HOUSE OF ASSEMBLY

Thursday 14 May 2009

The SPEAKER (Hon. J.J. Snelling) took the chair at 10:31 and read prayers.

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:32): Obtained leave and introduced a bill for an act to amend the Local Government Act 1999. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:32): I move:

That this bill be now read a second time.

Members would be well aware that for a long time I have been trying to advance the reform of local government—reform in respect of the question of whether or not we currently have in the metropolitan area the best boundary arrangement for councils and whether they are the most efficient and effective. It has been a long road, because certain people do not want any change at all. I do not have a problem with the argument that we should be reforming ourselves: I think we should. I think any area of government—local, state or federal—should always be open to possible change and improvement.

I am not trying to pick on local government. I used to be in local government many years ago and I thoroughly enjoyed it, and I certainly recommend it to people who want to serve their community. However, the question is: are the current boundaries in the metropolitan area, where we have 19 councils from Gawler to Noarlunga, the most effective and efficient in terms of creating a particular number of councils? I do not have a set view on whether we should have 19, 10, three or one, but I tend to believe that there may be too many at the moment.

The purpose of this bill is to allow a commission of inquiry to be set up, and members can see that the commission of inquiry would be called The Metropolitan Councils Boundaries Reform Commission. It would consist of a former judge of the Supreme Court, appointed by the Governor on the recommendation of the House of Assembly by resolution. The terms of reference of the commission are quite specific. They are that it must:

(a) inquire into and report on the appropriate number and configuration of metropolitan councils taking into account—

(i) the size and area of Metropolitan Adelaide;

(ii) the desirability of the efficient administration of councils; and

(iii) other matters that the Commissioner considers relevant.

The commission is required to report no later than 31 December this year and cause copies of the report to be laid before both houses of parliament, setting out the findings of the commission's inquiry and making such recommendations as the commission thinks fit as to the appropriate number and configuration of metropolitan councils. The commission would have the powers of a royal commission, so it would be able to require people to attend and give evidence.

Importantly (and I am not naive, in terms of knowing that we have an election coming up in March next year, and I appreciate that some members might be sensitive to that fact, in terms of any possible changes to councils), members need to bear in mind that this is an inquiry by a commission headed by a judge that would report by the end of this year. The report would be brought to both houses of parliament and the minister responsible for local government would have to respond by 30 June 2010. So, it takes it past the next election and, whichever party is in government, it would be the minister for local government responding by 30 June 2010.

As the bill says, the minister must respond by that date but include in the response '(a) which (if any) recommendations of the commission will be carried out and the manner in which they will be carried out; and (b) which (if any) recommendations will not be carried out and the reasons for not carrying them out'.

I think the mechanism provided here is a sensible, objective analysis but, at the end of the day, the government and the parliament will have to make a decision about whether or not to accept some or all of the recommendations made. I think this mechanism is the best way of trying to deal with the current situation—and we know some of the controversy: we have people making

comments such as the Adelaide City Council is not representative of the metropolitan area, and so on. That issue, along with others, would be canvassed by the commissioner.

There are plenty of arguments for and against amalgamation. I do not need to detail them all, so this is not a complete or list or an exhaustive one, but some of the arguments for amalgamation are that larger well-resourced councils can introduce and financially commit to innovative and comprehensive neighbourhood and area-based partnerships, they have the capacity and the ability to develop and implement the systems and processes necessary to achieve key governance outcomes, and they can utilise economic efficiency gains derived from amalgamation—and so it goes on. There are other arguments for amalgamation.

Some of the arguments against amalgamation are that large bureaucracies are less effective, they inhibit transformation of policy decisions into policy action, and one of the allegations is that decision-making is removed from the community. Larger councils are less accountable and transparent and they are more complex than their smaller counterparts and, thus, less easily monitored by voters. So the arguments go on against amalgamation.

If you look around Australia, you will see that, recently, the Northern Territory has brought about consolidation of many of its councils. Brisbane, as we know, has one council; under the Kennett government in Victoria, councils were forced into amalgamation; and here, during the time of the Brown government, councils were given the opportunity to amalgamate. Many in rural South Australia did exactly that, but not so many in the metropolitan area.

Mr Pengilly interjecting:

The Hon. R.B. SUCH: Yes, Enfield and Port Adelaide. In fact, there was active opposition to any consideration of amalgamation. The way things are now, the reality is that, if you ask councils whether they want to amalgamate voluntarily, the answer is fairly predictable. It is unlikely that any council will say, 'Yes, we want to amalgamate.' It could happen, but it is unlikely, because we all know that we tend to look after our own patch. If there were changes at the state level and the federal level, you would get similar sort of arguments: let's keep the status quo; let's not rock the boat.

The LGA is not in a position to bring about possible amalgamations easily. I commend the LGA for trying to get councils to work more cooperatively together. I have acknowledged before that, if you can get councils to cooperate with each other more closely, that is an alternative to amalgamation. Some do it through waste collection, but there is still a long way to go in terms of things like sharing computer resources and other services. Things have happened in terms of councils cooperating together such as joint tendering, but there is still a long way to go.

This commission, headed by an independent person, a retired judge, would be able to hear the arguments from experts and lay people and, importantly, from the community as to whether or not they think it is a good idea to have the status quo in the metropolitan area, fewer councils, right down to the possibility of having one, two, three or four councils to cover the metropolitan area.

This approach that I am proposing through this bill will take the heat out of the issue and allow it to be considered in a calm and rational way. It will get the work underway prior to the election, with the government and the parliament responding to the recommendations of the commission after March 2010.

I believe that any fair consideration of this bill will come to the conclusion that it is the way to deal with this issue rather than rushing in and forcing councils to amalgamate. Let us have a look at the issues for and against and hear the recommendations of the independent commissioner. Then decisions can be made about whether or not we have the situation correct at the moment, whether we need 19 councils between Gawler and Noarlunga and, if not, what the alternatives might be.

It would allow all the groups and individuals who have an interest in this to have a say. I think it would be very healthy in terms of clearing the air, because we are hearing a lot of comments about, for example, the Adelaide City Council, some of which in my view are unfair. It would enable the air to be cleared and, more importantly, allow us to progress this issue of local government reform in a way that is genuinely objective and appropriate.

In conclusion, I reiterate that I am not using this as a mechanism to attack local government. I am a great believer in local government. I think that in many ways local government is not recognised or properly funded in the way that it should be, but that is an issue for another

time and another mechanism. This bill is purely about looking at boundary reform for local government. I commend the bill to the house.

Debate adjourned on motion of Mrs Geraghty.

CONSTITUTION (CASUAL VACANCIES) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:43): Obtained leave and introduced a bill for an act to amend the Constitution Act 1934; and to make related amendments to the Electoral Act 1985. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:44): I move:

That this bill be now read a second time.

Members would be aware that, previously, I introduced a bill, which was virtually identical to this—in fact, it may well have been identical—however, with the prorogation of parliament the bill lapsed. Obviously, we cannot have the same replacement system for casual vacancies in this house as in the upper house, but I am trying to create a mechanism whereby we can save not only money but time and effort in the way we fill a casual vacancy in this house. It is done in other places, but I emphasise that, where it is done in Tasmania and the ACT, they have the Hare-Clark system, so they are replacing someone under a system of proportional representation by going to the next person, if you like, in terms of votes.

I note that both Liberal and Labor in Victoria have sought to create a mechanism to fill a casual vacancy. Soon after he became premier, Jeff Kennett announced that he wanted to amend Victoria's Constitution Act to provide that, in the filling of that vacancy, it could be done with a mechanism without having to go to a by-election. I guess there are some parallels in what he proposed and what I am proposing.

According to the research I have done, that concept of replacing someone in a single member electorate has not been proposed anywhere else in Australia. That is the advice I have been given, but I stand to be corrected if anyone can find an example where someone has tried to do it.

The ALP in Victoria opposed that move but then, as I understand it, introduced its own bill which provided for casual vacancies to be filled by party nomination. But that proposal would have required the Hare-Clark system of proportional representation. That bill was unsuccessful, so that is slightly different to mine because I am not proposing proportional representation for the House of Assembly.

I guess I should apologise to the member for Frome, because under my proposal he would not be here—so, Geoff, my apologies. Under my proposal, the party or the Independent that held the seat would be able to nominate a replacement until the next election, subject to the parliament itself (the House of Assembly) in effect endorsing that proposal. If it did not, then the matter would have to go to a by-election.

The Hon. I.F. Evans: Geoff would have been here under that scenario.

The Hon. R.B. SUCH: The member for Davenport says that Geoff would have been here, because the government would not have supported the nomination by the Liberal Party to replace the Hon. Rob Kerin with another Liberal, but I am not sure about that. As far as I know, and I stand to be corrected, the Labor Party and the Labor government have always upheld the tradition in the upper house of replacing a member who leaves, retires or dies with a person of that same political affiliation.

I think we all become a bit cynical at times, but there still is a degree of integrity among colleagues in this place and the other place. I am seeking to provide a mechanism with a lot of safeguards where we do not have to go to a costly by-election. Say, for instance, a member had to leave this parliament for reasons of ill health. They could be easily replaced in the sense that, if it was a member of the Labor Party or the Liberal Party, they could nominate a replacement without having to go to the poll. Eventually they will have to go to the poll at the next election, and my proposal has safeguards built into it to minimise any possible abuse.

In essence, whilst we have a different electoral arrangement to members in the upper house, the principle is similar in that it would save time, money and effort if we could fill a casual vacancy in a more direct and speedy way, without the great cost involved to the taxpayer. I think the public would welcome a mechanism which would allow us to do it, not simply to save money

but in a way which is fair and equitable and which ensures that the electorate continues to be represented by the person, or the type of person in respect of party and political ideology, they voted for in the first place. I commend the bill to the house.

Debate adjourned on motion of Mrs Geraghty.

COMMONWEALTH POWERS (DE FACTO RELATIONSHIPS) BILL

Mrs REDMOND (Heysen) (10:51): Obtained leave and introduced a bill for an act to refer certain matters relating to de facto relationships to the Parliament of the Commonwealth. Read a first time.

Mrs REDMOND (Heysen) (10:52): I move:

That this bill be now read a second time.

Members in this place are probably aware in general terms of the situation in relation to how separating couples deal with matters of property. Until now the case in this state has been that if you were a legally married couple, since 1975 and the introduction of the Family Law Act, you would go to the Family Court, which is a federal court. Generally speaking, for some time after that, if you were not married, if you were a de facto couple, and you wanted to have a property separation, you would then go to a state court.

Sometime after the introduction of the Family Law Act—and it is so long since I practised in that jurisdiction that I cannot tell you when it was—there was an amendment which allowed for matters concerning children, even though they were born to a de facto couple, to go to the Family Court, but matters concerning property would still remain within the jurisdiction of the state court.

It was agreed some time ago that this was creating certain problems. The upshot of a fairly lengthy process has been that, in November last year, the federal parliament passed legislation which was essentially agreed to, as I understand it, by all the attorneys-general around the country to move the de facto relationships property matters into the jurisdiction of the Family Court. So, in November last year the Federal Court passed legislation which added some new provisions into the Family Law Act, and set up within the Family Law Act a regime with identical provisions regarding de facto property matters to the provisions which already applied to married people in property matters.

Those provisions came into operation on 1 March this year. I have been approached by a number of people, at various functions, some of whom were not even known to me, who came up to me and said, 'What on earth is going on in South Australia? We're the laughing stock of the rest of the country, because as family law practitioners we were expecting, pursuant to the changes made in the federal jurisdiction and in every other state jurisdiction, to move, like the other states, to have our de facto property settlements into the Family Court, and it hasn't happened here.'

Indeed, one would wonder why it has not happened. It is certainly not because of any complication in the legislation. If members look at the paper before them, the bill is actually only one and a half pages long and contains four clauses, including the title and commencement clause; so it is not because of any complication in the matter. Indeed, all the other states and territories have already attended to this matter, except Western Australia. But Western Australia is in a peculiar position, because in Western Australia people who have been living in de facto relationships can already have their disputes about financial matters and children determined in one court: the Family Court of Western Australia.

On 26 February 2009, the Law Society wrote to the Attorney-General urging him to take action in relation to this matter. It is because of the failure of our Attorney-General to address this issue that I now bring this private member's bill before the house.

I was speaking to a very senior family law practitioner yesterday who said to me, 'We just can't understand why this government has failed to deal with this matter.' It certainly has not been because of the pressure of other government business in the house. They say that most family law practitioners here—in fact, everyone to whom I have spoken, and I have spoken to quite a number—are bewildered as to why the government has not taken action on this matter.

The Law Society letter, dated 26 February 2009, is quite comprehensive. I want to refer to some of the things that they say in the letter, which urges the government to refer its powers so that South Australia can be covered by the federal legislation in the same way as all the other states and territories. The letter states:

As a matter of priority...In our view, it is imperative that the government takes such action for the following reasons—

They then set out nearly two pages of reasons why this government should have taken the action, which I now seek to take in this private member's bill. I will not read the whole letter into the record, but I will traverse most of the detail of what they cover. They first of all say:

1. The Act provides a comprehensive legislative scheme pursuant to which parties who have lived in a de facto relationship...may divide their property and, in appropriate cases, apply for spousal maintenance.

2. The relevant provisions of the Act are identical to the provisions of the Family Law Act which relate to married couples.

3. Therefore, parties who have lived in a de facto relationship will be afforded the same degree of protection with respect to their financial rights as are married people.

They go on to say:

4. Critically, one of the advantages...is the ability to split their superannuation pursuant to the relevant provisions of the Family Law Act: superannuation often being the most sizeable asset.

Further down they go on to explain:

...no such remedy exists under the Domestic Partners Property Act. The only power available to a court exercising jurisdiction under [that act] is to take the respective superannuation entitlements into account in dividing their other property.

They then say:

As a result, one or both of the parties are left with an outcome that is inappropriate and/or unjust.

They then go on to say:

5. Unless South Australia refers its powers...citizens of South Australia who have been living in a de facto relationship and who then separate will have substantially different (and, in very many cases, inferior) rights to citizens of every other State and Territory of Australia.

6. The Society considers that this is inappropriate and unreasonable.

As the practitioner to whom I spoke yesterday suggests, it also creates enormous extra difficulty if one or other of the parties has moved to a state which is covered by this federal legislation Obviously, that will add complication and, as any person would expect, added complication in any legal matter will add considerably to the expense of it. The Law Society goes on to say:

Couples who have lived in a de facto relationship until South Australia joins this scheme will continue to be obliged to resort to two different courts.

Again, that will add unnecessary complication and, therefore, expense.

One of the other things that the Law Society goes on to point out is that another very significant advantage is that there will be significant savings to the courts which currently exercise jurisdiction under the Domestic Partners Property Act, which is principally the District Court of South Australia. They will no longer have to hear disputes involving de facto relationship property matters and, whilst we do not have any specific figures on just to what extent these matters tie up the courts, there is no doubt that they do tie up the courts. Indeed, the Law Society says:

The society understands that district court judges and state magistrates are content for these powers to be referred to the commonwealth.

Given the figures in other places where perhaps 20 per cent of the work of a court might be tied up in these matters, there is no doubt that it could lead to a significant improvement in our position with respect to court delays, especially in criminal matters (and even other civil disputes) if courts are not having their time tied up dealing with matters which could reasonably and most effectively be dealt with by the Family Court of Australia and the federal magistracy.

The society also points out that, whereas in the Family Court the judges are specialists in these matters, the judges here will freely acknowledge that they are not specialists in relationship breakdown. So, there is a whole range of reasons why it is appropriate for this bill to be introduced. It is concerning that the Attorney has chosen to ignore, to date, the pleas of the Law Society and has failed to bring in this very simple piece of legislation—which the other states and territories have all attended to—leaving South Australia out in the cold on this issue. I will quote again from the Law Society's letter. In February this year, it said, 'The society regards this as an urgent and pressing issue.'

I simply say to the house that I would expect that, within each of their constituencies, there are people whose interests are being prejudiced by the failure of the government to act on this matter to date. I would invite them to seriously consider what I have put to the house this morning. I am happy to write in more detail to each member of the house; indeed, I have already undertaken to give some members further information in relation to the matter.

This will streamline property settlement matters for de facto couples and therefore lessen legal costs for them. It will make the processes simpler; it will free up our state courts to deal with other appropriate matters, particularly matters which might shorten our criminal and civil lists. So, there is no good reason why this state should be standing alone and not according the de facto couples in this state (who find themselves in the sad situation of separation where financial matters need to be dealt with) the opportunity to go to the Family Court and use the new regime, which was introduced by the federal parliament in November last year and which came into effect on 1 March this year, and get the benefit of the new scheme.

From all the information that has been put to me, there is no doubt that there are no disbenefits, only benefits, for people in those circumstances. It will be cheaper and more straightforward and everyone will have the same rights, whether they approach the court as de factos or as a married couple. The regime set up under the new system is identical, and it will therefore benefit all people who are separated and who need to deal with property and financial matters in the course of that separation. I commend the bill to the house.

Debate adjourned on motion of Hon. P.L. White.

CIVIL LIABILITY (OFFENDER DAMAGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2008. Page 934.)

Mr VENNING (Schubert) (11:06): First, I commend the member for Davenport for bringing this matter to the house. I think a lot of members could observe and learn from the member for Davenport, because he brings issues to the house which are often of a complex but very necessary nature—and this is just another one.

This bill relates to damages paid to people in custody for death or injury arising from, or caused wholly or in part by, the negligence of the Crown. It will allow victims of crime to make a claim against any monetary compensation awarded to an inmate for damages. I am not aware of many occasions where compensation payments are made to prison inmates for incidents arising while in custody, but it seems completely right that a victim of crime should be able to claim to receive a share of any such damages awarded to the perpetrator of the crime against them.

New South Wales has had this legislation in place since 2005. In one case, a convicted drug dealer, who won about $300,000 in compensation for injuries he sustained in prison, has been forced to share $100,000 with his victims. That successful case led to three similar actions. This certainly sounds very reasonable to me. It is amazing that we have not decided to follow on behind New South Wales before this; after all, it has been four years.

So, obviously, whilst it is not a situation that occurs very often, because of this legislation three victims of crime in New South Wales have been able to claim against damages awarded to the criminal who committed a crime against them. This bill gives the crown the ability to withhold money from the damages amount for the following two purposes: (1) to cover interim payments to victims of crimes (relating to the offender); and (2) amounts requested to be paid as part of a judgment against the offender under the Victims of Crime Act.

Although the provisions of this bill may not be used very often, I think it is worth while if it enables only one victim of crime to receive some part of any compensation awarded to an inmate for any incident occurring in custody. I support the bill and I commend the member for Davenport. Surely, if New South Wales has had this provision for over four years then we should be seeing it operate here. It has obviously been tested and accepted there, and it is high time that we followed suit. I support the bill.

Debate adjourned on motion of Mr Bignell.

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 March 2009. Page 2107.)

The Hon. R.B. SUCH (Fisher) (11:09): What is proposed here by the member for Davenport relates primarily to the question of age. I want to take the debate a little further, without getting away from the concept of child pornography. I was reading a statement by a senior police officer the other day in which the definition of 'child pornography' and its criminal consequences concerned me somewhat. I know that we debated this issue some years ago in this place, and I will follow this up by doing some additional research.

I have no time for people who prey on young children. That is not something that I accept or tolerate in any form whatsoever. I cannot understand how people can find children sexually interesting or attractive or get involved. So, I have no time whatsoever for people who prey on children and take advantage of the most vulnerable in our society.

Reading the statement of this police officer, it suggested that basically any photograph of a naked child, or even a child in underwear, would constitute an offence and be subject to criminal proceedings. I know that when we debated this at the time there was some assurance that we would not be seeking to apprehend parents or grandparents who might have a photo of their child or grandchild, for example, in the bath or at the beach, those people having no sinister motive whatsoever in taking a photograph.

I am sure that all of us would have in our family collection some photograph of a baby or a child wearing little or nothing. So, I do have a concern with that, and I am going to revisit this to double check to make sure that we have not set a trap for people who have no evil intent. We need to deal with those who exploit children. The argument given by some in their defence is that they did not do anything. Well, that is a nonsense because, if there is some sexual activity involving a child and their photograph is taken, then they are a party to that exploitation and should not be exempt from prosecution.

This matter, as I indicated at the start, relates to age. I want to make sure that we do not unwittingly, unfairly or inappropriately trap people who have no sinister intention or motive. Certainly, I am in favour of dealing severely with people who exploit children. As I said at the start, I cannot understand how people could find a baby or a child of any age sexually attractive or get involved with it.

I notice that there was a recent prosecution reported in *The Advertiser* where someone said that they had looked these things up on the net out of curiosity. I think that is an issue, and I notice that one of the motions coming up shortly relates to internet filtering, but it would not necessarily stop that sort of curiosity.

Where people have, or know that they have, some unhealthy perverted view of children, they should be encouraged—and there should be quite an explicit campaign to encourage them—to get help and treatment before they inflict damage on children. That is one thing we should be doing. I do not think that we do enough in respect of those people who know that they have a problem.

In my limited knowledge of this area, I think some of it stems from a repressed childhood, so that, in relation to people who have grown up in a very restricted environment where the human body is seen as something naughty or dirty, you create an artificial and unhealthy obsession, and then later in life some of these people, in my view, focus on children because they are reliving something that should have been an open, healthy and natural thing when they were growing up.

If you accept creation, you would have to say that God would not make a body that is offensive: it is a contradiction in terms. If you accept evolution, then we have a body that has evolved over a million of years and is a wonderful thing as well. Whichever strategy, argument or philosophy you adopt, whether it be creation, evolution or a bit of both, there should be none of this silly excessive Victorian attitude towards the human body, and that is why I come back to the point I made earlier. In relation to innocent photographs of children which are not designed for perverts and which do not have any perversion associated with them, we must make sure that we do not trap innocent parents or grandparents in the net when we seek to get the evil people who prey on children.

Mr VENNING (Schubert) (11:15): Again, I rise briefly to support the bill and commend the member for Davenport for bringing forward an issue which is relevant today and which can be quite emotive, particularly in an electorate like mine, which is strongly Lutheran and very family oriented.

I understand that the member for Davenport has brought this bill before the house to amend the discrepancies that exist in the Criminal Law Consolidation Act in respect of the definition

of a child by age. The bill seeks to redefine 'child' from under or apparently under the age of 16 to under or apparently under the age of 18. This feeds into section 62A(2) of the Criminal Law Consolidation Act, which describes what constitutes child pornographic material. I understand that the bill seeks to make further amendments in relation to section 63B of the act, procuring a child to commit an indecent act.

I fully support the member for Davenport in wanting to change the definition of 'child' to under the age of 18, as a 17 year old is still considered a minor. As the member for Schubert, I represent a great region, a region with a very strong family and Lutheran ethic. This sort of activity is abhorrent to my constituents and to me. We have sexual deviants in our society and our communities, and we need to protect the innocent and the unwary, especially our young people.

This activity can leave its scar on people for life, and we need to protect whenever we can, particularly as legislators in this place. I again commend the member for Davenport for a very caring and thought out bill, and I certainly support it and him.

Debate adjourned on motion of Mrs Geraghty

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (REGISTRATION OF DEATHS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February 2009. Page 1645.)

Mr VENNING (Schubert) (11:18): I take a lot of interest in what the member for Davenport does, so I have done some work on these matters in the last few days. In July last year, an extremely serious incident occurred at a South Australian nursing home. A 71 year old woman died at an aged care facility and was cremated two days before her death was reported. When I read this, I could not believe it or how it could happen. The doctor, who owned the nursing home, signed off on the elderly lady's death certificate, attributing her death to a cardiac arrest. The doctor's wife, also a doctor—

The DEPUTY SPEAKER: Order! Member for Schubert, I am advised that you already spoke on this topic on 19 February, although that is some time ago.

Debate adjourned on motion of Mrs Geraghty.

WATERWORKS (QUARTERLY SUPPLY INFORMATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November 2008. Page 1171.)

Mr HANNA (Mitchell) (11:21): I seek leave to have this item discharged, as the subject matter has been taken up successfully in a government bill.

Leave granted; order of the day discharged.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2008. Page 931.)

The Hon. I.F. EVANS (Davenport) (11:22): The member for Mitchell has introduced a bill to amend parole for those who are convicted of violent offences. The purpose of the bill, as I understand it, is to require people who are convicted of violent offences to front the Parole Board to justify why they should be granted parole. The house will recall that the Liberal Party went to the last election with a broader policy of parole reform, but it certainly would have encompassed this particular parole reform. The Liberal Party is supporting this particular measure and congratulates the member for Mitchell on bringing it before the house.

Mr VENNING (Schubert) (11:23): I have the right speech here. I am still not sure that I had made that previous speech, but I will check that out later on.

