introduced. We are confident that this proposed legislation will have a minimal impact on the retail sector and will be an important initiative for the health of future generations.

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 *Tobacco Products Regulation Act 1997*

4—Insertion of section 34A

Proposed section 34A enables the Minister to declare, by notice in the Gazette, a class of tobacco products to be prohibited if the Minister is satisfied that the products, or the smoke of the products, possesses a distinctive fruity, sweet or confectionary-like character, and the nature of the products, or the way they are advertised, might encourage young people to smoke. The new section provides an offence of selling such a product. The maximum penalty for the offence is a fine of $5 000. Alternatively, an expiation notice with an expiation fee of $315 may be issued.

Mrs REDMOND secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (DANGEROUS DRIVING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 458.)

Mrs REDMOND (Heysen): I indicate that I am lead speaker for the opposition on this bill.

The Hon. M.J. Atkinson: You mean there is actually going to be a second speaker for the opposition?

Mrs REDMOND: I think there may well be and, if the Attorney interjects enough, we could be here for a very long time. This bill has come before us from the other place, having been already considered there after being introduced at the end of April. Essentially, it creates a new offence—as

the government promised it would in its election platform—of dangerous driving to escape police pursuit. As The Law Society indicated in its letter to the Attorney, the public policy behind the legislation is well established. The bill creates a maximum penalty for the basic offence of three years' imprisonment, with a possibility of a maximum of five years' imprisonment for an aggravated offence. Aggravated offences are a new insertion into the Criminal Law Consolidation Act, and I think that was passed in the closing days of the previous government. In any event, my understanding is that those provisions regarding aggravated offences have not been commenced yet but, no doubt, they will be in time for the introduction of this legislation.

To become an aggravated offence, the dangerous driving to escape police pursuit occurs in several situations: first, where the offender was driving a vehicle that was stolen or being used without the owner's consent—and one might ask a question about the consent of parents to their children using a vehicle in that circumstance—and, secondly, where the driver was disqualified from driving and where the driver had a blood alcohol concentration of, I understand, more than .08 (in the original bill it was a blood alcohol concentration of more than .15 but, looking at the bill as it has come to this house, having been amended in the other place, I understand that .08 now applies), or where the driver was contravening section 47 of the Road Traffic Act, which is a pretty long section dealing with driving under the influence of liquor and drugs and so on.

As I understand it, in the other place the Hon. Nick Xenophon sought to amend this legislation, and I think that part of what he said was accepted and passed by that place, and the bill that now comes before us is therefore partly changed from what was introduced there by virtue of those amendments. His original amendment sought to make any blood alcohol or drug limit basically over the limit. However, his original amendment, as I understand it, had the problem that you would end up with a situation where people who were over .05 but under .08 would, by virtue of the definition, be committing an aggravated offence—at the same time, of course, that is an offence normally expiable by payment of a fine. It was therefore somewhat inconsistent to have a situation where an offence could be both expiable upon payment of a fine but also be an aggravated offence. As I understand it, the bill that has come before us now provides that if someone is over .08 (which, of course, is not expiable by fine and which does have significant penalties) and they are driving dangerously in a way to escape police pursuit, that will be an aggravated offence.

My further understanding of this is that the whole issue originated because of a request from the Commissioner for Police—and I was going to be supplied with the details of the case in which this particular problem arose, but I do not think I have ever received them. In any event, we are all aware that from time to time police pursuits do occur in our community and it is a vexatious issue, because there is no doubt that while one car being driven at excessive speed and in a dangerous manner is bad enough, if that car is also being pursued by police that has the potential for creating even more problems because we would have two cars going very fast and creating a risk to other traffic, road users, pedestrians and so on. However, that needs to be balanced against the idea that police cannot simply allow someone to get away with that, as it were. They cannot simply sit back and say that they are not allowed to engage in a police pursuit, that they cannot pursue those people, that if someone they tried to pull over decided to try to out-run them they would just have to let them go. Clearly, that would be the wrong message to send to the community at large and to the perpetrators of this sort of offence in particular.

I think the police have a fairly reasonable and balanced approach to this, whereby they do engage in pursuit but they also have some criteria by which to judge the point when a pursuit may become dangerous and then stop their pursuit in case anyone is more badly injured, and so on. They then put in place other mechanisms by which they might capture the offenders. As I said, I think the police have a sensible approach to this; I agree that they cannot just let people go and I note that they also recognise that they cannot just interminably chase people at unreasonable speeds, risking not only the police officers but also other road users.

The bill that comes before us deals first with aggravated offences. As I said, that basically just defines the circumstances in which someone will be found to have committed this offence in an aggravated way and therefore risks a higher maximum penalty. However, the important clause is the insertion of section 19AC into the Criminal Law Consolidation (Dangerous Driving) Act, which provides:

> A person who, intending to—
>
> (a) escape pursuit by a police officer; or
>
> (b) entice a police officer to engage in a pursuit,
>
> drives a motor vehicle in a culpably negligent manner, recklessly, or at a speed or in a manner dangerous to the public is guilty of an offence.

That is the offence which is created, but I note that there is an amendment on file which changes the word 'entice' to 'cause', and I will have something to say about that when we deal with it in committee.

At the moment I want to cover the comments made by the Law Society in response to the bill—which was, of course, referred to it. Essentially, it raised two separate issues. First, it said that the present wording of the proposed section does not appear to require an actual police pursuit. It also does not refer to the police pursuit being by motor vehicle, and it was thought that should be made clear. The Law Society states it would be appropriate to:

> . . . make it clear that the offence is committed when police pursuit by motor vehicle has commenced and that it was known to the offender that there was a police pursuit.

So that seems to be one issue, and the Law Society thinks that, without express reference to the police pursuit being by motor vehicle (and that motor vehicle could be a motor car, motorcycle, even a helicopter or a boat, theoretically, as long as we define 'motor vehicle' appropriately—and one would hope that someone was not trying to chase them on foot), there is a potential for ambiguity and suggests that there should be a definition of 'police pursuit' included in the legislation.

The second point is that the society thinks the provisions of section 19AC(3)(b) should be removed. This relates to the fact that it is certainly the government's intention to make this an offence in the alternative and not simply bulk up the charge sheet so that people cannot be found guilty of this offence conjunctively with another offence which amounts to the same event. The Law Society goes to some trouble in its letter to explain why it is important for this to be left as a function for the jury, or for the trial court. It points out that, in fact, whereas the government argued that the insertion of that measure minimises the complications of directing a jury, it simply will not arise.

What should happen is the trial should determine whether the section 19AC offence has occurred or whether some other offence has occurred. In fact, it points out in its letter that it could be that you could find, whilst the trial is under way, that the circumstances which are found are appropriate to give rise to a finding that an offence under section 19AC has occurred when that may not have been what was originally put to the jury.

So, it should not be the case that it is up to the prosecutor to decide which is the appropriate offence because, of course, the prosecutor has not made the final findings as to the facts of the case. The prosecutor is always proceeding on allegations and what he thinks he might be able to prove, but at the end of the day it will be the court that will make the determination as to the facts. Indeed, as the Law Society points out, there is a risk that there could be an acquittal on a section 29 offence and no alternative offence under section 19AC being left open to the jury to convict upon. So its view, very clearly, is that the discretion should be left not to the prosecutor in terms of which charges to lay but to the jury at the time of trial. New section 19AC(3) states:

> If a person is tried on a charge of an offence against section 29—
> (b) an offence against subsection (1)—

which is the one I have already read—

> is not available as an alternative verdict to the charge under section 29 unless the offence against subsection (1) was specified in the instrument of charge as an alternative offence.

I seem to remember that in the government's discussion of this during the second reading it talked about this issue. They did say in their second reading that they were trying to avoid loading up the charge sheet. The second reading states:

> However, the creation of this new targeted offence should not be allowed simply to load up the charge sheet with one more offence. It should be aimed directly at those who cannot be brought to book by other more serious offences. It is there to fill a gap of seriousness.

Their intention is that a person should not be able to be convicted of both this offence and the general reckless endangerment offences. Whilst I can see where the government is trying to come from, I actually think that there is some weight in the Law Society's thinking on this. I think it is appropriate to at least consider it. I can count, so I am not planning to move an amendment, but I would encourage the government to at least think about the way in which it approaches this and other things in the future in terms of where the discretion is to lie and whether it should appropriately be in the court, where I think it should end up.

The Hon. M.J. ATKINSON (Attorney-General): I move:

> I move that the time for moving the adjournment of the house be extended beyond 5 p.m.

Motion carried.