An honourable member interjecting:

Mr VENNING: I am still confused about that last matter but, anyway, we will sort it. I thought I had the right speech and that I had not made that contribution before. In relation to what the member for Davenport has just said, members on this side of the house are more than happy

to support this bill, and we commend the member for Mitchell for bringing it before the house. The bill relates to the abolition of automatic parole for prisoners serving a period of imprisonment of less than five years as a result of committing a violent crime. Currently, as legislated in the Correctional Services Act 1982, the Parole Board must grant parole to a prisoner who is serving a total imprisonment period of less than five years unless the prisoner's sentence relates to a sexual offence.

I find it quite ridiculous—and, I think, most South Australians do—that someone who commits a serious crime does not have to serve the full prison term handed down. Under this bill, an offence of personal violence is defined as follows:

> an offence against the person as outlined in the Criminal Law Consolidation Act 1935, for example:
>
> murder, assault, causing death by dangerous driving, stalking; or
>
> home invasion; or
>
> robbery; or
>
> an offence in which the offender uses or threatens to use violence.

Surely it makes sense, and the community expects, that prisoners serving time for a violent crime will serve their total sentence. Do the crime, do the time.

In *The Advertiser* recently an article appeared about a man who killed his mate in a drunken high speed crash. His blood alcohol level was at least .16, and he had driven at speeds of up to 180 km/h prior to the crash. The man was gaoled for a total of three years and four months and will be eligible for automatic release on parole after serving two years and eight months behind bars. This is not an isolated case. On any given day one can pick up the paper and read about a criminal who has committed a violent crime and who is eligible to be released much earlier than the gaol sentence handed down by a judge.

I am pleased that this legislation has come before the house. South Australians deserve to feel safe and not be anxious that those committing violent crimes will not have to do their time. Members on this side of the house consider that automatic parole should be abolished for all prisoners in order to protect our communities and to show criminals that, if they commit the crime, they have to do the time, and that they will not be released until they have served their prison sentence in full.

Again, I support what the member for Davenport said, and we also support the member for Mitchell. We support the bill.

Mrs GERAGHTY (Torrens) (11:25): I move:

That the debate be adjourned.

Mr Venning: Let's put it to the vote.

The house divided on the motion:

AYES (24)

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

NOES (14)

Brock, G.G.	Evans, I.F.	Goldsworthy, M.R.
Griffiths, S.P.	Gunn, G.M.	Hanna, K. (teller)
McEwen, R.J.	McFetridge, D.	Penfold, E.M.
Pengilly, M.	Redmond, I.M.	Such, R.B.
Venning, I.H.	Williams, M.R.	

PAIRS (4)

Foley, K.O.	Hamilton-Smith, M.L.J.
Portolesi, G.	Pisoni, D.G.

Majority of 10 for the ayes.

Motion thus carried.

GUNN, HON. G.M.

Mr BIGNELL (Mawson) (11:33): I move:

That this house acknowledges and congratulates the member for Stuart, the Hon. Graham Gunn MP, for his service to the Parliament of South Australia.

It is a very great honour to rise today to pay tribute to one of the longest serving members of parliament in South Australia's history. I think it is very important to acknowledge the outstanding contributions made by the member for Stuart, Mr Graham Gunn, and to put on the record the historic significance of his service to this place. When the member for Stuart retires at the next election on 20 March 2010 he will have given 39 years and 10 months of his life to serve the people of the north and the west of this state.

I would like to thank Alex Grove in the Parliament Research Library for compiling the list of the longest serving members of the South Australian parliament. The member for Stuart is the second longest serving member of the South Australian House of Assembly. His record is only bettered by Sir Robert Dove Nicholls, a long time speaker of the house during the Playford years. Sir Robert was a member from 27 March 1916 to 2 March 1956, which means that he served for 40 years and 11 months, just one year and one month longer than the member for Stuart will have served by the next election.

There have been longer political careers in South Australia, but they have been largely served in the upper house. Sir John Lancelot Stirling holds the all-time record, with seven years and 11 months' service in the lower house and 40 years and 10 months in the Legislative Council, for a total of 48 years and nine months' service between 1881 and 1932. From 1918 to 1962, Sir Walter Gordon Duncan spent 43 years and 10 months in the Legislative Council. Sir Alexander McEwin was a member of the Legislative Council for 40 years and eight months, while Sir George Ritchie spread his time between the houses, with 20 years in the House of Assembly and 20 years in the Legislative Council between 1902 and 1944. One wonders what he did between late 1922 and April 1924, when he was not in either place.

Mr Gunn's commitment to the electorate is legendary, and he has taken on governments of both persuasions over the years. The original seat he won was called Eyre and it comprised 49 per cent of the state. With boundary changes during the past 38 years, Mr Gunn has had a blue ribbon seat where he had 82 per cent of the vote and a marginal seat where he had just over 50 per cent. He has been like a barnacle, and through 12 elections he has been impossible to budge—although the ALP did get close a couple of times in recent years.

The member for Stuart has gone through more motor cars than he can remember and averages about 90,000 kilometres a year of travel. By my quick calculations, that means Mr Gunn has amassed about 3.6 million kilometres during his parliamentary career. There would not be many politicians anywhere in the world, even with the aid of Air Force One, who could have travelled many more kilometres. And, speaking of planes, the member for Stuart learned to fly and gained his pilot's licence after becoming a member of parliament, and he was famed for flying himself around his vast electorate.

There by his side for so many of those trips has been Graham's wife, Jan. Locals in the seat of Stuart to whom I have spoken in recent days have said that it is very unusual for there to be an event in the electorate that Graham and Jan do not attend, and that the member for Stuart is always very approachable. Recently, he left parliament on a Wednesday night and with Jan drove to Hawker for a function and returned to parliament the very next morning. That sort of commitment is the norm rather than the exception for the member for Stuart. When Graham stood for election for the Liberal Party in the 1970 poll, Jan told him to go for the experience, and the experience is still going.

The pair was married in 1968 and, before coming into this place, the member for Stuart was a member of the Streaky Bay council from the age of 21. His brother Ian is the current Mayor

of Streaky Bay. When he came to this place, the member for Stuart, fondly known here as the father of the house, had no children. He and Jan now have two sons, Stuart and Kym, and three granddaughters, Courtney, Katelin and Jasmine. The Gunn family has been farming at Mount Cooper since 1904 on the west coast of South Australia and, when asked his profession, Graham has always answered, 'I am a farmer and a member of parliament.'

In fact, we have all heard the phrase from the member for Stuart that he is a humble farmer usually just before he berates a public servant almost always referred to as 'Sir Humphrey'. As a new member of this place, I learnt quickly not to interject while the member for Stuart had the floor. Early on, I yelled out some encouragement to Graham and he thought I was having a go at him. He gave me a quick, sharp response that put me in my place, and I have sat in silence during his contributions ever since.

I have learned a lot from watching the father of the house in action, and I hope I am following his example of sticking up for the individual who is being treated harshly. As he has said many times, people, particularly those from regional and remote parts of the state, often feel that they have no power to fight against decisions or actions of governments, and that is where we, as their representatives, need to step up and be strong advocates for the people who elect us to this place.

I was having a chat with Graham a couple of days ago and he told me, not surprisingly, that his various leaders over the years had found him a little difficult to manage. Former premier David Tonkin used to send him notes on his premier's letterhead summoning him to a meeting. He would simply turn them over and write on the back, 'You know my secretary's number. Give her a call and make an appointment.'

From 1993 to 1997, Graham was speaker of the House of Assembly when our party barely had enough members for a cricket team. I have heard that he was a pretty tough taskmaster, and I am keen to hear some contributions to this motion from people who lived through the member for Stuart's reign as speaker. When I asked him about it the other day, he said the Labor members were a most disruptive group and that he saved them a few times from their own bad behaviour.

The member for Stuart has been a great ambassador for South Australia interstate and overseas. He has travelled throughout the commonwealth and to many rural parts of the United States, including Nebraska and South Dakota, where he has been able to promote the way South Australia does things on the land and pick up good ideas and bring them back to our state.

Last year, the member for Stuart represented the Premier and all South Australians at the Armistice Day 90th anniversary at Villers-Bretonneux in France—the member for Bright may complain about my pronunciation, being the great French speaker that she is—where 52,000 Australians lost their lives on the Western Front during World War I. The member for Stuart described the deeply moving experience in his travel report to the parliament thus:

> To walk through the cemeteries of the Somme clearly brings to one's attention the futility of what took place 90 years ago and the thousands of good young people who gave their lives.

The member for Stuart suggested that the South Australian parliament send a member to the ceremony each year to attend the service and to continue to build the relationship started in such desperate times more than 90 years ago.

During his visit in November, Mr Gunn met with the Mayor of Dernancourt and last month, and, while the mayor was in South Australia for ANZAC Day as a guest of the South Australian government, the member for Stuart took him to the Flinders Ranges to show off one of the most beautiful parts of his electorate.

Ms Fox: And he loved it.

Mr BIGNELL: I hear from the member for Bright, who also took the mayor around, that he had a most enjoyable and memorable time with the member for Stuart in the Flinders Ranges. The father of the house has always been a great believer in members of parliament travelling. He says members are not doing their job unless they know what is happening in other parts of the world and he says that anyone who criticises MPs' allowances is not living in the real world.

When Graham Gunn entered parliament in 1970, there were no computers and no mobile phones. In fact, Graham was on a party phone on the farm, so you can imagine the risk of having neighbours overhearing private conversations. There were no fax machines and many of the roads in his electorate were unsealed. However, Graham has been one to embrace technological

advances, and he says that we have seen some wonderful developments and technological improvements in education, agriculture and other areas during his political career.

He served with 175 members in this place under countless leaders of the Liberal Party and several premiers. The member for Stuart considers his greatest achievement in this place to be his work on the abolition of death duties. I am sure we all agree that family farms and family businesses have all prospered and benefited from what was a significant and important change to our law.

The member for Stuart is going through his documents as he cleans out almost 40 years of political life—tearing off the little sticky notes with personal comments about people—and will leave those parliamentary papers, his electoral notices and everything else to the Streaky Bay museum. I am sure that we will all look forward to dropping in there to have a look next time we are on the West Coast once that contribution has been made.

I thank the member for Stuart and congratulate him on a job that is not quite done because there are another 10 months or so to go. I look forward to hearing other contributions from members on both sides of the house because, as the second-longest serving member in this place prepares to retire, I think it is good to have his contribution recognised and for stories and anecdotes to be put on the record about the member for Stuart.

Mr VENNING (Schubert) (11:43): One could go on for a long time about this motion. I would have probably left it a few more weeks yet, but I commend the member for bringing it up now. Thirty-nine and three-quarter years is a long time, and I have known the member for almost all that time because he served with my father. The Hon. Graham Gunn came into our house on many occasions. He was driving an F100 back in those days, big fuel guzzler that it was, and he knew how to drive it. He always took the wheel caps off when it was new because he had some rough roads to drive on.

Mr Gunn came here at the age of 27—just think of that! I do not think there are many members around here even today who were younger, even you, Mr Speaker. It was a long time ago. He was a young man and, as a newlywed, he came from the farm at Mount Cooper to this place. What a culture shock that was both for him and for the parliament!

As I said, he served with my father and they did a lot of things together and I have appreciated coming into the house with Mr Gunn being here to talk about the battles of the past, the campaigns that were waged—fought, lost and some won. He served in the Tonkin government. There is a lot of history between those intelligent ears of the Hon. Graham Gunn.

Yes, I also am a farmer and a member of parliament; I still like to be referred to as a family farmer and a member of parliament. He has been a great support to me and a strong advocate for country people and country communities. The member for Stuart has held a marginal seat for almost all of the 40 years he has been in this place. It is a lesson to us all. People say that the pendulum swings and the seats go, but in this case it did not. In the last election, the pendulum swung heavily against us on this side of the house, and the member for Stuart stood resolute in his patch, relying on those people to support him over many years—'I have done it for you. I need you'—and they supported him.

I remind the house that the Labor Party spent a fortune on attacking him. They put a government paid officer in Port Augusta, fully paid with a motor car, to get to him but they did not succeed. Justin Jarvis threw everything at him and still the member for Stuart is here. Let it be a lesson to us all. Good advocacy on behalf of constituents will always win the day against the game of politics.

The Hon. Graham Gunn's attention to detail is legendary. He gives fantastic individual service—no person or issue too small. I want to mention one instance involving one of his constituents in the far flung area of Cordillo Downs. There is not a more isolated place in the state than Cordillo Downs. Graham was in regular contact with these people and the owner's wife was very concerned that the chooks were not well.

What happened? Graham Gunn arrived with four MPs and a vet. Here we were standing in a chook house miles from anywhere with Dr Duncan McFetridge examining these chooks. It was part of Graham Gunn's annual visit around the electorate. We diagnosed these chooks as having a deficiency in calcium and they were eating rocks. I stood there and marvelled; this was such an isolated place. Cordillo Downs is a wonderful place but it is just so isolated. To be standing in this fowl house looking at these six sick chooks, I thought this is the reason that this member fights

against the political tide. He pays attention to detail. The service he has given over many years has been fantastic.

The Hon. Graham Gunn, as has been mentioned by the honourable member, travels a lot of kilometres; in fact, I think he is the only member in the place who does more than I.

Mrs Geraghty: What about the member for Giles?

Mr VENNING: Well, she is chauffeur driven at the moment; but, yes, certainly. Graham turns the cars over quicker than anybody. I do not know how he does it. I have to say to you that I am in awe of him because I run against the law sometimes; I have had my brush with the law. I cannot recall the member for Stuart ever having a speeding ticket or anything else. I commend him for that—a man in control. With all the hours behind the wheel, he has never had a brush with the law in relation to speeding. With the hours that he has been there, don't wreck the record. I am amazed.

I want to particularly thank the member for Stuart for his support on issues that were difficult for me personally. To my colleagues, I am sorry, but I will mention the single desk issue. He stuck with us through thick and thin on this. Looking at the events of this week, we were dead right. We should never have gone along that track. He stuck in there. We know that most of the farmers wanted to retain the single desk in wheat and barley. I also commend the member for Goyder for sticking with us. You can see today that we have now gone for what people said would happen. We now have chaos at our ports in relation to marketing and all those issues. But we knew that.

I thank the member for Stuart for being a stalwart. He has been steadfast in his support. I also want to mention the ports. When the Ports Corp was resolved and we put it out there, all sorts of shenanigans were going on behind the scenes. If you had to visit a minister, you took Graham Gunn with you. We sorted out a few problems, didn't we, Graham? I will write a book about this because I have kept a diary, as most members know, and most of this is in the diaries about what happened on certain days and which ministers were recalcitrant and hesitant about what they needed to do.

The member for Stuart certainly reminded a few of them. In the end, I am pleased that the result is good. Most of the work was done by the previous government in getting the ports sorted out. But I will give the final decision to the current minister, Hon. Patrick Conlon, in actually getting the thing in the right place. I thank the member for Stuart very much for the efforts he put in on that occasion over the many years.

Finally, I want to congratulate Graham's wife, Jan. This lady is the epitome of the best supporting wife of a member of parliament I have ever known. She is always there—always happy and smiling. She always has good advice. She is always interested and she is in the know. She has given Graham a lot of advice over the years because she is always—

The Hon. S.W. Key: You'd better mention Kay, though.

Mr VENNING: —up with the matter. Secondly, my own wife, Kay often discusses matters with Jan—of course, not when I or Graham is around. I am sure they compare notes. Their lives are very similar. I have to say that Jan's support of Graham is legendary because she is always there. My wife has done a great job supporting me. There are times when you say, 'Enough's enough', especially after 18 years in my case and 39 in Graham's case. But Jan is still doing it. It is noticed by all the constituents.

We have had several celebrations during Graham's political career. I think the last one was the 30 year celebration in Jamestown, which was a great night. Graham sometimes is not a diplomat. Sometimes he does not walk around dusting up people with a feather; it is more like a crowbar—for example, his attacks on various public servants. I think we need to have on every team people who are prepared to get out there. For both teams, whether Liberal or Labor, you need to have people on your team who do a role, and Graham has given us this role of saying, 'Hang on. We have to keep these Sir Humphreys on notice. We have to make sure that they know we are watching and they are not going to get away with things like this, particularly people in inspectorates and so on.'

I do not know what it is going to be like here without him. I am not used to that idea. One of the reasons that I am coming back is to see what it is like without him.

Ms Breuer: You can be the father of the party.

Mr VENNING: I won't be the father. The Premier has been here longer than I have, as has the member for Fisher.

Ms Breuer: Yes, but you look older!

Mr VENNING: I hope that won't be recorded on *Hansard,* but, as I referred to it, it probably will be. To the member for Stuart, his lovely wife, Jan—and to his sons, to be farming without their father living there has been hard on them, and I commend them for being the success that they are as their dad has devoted his life to the parliament and the people of South Australia. Graham, all I can say is, thank you very much for being a colleague. Thank you very much for what you have done for the people of South Australia. You deserve a long and rewarding retirement. I support the motion.

The Hon. R.B. SUCH (Fisher) (11:53): I will make a brief tribute to Graham. It is in some ways a bit early because, usually, valedictory speeches come close to the end of the term. Nevertheless, I am happy to be part of this tribute motion today.

'Gunny', as he has been affectionately called over the time I have been here, is one of the characters of this place. I think that, sadly, in the future we will have fewer people that I would call 'characters', because more of the people coming in are likely to be more homogenised and pasteurised and—

Mr Venning: Bland.

The Hon. R.B. SUCH: And bland. A few things stick out. Graham and I disagree on some aspects of bushfire prevention. I certainly support cool burning, so I am at one with him on that. A lot more should have been done in the past and a lot more needs to be done in the future.

One of the important lessons that must be remembered is that, if people had listened to people like Graham Gunn, the Liberal Party would still be in government. That is the harsh reality. When you get people whose ego exceeds their ability you can destroy a party, you can destroy a government, and we have seen the consequences of that. I am sure the member for Stuart can elaborate at the appropriate time upon the silliness that went on resulting in the destruction of the government, which had an incredibly large majority and which was then reduced to a very small number of members.

I also pay tribute to Jan and Graham's family. Not enough people outside parliament recognise the sacrifice that family members make, whether it is your children being teased or harassed at school or snide comments or other inappropriate remarks being made. We should salute any spouse who supports a member of parliament. I acknowledge the work of Jan and her family.

We know Graham can be quite shy and retiring (he often uses that as his introductory line), but he can roar when the occasion requires. Whilst I will not go into the private details of what used to happen in the Liberal Party room, I can tell the house that sometimes the walls used to shake a little bit, particularly with Graham's sparring partner, the Hon. Trevor Griffin, in relation to matters of law and order and juvenile delinquency.

I have to say that history has proved Graham correct in that, for too, long there was this namby-pamby, wishy-washy approach. One of the ironies that helped bring the Labor Party to power was the fact that it realised there were votes in the law and order issue, which is traditionally something the Liberal Party focused on. I do not know how many times that issue was hammered in the party room, but it fell on deaf ears. That advice, not just in relation to places like Port Augusta but elsewhere, was ignored, and I think the Liberal Party paid a very heavy price for ignoring it.

I conclude by saying that I have always admired the tenacity of country members in having to drive vast distances. I do not mind driving reasonable distances. I drive out to the country, and I hope to get up to Moonta on the weekend for the Cornish festival. Distances and time spent driving by country members amaze me and, in one sense, also appal me, because, unless they have a driver, their lives are constantly at risk. If they are tired or trying to get from one venue to another, their life is actually at risk, and I do not think enough people realise that.

Whilst it did not help specifically in relation to the time aspect involved in driving, I was delighted that one of the things that I was able to help achieve in this place was getting a car for country and city members. For those people who criticise it—and there have been one or two in another place over time who have had a cheap shot at it—the least you can do is make sure that both country and city members have a decent vehicle to get around in so that their lives are not

unnecessarily put at risk, because they are behind the wheel for such a long period of time. Gunny, as we call him, has spent more time behind the wheel than any other MP that I know of.

I will conclude by acknowledging Graham's service over time. We all have different views, but as we know, whether or not you are in a party, parliament is a bit like a family. After you leave this place, we observe that words that are often exchanged in here do not linger in terms of any harshness but remind us that, ultimately, we are here to serve the public, and Graham has served over a period of about 39 years.

Mr RAU (Enfield) (11:59): I take great pleasure in supporting this motion. I congratulate the member on bringing it forward, because I think it expresses a sentiment that all of us on both sides of the house genuinely feel in respect of the member for Stuart.

I agree with remarks that it is a little early to be getting into all of this in some respects. I would caution members on our side that he has been here for 40 years so far; he might just decide to run again and use these speeches as part of his next campaign. I think the risk is that is small, because he seems to have finally decided that he has had enough of the place. All of us, I am sure, wish Graham and his family all the very best in the years ahead. I can certainly think of a number of government positions—which I will not mention here because it would not perhaps help—where he would have a very important role to play after he leaves this place.

I would encourage the member for Stuart to quietly consider on which one of these government boards or authorities he would like to make a contribution. I can think of several where his wisdom would enrich the board tremendously. Take for example the Native Vegetation Council. If he were to become part of that august body, wouldn't those meetings become interesting! You would be able to sell tickets to Native Veg Council meetings. It would be very interesting indeed .

I have been here for only a relatively small percentage of the time that the member for Stuart has been here. Indeed, when he first came here, I was—as one would say—wearing short pants. The fact of the matter is that, from the day that I first arrived here, the member for Stuart has been unfailingly supportive, certainly of me, and, in my observation, of all other new members of the parliament. It is very important that there are people with experience, wisdom and the common sense to be able to understand when to say things, when not to say things and how to do things to assist younger people in understanding the culture of this place.

I think that the member for Stuart has done an extraordinary job, and I speak from my own experience. I am sure that, in respect of every other new member coming into this place who has spent any time at all talking to the member for Stuart, he always has some wise counsel to give. It does not necessarily mean that he tells you not to do what you want to do, but he may help you do what you want to do in a more effective way, and that is really important. On my own behalf, I would like to express my sincere appreciation for the tremendous, invaluable and irreplaceable sort of tuition that you get from an experienced person in this place.

I think it is also important that, whether or not you agree with the member for Stuart on issues, you can be certain that he expresses his view in a forthright way, with honesty and integrity. I am afraid to say that it is actually a reasonably rare thing in politics, but he is one of those people who, if he gives his word about something, that's it. There is no need to keep ringing him and checking, 'Are you still doing this, are you still doing that.' It is finished. If he does not give his word, if he says, 'No, I won't do it', you can be sure that he will not do it. If he says, 'I will do it', you can be sure he will do it. It is as simple as that. It is refreshing to be able to deal with a person either formally or informally in this place (in this environment) for whom those sorts of values are foremost in their mind.

I have had the privilege of looking through the honourable member's maiden speech. Obviously, this was made some time ago, but it is very interesting to see how similar many of the themes in his maiden speech are to themes that he picks up now. It says a great deal about his consistency and his world view, and I have been trying to put this into a few words. Some people might find these words a bit odd for the member for Stuart, but I will give you what I have come up with, anyway. They all start with the letter 'P'.

The first word which people might possibly laugh at is 'progressive'. I will mention in a little while why I think he is progressive. The second word is 'principled', and I do not think that I need to labour that point too much for anybody here. The third one is 'protectionist'. As a longstanding protectionist myself, who is completely off the screen as far as contemporary economic thought is concerned, it is comforting to have a fellow traveller; in fact, somebody who has been advocating these very important issues for many years.

The fourth word is 'pragmatic'. The one theme that comes out of almost everything the member for Stuart says is his absolute respect and support for the rule of law—and this really ties in together pragmatic and progressive. This is demonstrated usually in two ways: attacks on the autocrats and attacks on unaccountable bureaucrats. The member for Stuart understands, and has always understood, that decision-making which is not made by individuals who are accountable is the basis of all tyranny. The tyranny might be a small tyranny—whether you can get a licence for this or a licence for that—but small tyrannies have a habit of becoming bigger ones. The rule of law and the institution of parliament are two very fundamental elements in making sure that this does not happen. Throughout his career, the member for Stuart has been an advocate of these things.

I will turn briefly to the member for Stuart's maiden speech on 21 July 1970. Problems with quotas in the wheat industry were discussed, because there was actually an oversupply issue at that stage. The honourable member made some remarks about that. He talked about low wool prices which, again, were current issues. Then, obviously, there was his touchstone issue: succession duties. Even though it was some time ago, I remember how important that issue was for many people. Eventually, the Queensland government forced the issue by making a move on that, and successive governments actually fell into line. The member for Stuart was out in the vanguard of that particular campaign, and he obviously would have been very pleased with what ultimately happened.

Road funding and the importance of finding adequate funds was another issue. In his maiden speech, the member for Stuart talked about the commonwealth imposing a petrol tax which could then be remitted back for the purposes of sealing all unsealed roads in his area. He also supported the Legislative Council, not on the basis that he particularly liked the people up there, but on the basis that it was part of the democratic system—a check and balance. The only thing that one might say was not progressive about his remarks on that subject was that he supported what was then the franchise, but he might have been speaking tongue in cheek—who knows; he often does that.

Another example of being progressive is that he advocated social studies classes in schools. That is a very progressive idea—the idea that school children should be taught about civics, social studies, politics, or whatever. It is really important, and it does not really happen now, not in a way that I think the member for Stuart had in mind, and not in a way that most of us would think would be useful and important. I think that was a very progressive idea. I am very sorry that over the intervening years nobody has picked that up and run with it in a way that it warranted being dealt with.

Again, here is another ironic twist—remember, we are talking July 1970—the honourable member expressed support for the then current involvement in South-East Asia, but he justified that on the basis of maintaining the integrity and independence of one small nation which he perceived to be suffering from an incursion from others.

The most interesting aspect, I suppose, and the thing that I guess he would like to be judged by, is his conclusion. He said:

> In conclusion, I sincerely hope that I can have a friendly working association with all members, even though at times I will differ greatly with them on some matters. I hope that I shall be able to look back on my time in parliament and be able to see that I have been of assistance to the electors of Eyre and to South Australia generally.

I would say to the member for Stuart that his modest request of himself to be able to do that, I think, has been more than amply achieved, and he has far exceeded that. He has made a very valuable contribution to this place and a great contribution to his colleagues, both current and past.

Dr McFETRIDGE (Morphett) (12:08): I rise to give my strongest support to this motion. At the V8 races in 2006, I think it was a week after the state election, which perhaps was not the finest hour for the Liberal Party, I took great delight in meeting Kevin Foley and I said, 'Gunny sends his regards.' I will not repeat what Kevin said, but he acknowledged the fact that Gunny, Mr Gunn, Graham, the member for Stuart, was still a member of parliament.

The point that I am making here is that despite the swing that was on then, Graham held that swing and he stayed on representing the Liberal Party but, more importantly, representing the people of Stuart. That is why Graham has been in this place for such a long time. I can guarantee that if he wanted to stay for another term he would still be the member for Stuart.

I have had the pleasure of accompanying Graham, as recently as last week, on tours of his electorate. The first time was in 2003 when the member for Schubert, the member for MacKillop, myself and Graham got in a four-wheel drive and went off through the electorate of Stuart.

I will talk about that a bit more later on, but the way Graham was received on that trip, and subsequent trips (as recently as last week), is legendary. Everywhere we went it was 'Mr Gunn' or 'Graham' or 'Gunny.' He is the consummate parliamentary representative. You could not ask for a better person to be in this place.

As I know, if you want some advice or you are seeking an opinion on a matter before this place, as the member for Enfield said, what Graham says is what he means, and what he means is what he says. I appreciate that, because in this place you will often get people who will say one thing and then change and move around, but not Graham, he sticks with his principles. Some of those principles have sometimes brought him into conflict with members of both sides of this house, in opposition and in government, but he sticks by his principles, and that, to me, is something that we all should be aspiring to.

One of Graham's strongest supporters is his wife Jan, and Jan is an absolutely wonderful person. As I know with my wife Joanna, and you ask any male member in this place about their partners, we are lucky to have partners like that. I think women actually make better members of parliament.

The Hon. S.W. Key: Lucky to have partners.

Dr McFETRIDGE: We are lucky to have partners, as the member for Ashford says. I think I would have left me a long time ago because this place is really a trial for any relationship. I think that woman's intuition is something which is real and I look to my wife for advice on many things in this place—

Ms Breuer interjecting:

Dr McFETRIDGE: —and she gives me that advice. The member for Giles is quite right, she does not ask for my advice too often, because I know my wife is always right. I know that Graham's wife Jan has been a stalwart of support for Graham. I think women make better members of parliament because they do have this intuition.

We blokes get in here, and the argy-bargy in this place, the hand-to-hand combat, as some people put it, in this place, maintaining the history of a robust debate, as I tell schoolchildren, is something that I think would not occur if we had more women in the place. Perhaps a woman speaker might make a difference too. That is not to say that Mr Gunn may agree with all of that.

Certainly, Graham has been very forthright on many issues, both in this place and in this state, and in the nation. I have not always agreed with everything that he has said. Some of his attitudes towards the priorities, shall I say, with Aboriginal affairs, he and I differ there, but we are always willing to talk to each other about them and it does not detract from the fact that we both want to advance the issues and the conditions associated with Aboriginal groups in South Australia. I know that Mr Gunn is as passionate as I am and speaking from the heart when it comes to Aboriginal affairs.

As I said, the first country trip was in a four wheel drive and that was when I was first introduced to Aboriginal affairs from a parliamentary point of view. We went up north in a four-wheel drive, dropped in at Marla and then we took a left and went through the Aboriginal lands. We have a video of it, 'Four MPs go Bush', produced by Ivan Venning. Those videos will not be for public distribution, not that there is anything untoward in them.

Mr Venning: They remain uncensored.

Dr McFETRIDGE: Yes, they are uncensored. They are a good recollection. The initial exposure that I had then to Aboriginal communities in the APY lands, to say I was gobsmacked is an understatement. Although the welcome that we received—because the visit was unannounced—was perhaps not the most friendly welcome that we could have wished for, the people there knew who Graham Gunn was and they knew that he was trying to do the best for the population of South Australia. It was an introduction to Aboriginal affairs that I think has given me something to try to champion in this place. We know that there are not many votes in Aboriginal affairs, unfortunately. It is a crying shame that it is not higher on everybody's agenda, with some of the issues that are out there.

To continue with this first trip, we went through the APY lands, across and up to Alice Springs for our return trip. Even in Alice Springs, people from the northern parts of South Australia, from Graham Gunn's electorate, were there, they were welcoming him, they knew him. Once again, that is an indication of how wide his fame and reputation have spread—even to a clothing

manufacturer who had a stall at the Alice Springs Show who welcomed Graham and, at the same time, tried to sell me and the other guys a shirt. It was an interesting experience.

It really hits me when we fly around Graham's electorate, as we did last week. We went to Yunta School for morning tea, to the Beverley uranium mine, to Bollards Lagoon and across to Cameron Corner. We continued onto William Creek and Leigh Creek, where everybody welcomed Graham; had we not flown, it would have taken us days and days to get around his electorate. It comprises 42 per cent of the state, and it has changed dramatically, but it would be good to work out how many hundreds of thousands if not millions of kilometres has Graham done during his time in this place.

My tiny electorate of 11.8 square kilometres is wonderful, and it is a pleasure to serve the people of Morphett. At the moment, I have one state high school, but I am losing it because of the boundary change. I will not have a state high school in my electorate; however, I will have two Independent high schools and six state primary schools. I do not have any hospitals, other than the Glenelg Community Hospital. I have 24,000 electors, some of whom are stacked nine storeys high, and I have 106 restaurants and cafes within walking distance of my electorate office.

It is a wonderful electorate, but the contrast with Graham's electorate could not be more stark. It was an amazing experience to see him walk into Yunta School and to have the students stand up and greet us in Japanese, sing the national anthem and have a wonderful morning tea afterwards. We then went to see Grant Rieck at Bollards Lagoon Station and talk to him about their issue with UHF radio and the need to upgrade the airstrips.

I encourage every member of this place to talk to Graham about some of the ways he connects with his electorate and how they can become a better member of parliament. As I said, at the V8 races in 2006, I had the greatest delight (one of the few delightful moments of that election) to say that that Gunny sent his regards

Graham Gunn is the father of this house. Members should get him aside one night, particularly on these trips, and ask him to tell some of his wonderful stories about members of this place—and it is not red wine, it is Graham being Graham. The social history of this place is very interesting and, although Graham may not want that social history included in social studies in schools, I hope for members of parliament that he writes his memoirs and includes some of the stories he has told about his encounters both in his electorate and in this place because he has had a unique experience that may never be repeated.

I wish Graham and Jan the very best for the future, and I understand that they will be doing more travelling overseas. I am not sure that his sons will let him back on the farm and into the header; I think his job may be with the firelighter and the crutching shears. It will be an interesting future and a massive change for him and Jan. I hope to have more time to speak about him in the future, but I wish them both the best.

Time expired.

Ms BREUER (Giles) (12:19): Graham Gunn—I was trying to think of some words to describe him; some I have heard (and some I have used) include cranky, conservative to the right of Genghis Khan, irritating, pompous, annoying, angry and sexist. They all fit the bill, but I know that when I leave this place one of the people I will remember forever and remember with affection is Graham Gunn, and that comes from someone who regularly has repartee with him across the floor.

In fact, in my early days, when he got up to speak I would race downstairs so that I could sling some stuff across the floor at him because I knew he would take the bait every time and lose track of what he was talking about. I have calmed down now with age and wisdom, but we have had some good times in the past.

With Graham, what you see is what you get, and that is what I really like about him. People have mentioned his honesty, his integrity and the fact that he never beats about the bush. You know that if he gives you his word you can rely on him, and that certainly is Graham. He is a great character in this place and in his electorate and, of course, we cross over all the time.

I had a go at him a couple of days ago for not telling me that he was in my electorate last week, but he told me that he was not there. You are never really quite sure because, for example, one side of the road in Oodnadatta is in my electorate and the other side is in Graham's, but out there it really does not matter and we both get phone calls; in fact, I had one last night about

dingoes in the North. I said that I would talk to Graham about it today and that we would get back to the relevant minister.

Graham is a great character and, as I said, he is very passionate about his electorate. I really like his knowledge of his electorate and the Outback, which is unsurpassed by anyone in this place. I am trying to catch up with him, but I still have a few years to go before I get to know as much as he does.

However, I have to put this fact on the record once and for all, Graham: mine is bigger than yours. I know that you tell people that you have a big electorate, but mine is bigger than yours by a couple of hundred thousand square kilometres. I think that fact needs to be on the record so that everybody is aware of it. However, in the past, his was much much bigger!

Graham has travelled the highways and byways in the Outback. He has travelled on the bitumen roads, the sandy tracks and where there are no tracks. He can tell you anything and, if I want to know about a track, I ask Graham and he always knows. He has flown over them, driven over them and gone under them. I think we are both lucky to have the two most beautiful electorates in this state; mine is nicer that he is, but his is also pretty good.

As I said, I have always enjoyed repartee with him across the chamber. We say that Graham always makes the same three speeches; he just changes the date and occasionally the topic, but basically it is the same speech. When I looked through his maiden speech I thought, 'Yes, I think that is fairly true, actually.' He has always stuck to his line, all the way through in all his time in this place, and he has done a wonderful job of it.

I really love the terms of endearment he uses about people. When he talks about the 'bureaucrats', you can see a shudder go down the spines of all those public servants out there because he is about to attack someone. The best one I ever heard—and I must say that I have used it on a number of occasions—was the time he referred to the 'shiny-arsed wankers on North Terrace'. That one hit a chord with me. Coming from the bush as he does, I know exactly what he means, so I will continue to use that for the rest of my career.

I hardly ever agree with Graham, but, you know, I like to hear what he has to say. That is not quite true, I do agree with him on a lot of things, but being on the other side of politics I have to pretend sometimes that I do not. In many ways with Graham and me, it is 'us and them'. We do have little quiet chats quite often about issues in our electorates.

I have absolutely no hesitation in supporting this motion. I think that Graham has been a great contributor to this place. I am not going to say that I modelled myself on him, I would not dare to do that, but I have appreciated the fact that his electorate has come before anything else in this place. Party politics has been put to one side when there has been a big issue for his electorate.

I have looked at him and I have to say that I have followed him. I know, Graham, that it does not make you popular with your party sometimes, and even sometimes with your electors, but it is the most important thing. When you live in the country I think you are much more answerable than you are, perhaps, in some of these city electorates. Every time you walk out the door, everyone knows what you are doing. They know where you shop, what you buy and what you have in your rubbish bin. They talk to us consistently, so it is important out there that we do have integrity. I know from my travels around his electorate and mine (many parts of which used to be in his electorate) that he has that integrity. He will be remembered with great affection.

My very best wishes to you and to your wife. I think that the people over in Streaky Bay are a little nervous about you having a lot more time on your hands. I think they are locking up a few of their signposts, tractors, silos and things. They might pass you in their vehicles. I know they are a little nervous about it. I hope you stick to the speed limits from now on, Graham, and that there is no issue with that. All the best to you. I really have enjoyed your time here with us.

Mr PENGILLY (Finniss) (12:25): Along with everyone else in this place, without exception I suspect, I rise to support this motion. Sitting here, thinking, I can recall the late Ted Chapman who came into this place just after the Hon. Graham Gunn. They were great mates. Ted always wanted to sit in that seat before he went. Sir Thomas Playford actually sat there. That was the seat that indicated that you were going at the next election. Ted would talk to me quite regularly about that. Ted was a great mate of Graham's, and I would suggest that, between those two and a few others like us in this place, we shared a fair bit in common.

It will be a sad day when Graham Gunn leaves this place. I know that he has many friends on both sides of the house. I do not know anyone who speaks badly of Graham. There might be a

few outside who have been in here, and I will probably come to them later. Ted used to say something to me. He used to have the office where the member for Kavel is now, because he could keep an eye on everything. He said that when he heard 'clump, clump, clump', those size 14 boots of Gunnie's were coming down the corridor and Gunnie had just had a row with someone. That was something that stuck in my mind as well.

Graham Gunn is a remarkable man. It was mentioned earlier that he has spent nearly four decades in this place. A number of members in this place were not born when he came in here and some were not very old at all. It is an absolutely remarkable achievement in this day and age when one considers that Mr Gunn started as the member for Eyre and his seat was based around the Eyre Peninsula and that it now comes right down into the Barossa Valley. Indeed, he is miles away from where he originally came from, so that is even more remarkable.

It is quite an eye opener to see what he has put up with. Mr Gunn does not suffer fools well. There are a few on both sides, but I suspect one fool that he has not suffered and never will suffer is a fellow called Brindal, whom he brings to mind fairly regularly. Another one is called Griffin. They were a couple of dear and close friends of Mr Gunn's. They come up in the regular course of conversation, and I probably will not go any further with that at this stage.

The thing about Graham Gunn, the member for Stuart, is that he is absolutely 100 per cent a man of his word. It was also indicated earlier, but it is worth repeating, that if Graham Gunn tells you something or gives you a commitment, that is it, that is where it stays, there is no going away from that commitment.

What you see and what you hear is what you get. You do not have to shake hands on it. He has absolute integrity, and that has been manifest in his parliamentary career over many years. I understand that in his term as speaker, though I was not in this place (there are a few members who were), everyone knew exactly where they stood. He has been a great source of information for me as a member who came in only at the last election.

I have sat by the Hon. Graham Gunn and you get that dig in the ribs and a few words of advice. But if you need to know something about the procedures in this house, or if you need to know a little bit of history of things that have happened in this house or the protocols, there is no-one better in this place to turn to than the Hon. Graham Gunn. He is always there. He is always ready to offer his advice, and I suggest that it does not really matter whether it is on this or the other side of the house or somewhere on the crossbenches, that advice is always freely available—and it is spot on.

As has also been mentioned, the great joy of Mr Gunn's life has been to have such a supportive wife in Jan and his family. Jan is an amazing woman. When my Jan first came into this place, the first two who grabbed hold of her were Kay Venning and Jan Gunn. They sat her down next door to have a cup of coffee and a chat about things. And, I must say, one of the joys for me is to sit down in the dining room and have lunch or an evening meal with the Hon. Graham Gunn. Yesterday morning, while he was getting ready to come in (he was having a shower or something), his wife got up and cooked him bacon and eggs and had a coffee ready for him. After 40 years, that is a remarkable achievement. Those of us whose wives are not here all the time—

Dr McFetridge: He's never ironed a shirt!

Mr PENGILLY: That is quite right—and neither should he have to. The member said that he has never ironed a shirt. So, that is terrific. Jan is a wonderful woman. She has built a life around Graham's parliamentary service in this place. At the end of the day, regardless of which party we belong to, we are all elected members of parliament and we should not forget that. So, when there is a motion such as the one that has been moved in the chamber today, we have no hesitation in supporting it, because we are elected members of our communities.

Another thing of which the Hon. Graham Gunn has absolutely profound knowledge is the Westminster system. This is a man who has learnt over those 40 years what the Westminster system is all about. He has visited the British parliament on probably a number of occasions (I do not know how many). I guess there is one occasion that he and the member for Schubert would like to forget, which was when they were photographed walking around with Harrods bags (that is another story that was in *The Advertiser*). The very fact that the member for Stuart can go into the parliament at Westminster and have the Speaker accommodate him and take him to places and command so much respect there is an insight into the capacity of the Hon. Graham Gunn and the way in which he has carried out his duties over nearly four decades.

The Westminster system is the basis of how we operate. We sometimes get frustrated by it, but if a member has an issue with the Westminster system or the proceedings of this place I urge them to go and talk to the member for Stuart, even before the Clerk of the house (with respect), because I reckon that the member for Stuart knows it all; there is no question about that.

The Hon. Graham Gunn has said on numerous occasions that he is just a humble farmer or a simple farmer, and he wears that with pride. There are a number of us in this place who share that same feeling. We have been farmers first and politicians as part of that. I know there is nothing more that the member for Stuart likes to do than get in the car and drive those tens of thousands of kilometres. He loves getting home to the farm (when he gets there, he is probably told what to do by his son these days). He likes to knock down a tree or two and sort out the issues to do with bushfires—and if there is one person who will crack the top of a bottle of champagne when the Hon. Graham Gunn goes from this place it will probably be that parasite Craig Whisson from the native vegetation authority. I reckon he will jump for joy. He has taken a fair belting over the years.

The Hon. Graham Gunn and his former colleague in another place, the Hon. Peter Dunn, worked closely together over many years: two West Coast farmers and two members of parliament who both had their own aeroplane licences and flew themselves around for many years. They used to fly back and forward and shared many trips to the Outback together. Indeed, it is terrific to sit down with both Peter and Graham. They shared many things, some of which included a loathing of out of control bureaucrats and a passion for the bush; that great area of South Australia outside the metropolitan area. They were both able to accommodate themselves living part-time in the metropolitan area while representing the wider South Australian community.

Mr Gunn has had a thing about speed limits over the years, and I share his views in that respect. It is ludicrous nonsense for us (and he has put this forward on many occasions) to be driving around at slow speeds on wide open country roads when the roads are much better than the speed limits imply.

Time expired.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Correctional Services, Minister for Gambling, Minister for Youth, Minister for Volunteers, Minister Assisting the Minister for Multicultural Affairs) (12:35): There has been no finer servant of the Liberal Party that I have witnessed in this place than the member for Stuart. I say that because he should have lost two elections and he did not. No matter how much money we pour in and how much effort we make, we cannot defeat him. There is a simple reason for that: the people of Stuart like him. They like him because they see him: he represents them and he is fearless in his defence of them.

Without disparaging any other member in this house (and I mean this in the nicest possible way), I know the member for Stuart well enough to know that he could have had a much safer seat if he had chosen, but he chose not to: he chose to have the most marginal seat. He has been loyal to his party through thick and thin and he gives sage advice. I suspect that, if more premiers and leaders of the opposition had listened to the member for Stuart, they would be in less trouble than they are now.

I just did a quick calculation (and I could be wrong here): the member for Stuart has been in parliament through premiers Dunstan, Corcoran, Tonkin, Bannon, Arnold, Brown, Olsen, Kerin and Rann. He entered parliament a full year before I was born, which is pretty amazing.

The member for Stuart is loyal, and I think that is his most amazing quality in this place, because keeping your word in politics is often the hardest thing you will ever do. If people ever want to talk about loyalty, there is only one person to ask about the member for Stuart's loyalty, and that is the Hon. Dean Brown. I will not go into that saga, but I saw the former premier a few weeks ago and I was talking to him about the member for Stuart. He looked me in the eyes and said, 'You will never find a more loyal man than Graham Gunn.' I think that is his greatest achievement.

The member for Stuart can walk out of this place in March 2010 and hold his head up high. Sure, he has been a character. I am sure that people like Ralph Clarke might have a different opinion of the member for Stuart but, behind all the animosity, there is a growing respect for the man and the way he conducts himself.

The member for Enfield was right when he said that the first thing the member for Stuart does to every new young member of parliament who comes into this place is pull them aside and give them a few words of wisdom. You can choose to accept those words of wisdom, or you can

laugh it off as some guy here trying to tell you what to do. The truth is: the wiser ones listen to the member for Stuart.

I am sad to see him go, and I am also glad to see him go because now that he is gone, we can probably win the seat. With him there, I doubt our chances very much, so I hope he does not change his mind. I do wish him and his wife and family all the very best. He has made a huge sacrifice to his family to serve the people of South Australia. He has not been awarded enough citations for his services to this parliament.

People always criticise members of parliament for the way that they perceive them to be treated, in terms of benefits and so-called junkets. The member for Stuart has spent more time away from seeing his sons grow up than most people do. He has spent time away from the thing he loves most—his farm. I think we, as a South Australian parliament, and the people of South Australia owe him a huge debt of gratitude for his service.

It is often a point that is missed in parliament when people leave due to retirement—forced or voluntary. We never thank them for their service because, let us face it: being a politician is tough, as I have realised, and as the Leader of the Opposition has realised. It can be quite costly, as the Leader of the Opposition is about to realise.

However, the member for Stuart rises above all that because he has been here long enough to know what is right and wrong and he has carried himself with dignity. I am glad to say that I have served in the parliament with the Hon. Graham Gunn, and I am sorry to see him go.

Honourable members: Hear, hear!

Mr GRIFFITHS (Goyder) (12:40): I wish to make a brief contribution because, unlike many people here, I have only had the great opportunity to serve with the member for Stuart for three years. However, I know that I am one of those people who benefited from his sage-like advice in those early days.

His case to me was to ensure that I took the message very strongly that I was never to allow alcohol to affect my ability to perform in this house. A truer word was never said because I think history would show that some people have chosen to disregard that advice and it has been to their detriment. To Graham, I say a sincere thank you for the assistance he has provided to me in my three years here but, importantly, today is an opportunity for us to reflect on what he has done for the people of Stuart in 39 years and 10 months.

I first met the member for Stuart in about 1995, when I was living in Orroroo. I was a bureaucrat then, and I use the term loosely because the member for Stuart has since counselled me that it is important to remember that I am no longer a bureaucrat—I am actually a policymaker and a lawmaker now, so I have to create the distinction.

I know that, when Graham came to see me, he would walk around the streets of that community in Orroroo. He would know people, and they all respected him. He would hand out his Graham Gunn pen or the ruler or one of the variety of gifts that he gives to people. Everybody would want to engage him for at least a few minutes to talk about issues important to him, and then he would do something about it for them.

There can be no greater level of respect for a member of parliament than to know that, no matter what community they are in, they can walk down the streets of that town, hold their head high and every person in that town who they meet will respect the effort that they have made in representing them. That is something that we all have to aspire to, and it is the great challenge for all of us.

I do respect also the enormous travel that has been involved for the member for Stuart. As someone who drives 60,000 kilometres per year and has done so for probably nine or 10 years now, I marvel at the effort that he has made with his wife, Jan, to travel to so many different events—never mind the travel that is involved in coming to Adelaide for parliament sitting weeks—because it is a great chore.

I also drive early in the morning and late at night and it is a challenge to stay awake. What Graham manages to do at his more senior years than mine is a wonderful effort, because it is hard to concentrate on what you are doing, but he does it. He arrives at a community cheerful all the time and wanting to engage people in conversation and to talk to them about what is important to them, and he does it in a wonderful way.

The way he has the inner strength to get up every morning accepting the challenge that the member for parliament role provides to him is wonderful and an inspiration for us. The fact that his boundaries have changed so much since first being elected in 1970 really does reflect the fact that Graham did not need to rely on people who knew him to get him elected. He has constantly moved eastwards and southwards. His knowledge of the state, especially everything north of Adelaide, is immense. He knows the people.

As other members of this chamber have reflected upon, I also have had the chance to make a trip up north with him. In my case, it was last year and it was three days wonderfully spent with a man who is a very generous host. At all the schools we went to, the Aboriginal communities and the Oodnadatta roadhouse (the pink one), the people that Graham made sure where there to meet with us came in droves. I remember that for the Williams family at Oodnadatta, it had been a 140 kilometre drive into town to actually meet with us. For these people to do that in the middle of the day was a wonderful effort, but it shows the respect that the people in those communities hold for Graham Gunn. It is a respect that has been hard earned, but one that is very well deserved.

Graham's commitment can never be questioned. I know I have the great privilege of sitting next to Graham in our joint party rooms and sometimes when I am trying to listen to debates that occur, Graham is telling me about something else. I am always respectful of Graham's comments on things so I listen to that while having the other ear open to the other conversation, but his advice is always accurate. I cannot fault the member for Stuart on what he says.

More members actually need to reflect on that, because the history that he possesses is an important guide for us in the decisions that we make for the future. If people start to understand that and to have some insight into the member for Stuart's thinking and the history he possesses and the knowledge of issues that he possesses, it will stand them in very good stead in the years to come when they have the honour to serve in this place because he puts a perspective on it that is realistic. Graham is not over the top. He expresses very firm opinions that he holds and that people in his communities support, and the more we who listen to it the better we will always be.