Mrs REDMOND: I have already discussed the bill, I think reasonably thoroughly. It is not a long bill, and it does seek to address a particular problem which arises of police pursuits and the fact that there has been no specific offence. My recollection is that a particular case which gave rise to this occurred in circumstances where no other offence could be legitimately brought against someone who did actually seek to engage in a police chase. The only other comment I want to make briefly I think I can leave until the committee stage, because it concerns entirely the proposed amendment which the Attorney-General has laid on the table and which he will be moving shortly. At this point, I will simply conclude my remarks by saying that the opposition supports the bill. We would urge the government to take into the account the comments of the Law Society. I do not think the Law Society is trying to be difficult or obstreperous about this. It is simply trying to make appropriate comments in terms of the way our judicial system should work. I indicate our support for the bill.

The Hon. M.J. ATKINSON (Attorney-General): First of all, I shall comment on the Law Society's submission. The Law Society is less than clear about this bill, but the first part of the submission seems to be that the bill should be confined to police pursuit by motor vehicle and that, of course, the bill as currently worded is not so confined. It is true that the bill is not so confined; it was not intended to be. The matter was specifically considered by those responsible for the bill. The point of the offence created by the bill is (as its title indicates) the dangerous driving of the escaper. It matters not whether that is caused by pursuit by foot, horse, bicycle or dog sled.

The government does not agree with the submission on this point. The Law Society wants the bill amended so that it is required that it was known to the offender that there was a police pursuit. I think the bill goes quite far enough in this regard. It requires proof that the offender was intending to escape or entice a pursuit—or, as our amendment will say, 'cause' a pursuit. Intention is required more than mere knowledge. The Law Society objects to section 19AC(3)(b). This is a special rule dealing with alternative verdicts, in this case a possible use of the charge as an alternative verdict to a more serious charge under the reckless endangerment provisions of section 29 of the act. The Law Society thinks that this removes an important trial and jury function. The government does not agree: it does no such thing.

The policy of the bill about the relationship with the section 29 offences (the more serious offences) is that this new offence should not be used to load up an indictment that would otherwise have been prosecuted under section 29, anyway. The government does not want to reach a position in which the new offence and the section 29 offence are both the subject of conviction. So, they should be alternatives. If they were automatic alternatives, then they would almost arise on the facts, whether or not the prosecution relied on the new offence as a lesser alternative. The trial judge is under a duty, usually speaking, to direct a jury on any alternative that arises on the facts. This may unnecessarily complicate already complicated trials. Any glance at section 19B as it is proposed to be amended shows that there are more than enough alternatives, anyway.

We do not want to make the trial judge's task more difficult than it already is. We say that, if the prosecution wants to rely on this alternative on a section 29 charge, it should say so and opt for it. We think Chief Justice Bray was right to observe in Lafitte and Samuels that prosecutors should make up their minds what they want to charge and then boldly charge it. We cannot agree with the Law Society. Finally, I foreshadow that, in an attempt to reach a compromise with another place, we will be moving in committee to delete the word 'entice' and substitute the word 'cause' because we think the word 'entice' puts an unnecessary burden of proving intention on the Office of the Director of Public Prosecutions—'cause' will be quite sufficient.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. M.J. ATKINSON: I move:

Page 3, line 23—Delete 'entice' and substitute:
cause

This amendment is the result of a late submission by the Director of Public Prosecutions. It replaces the word 'entice' with the word 'cause'. It is a matter of semantics. The DPP is afraid that the defence will say, 'Yes, my client was chased by the police and sped away but he did not entice anyone: the police were on their own enticement so far as the chasing was concerned.' Put another way, 'entice' has a flavour of extra meaning that 'cause' does not. The DPP does not want to have to prove that flavour beyond reasonable doubt. The government is happy to accommodate the Director, as always.

Mrs REDMOND: I am grateful to the Attorney for providing that explanation and I agree with him that it is a matter of semantics but, for the life of me, I cannot see why, with due respect to the DPP, it is better to have the word 'cause'. It would seem to me on any plain meaning of the word 'cause' that it will be much harder to prove that a driver of another car caused someone to do anything in the way of chasing. It beggars belief to me that that is the reasoning behind this.

The Hon. M.J. ATKINSON: The prosecution will be aiming to establish a cause: not that it is the cause but a cause. The member for Heysen's belief, I found, is easily beggared, and I think it is plain that 'cause' is a lesser burden on the prosecutors than 'entice', which suggests a more deliberate and intentional conduct by the alleged offender than 'cause'. It seems to me that 'cause' is more objective a judgment and 'entice' carries with it subjectivity.