The support he has had from his family is astounding. Anyone who has been a member of parliament for that length of time must have a wonderful relationship with their partner, their wife, and also their children. In my case, I could not do what I do without Donna's support. In Graham's case, with Jan—

An honourable member: Married for 42 years.

Mr GRIFFITHS: Married for 42 years. To be committed to this role for nearly 40 years is a wonderful effort. There must be times when Graham just wants to sit at home on the recliner, put his feet up, and listen to the radio or watch television, but instead he attends a community event. He puts himself out, and that is the measure of any person in this parliament.

For those of us who want to stay here for a period of time, for those of us who want to have some level of respect in the community, I think we can learn some wonderful lessons from the member for Stuart. His memoirs will be a very highly sought item, when he eventually gets around to writing them. It is a great pleasure to have a meal with Graham. The stories that he tells, for someone who wants to understand the history of it, are outstanding. The more that he can put down so that the rest of us have the chance to reflect upon it the better we will be for it.

Member for Stuart, I pay tribute to you; the people of South Australia pay tribute to you. You are a man who has held his integrity high and done wonderful things not just for the parliament but also for the state and nation as a whole. It is an outstanding achievement. Well done!

Debate adjourned on motion of Mrs Geraghty.

FINKS MOTORCYCLE CLUB

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (12:47): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: In December 2008, I received an application from the South Australian Commissioner of Police to declare the Finks Motorcycle Club under the Serious and Organised Crime (Control) Act 2008.

As required by the act, I published a notice and invited the public to make submissions about the application for a declaration of the Finks Motorcycle Club. I have also acted carefully to comply with the principles of procedural fairness required by common law. I have considered statutory declarations that outline the evidence and other information that police relied upon in making the application. Named in the application by the police commissioner are 48 persons.

To make a declaration I must be satisfied that a case has been made for an organisation to be declared under the act. I may make such a declaration if I am satisfied that members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity and that the organisation represents a risk to public safety and order in this state. I must adjudicate on the balance of probabilities.

I have carefully considered the evidence put before me and have taken advice from the Solicitor-General. Although the rules of evidence do not apply to my considerations, I have used them as a yardstick to measure what weight may be given to the information provided to me.

Today I announce that I have declared the Finks Motorcycle Club under the act. I am satisfied that the requirements of the act have been fulfilled and that the Finks is an organisation whose members associate for the purpose of organising, planning, facilitating, supporting and engaging in serious criminal activity. The Finks Motorcycle Club is a risk to public safety and order in South Australia.

I have accepted that the police have presented sufficient reliable evidence and other information that the members of the Finks Motorcycle Club are involved in serious organised crime, that these members are immersed in criminal activity, including 173 convictions of drug offences, 263 property offences, many shootings, more than 160 violent offences, rape and sexual assault, 137 convictions for firearms and weapons offences, more than 40 counts of blackmail, and many counts of theft, including theft of highly sensitive material.

Although specific examples of some of these are criminal intelligence—and therefore I am not at liberty to share them with the house, because lives would be at risk if I did so—I can say that police have told me that proceeds obtained from blackmail are often referred to as donations, which are believed to be one of the principal sources of revenue for the organisation. It is believed that the proceeds are usually apportioned between the members committing the blackmail and the organisation itself. The organisation will receive a percentage of the profits, as the offenders use the name Finks MC in committing the blackmail.

Often, interest will be charged on a daily or weekly basis or, where there is little likelihood of payments being made, offenders demand property, including motor vehicles and business interests. I will not go into specific details here as some offences are so disturbing that I feel it is best not to mention them here out of respect for the victims. However, I have provided detail in the tabled documents.

Information that I have considered that is excluded from the tabled documents has been excluded because it is either evidence or information classified as criminal intelligence, or it has been removed on the grounds of public interest immunity.

Material classified as criminal intelligence is the description of material that relates to actual or suspected criminal activity, whether in this state or elsewhere, and is the subject of a criminal investigation, or intended investigation, that could reasonably be expected to be prejudiced if the information were disclosed. Or, it could reasonably be expected that to disclose it would enable the existence or identity of a confidential source of information relevant to law enforcement to be discovered; or it could reasonably be expected that to disclose it would endanger a person's life or physical safety.

I shall lay on the table today a summary of my reasons for making this decision, which runs to 52 pages. Although I have no obligation to provide reasons, I believe that it is appropriate to show that my decision has been made properly, that careful consideration of the detailed evidence and other information provided has occurred and that my decision has been made without bias. The declaration does not stand alone. The Serious and Organised Crime (Control) Act 2008 gives police authority to make applications in the Magistrates Court where appropriate for control orders and to issue public safety orders.

A magistrate can make control orders against members of a declared organisation, former members and others who engage in serious criminal activity. The order can restrict whom the

defendant contacts, the premises he visits and the weapons he may possess. Within 14 days of the issue of a control order, a defendant can apply to the Supreme Court to have it varied or revoked.

Senior police officers can issue 72 hour public safety orders banning individuals or members of a group from going to a public place or event, on public safety grounds. A defendant can apply to the Magistrates Court to have the public safety order varied or revoked after an order has been in force for seven days. A defendant can also appeal against this decision to the Supreme Court.

The act also creates an offence of criminal association, an update to the more than century old anti-consorting laws; that is, that a person who associates on not fewer than six occasions during a period of 12 months with a person who is a member of a declared organisation or the subject of a control order would be guilty of an offence and subject to a maximum penalty of five years in prison.

It is now a matter for the Commissioner of Police if and when he applies for these orders. A retired judicial officer will be appointed before the end of this year to review the use of powers under the act. His or her report will be tabled in parliament, and I table the reasons for the declaration of the Finks Motorcycle Club.

GUNN, HON. G.M.

Adjourned debate on motion of Mr Bignell (resumed on motion).

(Continued from page 2791.)

Mr KENYON (Newland) (12:56): I rise to support this motion, and I am glad to do so. I had not even met the member for Stuart when I first heard about him through my former employer, then Senator John Quirk, who was a good friend of the member for Stuart, and he had told me numerous tales of him, often while we were shooting. I think I even used one of the member for Stuart's rifles before I met him.

I met him formally as an adviser, but only fleetingly. My first real memory of the member for Stuart is sitting in this very seat, quite nervously, waiting for the member for Stuart to finish before I made my maiden speech. I remember it because he spent a long time gloating about his return to the house and he spent a very long time talking about corellas. In fact, my father, who was in the gallery waiting for my speech, probably remembers more about the member for Stuart's speech than my maiden speech, because every time it gets mentioned he says, 'Is that the guy who talks about the corellas?'

I have interacted since then on a number of occasions with the member for Stuart. People have spoken about his ability to get things done and the way he gives advice to members. I have my own experience of that. I was trying to get driving lights for my vehicle and I was having this bureaucratic battle backwards and forwards with the people in Fleet SA. We were talking about actuarial advice and the danger to pedestrians of driving lights, and various things. This went on for probably a month and a half, at least. I was telling Gunny about it in the lift one day and he said to me, 'Look, ring them back, tell them Graham Gunn's got them and I want them.' I took his advice, I rang the guy back and said, 'Graham Gunn's got them, I want them,' and I had them within a week. He told me how he secured his driving lights; I will not repeat that to the house but it was a good story.

People have talked about him being a man of his word. I encountered that very early, soon after I became a member of parliament. The Ashes series came to Australia and after having been beaten in England the Australians were trying to regain the Ashes in Australia. There was a test match at Adelaide Oval. It was a crucial day. It looked like it was going to be a drawn match. Shane Warne was bowling to the English and he had got a couple of wickets. I was tied up here, desperately trying to get down to the cricket. I was talking to Gunny about it and he said, 'Just go and if there's any votes I won't go in.' So, I went down to the cricket and watched Shane Warne bowl England out and take Australia to victory, much to the consternation of the whip. I have learned my lesson, Madam Whip, and I apologise once again. But I know that Gunny did not turn up for any divisions, so he was, indeed, a man of his word.

All I can say more about him is that I think he has made a fantastic contribution to this state, and I think his family has made a contribution to the state. I remember when we were doing the debate on the more family-friendly hours for this house, the member for Stuart made a suggestion that his children had grown up while he was in here. I think it is a tribute to him and his family that that has not been a less satisfactory outcome than it might have been, because it is

easy for people's families to suffer in this place but it looks like they are a strong family and they have held together over that time. I am proud to have served with him and I congratulate him and wish him all the best.

Debate adjourned.

[Sitting suspended from 13:00 to 14:00]

ANSWERS TO QUESTIONS

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

ESTIMATES COMMITTEES

175 Mr PISONI (Unley) (30 September 2008). When will the outstanding answers to questions taken on notice asked of the minister during the Estimates hearings on 27 June 2008 be answered?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide): The replies to the three questions asked by Mr Pisoni and taken on notice during the Estimates Committee Hearings on 27 June 2008 were forwarded to parliament for tabling on 9 December 2008 and 2 February 2009.

CYBERBULLYING

In reply to **Mr PISONI (Unley)** (27 June 2008) (Estimates Committee B).

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide): I have been provided with the following advice:

There is no specific 'cyber bullying' offence. The term is essentially an expression with no legal definition. Incidents are recorded pursuant to Section 19AA2 of the Criminal Law Consolidation Act (CLCA) (stalking) and Section 19(1) and 19(2) of the CLCA (unlawful threats). Crime analysis for the fiscal year ending 30 June 2008 identifies eight incidents representing cyber bullying in schools recorded under the above sections.

The Department of Education and Children's Services is committed to eliminating all incidents of cyber bullying.

150,000 pamphlets were distributed in June 2007, providing advice to parents. This was an important initiative as it recognises that bullying including cyber bullying occurs both inside and outside of schools, and therefore requires a whole school and community response. However, this was only one measure put in place to deal with cyber bullying.

In 2005 the government established the Coalition to decrease bullying harassment and violence in South Australia (the Coalition). The Coalition has representatives from the three schooling sectors as well as eminent international researchers Professor Ken Rigby, Professor Phillip Slee, Dr Barbara Spears and Dr Shoko Yoneyama.

The Keeping Safe Child Protection Curriculum was launched last year and includes sections on internet and telephone safety.

South Australia is a leader in its recognition of cyber bullying as an issue and action to address cyber safety and cyber bullying. DECS will continue to work with Australian Government agencies, other states and territories, and the catholic and independent sectors to address this issue.

COMPULSORY THIRD PARTY PREMIUMS

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:01): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.O. FOLEY: Today, I wish to inform the house of the annual increase in compulsory third party premiums that will apply from 1 July 2009. As members would be acutely aware, having listened to Tuesday's federal budget, the global financial crisis continues to wreak havoc on financial markets and, as a result, on the many billions of dollars invested by all funds under management by this government.

The compulsory third party fund, administered by the Motor Accident Commission, is no exception. It is important to note, however, that even during times of exceptional financial uncertainty the Motor Accident Commission has maintained a positive net asset position due to the conservative gearing of its investment portfolio. Alongside this hit to the fund, there has also been a sharp fall from 6.7 per cent to 3.6 per cent in the discount rate which is used to calculate the value of future liabilities to the scheme.

An increase in premiums is necessary this year to improve the financial position of the fund. In 2009-10, the increase in CTP premiums will be capped at 8.5 per cent. Some examples of what the increase will mean in dollar terms: in district 1, Adelaide and surrounds, a class 1 vehicle, the average family car, will increase from $410 to $444; a class 15 vehicle (a 51cc to 250cc motorcycle) will increase from $188 to $203; and a class A19 vehicle (an historic or left-hand drive vehicle, for those who have them) will increase from $110 to $119.

I accept that drivers are unlikely to welcome this increase. However, it should be remembered that each year the fund pays out around $400 million to South Australians injured as a result of road trauma. The government needs to ensure the fund's long-term viability so that injured people can continue to receive financial assistance to get their lives back on track. It must be noted that in recent times, in 2006-07, when investment returns were strong, compulsory third party premiums actually decreased on average by 0.9 per cent.

PAPERS

The following papers were laid on the table:

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

Health, Department of—
Report 2006-07—Erratum to Table 31: Employees' Overseas Travel
Report 2007-08—Erratum to Table 30: Details of Overseas Travel by the Department of Health Employees
Southern Adelaide Health Service—Report 2007-08

By the Minister for Police (Hon. M.J. Wright)—

Coroners Inquest (Joint) Recommendations into the deaths of Andrew Stephen Gill and Simon Schaer

By the Minister for Education (Hon. J.D. Lomax-Smith)—

Education and Children's Services, Department of—Report 2008
SACE Board of South Australia—Report 2008

By the Minister for Water Security (Hon. K.A. Maywald)—

Government Response to Environment, Resources and Development Committee Report entitled—Interim Desalination (Port Stanvac)

VISITORS

The SPEAKER: I advise members of the presence in the gallery today of the Friends of the Museum, who are guests of the member for Florey, and participants in the Business and Parliament Trust, who are my guests.

QUESTION TIME

WATER PRICING

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:05): My question is to the Premier. What will be the extent of further increases in water prices on top of those previously announced to recoup the unbudgeted $228 million the state government will spend on doubling the

desalination plant? What will the price increases be and when will consumers be charged? The Premier stated on 5 December 2007:

> The extent of future increases can only be determined once the financial contribution from the Rudd federal government is negotiated.

The government announced yesterday that it would match the $228 million from the federal government with $228 million of its own, and the Treasurer previously advised on radio on 11 March that increases were expected to be contained to double water prices within five years.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:06): The answer to that question is yes. We have made it very clear that water prices will be going up as a consequence of the significant investment this state is making in the water security of future generations of this state. In fact, in the next four years we will have a capital works program from SA Water of the order of just under $4 billion, which is quite an extraordinary investment. The prices, as we know, from 1 July will be going up by 17.9 per cent, and the actual increase that will be incurred as a consequence of the expansion to the desalination plant will be determined in the next little while.

They will come into effect in the 2011-12 year most likely, given that the initial plant will be established to 50 gigalitres. The extra modules will be added as the project develops, and the extra expenditure will occur later in the construction phase. We will bring that information to the house once we have worked through the detail of that, and we will provide an extensive outline to the general public on what the price increases are likely to be.

ADELAIDE CABARET FESTIVAL

Ms SIMMONS (Morialta) (14:07): Will the Premier inform the chamber of some highlights of the 2009 Adelaide Cabaret Festival which is soon to open?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:07): I would like to start by saying thank you to the Hon. Diana Laidlaw. I think it is really important to acknowledge people from the other side of the house who have made a real contribution, and Diana Laidlaw was an excellent minister for the arts. The Windmill Theatre Company and the Cabaret Festival were very much under her watch, and I think that she deserves to be commended. Obviously, I would like to thank her for continuing contribution to the arts in this state, including the work that she does fundraising for the South Australian Museum.

The program for the 2009 Adelaide Cabaret Festival, to be held between 5 and 20 June 2009, was launched on Tuesday 8 April. In fact, it was a spectacular performance by Bob Downe, whom I look forward to seeing perform again. Adelaide-born, world-class cabaret performer David Campbell—who, by the way is the son of Jimmy Barnes—

The Hon. K.O. Foley: Yes, I know; he's my mate.

The Hon. M.D. RANN: You know. He took over the reins as artistic director of this event after the 2008 event. He and associate producer Lisa Campbell have built on the reputation of Australia's foremost celebration of cabaret, established, of course, under the artistic directorship of Julia Holt. For 2009 a diverse line-up of renowned international cabaret performers has been assembled. Acclaimed Broadway artist Bernadette Peters (who from memory appeared at the Barack Obama inauguration), Lillias White, John Bucchino and Julie Wilson are among an impressive list of national and local performers.

I must mention the beautiful voice of Barbara Luna, with the seductive sounds of her South American rhythms. Of course, everyone would know that Barbara is based in Paris, but she is originally from Argentina. She was the star—and the Minister for Health might remind me—of either the 2000 or 2001 WOMADelaide. She was one of the great hits of all time. There is also Ursula Jovich with her soulful *Magpie Blues*. I also understand that John Bucchino and Friends' performance will now include an appearance by David Campbell. For the first time, festival patrons will be invited to walk the red carpet (members opposite might like to try that) at a variety gala performance of a not to be missed opening night. Within one week—

Members interjecting:

The Hon. M.D. RANN: It is called the Frome by-election re-enactment cabaret. Within one week of the program launch, the 'Dad and Dave' show, featuring David, his father Jimmy Barnes

and his sister Mahalia Barnes (who I reckon was probably named after Mahalia Jackson), as well as Kate Ceberano's one-off cabaret show, both sold out.

Ticket sales have continued to be very strong for this popular event. Some 10 performances in total have sold out so far, including several of the shows by Lillias White and Elenoa Rokobara. An extra weekend matinee performance has been scheduled for Ross Wilson's show *No smoke, just mirrors* and for Phil Scott and Vincent Hooper's show *The twink and the showgirl*, due to sell-outs. There are still four weeks to go before it opens. Over 50 per cent of the target box office income has been reached already, and a number of other shows are close to selling out.

I understand that to date this is the most successful Adelaide Cabaret Festival, having sold more tickets and taken more box office income at the same time out from opening night when compared with the previous eight festivals. The Adelaide Cabaret Festival continues to get brighter and brasher and has well and truly established itself as Australia's foremost celebration of this urbane art form.

I have arranged for programs to be distributed to members. I would encourage them to take a good look over it and to book their seats very soon to ensure that they do not miss out on the delights of this sometimes funny, sometimes challenging, but always engaging and outright entertaining festival.

Can I just say that everyone should go and see Bob Downe, who is doing this tour de force of Australian military songs and humour from the Crimean War right through to the present day. I know that there will undoubtedly be some parody, but we all have broad shoulders.

SOUTH ROAD UPGRADE

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:12): My question is to the Minister for Infrastructure. When will the promise to provide $500 million towards an upgrade of South Road from the Port River Expressway to the Southern Expressway be delivered? In a media release on 19 February 2009, federal minister Albanese said:

> The Australian government will provide $500 million in funding between now and 2014 towards construction of South Road flyovers; at major bottlenecks at Grand Junction Road, Cormack Road and Wingfield railway line; and Sturt Road.

However, in Tuesday's federal budget there was no mention of that funding.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (14:13): It was most alert of the Leader of the Opposition to notice that it was not in the budget. It was a little less alert to have failed to notice that it was a deal signed some months ago. If you know anything about the funding, the AusLink funding is already factored into the budget. The announcements that came in the budget were the Infrastructure Australia ones. What he is talking about is—I cannot remember what they call it now, but it is the old AusLink program. That is a deal we signed with Anthony Albanese.

I seem to remember Anthony Albanese doing a press conference one Sunday morning. He did it with the other leader of the opposition, and that was amusing too, as I recall. He was out in that true opposition leader style opening a project that he had voted against in his own chamber. So, very shrewdly observed, but it would have helped you if you had also observed that we had already—

Members interjecting:

The Hon. P.F. CONLON: The funding is committed.

Ms Chapman: When?

The Hon. P.F. CONLON: It was committed some time—

An honourable member interjecting:

The Hon. P.F. CONLON: You are embarrassed. You have asked an embarrassing question. Do not make it more tedious with your interjections. The funding is already committed; that is why it was not a highlight—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: If I understand the Leader of the Opposition, having been embarrassed by asking a dumb question, he is now suggesting that I am misleading people and we do not really have the $500 million. Get real! About the only capacity the Leader of the Opposition has is a great capacity to endure his own embarrassment, because having been embarrassed by asking a question that someone on that side should have known the answer to—

Members interjecting:

The Hon. P.F. CONLON: Here we go! We've got the mouth from the deep south going now. No doubt as soon as we say, 'It's already funded,' we'll get some—

Ms CHAPMAN: Point of order!

The SPEAKER: Point of order. The deputy leader.

Ms CHAPMAN: The minister is debating. The question was not whether something was in the budget. The question was: when will it be delivered? It is very simple, and the minister is debating.

The SPEAKER: Order, the deputy leader! The minister has answered the question. The member for Ashford.

PLASTIC SHOPPING BAGS

The Hon. S.W. KEY (Ashford) (14:15): Thank you, Mr Speaker.

Members interjecting:

The SPEAKER: Order, the member for MacKillop! The member for Ashford.

The Hon. S.W. KEY: My question is to the Minister for Environment and Conservation. As the minister knows, Foodbank SA is in the electorate of Ashford, so I am particularly interested to know how the government's donation of re-usable bags to Foodbank has been received.

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (14:16): I thank the honourable member for her question. I also thank her for the rather fetching re-usable bag that she sent me. She has taken to the plastic bag ban with alacrity. She has, in fact, decided to embrace the plastic bag ban with such vigour that she has distributed some of her own bags to members of her electorate, which I think is a very fine idea.

As I informed the house yesterday, this step towards a cleaner environment has been an enormous success. Indeed, as a consequence of this initiative, 400 million fewer bags will end up in our landfill. In implementing the ban, we wanted to make sure that we reduced some of the burden on people who are doing it a bit tough. That is why, as the honourable member mentioned, we gave 5,000 bags to charities across the state. Another 3,000 were generously donated by the Green Bag company at the time.

Those bags were distributed through Foodbank SA, which is doing a great job in getting these bags to charities. Charities handing out the free bags have reported a really positive response.

Mr Pengilly interjecting:

The Hon. J.W. WEATHERILL: The member for Finniss, in fact, represents an island that embraced the plastic bag ban well ahead of the rest of the state. It is a pity that he could not persuade his colleagues to get on board with that important initiative. They are very environmentally conscious over there on the island.

The charities that were handing out free bags have reported a very positive response from people taking them. Like most South Australians, they are keen to do the right thing by the environment and remember to take re-usable bags to do their shopping. At the time, we said that we would donate more if they were needed and, thanks to the enthusiastic response to our initial donation, we are providing more.

A total of more than 60,000 bags will now be donated to South Australian charities. As with the original donation, these bags will be distributed by Foodbank SA to charities across the state and, again, I thank Foodbank and those charities for their terrific work. The bags will go to needy

families throughout South Australia and include donations of 15,000 bags each from Coles and Woolworths along with the original donation of 3,000 bags from the Green Bag company.

I would like to thank those companies for their generosity and also not only the rest of retailers in the state but the whole community which has supported the plastic bag ban, to the great chagrin of those opposite, including the member for MacKillop, who was predicting gloom and doom and from whom we have only heard shrieks of silence.

Mr Williams interjecting:

The Hon. J.W. WEATHERILL: I remember you said, 'Good luck!' and it was laced with sarcasm.

TARGETED VOLUNTARY SEPARATION PACKAGES

Mr GRIFFITHS (Goyder) (14:19): My question is to the Treasurer.

An honourable member: Good luck!

Mr GRIFFITHS: Thank you. What is the estimated cost to government of targeted voluntary separation packages offered to Public Service employees this week? The Executive Director of the Department of the Premier and Cabinet invited employees of the department to apply for targeted voluntary separation packages this week. He referred employees to guidelines issued by the Department of Treasury and Finance which offer employees 2¼ years' salary.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:20): The government—they are a little bit slow on the uptake, the opposition—announced the fact that we are offering up to 1,600 voluntary separation packages in the Mid-Year Budget Review. What we have done is made a provision in the Mid-Year Budget Review for that.

Mrs Redmond: How much?

The Hon. K.O. FOLEY: My understanding—and I will get this checked—is that, prudently, we would have made full provision for the 1,600. I do not have the dollar figure for that. The final figure will be dependent upon how many of those 1,600 are taken up. And they are not all in this financial year; they are over a staggered period. We would estimate the year in which we assume these numbers would be taken up, I presume for the full uptake, but whether or not that occurs is a different story. Always remember that voluntary separation packages have a very quick payback period—

The Hon. P.F. Conlon: That's why we do them.

The Hon. K.O. FOLEY: That's why we do them. I do not have the exact payback period in months; it is about 18 months. You can lock in that ongoing saving for a considerable amount of time. It is a mechanism that has been used consistently by former Liberal governments, and it has been used consistently, when appropriate, by this government when we have needed to relieve certain cost pressures on the budget—

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

Mr Williams: You particularly amuse me.

The Hon. K.O. FOLEY: Why I am I amusing you?

Mr Williams: You don't even sound like you believe it yourself. I find that amusing.

The SPEAKER: Order!

The Hon. K.O. FOLEY: What? Are you saying that I'm not telling the truth?

Mr Williams: Get on with it!

The SPEAKER: Order, the member for MacKillop!

The Hon. K.O. FOLEY: We have offered voluntary separation packages a number of times since coming to government, and they have been a necessary and very useful management tool to right-size the workforce and to provide savings and efficiencies within the government. I do not know how more open and upfront the member for MacKillop expects me to be, but that is the story.

ELECTIVE SURGERY

Ms BEDFORD (Florey) (14:22): Can the Minister for Health inform the house whether there are more people going onto or coming off elective surgery waiting lists?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:22): Thank you, Mr Speaker, and I thank the member for—

Ms Chapman interjecting:

The Hon. J.D. HILL: Already she has started interjecting. I have not even said thank you yet. I've started thanking you, Mr Speaker, and I get an interjection before I have finished thanking you. I do thank you, Mr Speaker, for the call, and I thank the member for Florey for asking this important question.

The Hon. R.B. Such interjecting:

The Hon. J.D. HILL: I wouldn't know about that, Bob. On Wednesday 6 May this year, the Deputy Leader of the Opposition declared in a media release on elective surgery that 'more people are going onto the list than are coming off'. That is what she said: 'More people are going onto the list than are coming off.' The Leader of the Opposition subsequently published the same release on his own website; so he believed the deputy leader, which was a mistake, as we know. The deputy leader and Leader of the Opposition, let me tell the house, are wrong; they are both wrong.

The Hon. M.J. Atkinson: Again?

The Hon. J.D. HILL: Again. They were either unwilling or unable to correctly interpret statistical information that is published on the Department of Health website. If the member for Bragg had correctly interpreted the information published on elective surgery rates in South Australia, she would have seen that, as of February this year, 3,781 patients were added to the waiting list and 4,048 were removed. Therefore—

Ms Chapman interjecting:

The Hon. J.D. HILL: *The Advertiser* believed her. Isn't that great? *The Advertiser* believed the deputy leader. Well, let the burden of that belief fall where it may. The facts are: you were wrong, and if they reported that incorrect statement they were wrong as well. On my calculations, that means that 267 more people came off the list than went on the list in that period. There is also a graph on the website which clearly shows that these were getting shorter not longer, unlike noses.

In fact, over the past year, for every 100 patients who left the waiting list only 98 were added. If the deputy leader had made these claims about a year ago she would have been correct, because we were putting on about 107 for 100 who came off, but, because we have done more elective surgery we have turned that around. It cannot be any more simple. More people are coming off than are going on the list.

The member for Bragg would surely know that there will always be people who leave lists for reasons other than having surgery. There is a range of reasons that people leave lists. One of the reasons is that they might be on more than one list at the time they get the surgery from one person, so then they are taken off the list somewhere else. Some people, in the end, recover without having to have surgery. Others decide that they may not want to have surgery; some may leave the state; some may go onto private cover; and a whole range of other reasons.

This has always been the case. There have always been reasons why people have left the list other than for surgery. So we have to compare like with like and, if we compare like with like, more people are coming off than are going on. I am also informed that, in the past, some patients, as I have said, were on more than one waiting list.

We are working collaboratively with the commonwealth government to provide South Australians with the elective surgery that they need when they need it. We are performing many more cases of elective surgery than at any time in our state's history and, consequently, we are slashing elective surgery waiting times. In fact, as at 31 March this year, there were 429 overdue patients compared to 1,829 a year ago. That is a 77 per cent reduction over the course of that year. I can now inform the house that 98.8 per cent of all patients are seen within 12 months. About a year ago, that was about 96 per cent, so we are getting close to 100 per cent.

In the 2007-08 financial year, the hardworking doctors and nurses of our major metropolitan hospitals performed a record 39,962 operations. That was 4,376 (or 12 per cent) more than during the last year of the former Liberal government. This year, we are on track to smash the record set last year. As at 31 March this year, we were 1,325 procedures ahead of where we were at the same time in 2008. That is about 5 per cent more surgery performed.

In the past five weeks, the Deputy Leader of the Opposition has wrongly claimed that, first, a renal patient had missed out on a kidney transplant when an operation had, in fact, been successfully completed; secondly, that elective surgery at Mount Gambier Hospital could be cut when, in fact, it is being increased; and now she has claimed that elective surgery lists are lengthening when they are, in fact, shortening. That is three major errors in fact in just one month.

We should add to this list that, on Tuesday, the member for Bragg repeated the claim that a senior public servant had instructed Dr Katsaros that he would not have a public meeting at the RAH, when in fact the only instruction Dr Katsaros received was the standard occupational health and safety obligations as the hirer of the lecture theatre. The Deputy Leader of the Opposition has a duty of care to patients and staff in our hospitals to get her facts right and to interpret—

Ms Chapman interjecting:

The Hon. J.D. HILL: Mr Speaker, the deputy leader says to me to tell the truth. I am telling the truth in here about her continual fabrications and misleading of the public about the true facts that are occurring in the health system.

The Hon. P.F. Conlon: There's a failure of honesty.

The Hon. J.D. HILL: There is a failure of honesty, as the Minister for Infrastructure said. Considering how badly burned the Leader of the Opposition was last week over the use of the dodgy documents, you would think that he and his team would have learned to check their facts first but, clearly, they haven't.

O-BAHN EXTENSION

Dr McFETRIDGE (Morphett) (14:28): Can the Minister for Transport advise on what basis he costed the O-Bahn extension at $61 million if he is yet to decide the route, the style of transit corridor, or whether major earthmoving works are required, and will he release those costings?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (14:28): It is my understanding of the outline work that was undertaken—of course, I have no doubt that you will start abusing this organisation, too. It has been done by GHD, who have identified the options for us. None of them, except, of course, the leader, has been in government, so maybe that is the difficulty and why we have to explain just what is necessary to do. We engaged GHD—it would have cost us money, I assume—to do some studies on options for us. They have identified some options. We worked with the commonwealth on that, to present a good business case to them.

Of course, the cost of the project depends on what you do with it. For example, the Hackney Bridge is a major component. Once the work is outlined and the options are identified, and you have a number that you can convince the commonwealth to fund—what we tend to do is ask for as much as we can get, which we think is the right approach—we then go out.

For example, yesterday, I spoke to Neil Smith from Torrens Transit, which is the company that drives the buses along the O-Bahn. Of course, they are very pleased with it but they would like to be involved in the discussions as to how it might work. Yesterday, I very briefly saw the Lord Mayor of Adelaide and indicated to him that we will have to talk to the Adelaide City Council about what we do.

So, the member for Morphett may begin to understand why then you do some work and develop options, but I would simply suggest it would have been rather presumptuous and foolhardy of us to talk to these parties before we had secured funding and a final decision from the commonwealth. We may have raised expectations and looked rather foolish if it did not come off, so we have done everything exactly as it should be.

I point out that the options we have developed for this, on the basis of GHD's work, are, I suggest, rather better developed than the options that the Leader of the Opposition has developed for the RAH, apparently one of which will be picked now before an election. Of course, it was going to be after an election, after consulting people. He was trying to kick the ball as far into touch as he possibly could, but now it will be before.

I look forward to seeing the well-developed work that is being done on those options. I am pretty confident that ours will be better. I am still waiting to see the consultants' costing on one of his football stadiums. Remember what the consultant said about the earlier one. I suspect those costings were quite possibly by the same people who supplied other documents to the Leader of the Opposition, and they probably made as much sense.

Can I just assure the member for Morphett that is the proper process: you develop a case; you use a world-recognised accredited firm to assist you; you show the commonwealth the merit of it and the benefit of it; they make a decision, and then we have to talk to other parties involved.

One of the things I do not want to do is go out with three different options and upset perhaps three different groups when we would like to finalise the one, and then just upset whoever we upset with that one. No doubt, we will upset someone, including the opposition, because they hate it when we do things. That is what you do—

Ms Chapman: Can't you answer the question?

The Hon. P.F. CONLON: Sorry? That is not a good enough answer? What is it that the deputy leader would like me to tell—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: How did I cost it? Okay, I will go through this again. We employed GHD to look at a number of options. We put some costings about what implementing those options would be. We put a business case to the commonwealth. We asked as much as we thought we might get out of the commonwealth, to be frank, because you can always do a more expensive option on anything. Now, on the basis of that work, we are going to have discussions with the other parties interested and finalise an affordable option out of the work that has already been done. I have great difficulty understanding what I have not answered and greater difficulty understanding why that is not the correct process.

CIRCLE OF FRIENDS

Mrs GERAGHTY (Torrens) (14:34): Can the Minister for Ageing advise the house of the latest government initiatives to help older people remain connected to their communities?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (14:34): I thank the member for Torrens for her question. The Rann government has a proud record when it comes to supporting older people in our community. I have previously had the pleasure of informing the house about grants for seniors and the Positive Ageing Development Grants which are distributed by the Office for Ageing. Recently, from the Premier, we have also had the exciting public transport announcements about free travel for our seniors.

This afternoon, I will have the pleasure of hosting a group of wonderful older South Australians from the Circle of Friends group, a Masonic Homes project funded by the state government. Circle of Friends began in February 2008 to reconnect isolated older people into their communities. The state government provided $100,000 for the pilot project and has since provided an additional $60,000. This afternoon I will tell the group that the state will provide a further $50,000 in one-off funding.

One of the very strong messages from the heatwave earlier this year is that the public wants to live in a more neighbourly community. Through the great work of the Red Cross and other organisations, we heard amazing stories about community togetherness, but also some tragic tales of disconnected seniors who need more support.

I believe that Circle of Friends is a fine example of a program that keeps seniors connected and, therefore, safe in their communities. I would like to briefly share a couple of the stories about Circle of Friends members. One lady, a former Red Cross war nurse in Britain, was housebound because of a fear of fainting before joining Circle of Friends. She is now an important part of the group and will soon be working with a PhD student from Flinders University on her life experiences.

Another lady was widowed a year ago and was left grieving and distressed. Through her involvement she has now worked with a volunteer to develop a comic book so that she can share her life story in a fun and different way with the younger generation. An elderly gentleman, who

lives alone and was injured in a fall, whilst recuperating learned tai chi. He is now teaching tai chi to Asian student nurses.

Finally, I would like to mention Gladys Fennell, who cannot make this afternoon's event but will soon host a kitchen tea for her new friends. I would like to pay tribute to a 94 year old member of Circle of Friends, Mrs Kathleen Jarrad, who recently passed away. I will finish with a sentence provided to me today by the Circle of Friends people. They said, 'Kathleen's passing is a reminder that each day, with older people, is so very precious.'

WATER SECURITY

Mr PEDERICK (Hammond) (14:36): My question is for the Minister for Water Security. Has the government secured the entire 201 gigalitres required for next financial year's critical human needs, as claimed by the minister?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:37): Yes, we have secured the 201 gigalitres necessary for next year.

FOOD PLAN

Ms BREUER (Giles) (14:37): My question is an important one for the Minister for Agriculture, Food and Fisheries. What support does the government provide to assist growth in South Australia's food sector? A subject very dear to my heart, as you can see.

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (14:37): I thank the honourable member for her question, and we have something in common, we very much appreciate food. The importance of the food sector in maintaining the vitality of our economy cannot be underestimated, hence the—

Mr Hanna interjecting:

The Hon. P. CAICA: Beg your pardon, Kris?

Mr Hanna interjecting:

The Hon. P. CAICA: You are looking good, mate. We know that Ivan feeds in a very good paddock, that is obvious. All of us here like food. The excellent work being undertaken through the Premier's Food Council is maintaining our economy very well. Under the South Australian Food Plan 2007-10, an ambitious target of 8 per cent growth per year was set for the three year period of the current Food Plan.

The Food ScoreCard is that which measures the performance against this target. I am very pleased, therefore, to report that in spite of several years of difficult weather and climatic conditions, the restrictions on the availability of water and, at times, a strengthening Australian dollar, significant growth has still been achieved in this important sector.

The 2007-08 Food ScoreCard results indicate that farm gate value of production was up 39 per cent, finished food revenue was up 9 per cent, overseas and interstate exports were up 19 per cent and retail and food service increased by 14 per cent. Overall, there was a 15 per cent growth in gross food revenue.

I would like to mention a couple of the supportive mechanisms in place that aim to assist growth in our food sector, specifically the market development program and the strategic use of industry development offices. The market development program is managed by PIRSA, with key sub-programs delivered through a unique industry and government partnership.

The essential elements of this program include: international/interstate market development, market intelligence and value chain development. This program works hand in hand with industry to identify key trade events and activities that will support the continued growth of South Australian food industry markets.

Identified events are managed by industry, with funding support shared fifty-fifty by government and the food industry. A high level committee, consisting of senior officers from PIRSA and DTED working with industry partners, oversees the integrated strategy that aims to eliminate any duplication of effort that may occur with international activities.

Industry and business capability development is a key pillar in the SA Food Plan 2007-10, focusing on developing the capabilities the South Australian food industry requires to compete with imports and to establish strong positions in export markets.

Mr Hanna interjecting:

The Hon. P. CAICA: Is that all? You are interested in food, though, Kris. It is important. We talk about the difficult economic times we are in, and one of the areas that will sustain us through this, of course, is the very important area of agriculture, primary industries and, indeed, food.

Mr Williams interjecting:

The Hon. P. CAICA: The budget was not as bad. You always like to talk things down, Mitch. I would have thought you would be talking things up in this particular area. The industry development officers provide vital links between the food industry and the programs, services and expertise of partners of the South Australian Food Centre. I have already done it, but I would like to talk again about the Food Centre; however, I will save that for another day.

The industry development officers also help link food enterprises to programs that are offered through other state and commonwealth agencies, as well as those provided by industry associations and private providers. There are five industry development officers appointed across our state: Eyre Peninsula, the Limestone Coast (I am sure that you are very happy, Mitch, that we have one down that way), the Murraylands, the Riverland and the Central South and Central North regions.

Two industry development officers are employed directly by PIRSA's Agriculture, Food and Wine Division, while the remaining industry development officer is employed by the regional development boards but still funded by PIRSA. In addition to the industry development officer network, PIRSA contributes funding to a food and wine development officer. Where might that be, for the member for Finniss's benefit? Where might the food and wine development officer be located, because I know you are interested in this?

Mr Pengilly: It is located in my electorate.

The Hon. P. CAICA: Yes, on Kangaroo Island. It is good that you are sitting alongside the member for Davenport because he was able to tell you where he was located. This IDO is funded through and in conjunction with DTED, the Kangaroo Island Development Board and the Kangaroo Island food and wine groups.

While the global financial crisis and the continuing drought conditions in many areas will no doubt provide us with further challenges for the food sector, the successful partnership that has been developed between the state government and industry provides a solid foundation for maintaining a vibrant and innovative food sector that strives and continues to strive to add value to our primary produce. It is a very important part of my very important portfolio responsibility.

GOOLWA POLICE STATION

Mr PENGILLY (Finniss) (14:43): My question is to the Minister for Police. What is the future of the Goolwa Police Station? Is the station going to be closed? Will police staff be moved to the Victor Harbor Police Station?

Goolwa residents have discovered that the Goolwa Police Station is to be closed sometime during the next financial year and that those officers are to be relocated to and will operate from the Victor Harbor Police Station. They are concerned that the 7,000 residents in Goolwa will be exposed to increased crime and reduced policing services.

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:43): I need to check the detail of the member's question, and I will do that with the commissioner and come back to the house. The other day, I had a question from the member for Unley about the Malvern Police Station. I have checked on this, and I have been advised that no decision has been made in relation to changes to opening hours. However, as to the detail that has been asked for by the member, I will come back to the house.

FIRE SAFETY

The Hon. P.L. WHITE (Taylor) (14:44): My question is to the Minister for Emergency Services. How can South Australians be fire safe this winter?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:44): As we settle into the cooler months and the threat of bushfire decreases, it is easy to become complacent about fire safety. In the colder

months our fire services tend to see an increase of house fires, property loss, injuries and even, on occasions, tragically, deaths. I am advised that on average there are more deaths, injuries and property losses from house fires in South Australia each year than there are from bushfires.

All South Australians should have a home fire escape plan in the event of a house fire. Everyone should know how to get out of the house and where to meet. Your home fire escape plan should be practised regularly with your family. Other common-sense actions can play a big role in keeping your home fire safe this winter. A few of these include:

- ensuring that heating equipment is installed and maintained by an appropriately licensed and qualified tradesperson;
- having flues and chimneys properly cleaned once a year to prevent a build-up of flammable material;
- choosing portable electric heaters with automatic safety switches that turn the heater off if it is tipped over; and
- keeping heaters well clear of any items that might burn.

These are just a few things that householders should be aware of, and, if in doubt on any fire safety issue, I would encourage individuals to contact the Metropolitan Fire Service Community Education Department for expert advice. I encourage everyone to be fire safe this winter.

COURT REGISTRIES

Mrs REDMOND (Heysen) (14:46): My question is to the Attorney-General. On what basis does the Attorney-General seek to justify the closure of the court registries in Ceduna, Coober Pedy, Kadina and Naracoorte on all but sitting days?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (14:46): The registries of those courts could get by with one full-time equivalent employee, or less than one full-time equivalent employee. In fact, there are two full-time equivalent employees for occupational health and safety reasons. We think that many of the functions of those registries outside the period when the court sits could be provided by other means.

Really, it does not lie in the mouth of the Liberal opposition to be talking about issues such as this when, to a man and a woman, it voted in this house to abolish resident magistrates in the country. The last Liberal government removed every resident magistrate, and the attorney-general of blessed memory, the Hon. K.T. Griffin, argued that you should not have resident magistrates on principle. Well, Mr Speaker, this Labor government—

The SPEAKER: Order!

Ms CHAPMAN: On a point of order, Mr Speaker. This is nothing to do with the question.

The SPEAKER: The question is about court registries. I think that the Attorney is drawing somewhat of a long bow. I will allow him to finish his answer if he wraps it up quickly.

The Hon. M.J. ATKINSON: I do not see that courts make much sense when you have not got a magistrate. You need magistrate first, registry second.

COURT REGISTRIES

Mrs REDMOND (Heysen) (14:48): As a supplementary question, does the Attorney know and can he give examples of the kind of services that are supplied by court registries on non-sitting days?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (14:48): I refer the honourable member to my contribution on ABC Radio 639, Port Pirie. She will see that I elucidated the matter there.

Ms CHAPMAN: I rise on a point of order, Mr Speaker. It is a gross contempt of this parliament not to answer a question and to suggest that this parliament has to go and look at the transcript. What a disgrace!

The SPEAKER: Order! I do not think we are yet ready to call the Attorney before the bar—of the parliament, I should say. The member for Norwood.

PONTIAN GREEK COMMUNITY

Ms CICCARELLO (Norwood) (14:49): Will the Minister for Multicultural Affairs—

Mr Williams interjecting:

The SPEAKER: The member for MacKillop will come to order!

Ms CICCARELLO: —inform the house about an invitation he received to speak at an assembly of the Pontian Greek community in Greece?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (14:50): In December last year, as many members in the house recall, I was invited to speak at the 50th anniversary celebrations of the Pontian Brotherhood of South Australia at the Migration Museum. The Leader of the Opposition will recall that I was condemned for that by Senator Alan Ferguson, Liberal, South Australia. Indeed, I note that the Leader of the Opposition in debate the other day in the house was trying to portray Senator Ferguson as an Independent. In fact, he is a Liberal.

At the function I helped to unveil a plaque that commemorated the genocide of Pontian Greeks carried out by Turks between roughly 1914 and 1923. The speech that I made at the function explained that the Turkish forces—first the Ottomans and then Kemal Mustafa's forces—were responsible for the Pontian, Armenian and Assyrian genocides.

My speech attracted the attention of many parties, both locally and internationally. Indeed, I was interviewed in this chamber last night for a telecast on the equivalent of the ABC in the Hellenic Republic.

I have been overwhelmed by the response by members of these communities. My speech attracted the attention of the Pan-Pontian Federation of Greece, so much so that, in January this year, I received an invitation from the federation to speak at an annual assembly in Thessaloniki, which commemorates the Pontian Greeks who were killed between 1914 and 1923.

I was honoured to receive the invitation from the Pan-Pontian Federation of Greece. I am delighted to accept the invitation and will be leaving tomorrow. The assembly will take place in Agias Sofias Square in Thessaloniki on 19 May. It aims to commemorate the 353,000 victims of the genocide committed by the Young Turks and the Kemalist regime during that period. The peaceful gathering of up to 20,000 people also aims to ask for international recognition and condemnation of the genocide. The Pan-Pontian Federation of Greece will fund the trip to Greece, and I will leave Australia tomorrow.

It is fitting that I travel to Thessaloniki considering that only a few weeks ago I moved a motion in this place about the genocide of Pontian Greeks during the Ottoman Empire—not only Pontian Greeks but also other Greeks of Anatolia. The motion was passed without dissent, so I notice the member for Finniss did not have the courage of his convictions to come in here and oppose the motion.

Over the past six months I have spoken to many people about this matter, and it is quite astonishing how many Greek-Australians there are who have been affected by the genocide. Many of us have known people here in Australia who experienced Turkish removal of the Greeks of Pontus and other Greeks of Asia Minor, especially from the Aegean coast near Smyrna. We have their testimony, we have the admissions of officials of the Ottoman Empire and we have the shocking accounts of diplomats and consuls serving in Turkey at that time, including the diplomatic and consular officials of Turkey's wartime allies. I am privileged to be able to represent these Greek-Australians at the rally, and I thank the Premier for giving me his permission to travel to the Hellenic Republic.

EYRE PENINSULA WATER SECURITY

Mrs PENFOLD (Flinders) (14:54): My question is to the Minister for Water Security. Will the minister advise the house whether water supplies on Eyre Peninsula are safe? According to today's *Port Lincoln Times*, Eyre Peninsula is to be put on level 3 water restrictions, and I have been advised that the region will run out of water by 2012.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:55): Is the water in Port Lincoln safe? The answer to that is: water quality in Port Lincoln is safe. There is no doubt that the water is safe.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: What has been announced is that Eyre Peninsula will move to level 3 enhanced restrictions in line with the rest of the state as a consequence of the continuing drought. The natural resources management board has provided information in relation to the impact on the underground water reserves as a consequence of the continuation of the drought, and the government is taking the appropriate action.

Eyre Peninsula will move to the same level of restriction as the rest of the state. As the member well knows, an extensive master planning process was undertaken in relation to the future of Port Lincoln and Eyre Peninsula water security that was launched just recently. She would also be aware that a $500,000 study into the appropriate location for future desalination is currently underway. More information on that will be made available very soon.

TOURISM

Mr RAU (Enfield) (14:56): My question is directed to the Minister for Tourism. How is the state government working with the tourism industry in response to the current global economic downturn?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (14:56): As one would know, we are in tough economic times around the world, and business and job security is under stress around the world. Certainly our tourism industry is not immune in these times of uncertainty. However, the industry is a great driver of employment and business growth.

At this sort of time, we have to recognise, however, that tourists are affected by overall confidence, their employment opportunities and their own businesses around the world and many plans to travel are altered. Long-haul travellers are tending to go for shorter distances, and interstate visitors are tending to go to more domestic locations. We have to be flexible and focused in making sure that our businesses survive in these difficult times.

Despite the challenges, however, we are sharpening our approach to marketing and making sure that we use this period to work internationally and nationally to the best advantage of our tourism operators. We have a new tourism plan which is designed to make our industry sustainable and survive into the future through these difficult months. Whilst we cannot control global forces, we can work in a more dedicated manner, and we are promoting events and attractions to make sure that we boost the profile of all the opportunities and reasons to come to South Australia.

For instance, our 2009 Tour Down Under was extraordinarily successful, bringing almost double the number of interstate and overseas visitors, compared to the previous year, and that meant more expenditure in hotels, restaurants and shops. Our cruise ship season has been especially successful with a cruise ship based in South Australia for the first time making trips along the coastline and welcoming 23,000 passengers—an extraordinary number for this new innovative Southern Ocean cruising holiday opportunity.

Our biggest domestic advertising campaign ever is occurring currently. We have invested, as a government, $4.5 million and have been supported by industry and industry leaders bringing the sum invested up to $7.5 million, which shows that when you work together and produce a collaborative approach, you can have an extraordinary impact. That $7.5 million strategy has already had effects.

Whilst we do not have the overall tourism arrival data yet from the first quarter of this year, we can see that, in February, our website visits at southaustralia.com were up 23 per cent on the same month last year, and in March there were almost 160,000 visits to southaustralia.com—a 42 per cent increase over the previous year. The campaign also generated 10,000 phone calls and emails to our visitor information centres and, during its first three months, this is an extraordinary outcome. Expenditure on consumer marketing by the commission has more than doubled in the last two years. This is an extraordinary realignment of our expenditure and has paralleled the realignment of our services to match our Strategic Plan.

Like the rest of the world, we have a way to go to weather these tough economic times. However, recent analysis of our industry suggests that we are well positioned to withstand the global economic downturn. Whilst we have good relations with the industry, a fabulous partnership in marketing, we have much to celebrate. Like the tourism industry generally, I feel optimistic about the future.

DESALINATION PLANT, EYRE PENINSULA

Mrs PENFOLD (Flinders) (15:01): My question is again to the Minister for Water Security. Can the minister advise why funding requested by the Eyre Regional Development Board for a plan to assess desalination options for water for the mining industry on Eyre Peninsula was knocked back?