Mrs REDMOND: I am still puzzled as to the idea even of a cause, because the section provides, 'a person who, intending to escape pursuit by a police officer or entice a police officer to engage in a pursuit' drives a motor vehicle and so on. If you substitute 'cause' it becomes, 'a person who, intending to cause a police officer to engage in a pursuit.' It seems to me that exactly the reverse applies: that, in fact, enticing someone is something that I could do from my car, driving off and doing whatever, but causing someone has exactly the reverse meaning. In no way, in driving off at 160 km/h down the street, am I causing anyone else to drive at that speed. It is a bit like the difference between 'imply' and 'infer', I think: it is the receiver of the information.

If the DPP says that he wants it, well and good. It just beggars belief to me that anyone would suggest that it is easier. I can see the argument coming in a court when someone is charged with the offence and they raise the defence and say, 'I didn't cause him to do anything. I didn't cause this police car to go chasing me down the street', whereas certain behaviour, I could see, would entice the police to engage in a pursuit. For the life of me I cannot see why 'cause' would be the better word in that circumstance. If the DPP thinks that it will be easier to prove and not harder, I am prepared to accede and not raise any further objection. I do want to place on record my very strong and clear view that it will have exactly the opposite effect to what is intended.

The Hon. M.J. ATKINSON: I suggest that the member for Heysen place this amendment in her file of—

Mrs Redmond: Things to look out for.

The Hon. M.J. ATKINSON: Yes, legislative calamities committed by the Attorney-General, and get back to the house when her prediction comes true. We are still waiting for one of those.

Amendment carried; clause as amended passed.

Clause 6 passed.

Title passed.

Bill reported with amendment.

Bill read a third time and passed.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (PRIVILEGES AND IMMUNITIES) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I move:

That this bill be now read a second time.

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

Leave granted.

The Commission of Inquiry into Children in State Care has been operating since 18 November 2004. It investigates allegations of sexual abuse of State children and deaths of State children caused by criminal conduct. So far 872 persons have contacted the Commission and made allegations of sexual abuse of them while in State care and others have also contacted the Commission alleging sexual abuse of other children while in State care. Incidentally, the Commission is also investigating 619 deaths of children in State care back to 1908. It is anticipated that the vast majority of those deaths were not caused by criminal conduct but by natural causes, disease and accident.

The Commissioner, E.P. Mullighan QC, has asked the Government to promote in Parliament an amendment to the *Commission of Inquiry (Children in State Care) Act 2004*. Honourable members will know that persons approaching the Commission and giving evidence do so in confidence with the knowledge that what they say is not passed on to anyone else without their consent, unless the Commissioner determines that he must do so in the public interest.

Many matters have been referred to the police and it is anticipated that criminal proceedings will be commenced against alleged perpetrators.

The Commissioner wants to ensure that the confidentiality provisions of the legislation are always observed. It is necessary that persons can approach the Commission in confidence. If those confidentiality provisions are not maintained, it is anticipated that many persons will decide not to make disclosure. It has been recognised that disclosure of sexual abuse by victims and survivors is part of an important healing process.

The proposed amendment will prevent disclosure to alleged perpetrators of all of the information held by the inquiry. When a matter is referred to police, police undertake their own investigation and the disclosure of information provided to them by an alleged victim occurs according to the usual procedures in the criminal justice process. Without the proposed amendments, the Commissioner may be forced to disclose all information which he has received even though it may not be admissible in any legal proceedings.

The Commissioner is of the view that his work will be severely compromised if persons charged with criminal offences may compel disclosure of information which has been given in confidence.

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 *Commission of Inquiry (Children in State Care) Act 2004*

3—Amendment of section 13—Privileges and immunities

This clause amends section 13 to prevent the issue of a subpoena or other court process—

- requiring an authorised person or person appointed or engaged under section 8 of the Act, or any person who formerly occupied such a position, to appear to give evidence of matters coming to the person's notice in his or her official capacity (or former official capacity); or
- requiring the production of a document, object or substance prepared or made in the course of, or for the

purposes of, the Inquiry, or in the possession of the Inquiry (or that was in its possession immediately before completion of the Inquiry).

The provision also provides that if such a process is issued before the commencement of the provision, it is of no force or effect.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I move:

That standing orders be so far suspended as to enable this bill to pass through all stages without delay.