The Eyre Regional Development Board's request for funding was rejected despite looming level 3 water restrictions and water being identified as a priority for the mining industry, particularly Minotaur, with its kaolin mine needing three gigalitres, if it is to provide the jobs and economic boost expected by this government.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:01): I can assure the member opposite that this government is more than committed to a future which includes mining. I think that is pretty obvious. What the government has also done is commit $500,000 to an investigation into desalination on Eyre Peninsula. The Eyre Regional Development Board—

Members interjecting:

The SPEAKER: The deputy leader and the member for MacKillop!

The Hon. K.A. MAYWALD: The Eyre Regional Development Board requested funding to undertake an investigation into desalination, the work which SA Water was already undertaking. It seemed silly to do the work twice.

DOVER GARDENS PRIMARY SCHOOL

Mr HANNA (Mitchell) (15:02): Will the Minister for Education give an assurance that teachers and SSOs at Dover Gardens Primary School will, if they wish, be reallocated to schools in the area which have received students from Dover Gardens Primary this year, and can the government provide rebates for new public school uniforms purchased by parents and students who had enrolled in Dover Gardens this year? Dover Gardens Primary School is in the process of closing this term. Students who enrolled at the school this year have therefore been forced to enrol elsewhere.

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (15:03): I thank the member for Mitchell for his question. He is quite right: Dover Gardens Primary School is expected to close by the end of this term. It is unusual for a school to close in the middle of an academic year, and it obviously puts particular stress on the families and the children.

I have authorised the department to help those students and families who are moving to new schools. I think it is entirely appropriate that we should help them with the cost of their uniforms. Obviously, it is an unexpected change in their circumstances, and I think it would be unfair for them to bear the cost themselves. In addition, of course, they might well have paid school fees at the beginning of the year. They will not be liable to a new set of school fees at the subsequent school they attend.

I understand that most of the children are going to Darlington. I do not have the exact breakdown. I think there are three or four permanent teachers within the school, and for the rest of the year they will be following the students to the schools that they have been allocated to. Subsequently, there will be an opportunity for them to apply for permanent jobs as close as possible to their current employment.

There are some other individuals involved—groundsmen and some other staff—and we will be working with them to help them relocate. I thank the member for his question. We will do what we can to ease the transition into the new schools.

BEEKEEPERS

The Hon. G.M. GUNN (Stuart) (15:04): I direct my question to the Minister for Environment and Conservation, a department dear to my heart. I ask the minister, can he—

Members interjecting:

The Hon. G.M. GUNN: It doesn't take much to put me off. Can the minister advise the house why the government, through its agency National Parks, is stopping apiarists (beekeepers) from releasing bees in national parks so that they can carry on with their normal practices, which

they have done for years? Constituents of mine at Wirrabara have advised me that they have now been told that they are not allowed to put their beehives in the national parks. The question is: why, and what harm are they doing?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:04): I thank the honourable member for his question and, I must say, I am detecting a green tinge to the honourable member's questions. As he moves into the shadowlands of his career, I can see him—

The Hon. P.F. Conlon interjecting:

The Hon. J.W. WEATHERILL: I must say that I do not have with me a briefing about bees in national parks. I can appreciate that—

The Hon. P.F. Conlon interjecting:

The Hon. J.W. WEATHERILL: That's right. I can appreciate that it is an important issue for the honourable member. I undertake to obtain a briefing and bring back an answer to the house.

GOOLWA POLICE STATION

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (15:05): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. WRIGHT: Earlier today, the member for Finniss asked me a question about the Goolwa Police Station. I am advised by South Australia Police that the station will not be closing, nor will there be changes to staffing levels at the station.

GRIEVANCE DEBATE

GOVERNMENT ACCOUNTABILITY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:06): Today I rise to ask how far this government will go to suffocate adverse comment about either itself or its policies. The clear answer is that it will say and do whatever it takes to crush the voice and to silence the lambs, as they say. I will just give two recent events as an example.

The announcement by the Liberal Party to rebuild the Royal Adelaide Hospital has had howls of disquiet and discontent from the government. Having already abolished the board and the voice for that hospital, we are now informed by the government that media and communications employees of the Department of Health have moved into the Margaret Graham Building at the Royal Adelaide Hospital, and that the minister and/or someone in his department has directed that all publications of the Royal Adelaide Hospital (formerly published through the Medical Illustrations Unit) must now go through his communications unit. Talk about silence of the lambs.

Then, of course, we have the situation with volunteers. A letter has been sent to all of us, I think, in the last 24 hours regarding a complaint to the Minister for the City of Adelaide about the Botanic Garden, where volunteers, during Volunteers Week, are protesting staff cuts in the Botanic Garden, and other important gardens in this state. I will quote from that correspondence, as follows:

> When we first volunteered to be guides, we were told that we should never criticise government policy while guiding, and we have followed this direction assiduously. We now wish to inform you that we can no longer comply with this instruction.

This government just has no shame. It is now telling volunteers what to do. This week, in the Arc de Triomphe of secrecy of this government, we have a rejection to even show us the design of the approved SA film and sound hub to be built at the Glenside campus of the Royal Adelaide Hospital.

The Premier has announced that he is going to purchase all the historic buildings in the middle of the Glenside Hospital site. He has proceeded with a $43 million film and sound hub. As if that is not offensive enough to the people of South Australia—particularly those across all of South Australia who use the important mental health services—children who play on the ovals and have sporting activities have been removed and the opportunity for local people to have access to the

property has been cut. Having announced the film hub and having allocated the money in last year's budget to build it, and progressing it as we speak, on 4 March (over two months ago), the Premier announced that he has signed off on the design of this facility. Through his department, he now refuses to let us even have the design documents in relation to this. How secretive can this government get?

This is a project which he proudly stands up to say is going to be important for South Australia. Even if he is right, how dare he—having announced that he has signed off on it—refuse to even let us look at it. We are left with only the opportunity to look at what has happened with other film and screen hubs around Australia. As usual, the Premier has not come up with a smart, new initiative of his own. I do not think he has ever come up with one of his own. The Royal Adelaide Hospital is proposed to be built on a railway site. Tasmania had come up with that idea years before—and it abandoned it, I might add.

His brilliant idea for a film and screen hub is allegedly to bring people across the world to make films here in South Australia, but Melbourne already announced that eight years ago. It has built its hub, and we can see what a disaster that has turned out to be for accessibility for small, new and fledgling filmmakers in that state. However, the buildings on that site, called the Melbourne Central City Studios—and we have seen them on the internet—are over 12 metres high.

So, the government has to be honest with the people of South Australia and tell us what monstrosity of a building it is going to build on that site behind the historic buildings or adjacent to them. We are told that it is behind because the Premier has already said that he is not allowed to have anything to interrupt the panoramic view from the major historic building on the site looking out over Fullarton Road. He has to come clean with what is going to be built there, how high it is going to be and what area it is going to take up.

Time expired.

SCHOOL AMALGAMATIONS

Ms BREUER (Giles) (15:11): I rise to speak on a couple of issues today, but first I want to express my concern about what seems to me to be a potential hijack of the process regarding the proposal to amalgamate many of the of schools in Whyalla, Port Augusta and Port Pirie and form some super schools. A number of things are being discussed at present. At present, I am frightened that the process might be hijacked.

The AEU has expressed concern at the process and what is happening, and I certainly have expressed my concerns in my community as well. I want parents to come out and say what they want. A select group in each community has come up with proposals for our communities, and I do not think the wide cross-section of the community has any understanding of what is happening. I do not think parents of unborn children have any understanding of what is happening. Certainly, parents who are being asked to make decisions may not have their children in schools for much longer.

I have been involved in the process from the start. I have said right from the start that consultation is essential, but I do not think it has been done terribly well. I do not think they understand what consultation is about. A lot of information has been put out under the Education Works banner and people do not understand what Education Works is about. As with much of the education department's terminology, people switch off because they do not understand unless they are directly involved.

I am concerned about the fact in Whyalla that every high school student will be on the one campus. However, I am excited by the concept that we will have a brand new school and brand new facilities, etc. I have some concerns about it—all the children in one school, how do we get them to that school, what happens if you are expelled from the school, what happens if you are bullied in the school, what happens if our community expands, as they keep telling us it will? So, I have lots of concerns.

At the moment, I am frightened about the publicity that is going out and that people will not look at this rationally or think about it carefully and perhaps knock it back without really thinking it through or accept it without thinking it through. I urge our communities to look at this seriously and take into account all the issues. We do not have a lot of time, but we certainly need to look at it very carefully.

This brings me to an issue that has been pushed—that is, that it will be much easier to attract professional staff to schools if we have super schools with their much better facilities and resources, etc. I am speaking particularly from the point of view of my electorate on the difficulties of attracting and retaining professionals in country regions.

Why will professionals not come out to our country areas? For example, regarding the medical profession in Whyalla, there is not one Australian trained doctor. They are all overseas trained doctors, and basically they have come from countries that need those skills there, not that I am questioning why they have come to us. We have a number of communication and cultural problems as a result of this. Some of them have come for the money. We do not seem to have much of the old GP relationship that used to happen.

However, the biggest problem is that they all commute. This happens with other health professionals as well. They commute to our communities. They come in for the three or four days a week (maybe five days if we are lucky), then they come back to Adelaide for the weekend. This is happening in all sorts of areas.

It is a major problem for country communities because these professionals do not get involved in the community and, if they do not get to be part of your community, they do not understand your community. It is not just health professionals who are doing this; it is also happening with some of the big companies. I know that in Whyalla with OneSteel many of the senior management commute to Adelaide each weekend.

I laugh at the current proposal that has been given to us in these country towns (Whyalla, Port Augusta and Port Pirie) that we are going to get all these fly-in and fly-out people who are going to go to the mining areas. I think it is an absolute nonsense. We are not going to benefit from that particularly, because we cannot even keep the professionals that we have now. They fly in and they fly out to Adelaide at the weekends. So, why would people come and live in our communities to go up north? I think it is an absolute nonsense.

This means that you do not have people living in your community who are a vital part of your community. They are the ones who make the decisions about the community. They do not understand the emotional side of what goes on in our towns, they do not understand the social side of what goes on in our towns, and it is becoming more and more difficult for them to do this. Okay, maybe they want to send their kids to school in Adelaide so they want their families to be down there, but if you get a job in our community you bloody come and live in our community and be part of our community and stop taking your dollars out at weekends down to Adelaide and putting them in someone's pocket down here.

I think it is a major issue for all of us. We have to look at it seriously. One thing that is happening is that country scholarships are working very well with teachers and with some health professionals, physios, allied health, etc. Country scholarships to our young people are bringing them back to us, and that is great, but we still have a long way to go. I think that if we train them more in the country we would also do well, and I ask that we look again at teaching in our university in Whyalla. It works for social workers and it works for nurses, so let us bring teachers back as well.

Time expired.

SCHOOL AMALGAMATIONS

The Hon. G.M. GUNN (Stuart) (15:16): In last week's edition of *The Independent Weekly*, a newspaper which has a limited circulation in this state, there was an article written by one Hendrik Gout in which he made a number of comments on a number of political issues, and he referred to me. He said this:

> Stuart has been held since time began by Liberal MP Graham Gunn. No MP in Australia has sat in any parliament as long as Gunn has in Stuart, although sadly—

Listen to this for a compliment—

> that will forever be his chief distinction.

What I would say to Mr Gout is I suggest that he reads this morning's *Hansard*. I am very happy to have my record in this place and my ability to represent the people of my electorate put against him or his other journalists any time they want to. I am quite happy to accept any constructive criticism, but I gave an undertaking to the people of my electorate that my prime role would be to represent them, and I have done it through thick and thin. I am not going to be put off in the last few months by ill-informed journalists like Mr Gout. I would suggest that I have been far more successful in

getting elected than the people in the political party that he worked for. They are going into oblivion, we are on the up.

I will follow on from what the member for Giles had to say in relation to the education facilities in Port Augusta. I strongly believe that we have to provide the best education facilities in these large regional centres because, unless we do, the next generation of young people are not going to be able to avail themselves of the very important education skills that they are going to need.

If you are going to change the system, you have to take the community with you. To take the community with you, it has to be informed and it has to be informed across the total community, not just a select few. I personally do not have any problems with what they propose for the high school at Port Augusta, as long as it is spelt out clearly and the community is happy and understands it, and that it is not used as an excuse to withdraw services or cut back because, in my view, there is going to be a need for greater services.

I understand that one of the reasons is the junior campus. There are lots of problems with those buildings. They are those dreadful DEMACs, I think they call them. They are dreadful buildings. I think the quicker we get rid of them the better. One of the good things that Dean Brown did when he became minister for public works many years ago is he closed that factory down. That was a good thing because they were very poor sorts of buildings. I remember when they built one at Coober Pedy and Andamooka the great trouble they had with the whiz-bang air-conditioning systems they had, which really did not work. But that is another story.

I think it is terribly important that the education department officials make sure that a proper information forum is available for the community so that they clearly understand what is proposed, what the time factors are and, of course, what they are going to do with the old buildings.

When the member for Giles was speaking, the old Stuart high school came into my mind and what they were going to do it, and I remember going there. It was a challenging enterprise: I think it was the one they built and, when they first opened it, no students turned up.

I have seen some interesting things happen with schools. At Mount Wedge, they went along and insulated the school two years after it had been closed, and at Cook they put fans in the building about three feet from the floor. Someone had written on a bit of paper that they had to be installed. The ground floor of the two storey school at Cook is pretty low, and the idea was for the students to get out of the heat. However, Sir Humphrey said that the fans had to be fitted in. The principal had great trouble getting the people back on the train to get rid of them. I say to Mr Gout: take a constructive look at people's activities and come up with some realistic comments.

Time expired.

SMOLICZ AWARD SCHOLARSHIP PROGRAM

Ms CICCARELLO (Norwood) (15:21): On Friday, I had the pleasure of attending the launch of the Smolicz Award Languages Scholarships and the signing of the memorandum of understanding between the Minister for Education and the scholarship sponsors. The language teaching scholarship has been named the Smolicz Award, which not only acknowledges the work of a great academic but symbolises the message Professor Smolicz was advocating in his work; that is, the importance of languages for personal identity and the potential power of languages to connect human beings with communities in a variety of ways within and beyond our shores.

The lifetime and work of Professor Smolicz is a remarkable achievement. His CV and list of publications, international and national awards, the extensive research he undertook and the committees George was involved with are exhausting. His work and achievements had a huge impact on languages and multicultural education in schools in South Australia.

George's work in languages and multicultural education is well known and remains relevant to us here today in multicultural South Australia, but his work and academic influence reverberate beyond education to government policies and thinking, and his reputation stretches beyond our state and Australia into the international arena.

His research was not only in South Australia but extended to immigrant family groups and guest workers in Germany and involvement in the Social Science Research Council in the Philippines, Indonesia, India and Vietnam and the UNESCO base in Bangkok. His research compared the socioeducational experience of students from newly arrived immigrant families with second and third generation families in Australia.

The SA ministerial task force on multiculturalism in education produced a major report on languages education and became known as the Smolicz Report. It was a significant report in that it was a blueprint for government and educational planning for the future of languages and multicultural education in South Australia. The 1984 task force report enunciated two fundamental principles which remain relevant today; the first was the right of all students whose home language was not English to be able to study, somewhere in the school system, the language of their home.

The first stage of this came in 1976 when, through George's initiative, three ethnic community languages (Latvian, Lithuanian and Polish) were accepted by the then public examinations board as matriculation or year 12 subjects that could be counted towards university entrance. It was not long before other ethnic communities took advantage of this precedent to have their languages similarly recognised.

The other innovative structure recommended in the 1984 task force report was the establishment of the School of Languages as a specialist DECS school offering classes outside normal school hours and available to students from all school systems. This structure enabled viable classes to be formed in the smaller community languages, with students across the whole metropolitan area coming to weekly late afternoon classes in a central location.

One of the areas of which we are proud in languages education in South Australia is the progressive work in reviving and retrieving indigenous languages. George valued the progressive work in South Australia, especially in indigenous and community languages, and drew attention to the local work here in our state by bringing the first UNESCO joint conference between the Association of Asian Social Science and Research Council and the University of Adelaide. A special segment on indigenous languages was included on the program, which involved local notable people with expertise in indigenous languages.

The work on indigenous languages in Education South Australia has continued to grow and become recognised internationally, and there will be an opportunity through the Smolicz Award Scholarship Program for teachers to undertake teacher training through one of the universities, or learning an indigenous language through the School of Languages. One of the unique aspects of the Smolicz Award Language Teaching Scholarship Program is that it reflects the broad view held by George that learning another language benefits all learners and is important for economic growth, as well as social cohesion. Students enrolled at any university course and teachers who are already teaching, but not necessarily a language, can now undertake courses to train as language teachers.

Languages are also important for developing and strengthening personal and group identities. Teachers from ethnic schools, no matter which language background, can apply for a language methodology teacher training course at each of the three universities. This will provide a renewed and indirect way of training language teachers of not only the nine prescribed languages taught across all school sectors but also encourage ethnic and language groups to become language teachers. Students in the country are sometimes disadvantaged and, because of the shortage of language teachers available for country and remote areas, the Smolicz award provides unique opportunities also for country teachers to undertake online courses, either through the open access mode or by external study through some university courses.

This wide range of opportunities for the training of language teachers reflects George's vision that a truly multicultural Australia can be achieved only through the learning of a second language. The Smolicz Award Language Teaching Scholarship Program is unique to South Australia and will encourage a new wave of teachers to quickly meet the demands of language students in our schools in South Australia. I was very fortunate to have known George for approximately 30 years and was able to work with him.

I would like to congratulate MEC and everyone involved in the coordination and development of the Smolicz award and all the contributing parties who have unanimously supported the spirit of the Smolicz award—

The DEPUTY SPEAKER: Order!

Ms CICCARELLO: —and the commitment of funds over a five year period.

The DEPUTY SPEAKER: Order! The house has been extraordinarily indulgent. Will the honourable member ensure that her notes are perfectly in order for Hansard, please. I do not want Hansard to try to use the tape. I call the member for Schubert, who, I hope, will speak at a leisurely pace.

WATER PRICING

Mr VENNING (Schubert) (15:28): The spirit of all South Australians was lifted when it started to rain a couple of weeks ago. Prolonged drought, failing crops, dying trees and gardens have all taken their toll. The people I have talked to have, however, long since had enough of water restrictions. The rainfall we received two weekends ago now was, we hope, the beginning of a better time. At the very worst it will buy our food producers a pause and keep their livestock alive; but, most importantly, it rekindles hope.

As I speak, all over South Australia's grain belt seeding is underway—some have even finished. In our grazing areas dam levels are being reassessed and pasture prospects estimated in the hope that stock levels can be increased again. In rural South Australia every drop which is possible to be used will be used carefully to benefit us all, but it is a very different story in our cities. Two weekends ago I watched as stormwater gushed from pipes in the seawall, running across the beach and into the gulf. At hundreds of outfalls, both natural and man made, from Aldinga to Two Wells, this story was repeated.

It might be news to this house, but generally speaking, save at elections, South Australians are less concerned with which party is in government than what sort of job it is doing. Quite frankly, after seven years, especially on water issues, the Rann government has been found wanting. Thinking South Australians watched the water pouring into drains, as well as the images of the trickle that is currently the Murray below Lock 1 on our TV screens just a week before. We were all appalled. Let me remind the house that the Rann government assumed office at the pleasure of the then member for Hammond after the 1993 election.

Prior to that election, premier Olsen had introduced a specific minister for water who enclosed the last open irrigation channels in pipes, negotiated a successful outcome with the over-allocated Willunga wells users, prescribed most of the state's resources and initiated a number of education programs, such as the Save the Murray sky show, and the animated TV ads featuring university professor Mike Tyler. This side of the house went to that election with a commitment to waterproof the City of Adelaide and its environs.

Importantly, we promised to deliver on the commitment before the state election in 2007. All this was done against a background in which we had continued to receive above entitlement flows within our sector of the Murray-Darling Basin. The Rann government chose its own direction. In a case of 'back to the future', the water ministry, with its focused responsibility for the resources, was fractured. At the very time when we need it most, and to see its management needing particular attention, it disappeared in the name of holistic management within the Department for Environment and Heritage. And, just so we did not worry, the River Murray Act was enacted. This act gives the responsible minister powers similar to one of the god kings of old. The minister has almost absolute power to approve or disapprove anything in connection with either the river or the surrounding areas. But (and I am sure that the minister will correct me if I am wrong) these powers have rarely, if ever, been invoked.

As I have come to expect of the good time girls and guys opposite, it is yet another case of plenty of smoke and even more mirrors. It is the work, not the words, of the government that will be judged at the next election. Actions always speak louder than words.

In water, at least, there will be very little to be judged. We have the landmark COAG agreement, which was—what was it again—the most important initiative since Federation? In the event, it was little more than business as usual, with all the faults of the old system and no way forward—so much so that now the state government is committed (or is it) to taking an action in the High Court.

The government's record in the area of stormwater collection and harvesting is nothing short of appalling. We have had almost eight years of drought, but even this time we have not been without rain. Last year, for instance, from memory, we received 15 of the normal 21 inches in the city. Despite visible proof of the success of stormwater recovery and aquifer storage demonstrated by the City of Salisbury (and on a smaller scale by the SAJC, the Port Adelaide Enfield Council and others) the government continues to find more reasons to do nothing—and doing nothing is something it has perfected as an art form.

A few weeks ago, the Attorney-General rang FIVEaa and asserted that those who suggested using rainwater were imperilling the health of the population and were irresponsible. I wonder whether he has considered where the local catchments which fill our reservoirs are, and

whether Canberra and the regional cities of the Murray-Darling Basin catchment discharge not only their stormwater but also their sewage into the river on which we rely.

Normally, I would be happy to sit back and let the electors decide at the next election. However, another year of wasted time is a luxury that I believe we can no longer afford. It is time for members of the government to prise their backsides off the green benches opposite and experience something new. They might try something good. God knows, we need it!

SOUTH AUSTRALIAN HISTORY WEEK

Mr PICCOLO (Light) (15:31): This afternoon I would like to make a few comments about South Australian History Week, which starts next week. During this week the importance of history to our society comes alive. It is very important that we have an understanding of our past, because who we are today is very much a result of our history—cultural, social and economic. When we have an understanding of the past we have a better understanding of where society is at today.

There will be a number of events and activities during History Week where people can gain a better understanding of the built, social, cultural and environmental history of our state. During the week the state becomes one big history classroom and, from museums to photographic collections, tours, library displays, workshops, exhibitions and a school program, there will be a corner of history of interest for everyone in our state.

The History Week program, prepared by the History Trust of South Australia, is a treasure trove of opportunities to study our state's history during the week. While in my own electorate of Light a number of events and activities are being held to mark the occasion, the Town of Gawler has established a project team that has coordinated events within the township. I would like to take a few moments to highlight some of the important events and activities happening within the Gawler community.

The first thing will be the launch of the official History Week for Gawler. A concert will be held next Sunday during which 150 years of *The Song of Australia* will be celebrated (and members would be aware that it had its origins in Gawler). The Adelaide Plains Male Voice Choir will be singing it, and I understand that Lance Hatcher, who is an extremely good singer, will be leading the song.

As part of History Week there will also be a tour of St Georges Church, an Anglican Church in Gawler, for people to learn about its history. The National Trust will put on display photographs supporting the verses from *The Song of Gawler*. *The Song of Gawler* is a rather cheeky parody of *The Song of Australia.* I think the member for Schubert perhaps should stick to being a farmer and a politician.

Mr Venning: I was doing well; I was singing it well. It's a good song.

Mr PICCOLO: Indeed. The Gawler Environment and Heritage Association is also organising a stained glass tour of the town, where the history of stained glass throughout many historic buildings will be on display. The public library itself will celebrate *The Song of Australia* through a display and historical pamphlets. One of the important events of History Week is the launch of the centenary history of the Gawler sub-branch of the Australian Labor Party and the trade union movement in Gawler, which is one of the official events. The book will be launched by the Minister for Industrial Relations (Hon. Paul Caica).

The book was written by a local student, Layla Clark. Layla was actually part of the parliamentary internship program and wrote the history as part of her report. We have used that as a basis for the history, which will be published on Monday 25 May. Also, having said that, I would like to acknowledge the valuable contribution that the history of the Labor Party project has received from the Gawler Public Library for both research and its photographic collection.

The Gawler Visitor Information Centre is having a tour of the historical areas of Gawler and also one of the more interesting tours is the tombstone hunt. By torchlight at night, you can explore Gawler's historic Anglican cemetery and, through that, you can actually gain a history and understanding of the township because headstones can tell you a lot about the history of a town: how old people were when they died, illnesses—a whole range of things.

One of the areas I have not mentioned yet is that the Kapunda Museum, just outside my electorate, also has an extensive program of history tours and displays. I would hope that everybody in the state will take advantage of History Week to learn more about their state and where we are today.

CROSS-BORDER JUSTICE BILL

The Legislative Council agreed to the bill without any amendment.

PAYROLL TAX BILL

The Legislative Council agreed to the bill without any amendment.

STAMP DUTIES (TAX REFORM) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

MARITIME SERVICES (ACCESS) (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

PETROLEUM PRODUCTS SUBSIDY ACT REPEAL BILL

The Legislative Council agreed to the bill without any amendment.

STATUTES AMENDMENT AND REPEAL (FAIR TRADING) BILL

Second reading.

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (15:39): 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.

It is Government policy to promote recreation and sporting activities in this state in a way that protects the interests of both consumers and service providers. The *Statutes Amendment and Repeal (Fair Trading) Bill 2008* is a reflection of that policy.

Members will remember that in the early part of this decade many community and sporting organisations found it increasingly difficult to obtain affordable public liability insurance. The Government responded, along with other states and territories, by reforming the law of tort. The *Recreational Services (Limitation of Liability) Act* was one plank of the Government's reforms that catered specifically for providers of sporting and other recreational services.

After nearly 5 years the experience of recreation providers is that safety codes take a lot of time to develop and are difficult to draft. The Government has listened to those concerns.

The *Statutes Amendment and Repeal (Fair Trading) Bill 2008* will repeal the *Recreational Services (Limitation of Liability) Act* and replace it with a scheme that does not require service providers to develop and register safety codes. This will not excuse service providers from having to put safety measures in place to protect consumers. Under the Bill recreation providers carrying on business will be required to supply services with due care and skill and will not be able to escape liability for reckless conduct.

In addition to reforms to assist recreation providers, the provisions of the *Consumer Transactions Act* will be updated in line with similar Commonwealth provisions and brought into South Australia's primary consumer protection legislation, the *Fair Trading Act*. The Bill will also extend and strengthen the powers of the Commissioner for Consumer Affairs.

Repeal of the Recreational Services Act

The *Recreational Services (Limitation of Liability) Act 2002* was introduced to allow recreation providers to modify their duty of care to consumers without compromising safety standards. It was intended that the Act would make it easier for service providers to meet their obligations and make public liability insurance more accessible and affordable. The Act was developed in consultation with sporting and recreation groups and came into operation on 1 July 2003.

There have been concerns from recreation providers that the current law does not adequately support the industry. The main concern of service providers is that it is difficult, costly and time consuming to develop and register a safety code. The Bill addresses these concerns by repealing the *Recreational Services (Limitation of Liability) Act*.

Recreation providers, like other service providers, will be subject to the implied warranty provisions of the *Fair Trading Act.* New section 74G establishes a warranty that services will be rendered with due care and skill. Moreover, any materials supplied in connection with services will be reasonably fit for the purpose for which they are supplied.

This warranty will only be implied into *contracts* for the supply of services in the *course of a business.* The meaning of the term business is wide, and is defined to include not-for-profit groups. The proposed statutory warranties will therefore apply to sporting clubs and associations that charge membership fees and which have

systems and procedures in place for the repetitive provision of services to members. The Government does not intend to apply the reforms to services that are not supplied in the course of a business.

In response to the concerns of those in the recreation industry, the Bill provides for recreation providers to modify, exclude or restrict the warranty implied into contracts under section 74G of the *Fair Trading Act.* There are, however, some restrictions.

Service providers will not be able to modify, exclude or restrict their liability under section 74G for significant injuries that result from reckless conduct. Reckless conduct is defined to mean *conduct where the service provider is aware, or should reasonably be aware, of a significant risk that his or her conduct could result in injury to another, and engages in that conduct despite the risk and without justification.*

Waivers must also contain prescribed particulars, be in the prescribed form and be agreed to by the consumer in the prescribed manner to be effective. The intention of the Government is that waivers will have to be physically signed in order to be effective. To cater for situations where this is simply not practical, alternative arrangements may be prescribed.

These restrictions on the modification, exclusion or restriction of liability will help consumers who sustain serious injury as the result of reckless conduct.

Nevertheless, the Bill provides important benefits for recreation providers. So long as providers are not reckless, they will be able to exclude liability for personal injury that would otherwise flow from a breach of the statutory warranty in section 74G. Recreation providers will also be able to exclude liability under section 74G for minor injuries such as scratches and bruises (as opposed to significant injuries such as a broken arms or fractured wrists). The repeal of the *Recreational Services (Limitation of Liability) Act* will also benefit recreation providers by removing restrictions on the modification or exclusion of common-law duties of care.

There has been some confusion about whether people who provide access to their land will be subject to the statutory warranty in section 74G and will have the ability to modify, exclude or restrict that warranty. If a person provides access to their land for dirt-bike riding, for example, is that a service that will be affected by the reforms?

If there is a fee for entering the land, charged in the course of a business, the statutory warranty in section 74G will generally apply. Whether or not that warranty can be waived will then depend on the purpose for which the consumer entered the land. If the consumer entered the land for the purpose of engaging in a recreational activity, the warranty implied under section 74G may be waived (subject to restrictions on the modification or exclusion of liability). If the consumer does not intend to engage in a recreational activity, the warranty cannot be waived.

Repeal of Consumer Transactions Act 1972 and insertion of updated warranties and conditions in the Fair Trading Act

The *Consumer Transactions Act* sets out certain conditions and warranties that are implied into certain consumer contracts. In summary, these conditions and warranties imply into certain consumer contracts that goods correspond with their description, that goods are of merchantable quality, that goods are fit for purpose, that services will be rendered with due care and skill and that material supplied in connection with the services will be fit for purpose.

Although the *Consumer Transactions Act* broke new ground when it was first enacted, these warranties and conditions are more limited in scope than the implied conditions and warranties contained in the more modern Commonwealth *Trade Practices Act.* Accordingly, it is proposed to repeal the *Consumer Transactions Act* and to include in the *Fair Trading Act* updated warranties and conditions which will bring South Australia's legislation into line with the Commonwealth *Trade Practices Act.* Several other jurisdictions have already made similar changes to their fair trading legislation. Importantly, the implied warranty to provide services with due care and skill will now apply to a much wider range of services. This is because the definition of 'services' will be modelled on the broad definition in the *Trade Practices Act* and will no longer be restricted to the categories set out in the *Consumer Transactions Act* and regulations.

In addition, several provisions of the *Consumer Transactions Act* which do not relate to implied warranties and conditions will be transferred across to the *Fair Trading Act*. The main provision states that the dimensions of the print type in a contract for the supply of goods or services to a consumer in the course of a business may be prescribed by regulation. The purpose is to ensure that such contracts are clear and legible.

Enforcement powers of the Commissioner for Consumer Affairs

The *Fair Trading Act* review discussion paper released for public consultation in April 2008 proposed a wide range of options for increasing the power of the Commissioner for Consumer Affairs to enforce the provisions of the *Fair Trading Act* and related licensing Acts. The submissions received have been carefully reviewed and considered and the Bill reflects the outcome of this process.

The Commissioner will have the power to require traders to attend conciliation of a consumer/trader dispute enforced by a monetary penalty (to be expiable where the value of the goods or services in dispute is $1,000 or less). While there is no obligation on the parties to reach an agreement, if the parties do reach a conciliated agreement, that agreement is enforceable in the Magistrates Court by the parties or the Commissioner.

It should be noted that the term *conciliation* has not been limited by definition and has a broad meaning. For example, conciliation may include circumstances where the conciliator speaks separately to the parties in dispute, or where the conciliator brings the parties together by telephone or other electronic means rather than in a face-to-face meeting.

The Commissioner will have the power to seek positive assurances from traders to engage in particular conduct and not only assurances to refrain from certain conduct as is the case now (for example a trader may be asked to undertake a particular training course).

The narrow definition of *document* has been removed so that the broader definition of *document* in the *Acts Interpretation Act 1915* which includes electronic records will apply throughout the Act.

The powers of authorised officers to obtain information will be increased by allowing officers to retain and copy documents which have been produced under section 77 (in addition to the current power to retain and copy documents which have been seized under section 78). Authorised officers will also have the power to compel persons to attend a meeting to answer questions and produce documents (in addition to the current power to compel persons to answer questions and produce documents).

The powers of authorised officers to enter and inspect premises will be expanded to enable an officer to enter and inspect vehicles and vessels. Authorised officers will also be able to give directions reasonably required in connection with the exercise of their powers under the Act and failure to comply with such directions without reasonable excuse will be an offence.

The current offence of providing false information has been extended to include circumstances where misleading information is knowingly provided and a new offence has been created making it an offence to threaten, intimidate or coerce a potential witness.

The Commissioner will have the power to suspend the licence of certain licensed traders for up to six months if the Commissioner is of the opinion that:

- there are reasonable grounds to believe that the trader has engaged or is engaged in conduct that constitutes grounds for disciplinary action;
- it is likely that the trader will continue to engage in that conduct;
- there is a danger that consumers may suffer significant harm, or significant loss or damage, as a result of that conduct unless action is taken urgently.

The Commissioner's power to suspend will apply to building work contractors under the *Building Work Contractors Act 1995*, contractors licensed under the *Plumbers, Gas Fitters and Electricians Act 1995*, licensed dealers under the *Second-hand Vehicle Dealers Act 1995* and licensed travel agents under the *Travel Agents Act 1986*.

The Commissioner will have the power to note on the existing licence register certain events (for example that the licence holder is insolvent or has been disqualified in another State or Territory). Currently, when these events occur the Commissioner is entitled to take disciplinary action to remove the person's licence but this cannot be noted on the licence register until the disciplinary proceedings are complete. This amendment will enable consumers to find out this information easily as soon as possible and not have to search the Commonwealth registers for this information, or wait until the disciplinary proceedings are complete.

Under the current section 67 of the *Fair Trading Act*, it is necessary to prove intention on the part of a trader not to supply goods or services in order to prove breach of that provision. Even though traders' failure to supply is a common source of consumer complaints, it is difficult to prove breach of this provision due to the requirement to prove 'intent'. The Bill removes the requirement for intent, consistent with a similar provision in the Victorian legislation. Standard defences will still be available to traders.

The Bill provides for the doubling of the existing penalties for offences under the *Fair Trading Act* (other than the offences in Part 10 which mirror the consumer protection provisions of the Commonwealth Trade Practices Act). This is slightly greater than the increase required to account for inflation since the penalties were set in 1987. In addition, the Bill makes certain offences relating to door-to-door trading and failing to state the cash price of goods subject to expiation fees.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides for commencement of the measure on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Building Work Contractors Act 1995*

4—Amendment of section 9—Entitlement to be licensed

This clause updates section 9 of the *Building Work Contractors Act 1995* by substituting the correct reference to insolvent persons.

5—Insertion of Part 3A

This clause inserts a new Part into the *Building Work Contractors Act 1995*.

Section 19A in Part 3A gives the Commissioner the power to suspend the licence of a building work contractor if the Commissioner is of the opinion that—

- there are reasonable grounds to believe that the contractor has engaged in conduct that constitutes grounds for disciplinary action; and
- it is likely that the contractor will continue to engage in that conduct; and
- there is a danger that a person or persons may suffer significant harm, or significant loss or damage, as a result of the contractor's conduct unless action is taken urgently.

The Commissioner is required to serve a notice of the suspension on the licence holder or registered person. The Commissioner may not suspend the licence for a period of more than 6 months.

A contractor whose licence is suspended is required to surrender the licence to the Commissioner within seven days of being notified of the suspension.

If, during the period of the suspension, the Commissioner becomes satisfied that the facts and circumstances that gave rise to the suspension have so altered that the suspension should be terminated, the Commissioner is required to terminate the suspension without delay. The section also gives a person whose licence has been suspended a right of appeal to the Administrative and Disciplinary Division of the District Court. The Court is required hear and determine the appeal as expeditiously as possible.

6—Amendment of section 46—Registers

Section 46 as amended by this clause will authorise the Commissioner to include on the register of persons licensed or registered under the Act a note of the occurrence of any of the following events in relation to a person licensed as a building work contractor or director of a body corporate that is licensed as a building work contractor:

- the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of South Australia, the Commonwealth, another State or a Territory of the Commonwealth;
- the person becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
- a body corporate is wound up for the benefit of creditors and the person was a director of the body corporate—
  - when the body corporate was being so wound up; or
  - within the period of 12 months preceding the commencement of the winding up;
- the person, being a body corporate, is being wound up or is under official management or in receivership.

Part 3—Amendment of *Civil Liability Act 1936*

7—Amendment of section 4—Application of Act

8—Amendment of section 38—No duty to warn of obvious risk

These amendments remove references to the *Recreational Services (Limitation of Liability) Act 2002*, which is to be repealed, from the *Civil Liability Act 1936*.

Part 4—Amendment of *Conveyancers Act 1994*

9—Amendment of section 7—Entitlement to be registered

This clause updates section 7 of the *Conveyancers Act 1994* by substituting the correct reference to insolvency.

10—Amendment of section 54—Register of conveyancers

Section 54 as amended by this clause will authorise the Commissioner to include on the register of persons registered under the Act a note of the occurrence of any of the following events in relation to a registered person or a director of a body corporate that is a registered person:

- the person is convicted of an offence of dishonesty;
- the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of South Australia, the Commonwealth, another State or a Territory of the Commonwealth;
- the person becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
- a body corporate is wound up for the benefit of creditors and the person was a director of the body corporate—
  - when the body corporate was being so wound up; or

- within the period of 6 months preceding the commencement of the winding up;
- the person, being a company, is being wound up or is under official management or in receivership.

Part 5—Amendment of *Fair Trading Act 1987*

11—Amendment of section 3—Interpretation

The purpose of the amendment made by this clause to the definition of *consumer* is to establish that for the purposes of Part 10 Division 2A of the *Fair Trading Act*, the term includes persons acting in the course of a business or in the course of setting up a business. Division 2A is to be inserted by clause 36.

When reference is made in the Act to the *Magistrates Court*, the reference is to the Civil (Consumer and Business) Division of that Court.

This clause also deletes subsection (4) of section 3. The subsection is redundant because section 4AA of the *Acts Interpretation Act 1915* provides that if an Act defines a word or phrase, other parts of speech and grammatical forms of the word or phrase have corresponding meanings.

12—Amendment of section 8—Functions of Commissioner

Subsection (2) of section 8 of the Act provides that the Commissioner must not attempt to resolve a dispute by conciliation except in certain specified circumstances. The subsection is deleted by this clause but is to be reproduced in new section 8A, which deals with conciliation.

13—Insertion of section 8A

One of the Commissioner's functions under section 8 is to attempt to resolve disputes between consumers and traders by conciliation. New section 8A deals with various matters connected with this function. Consistently with repealed section 8(2), subsection (1) of section 8A provides that the Commissioner must not attempt to resolve a dispute between a consumer and a trader by conciliation except at the request, or with the consent, of the consumer, or at the request of a court, board or tribunal in which proceedings have been taken in relation to the dispute.

The Commissioner may call a conciliation conference. A conciliation conference may be voluntary or compulsory. If the Commissioner is requested to resolve a dispute by conciliation and the consumer fails to attend a conference called for that purpose, the Commissioner may refuse to take further action in relation to the dispute. A trader who fails to attend a compulsory conciliation conference is guilty of an offence. A conference may be conducted by telephone or other electronic means.

If the parties to a dispute reach an agreement as a result of conciliation, and the agreement is recorded in a signed instrument, a copy of the agreement is to be given to each party. If a party to the agreement fails to carry out his or her obligations under the agreement, the Commissioner or the other party may apply to the Magistrates Court for an order enforcing the terms of the agreement.

14—Amendment of section 11—Secrecy

The maximum penalty for an offence against section 11 is currently a fine of $10,000. This clause amends the section by increasing the maximum to $20,000.

15—Amendment of section 15—Prohibition of certain contractual terms

The maximum penalty for an offence against section 15 is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000.

16—Amendment of section 17—Requirements in relation to prescribed contracts

The maximum penalty for an offence against section 17(2) is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000. An expiation fee of $500 is also inserted.

17—Amendment of section 18—Acceptance of consideration etc

The maximum penalty for an offence against section 18(1) is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000. An expiation fee of $500 is also inserted.

18—Amendment of section 19—Prohibition hours

The maximum penalty for an offence against section 19 is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000. An expiation fee of $500 is also inserted.

19—Amendment of section 20—Duties of dealers

The maximum penalty for an offence against section 20(1) or (2) is currently a fine of $5,000. This clause amends the section by increasing the maximum penalty to $10,000.

20—Amendment of section 21—Harassment or coercion

The maximum penalty for an offence against section 21(1) or (2) is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000.

21—Amendment of section 24—Restitution

The maximum penalty for an offence against section 24(7) is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000.

22—Amendment of section 27—Prohibition of certain actions

The maximum penalty for an offence against section 27(1) or (5) is currently a fine of $5,000. This clause amends the section by increasing each maximum penalty to $10,000.

23—Amendment of section 28—Prohibition of mock auctions

The maximum penalty for an offence against section 28(1) is currently a fine of $2,500. This clause amends the section by increasing the maximum to $5,000.

24—Amendment of section 36—Offences

The maximum penalty under section 36 is currently a fine of $5,000. This clause amends the section by increasing the maximum penalty to $10,000.

25—Amendment of section 37—Powers of District Court

The maximum penalty for an offence against section 37(4) is currently a fine of $5,000 or imprisonment for two years. This clause amends the section by increasing the maximum fine to $10,000.

26—Amendment of section 38—Limited offers and failing to supply as demanded

The maximum penalty for an offence against section 38(1) or (2) is currently a fine of $2,500. This clause amends the section by increasing the maximum to $5,000.

27—Amendment of section 40—Price tickets

The maximum penalty for an offence against section 40 is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000. An expiation fee of $315 is also inserted.

28—Amendment of section 41—Approval of consumer affairs authority not to be implied

The maximum penalty for an offence against section 1 is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000.

29—Amendment of section 42—Substantiation of claims

The maximum penalty for an offence against section 42(2) is currently a fine of $5,000. This clause amends the section by increasing the maximum penalty to $10,000.

30—Amendment of section 43—Unlawful actions and representations

The maximum penalty for an offence against section 43(1) or (2) is currently a fine of $2,500. This clause amends the section by increasing the maximum in each case to $5,000. Under section 43(2), the maximum penalty includes imprisonment for six months.

31—Amendment of section 43A—Prohibition on trading or carrying on business as Starr-Bowkett society

The maximum penalty for an offence against section 43A(1) is currently a fine of $5,000. This clause amends the section by increasing the maximum to $10,000.

32—Amendment of section 45B—Offences

The maximum penalty under section 45B is currently a fine of $5,000. This clause amends the section by increasing the maximum penalty to $10,000.

33—Amendment of section 46—Interpretation

Section 46 of the Act provides definitions that apply for the purposes of Part 10. This clause amends section 46 by deleting the definition of *document* so that the definition contained in the *Acts Interpretation Act 1915* applies for the purposes of the Part. The definition of *goods* is amended to make it clear that the definition includes water, sewerage and telecommunications as well as any component part of, or accessory to, goods. The definition of *services* is amended so that the term includes a contract for or in relation to the provision of gas or electricity or the provision of any other form of energy.

34—Amendment of section 55—Application

This clause makes a consequential amendment to section 55 by adding a reference to new Division 2A.

35—Substitution of section 67

This clause recasts section 67. Under the new section, it is an offence for a person to, in trade or commerce, accept payment or other consideration for the supply of goods or services if the person does not supply all the goods or services within the period specified by the person or within a reasonable time, or if the person supplies goods or services that are materially different from the goods or services to which the agreement to supply is related.

36—Insertion of Part 10 Division 2A

This clause inserts a new Division into Part 10. Part 10 consists of provisions related to trade practices. The new Division is primarily concerned with implying conditions and warranties into contracts for the supply of goods and services.

Division 2A—Conditions and warranties in consumer transactions

74A—Interpretation and application

This section includes interpretation and application provisions relevant only to Division 2A.

A reference in Division 2A to the quality of goods includes a reference to the state or condition of the goods. A reference to negotiations in relation to a contract for the supply by a person of goods to a consumer is a reference to negotiations or arrangements conducted or made with the consumer by another person in the course of a business carried on by the other person in respect of which the consumer was induced to enter into the contract or that otherwise promoted the transaction to which the contract relates.

Goods are of merchantable quality if they are as fit for the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to any description applied to them, the price and all other relevant circumstances.

Division 2A does not apply to contracts made before the commencement of the Division.

The section makes it clear that Division 2A does not affect the operation of the Sale of Goods Act 1895, or of any other Act or law in relation to contracts for the supply of goods or services, except to the extent of inconsistency with the provisions of the Sale of Goods Act 1895, or the other Act or law.

74B—Application of provisions not to be excluded or modified

Under this section, a term of a contract is void if it purports to exclude, restrict or modify or has the effect of excluding, restricting or modifying—

- the application of any or all of the provisions of Division 2A; or
- the exercise of a right conferred by a provision of Division 2A; or
- liability of a person for breach of a condition or warranty implied by a provision of Division 2A.

The section operates subject to section 74H.

74C—Implied undertakings as to title, encumbrances and quiet possession

This section implies the following warranties and conditions into contracts for the supply of goods:

- a condition that, in the case of a supply by way of sale, the supplier has a right to sell the goods, and, that in the case of an agreement to sell or a hire-purchase agreement, the supplier will have a right to sell the goods at the time when the property is to pass;
- a warranty that the consumer will enjoy quiet possession of the goods except so far as it may lawfully be disturbed by the supplier or by another person who is entitled to the benefit of any charge or encumbrance disclosed or known to the consumer before the contract is made;
- in the case of a contract for the supply of goods under which the property is to pass or may pass to the consumer—a warranty that the goods are free, and will remain free until the time when the property passes, from any charge or encumbrance not disclosed or known to the consumer before the contract is made.

74D—Supply by description

This section provides that in every contract for the supply (otherwise than by way of sale by auction or sale by competitive tender) by a person in the course of a business of goods to a consumer by description, there is an implied condition that the goods will correspond with the description.

74E—Implied undertakings as to quality or fitness

Under this section, if a person supplies (otherwise than by way of sale by auction) goods to a consumer in the course of a business, there is an implied condition that the goods supplied under the contract for the supply of the goods are of merchantable quality. However, there is no such condition by virtue of section 74E—

- as regards defects specifically drawn to the consumer's attention before the contract is made; or
- if the consumer examines the goods before the contract is made—as regards defects that the examination ought to have revealed.

If the supplier of goods to a consumer (otherwise than by way of sale by auction) has been made aware by the consumer of any particular purpose for which the goods are being acquired, there is an implied condition that the goods supplied are reasonably fit for that purpose.

74F—Supply by sample

If there is a term in a contract for the supply by a person in the course of a business of goods to a consumer to the effect that the goods are supplied by reference to a sample, there is implied under section 74F a condition that the bulk will correspond with the sample in quality. There is also an implied condition that the consumer will have a reasonable opportunity of comparing the bulk with the sample and a condition that the goods will be free from any defect, rendering them unmerchantable, that would not be apparent on reasonable examination of the sample. The section does not apply in relation to supply by way of sale by auction or sale by competitive tender.

74G—Warranties in relation to the supply of services

This section provides that every contract for the supply by a person in the course of a business of services to a consumer includes an implied warranty that the services will be rendered with due care and skill and that any materials supplied in connection with the services will be reasonably fit for the purpose for which they are supplied.

Section 74G also provides that if a person supplies services (other than services of a professional nature provided by a qualified architect or engineer) to a consumer in the course of a business and the consumer, expressly or by implication, makes known to the person any particular purpose for which the services are required or the result that the consumer desires the services to achieve, there is an implied warranty that the services supplied under the contract for the supply of the services and any materials supplied in connection with those services will be reasonably fit for that purpose or are of such a nature and quality that they might reasonably be expected to achieve that result. This provision does not apply if the circumstances show that the consumer does not rely on the skill and judgment of the person or that it is unreasonable for the consumer to rely on the skill and judgment of the person.

The section does not apply to a contract providing for the carrying out of domestic building work within the meaning of the *Building Work Contractors Act 1995*.

74H—Liability relating to provision of recreational services may be limited

Section 74H provides that a term of a contract for the supply of recreational services may exclude, restrict or modify a warranty implied in the contract by section 74G or a substantially similar provision of an Act of the Commonwealth. (Section 74 of the *Trade Practices Act 1974* is an example of a substantially similar provision.)

This provision operates subject to the following requirements being met:

- the exclusion, restriction or modification contained in the term is limited to excluding, restricting or modifying the liability of the supplier for any personal injury suffered by the consumer or some other person for whom or on whose behalf the consumer is acquiring the services (ie, a *third party consumer*);
- the term contains the prescribed particulars and is in the prescribed form;
- the term was brought to the attention of the consumer prior to the supply of the services;
- the consumer has agreed to the term in the prescribed manner;
- a statement containing any other information prescribed by regulation is made available to the consumer in accordance with prescribed requirements.