The DEPUTY SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

The SPEAKER: There being an absolute majority of the whole number of members present, is the motion seconded?

An honourable member: Yes, sir.

The SPEAKER: Does the minister wish to speak to the suspension?

The Hon. J.W. WEATHERILL: Yes. It is important that we pass this bill through all stages, because it relates to a commission of inquiry that could be amenable to attachment through some legal process at any point. We are about to embark on a long break, and the commission of inquiry could potentially be prejudiced if this bill was not passed.

Motion carried.

Mrs REDMOND (Heysen): The children in state care inquiry was one of the first pieces of legislation that I was privileged to introduce in the house on behalf of the opposition in 2004. It was established at that time under Commissioner Mullighan, who still presides over the commission. In the two years, or thereabouts, that it has been in operation it has received evidence from just shy of 900 people, and almost 100 matters have been referred to the police as a consequence of the information received by Commissioner Mullighan. It was always intended, of course, that the commission would not in any way be judicial in its function: it will not make any findings as to anyone's guilt or innocence.

From my discussions with Commissioner Mullighan, which have taken place at fairly regular intervals over the last two years, it is clear that, for a lot of people, coming before the commission has been of considerable therapeutic value, in the way in which they are able to come to terms with what happened to them if they were sexually abused whilst in state care, even if that was a long time ago. Of course, for many of those people, it was a long time ago, and they have had very damaged lives as a result of what happened to them. I think that one of the key things that will come out of the commission is just how sad have been the lives of people who have suffered sexual abuse, particularly at the hands of their carers whilst in state care.

As I said, of 900 matters involving people who have given evidence, about 100 have been referred to the police. So, the large majority of people who come before the commission are there because they want to tell someone what happened to them—usually for the first time—to have time taken to listen to them in detail and in depth and to have some understanding by the listener of the dramatic and ongoing effects of what happened to them, and often of the added trauma and burden that occurred, because when they tried to make complaint at the time about was happening they were not believed, their claims were dismissed, or they were threatened. All sorts of things happened to these individuals, so for many of them it has taken a great deal of time and courage even to decide to come forward and give a statement.

Gradually, Commissioner Mullighan has managed to build a commission where people feel safe and confident. People often find it quite traumatic to come into the commission to tell their story. They find it not only therapeutic but also very draining and often traumatic reliving events that they may have kept buried for a long time. I know that the commission has gone to a great deal of trouble to make sure that people are not simply thrown back out onto the street, as it were, immediately after giving their evidence and that counselling is available for those victims who have come forward and who find it a quite traumatic experience.

Of course, that has largely been based around the fact that this commission has really guaranteed the confidentiality of the people who come before it. It is that issue which brings us here today and which has led the opposition to indicate, first, that it will cooperate in putting this piece of legislation through without any delay. I think that this is the very first time I have had to speak on a bill as soon as it has been introduced without even hearing the second reading explanation, because it has been inserted in *Hansard* without having been read. Luckily, I have managed to have some briefings over the past few days—indeed, very few days; I think it is less than a week since I first spoke to Commissioner Mullighan about the issue. I have had a number of briefings with both Commissioner Mullighan and the officers of the minister's staff, and the member for Bragg, together with the Hon. Robert Lawson and the Hon. Stephen Wade in the other place, were also engaged in most of those briefings.

As I said, the issue of confidentiality brings us to this point today because it is feared that, as matters are being processed through the police prosecution stage and charges are laid, defence lawyers or defendants will issue subpoenas seeking to access records of the commission, and that poses a considerable problem. I understand from Commissioner Mullighan that the process that occurs at the moment is that, if a person's evidence to the commission is such that the commissioner forms the view that it is an appropriate case to be referred to the police unit set up to deal with these sexual crimes, the commission does not hand over what it has produced by way of a statement; rather, Commissioner Mullighan provides the police with an indication as to the victim or victims; the perpetrator or alleged perpetrator; the dates, if they have them; the places; and a few other key indicators.

However, they do not provide any part of the statement of the witness. The police must then build their case from the ground up, and there is very good reason for that from a legal point of view. The police must build their case on their own and not rely on what has been done by someone else. They must build the basis of evidence and decide for themselves whether the evidence they manage to formulate has sufficient merit that they would be likely to succeed in a prosecution, and bearing in mind that these will be very serious prosecutions. The reality of it is that, once a person is even charged with sexual crimes of this nature, regardless of the outcome, in all probability they will be destroyed.

It is an onerous task to decide to pursue these cases in the first place. The commission does not hand over its evidence. The concern we are trying to address at present is that, in those cases that have been referred to the police, once the police issue proceedings there is an anticipation that a defendant or a defendant's lawyer may issue a subpoena or

subpoenas seeking to gain access to the documentation held by the commission. In the original form (which the government ended up not introducing), the government proposed to create a blanket of protection against everything, not only that which the commission had produced in the course of its inquiry but everything which had been received by the commission, as well as a protection against either the commissioner or his staff being called to give evidence.

This led to some difficulty for the opposition in as much as we accept the need for the confidentiality of the commission. We also accept and recognise that it could do undue harm; and, indeed, it could be absolutely fundamental in the level of harm that it does should there be a situation where a subpoena for information held by a commission is successful and the commission was forced to hand over, for instance, statements which it had prepared. So, really, that became a problem. Where do we draw the line?

The view of the opposition is that it is appropriate to draw the line, basically, by putting a wall around the commission itself by saying, 'Well, within the ambit of what you would describe as having been produced by or for the commission of inquiry is appropriate for protection.' I do not think that there is any dispute on either side that it is appropriate to cover that. Any document produced by the commission (such as a statement from a victim) and any document produced for the commission (for instance, if an organisation or an individual wanted to make a submission specifically for the commission) is encompassed within the area which, I think, we are all agreed should be agreed by the ambit of this protection that we are seeking to insert by providing that a subpoena cannot issue to gain access to the commission's documents.

There is no argument about those areas. The argument comes about, as I said, because the original wording of the section as proposed by the government includes anything received by the commission, and that gave rise to a problem, namely, that some unscrupulous or manipulative person could produce something to the commission and, by virtue of having produced it to the commission, gain the cloak of that protection, and I am sure the government does not want that any more than we do. We just have a difference about how best to achieve the outcome.

It was suggested to us that there could be several other categories, apart from documents which are produced specifically by or for the commission, or for the purposes of the commission. I will just try to run through some of those. For instance, the police might provide one of their files, an unedited file. I think they have been willing to cooperate quite fully with the commission, but they would be at pains not to expose a file of theirs to a subpoena. So, they want this provision to cover anything that they might produce, even though their investigative file may not have been produced within the term 'for the purposes of the commission'. It may have been produced exactly for its own purposes within the police department, but handed over (for whatever reason) to the commission. That, I think, is really covered by the fact that, first of all, it would be extremely unlikely that the police would hand over to the commission their only copy of any document and, if they did that, that the commission would retain it.

One of the other possible documents might be, for instance, a diary. I gather that there have been instances of people who may have written in a diary 40 or more years ago, stating what was happening to them at the time. It may or may not have evidentiary value, but if they produce it to the commission, should it be protected? That is another area that comes into question. It could be that the commission, for instance, goes to the people who are holding the records of the organisations that we used to know as orphanages and wants to access their documentation. They may have records relating to the groups who were there at any time, or people who visited at any time. They may have records about the individuals, and the commission may, indeed, come into possession of those records.

If that is the case, how do we deal with those? As I said, we have no dispute at all about putting the boundary around the documents which are produced for the commission and for the purposes of the commission. But, how do we decide what other documents should be included or excluded from that blanket protection which this legislation seeks to give to the commission so that what it holds cannot be subpoenaed? The Liberal Party has taken the view that, really, what we have to do is look at finding the right balance between the rights of the defendant (who will, no doubt, claim innocence and want to prove that), the rights of the individual who has come to the commission expecting everything to be confidential, and the rights of the community at large in maintaining the integrity of the commission.

We originally indicated to the government that we had some difficulty with the concept that we should include, therefore, all documents which had been received by the commission because, if we included everything that had been received by the commission, as soon as a document was handed to the commission, notwithstanding that the commission might say, 'It has no value to us,' and hand it straight back, there would be a legal argument about whether it had, therefore, been received by the commission and was capable of receiving the blanket protection of the section. That is not anyone's intention, but there could be (and there always will be, in my view) someone unscrupulous enough to work the system. We take the view that what we should try to do, therefore, is say: let's put the commission virtually to one side. Clearly, everything that the commission has received, in terms of what has been produced for its purposes, is fine and is covered; everything it has received because it created it itself is covered. But, as soon as you get into the area where someone can gain a protection that is not intended, we have a problem.

We suggested the deletion of the words 'received by' and, to give the government credit, it has amended the legislation so that it has now deleted that particular aspect of the documents which are covered. But it still wants to give a bit broader coverage than what we think is the appropriate line.

One might ask why does this matter? It matters because any competent defence lawyer, particularly criminal lawyer, will know that if you can find that someone has made a prior inconsistent statement, then you can use that prior inconsistent statement to cross-examine the person and damage their credibility as a witness. We know that people spend many hours giving their statements to Commissioner Mullighan. Their statements may range broadly not only across their own family personal histories but they may also contain a lot of hearsay; they may name names of other people against whom there may be no evidence whatsoever, and it is not appropriate for those things to be exposed. So, we all agree with that, but if someone has a diary, which would but for having been presented to the commission, be discoverable and, therefore, available to the defence to look at to see whether it is consistent with all the subsequent statements, and allow the defence to defend the accused to the best of their ability, then

it seems to the opposition inappropriate for us to impinge on the normal course of events.

It is interesting, apart from anything else, that Commissioner Mullighan himself came up as the leading authority on this issue, and I refer to the case of R v. Polley, a 1997 case in which Justice Mullighan said,

> As a general rule, an accused person in the Criminal Court is entitled to compel by subpoena the production to the court of documents which has evidentiary value.

He then refers to a case of Justice Brennan:

> Indeed, in the former case, at page 451, he described this right as, 'so basic and important an aspect of our criminal procedure that a trial in which the right is denied cannot be, in my opinion, a trial according to law.'

He went on to say and, again, I quote from the then Justice Mullighan:

> Once an accused person avails himself or herself of this right and the subpoena is issued and served, the procedure in dealing with the subpoena and documents referred to in the subpoena is as discussed by Moffatt in National Employers Mutual General Association Limited v. Waind in 1978, and by Perry in Hunt v. Russell in 1995. The subpoena may be set aside if it is vexatious, offensive, or otherwise an abuse of the process of the court, which includes if it is fishing. An objection to production on the ground of public interest, immunity, or for some other privilege or immunity must be resolved. The documents are produced to the court if they are relevant to the proceedings unless the subpoena is set aside.

It needs to be borne in mind that a subpoena requires production to the court. Even though I, as a practitioner, might ask for the subpoena to be issued, get the subpoena, and deliver it to the person upon whom I am serving it, that subpoena is a requirement to produce documents to the court, and not produce documents to me for whichever side I act. The court then decides whether the party issuing the subpoena, or both or all parties should be at liberty to inspect the documents. So, it is not simply a matter of getting the subpoena issued. It is a matter of the court's discretion, firstly whether the subpoena should be issued, and that is subject to argument in appropriate cases and, secondly, whether once it has been issued and the court has received the documents, whether they have evidentiary value and, therefore, whether any party, be it the party who applied for them or any other party, should have access to the documents. Chief Justice King, as he then was, expressed the view in the Carter and Hayes case that:

> The evidentiary value is synonymous with documents being used for a legitimate forensic purpose.

He continues:

> A document may have evidential value, in my opinion, not only because it is admissible in evidence, but also, even if it is not so admissible of itself, because it provides material of value for cross-examination. . . or discloses 'information which may be established in some other admissible form'. . .

I have taken the time to go through what the courts say about subpoenas and their nature because we need to bear in mind that, because documents do not have the protection of the section that we are now putting in place to protect documents within the commission, that does not mean that they are available at large. They are still subject to the normal court processes of an application for a subpoena which may be tested by other parties and then, once the subpoena has been issued and served, there is discussion within the court and a decision made by the court as to what extent any party at all should have access to the documents.

The Liberal Party believes that it is appropriate that all the other documents—that is, those that are not covered by the idea of having been produced specifically by or for the commission or for the purposes of the commission—will not receive the protection of this section but will receive the protection of the normal processes of the court, which will weigh up a whole range of issues and, ultimately, seek to ensure that justice is done whilst protecting appropriately the privacy of people. So, I am pleased to see that the terms in which the government has introduced the bill, as it now stands, indicate that they have taken on board the issue of the difficulty created by the words 'received by', but, in our view, their current proposal has not quite reached the level that it should. I understood that we were going to move an amendment, but I guess that we can count in both houses and, having failed to get the endorsement of the other parties and the Independents in the other place, it has been decided that there is little to be gained other than our putting on the record our view as to what should happen with this legislation.

I will go through a few of the other issues that have emerged regarding this matter. I tried to have a word with the Law Society about this legislation, but it has been brought in so rapidly—and I appreciate the reasons for that. I usually like to know what the Law Society has to say about any of these issues. Whilst I could not speak to the current chair, I spoke to a criminal lawyer or two. Basically, their view was that it was a bit of a worry to have a complete ban on subpoenas rather than some sort of weighting process. In their view, as criminal lawyers, if the complainant has made prior inconsistent statements to anyone, they should be available for the defence to be aware of and to cross-examine against.

It was suggested by one person that, potentially, there could be alternatives such as having introduced through the legislation a modified subpoena process where more weight than usual is given to the importance of confidentiality, because there is no doubt in anyone's mind that, were the commission to lose its confidence with the public, it might as well close its doors. There is no way that we can risk that happening. We therefore need to ensure the confidentiality of the commission. However, the lawyers were suggesting a modified system that spelt out in the legislation that these documents do not get the blanket protection and the applicant would have to establish an entitlement to access them. If the court was satisfied that it was in the interests of justice, and that the interests of the defendant outweighed the need for confidentiality, then a subpoena could issue. That probably goes to the other extreme and, in my view, the Liberal Party has the equation just about right; however, we will not be moving the amendment in that regard.

We accept that the government has (in the form that the bill now comes to us) improved the original bill to some extent. It now exempts from any subpoena process:

> . . . a document, object or substance—
>
> (i) that was prepared or made in the course of, or for the purpose of, the inquiry;

So they have segregated that group of documents out, and we agree that that is appropriate. They then include:

> or
>
> (ii) that is in the possession of the inquiry or that was in possession of the inquiry immediately before completion of the inquiry,

I will address the second part of that first. Documents that are in the possession of the inquiry at the completion of the inquiry will, I suspect, be the subject of a further bill before this house at a later date because there is no doubt in my mind that, having taken evidence from 900 people and acquired numerous other documents, when the commission comes to

an end it will not be appropriate to simply destroy those. In my view they are an important historical record. However, it will also not be appropriate to simply place them on the public record in some way because, as I have already indicated, there will be quite a number of people who have disclosed things to the inquiry—in some cases things they have never disclosed to anyone before in their lives. It would be a breach of the trust they have placed in the commission for those documents to suddenly be made available, and I suspect that at some future point we will have a situation where we put through a bill to specifically deal with what is to happen to those documents.

In any event, the reference in the second part of new paragraph (b) simply deals with the fact that, if something is in the possession of the inquiry, once the inquiry closes that aspect needs to be covered. So, it simply covers the issue of the end of the inquiry which will be sometime next year, I think, according to current indications.

Then we get to the second part of the section; that is, 'in the possession of the inquiry', that is, currently in the possession of the inquiry when a subpoena is issued between now and at the end of the inquiry. That has the problem that, from our point of view, something could be parked in the commission. We have an assurance from the commissioner that, amongst other arguments, they have thus far been receiving documents in a situation where they have had no guarantee of being protected and, therefore, certainly no-one has been—if I can use the term—'parking' documents with them to gain a privilege or a protection, which has not hitherto existed. But, if the section comes into force, the commission believes that it would be alive to people coming in trying park documents with it, so the commission thinks it should be trusted to be able to discern that someone is trying to do that and refuse to be a party to that. I have no doubt about the integrity of the commission. My difficulty is simply that I do think that we should be passing laws at any time which are based on an individual's integrity. We should be trying to draft laws that apply, no matter who is doing which job.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

DEVELOPMENT (PANELS) AMENDMENT BILL

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

CRIMINAL LAW CONSOLIDATION (DANGEROUS DRIVING) AMENDMENT BILL

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

SITTINGS AND BUSINESS

The Hon. P.F. CONLON (Minister for Transport): I move:

That for the remainder of the session, standing orders be so far suspended as to provide that the Clerk may deliver messages to the Legislative Council and the Speaker may receive messages from the Legislative Council when this house is not sitting and that the Clerk may deliver messages to the President of the Legislative Council when that house is not sitting.

The SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

ADJOURNMENT

At 5.55 p.m. the house adjourned until Tuesday 27 June at 2 p.m.