The provision does not operate to exclude, restrict or modify the liability of the supplier for damages for any significant personal injury suffered by the consumer or a third party consumer if it is established (by applying the general principles set out in section 34 of the *Civil Liability Act 1936*, which relate to causation) that the reckless conduct of the supplier caused the injury.

Under subsection (4), a term of a contract that purports to indemnify a person who supplies recreational services in relation to any liability that may not be excluded, restricted or modified under the section is void. This provision does not apply in relation to a contract of insurance.

A person's conduct is reckless if the person engages in the conduct even though the person is aware, or should reasonably have been aware, of a significant risk that his or her conduct could result in injury to another.

Personal injury is defined to include mental or nervous shock and death.

Recreational services are services that consist of participation in—

- a sporting activity or a similar leisure-time pursuit; or
- any other activity that—
  - involves a significant degree of physical exertion or physical risk; or
  - is undertaken for the purposes of recreation, enjoyment or leisure.

Significant means not nominal, trivial or minor.

74I—Representations etc

If a statement or representation is made by an employee or a person acting on behalf of a supplier of goods or services, and the goods or services are or become subject to a contract for the supply of those goods or services, the statement will be taken to be a statement or representation made by the supplier.

74J—Rescission of contract

Under this section, a consumer is entitled to rescind a contract for the supply of goods if there is a breach of a condition implied in the contract by a provision of Division 2A. The consumer is entitled to rescind the contract by—

- serving on the supplier a notice in writing signed by the consumer giving particulars of the breach; or
- returning the goods to the supplier and giving to the supplier, either orally or in writing, particulars of the breach.

For a purported rescission to have effect, the notice must be served, or the goods returned, within a reasonable time after the consumer has had a reasonable opportunity of inspecting the goods. Also, a purported rescission does not have effect in the case of a rescission effected by service of a notice if, after the delivery of the goods to the consumer but before the notice is served—

- the goods were disposed of by the consumer, were lost, or were destroyed otherwise than by reason of a defect in the goods; or
- the consumer caused the goods to become unmerchantable or failed to take reasonable steps to prevent the goods from becoming unmerchantable; or
- the goods were damaged by abnormal use.

A purported rescission effected by a return of goods is of no effect if, while the goods were in the possession of the consumer, the consumer caused the goods to become unmerchantable or failed to take reasonable steps to prevent the goods from becoming unmerchantable, or the goods were damaged by abnormal use.

If a contract for the supply of goods has been rescinded in accordance with this section, and the property in the goods had passed to the consumer before the notice of rescission was served on, or the goods were returned to, the supplier, the property in the goods re-vests in the supplier on the service of the notice or the return of the goods. The consumer is entitled to recover from the supplier, as a debt, the amount or value of any consideration paid or provided by the consumer for the goods.

74K—Powers of Magistrates Court in event of rescission

If a dispute arises in respect of the rescission of a contract, the Magistrates Court can, on the application of the consumer, make orders—

- to give effect to, or to enforce, rights or liabilities consequent on the rescission arising under Division 2A; or
- to restore the parties as nearly as practicable to their respective positions prior to the formation of the contract (subject to such rights or liabilities).

74L—Nature of writing

If a provision of a written contract for the supply of goods and services is in handwriting that is not clear and legible, or is printed in type that does not comply with the regulations, the provision is not enforceable against the consumer by the supplier.

74M—Relief against civil consequences of non-compliance with Division

Under this section, if a person has made, or stands to make, a loss because of contravention of or non-compliance with a provision of Division 2A, the person can apply to the Magistrates Court for relief against the consequences of the contravention or non-compliance. If the Court is satisfied that the contravention or failure to comply with Division 2A does not, in the circumstances, warrant the consequences prescribed by the Division, it can grant relief against those consequences.

In determining whether it should make an order, and in determining the terms on which relief is to be granted, the Court is required to have regard to—

- the gravity of the contravention or non-compliance; and
- the conduct of the applicant in relation to the transaction to which the application relates; and
- any prejudice that may result from the making of the order.

37—Amendment of section 77—Obtaining information

This clause amends section 77, which deals with the powers of authorised officers to obtain information. Under the section as amended, an authorised officer may, for the purpose of requiring a person to answer a question or produce a book or document, require the person to attend at a specified time or place. The requirement must be made by written notice served on the person.

Under subsection (2), it is an offence for a person to—

- refuse or fail to comply with a reasonable requirement under the section; or
- without reasonable excuse, to refuse or fail to attend at a time and place specified in a notice (or some other time and place allowed by an authorised officer); or

- to knowingly make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in an answer given or information provided under the section.

The maximum penalty is a fine of $20,000.

An authorised officer may require that the answer to a question be verified by statutory declaration or given under oath.

38—Amendment of section 78—Entry and inspection

Under section 78, authorised officers are given certain powers of entry and inspection. This clause amends the section to give authorised officers powers to enter and search vehicles and to give directions that are reasonably required in connection with the exercise of a power conferred by section 78(1) or otherwise in connection with the administration, operation or enforcement of the Act.

If a person fails to comply with a direction, and the person does not have a reasonable excuse for the failure, he or she is guilty of an offence. The maximum penalty is a fine of $20,000.

39—Insertion of section 78A

This clause inserts a new section. Section 78A applies to any book or document produced to, or taken by, an authorised officer. A book or document to which the section applies may be retained for the purpose of enabling the book or document to be inspected and for enabling copies of, or extracts or notes from, the book or document to be made or taken by or on behalf of the Commissioner. A book or document required by the Commissioner for the purpose of legal proceedings may be retained until the proceedings are finally determined.

40—Amendment of section 79—Assurances

Under section 79 as amended by this clause, the Commissioner will be authorised to accept an assurance given by a trader or a person who is a director of a body corporate that is a trader. The assurance must be in connection with a matter in relation to which the Commissioner has a power or function.

An assurance must be in writing and may be withdrawn or varied with the consent of the Commissioner.

41—Amendment of section 81—Offence

Under section 81, it is an offence for a person who has given an assurance accepted by the Commissioner to act contrary to the assurance The maximum penalty for the offence is currently a fine of $5,000. This clause amends the section by increasing the maximum fine to $10,000.

42—Amendment of section 82—Enforcement orders

The amendment made by this clause is consequential on amendments made to section 79 and, in particular, the fact that under that section as amended the Commissioner will be able to accept assurances from directors of body corporates as well as traders.

43—Amendment of section 93—Hindering an authorised officer

The maximum penalty for the offence of hindering an authorised officer is currently a fine of $2,500. This clause amends section 93 by increasing the maximum to $5,000.

44—Insertion of section 93A

This clause inserts a new section. Proposed section 93A makes it an offence for a person to persuade another person, or to attempt to persuade another person, by threat or intimidation—

- to fail to co-operate with an authorised officer in the performance or exercise of powers or functions; or
- to fail to provide information or give evidence to an authorised officer as authorised or required; or
- to provide information or give evidence that is false or misleading in a material particular, or to provide information or give evidence in a manner that will make the information or evidence false or misleading in a material particular, to an authorised officer.

45—Amendment of section 94—Impersonating a police officer

The amendment made by this clause increases the maximum penalty for impersonating an authorised officer from $2,500 to $5,000.

46—Amendment of section 97—Regulations

Under section 97, regulations under the Act may impose penalties not exceeding $1,250 for contravention of, or failure to comply with, a regulation. Under the section as amended by this clause, the maximum penalty will be $2,500.

The section as amended will also allow for the making of regulations that make different provision according to the classes of persons, or the matters or circumstances, to which they are expressed to apply.

Part 6—Amendment of *Land Agents Act 1994*

47—Amendment of section 8—Entitlement to be registered as agent

This clause updates section 8 of the *Land Agents Act 1994* by substituting the correct reference to insolvency.

48—Amendment of section 52—Register

Section 52 of the *Land Agents Act 1994* as amended by this clause will authorise the Commissioner to include on the register of persons registered under the Act a note of the occurrence of any of the following events in relation to a licensed or registered person or a director of a body corporate that is a registered person:

- the person is convicted of an offence of dishonesty;
- the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of South Australia, the Commonwealth, another State or a Territory of the Commonwealth;
- the person becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
- a body corporate is wound up for the benefit of creditors and the person was a director of the body corporate—
  - when the body corporate was being so wound up; or
  - within the period of 12 months preceding the commencement of the winding up;
- the person, being a body corporate, is being wound up or is under official management or in receivership.

Part 7—Amendment of *Plumbers, Gas Fitters and Electricians Act 1995*

49—Amendment of section 9—Entitlement to be licensed

This clause updates section 9 of the *Plumbers, Gas Fitters and Electricians Act 1995* by substituting the correct reference to insolvent persons.

50—Insertion of Part 3A

This clause inserts a new Part into the *Plumbers, Gas Fitters and Electricians Act 1995*.

Section 18A in Part 3A gives the Commissioner the power to suspend the licence of a contractor if the Commissioner is of the opinion that—

- there are reasonable grounds to believe that the contractor has engaged in conduct that constitutes grounds for disciplinary action; and
- it is likely that the contractor will continue to engage in that conduct; and
- there is a danger that a person or persons may suffer significant harm, or significant loss or damage, as a result of the contractor's conduct unless action is taken urgently.

The Commissioner is required to serve a notice of the suspension on the contractor. The Commissioner may not suspend the licence for a period of more than 6 months.

A contractor whose licence is suspended is required to surrender the licence to the Commissioner within seven days of being notified of the suspension.

If, during the period of the suspension, the Commissioner becomes satisfied that the facts and circumstances that gave rise to the suspension have so altered that the suspension should be terminated, the Commissioner is required to terminate the suspension without delay. The section also gives a person whose licence has been suspended a right of appeal to the Administrative and Disciplinary Division of the District Court. The Court is required to hear and determine the appeal as expeditiously as possible.

51—Amendment of section 30—Registers

Section 30 of the *Plumbers, Gas Fitters and Electricians Act 1995* as amended by this clause will authorise the Commissioner to include on the register of persons licensed under the Act a note of the occurrence of any of the following events in relation to a licensed person or a director of a body corporate that is a licensed person:

- the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth;
- the person becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
- a body corporate is wound up for the benefit of creditors and the person was a director of the body corporate—
  - when the body corporate was being so wound up; or
  - within the period of 12 months preceding the commencement of the winding up;
- the person, being a body corporate, is being wound up or is under official management or in receivership.

Part 8—Amendment of *Second-hand Vehicle Dealers Act 1995*

52—Amendment of section 9—Entitlement to be licensed

This clause updates section 9 of the *Second-hand Vehicle Dealers Act 1995* by substituting the correct reference to insolvent persons.

53—Insertion of Part 4A

This clause inserts a new Part into the *Second-hand Vehicles Dealers Act 1995*.

Section 25A in Part 4A gives the Commissioner the power to suspend the licence of a dealer if the Commissioner is of the opinion that—

- there are reasonable grounds to believe that the dealer has engaged in conduct that constitutes grounds for disciplinary action; and
- it is likely that the dealer will continue to engage in that conduct; and
- there is a danger that a person or persons may suffer significant harm, or significant loss or damage, as a result of the dealer's conduct unless action is taken urgently.

The Commissioner is required to serve a notice of the suspension on the dealer. The Commissioner may not suspend the licence for a period of more than 6 months.

An agent whose licence is suspended is required to surrender the licence to the Commissioner within seven days of being notified of the suspension.

If, during the period of the suspension, the Commissioner becomes satisfied that the facts and circumstances that gave rise to the suspension have so altered that the suspension should be terminated, the Commissioner is required to terminate the suspension without delay. The section also gives a person whose licence has been suspended a right of appeal to the Administrative and Disciplinary Division of the District Court. The Court is required to hear and determine the appeal as expeditiously as possible.

54—Amendment of section 39—Register of dealers and premises

Section 39 of the *Second-hand Vehicles Dealers Act 1995* as amended by this clause will authorise the Commissioner to include on the register of persons licensed under the Act a note of the occurrence of any of the following events in relation to a licensed person or a director of a body corporate that is a licensed person:

- the person is convicted of an offence of dishonesty;
- the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth;
- the person becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
- a body corporate is wound up for the benefit of creditors and the person was a director of the body corporate—
  - when the body corporate was being so wound up; or
  - within the period of 12 months preceding the commencement of the winding up;
- the person, being a body corporate, is being wound up or is under official management or in receivership.

Part 9—Amendment of *Security and Investigation Agents Act 1995*

55—Amendment of section 9—Entitlement to be licensed

This clause updates section 9 of the *Security and Investigation Agents Act 1995* by substituting the correct reference to insolvent persons.

56—Amendment of section 34—Register of licensed agents

Section 34 of the *Security and Investigation Agents Act 1995* as amended by this clause will authorise the Commissioner to include on the register of persons licensed under the Act a note of the occurrence of any of the following events in relation to a licensed person or a director of a body corporate that is a licensed person:

- the person is convicted of an offence of a class specified by regulation for the purposes of section 9(1)(b) of the Act in relation to the functions authorised by his or her licence;
- the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth;
- in the case of a person whose licence is not subject to an employee condition or who is a director of a body corporate that is licensed as an agent—a body corporate is wound up for the benefit of creditors and the person was a director of the body corporate—
  - when the body corporate was being so wound up; or
  - within the period of 6 months preceding the commencement of the winding up;

- in the case of a person whose licence is not subject to an employee condition—the person becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth;
- the person, being a body corporate, is being wound up or is under official management or in receivership.

Part 10—Amendment of *Travel Agents Act 1986*

57—Insertion of Part 2 Division 1A

This clause inserts a new Division into the Part 2 of the *Travel Agents Act 1986*.

Section 14A in Division 1A gives the Commissioner the power to suspend the licence of a travel agent if the Commissioner is of the opinion that—

- there are reasonable grounds to believe that the agent has engaged in conduct that constitutes grounds for disciplinary action; and
- it is likely that the agent will continue to engage in that conduct; and
- there is a danger that a person or persons may suffer significant harm, or significant loss or damage, as a result of the agent's conduct unless action is taken urgently.

The Commissioner is required to serve a notice of the suspension on the agent. The Commissioner may not suspend the licence for a period of more than 6 months.

An agent whose licence is suspended is required to surrender the licence to the Commissioner within seven days of being notified of the suspension.

If, during the period of the suspension, the Commissioner becomes satisfied that the facts and circumstances that gave rise to the suspension have so altered that the suspension should be terminated, the Commissioner is required to terminate the suspension without delay. The section also gives a person whose licence has been suspended a right of appeal to the Administrative and Disciplinary Division of the District Court. The Court is required to hear and determine the appeal as expeditiously as possible.

58—Amendment of section 30—Registers

Under section 30 of the *Travel Agents Act 1986* as amended by this clause, if a travel agent's licence is suspended, or a travel agent, or a director of a body corporate that is licensed as a travel agent, is suspended or disqualified under a corresponding law from holding a licence under the corresponding law or being involved in the direction, management or conduct of the business of a travel agent, the Commissioner may record a note of the suspension or disqualification on the register of persons licensed under the Act.

Part 11—Repeal of *Consumer Transactions Act 1972*

59—Repeal of *Consumer Transactions Act 1972*

This clause repeals the *Consumer Transactions Act 1972*.

Part 12—Repeal of *Recreational Services (Limitation of Liability) Act 2002*

60—Repeal of *Recreational Services (Limitation of Liability) Act 2002*

This clause repeals the *Recreational Services (Limitation of Liability) Act 2002*.

Debate adjourned on motion of Dr McFetridge.

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 April 2009. Page 2461.)

Dr McFETRIDGE (Morphett) (15:40): I rise on behalf of the Liberal Party in support of this bill. I am the lead speaker on this bill, and I will not hold the house for long. The background to the Motor Vehicles (Miscellaneous) Amendment Bill is that, under the Motor Vehicles Act, fees for professional, medical or other services rendered to those injured in motor vehicle accidents have been linked to the fees under the Workers Rehabilitation and Compensation Act.

The Workers Rehabilitation and Compensation Act was amended last year. One of the changes was that the scale of charges for the above services was to be set by ministerial notice rather than by regulation. On 1 July 2009, transitional provisions will end and the regulations will have no effect.

This bill proposes an amendment to section 127A of the act to replace references to the scale of charges prescribed by regulation under section 32 of the Workers Rehabilitation and Compensation Act, with references to the scales of charges applying under that section. This will ensure the continuation of parity of fees for medical and other services under both acts.

The second amendment to the bill relates to the proof of service of notices of disqualification from holding or obtaining a driver's licence. In 2007, parliament passed a bill with the same title. That bill required that a person receiving such a notice to attend a customer service office or a post office to acknowledge receipt of the notice. If the person did not respond to the notice, a process server would serve it personally. That amendment was to prevent someone claiming that they had not received a notice. The opposition supported the bill.

The current bill provides that the cost of these new requirements is to be borne by the driver. If someone attends to acknowledge the notice, the fee is $24, and if a process server is to be engaged it is $60. If no contact is made with the person through either measure, the Registrar of Motor Vehicles can refuse to transact any business with a person until they pay the $60 and acknowledge receipt of the notice. The opposition supports the bill.

Mr VENNING (Schubert) (15:42): I rise to support the member for Morphett. The opposition is supporting this bill. This bill seeks to make two amendments to the Motor Vehicles Act. The first is necessary due to amendments to the Workers Rehabilitation and Compensation Act that took place last year.

Under the Motor Vehicles Act, fees for medical and other services rendered to people injured in car accidents were linked to the fees under the Workers Rehabilitation Act. However, when the act was amended last year one of the changes was that charges for services to those injured in a collision was to be met by a ministerial notice rather than by regulation.

On 1 July this year, the regulations will no longer have any effect, so this bill will replace references to the charges prescribed by regulations under the Workers Rehabilitation Compensation Act to references to the scale of charges under the Motor Vehicles Act. This is a very straightforward amendment that is necessary, so I will not go on about it any further.

The second amendment that this bill seeks to implement relates to the serving of notices when someone is disqualified from holding or obtaining a driver's licence, for whatever reason. In 2007 a bill was passed, and we on this side of the house supported it, implementing legislation that meant that, when someone was served with a disqualification notice, they had to attend a customer service office or a post office to acknowledge that they had received the notice. If the person did not respond to such a notice in this way, a process server would then serve the notice personally.

This is, of course, so that if a person who was disqualified from driving was caught driving by police they could not claim that they did not realise that they had been disqualified and no longer held a licence. This current bill will allow for the cost of the system to be borne by the driver—$24 in the case of the person acknowledging receipt of the notice, and if a process server is engaged to deliver the notice it is $60. I believe this makes sense. The public should not have to bear the costs associated with issuing disqualification notices, and, as such, we support the bill.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (15:45): I thank the opposition for its support. It is, of course, a bill of very few clauses. It has a small ambit and it makes good sense. I am happy to conclude with that.

Bill read a second time and taken through its remaining stages.

Mrs GERAGHTY: Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

CROWN LAND MANAGEMENT BILL

Consideration in committee of the Legislative Council's amendment.

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

That the Legislative Council's amendment be agreed to.

Mr WILLIAMS: I just want to take the opportunity to thank the minister. When we debated the Crown Land Management Bill in this house, I raised the fact that the opposition had some problems with the minister being able to delegate certain functions and then being able to further delegate those functions. The particular issue involved delegating the issue of a certificate of a grant of fee simple in a piece of crown land. The minister gave an undertaking that he would look at the matter between the houses. His office contacted me at some stage during one of the breaks and sent me a copy of the proposed amendment and asked my opinion on it. So, I thank the minister and his staff very much for that. I am delighted that the government proposed the

amendment in the other place. It was obviously accepted and it is now back here. The opposition supports the amendment.

Motion carried.

[Sitting suspended from 15:55 to 16:00]

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

(Continued from 12 May 2009. Page 2670.)

Clause 14.

The CHAIR: When the committee last sat, the member for Heysen moved a handwritten amendment; we now have a published amendment. We agreed to that amendment. The member for Heysen indicated that she had another question on this clause.

Mrs REDMOND: I do have one more question on clause 14. You will be pleased to know that after that question I do not have any more matters until clause 19, to which I think an amendment has been filed by the member for Mitchell, so we may make some further progress.

My question relates to subsection (2) of new section 46B. Subsection (2) states that subsection (1), which is the information about the people who comprise the group who have become the registered members, if you will, of a registered political party, is to be confidential. Subsection (2) provides:

> Subsection (1) does not prevent the Electoral Commissioner providing information to a prescribed person or body, or a person or body of a prescribed class...

I want to make sure that there is no possibility—without having seen any regulations—of the information falling into the wrong hands, as it were. I cannot rock up to the Electoral Commissioner and get the details of who are Labor Party registered members and the minister cannot rock up to the Electoral Commissioner and get the details of who are Democrats, for instance. I want to clarify just what is intended to be prescribed. I think we did get part way through that answer yesterday.

The Hon. M.J. ATKINSON: My recollection was the political party of whose members they were, if the party lost the records, the Government Investigations Unit and the Crown Solicitor's Office, in case of impropriety, but as far as is humanly possible we do not want any unauthorised access to the names and addresses of the people who are the 200, or 150, whichever number parliament eventually settles on, members whose subscription to the party founds its registration.

The Hon. I.F. EVANS: Attorney, is there any way that the minister of the day responsible for the act can have access to those records?

The Hon. M.J. ATKINSON: No, not unless we prescribed the minister; if we did so, I think the opposition and the minor parties would notice. Frankly, if a person wants to find out who is a member of political parties, the best thing to do is join, run for office and get the membership list under the rules.

Clause as amended passed.

Clauses 15 to 18 passed.

Clause 19.

Mr HANNA: Amendments Nos 5, 6, 7, 8, 12 and 13 are consequential, so I will no longer move them.

Clause passed.

Clause 20.

Mrs REDMOND: This clause inserts a new subsection into section 63 and provides that, if there has been a notice of intention to lodge a voting ticket for a Legislative Council election, and if the ticket is not lodged (the earlier part of the section requires that you give notice and then lodge it), the Electoral Commissioner must take reasonable steps to inform the candidate or candidates to whom the voting ticket was to relate of the failure to lodge the voting ticket. It also provides that the Electoral Commissioner need not take any other action in relation to the matter.

If that circumstance occurs—that is, they have lodged an intention to lodge a voting ticket, but they have failed to do so—and it occurs because of an oversight (for example, someone read the date wrongly), this clause is triggered and the Electoral Commissioner notifies the candidate or to whomever it related of that failure.

The new subsection does not seem to spell out that the Electoral Commissioner could, for instance, accept a late lodgment; it provides only that the Electoral Commissioner need not take any further action. I want to clarify whether, having notified, it is possible then to correct if it is an oversight.

The Hon. M.J. ATKINSON: So that every member of the committee can understand what the member for Heysen and I are talking about, I will give some explanation. There are two ways you can vote for the upper house, you can vote above the line, and put the number 1 in the box of the group above the line for which you want to vote, or you can fill in all the boxes next to every—

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: As the member for Heysen always does so do I, starting with the one I like least. Isn't it frightening that the member for Heysen and I find another thing in common? Or you can vote below the line, placing consecutive numbers against the names of every candidate for the upper house—one or the other.

We know that something like 95 per cent of people—I think it is about 95 per cent—vote above the line. They just place '1' above the line in a box next to the group they prefer. To make sense of that vote above the line, given that there will be 25, 30, 40 candidates and 11 vacancies, that above-the-line vote has to be translated into an effective vote with consecutive numbers for every candidate below the line.

The way that is done is for the group, the party, to lodge in time a voting ticket which allocates preferences for the vote above the line. Every vote above the line is deemed to follow the preferences for each candidate below the line as nominated to the Electoral Commissioner by the group. If a party or a group gets a berth above the line and says, 'We want our name above the line and a box next to it,' and then fails to lodge a voting ticket, the consequence is that all those above-the-line votes are informal, because—

Mrs Redmond: They haven't got a ticket.

The Hon. M.J. ATKINSON: They haven't got a ticket, as the member for Heysen interjects, and she is right. This provision is designed to say that, should that catastrophe happen to a party or a group, it is not the Electoral Commissioner's fault. Sure, the Electoral Commissioner might like to give them a phone call and say, 'Well, there's only a couple of hours to go until the time for lodging your voting ticket is up. Would you like to lodge a voting ticket?' But if the Electoral Commissioner fails to raise them and they do not lodge a ticket, all the above-the-line votes are informal. That is a catastrophic consequence for that party. Could you imagine if the Australian Labor Party failed to lodge a voting ticket, or the Liberal Party failed to lodge a voting ticket?

Mr Goldsworthy: These are nightmares.

The Hon. M.J. ATKINSON: These are nightmares.

The Hon. P.L. White: Or candidates forgot to nominate.

The Hon. M.J. ATKINSON: Or candidates forgot to nominate, the member for Taylor adds, and, of course, that has happened. Quiz question: what is the seat—

Members interjecting:

The Hon. M.J. ATKINSON: The health minister, wasn't it, who failed to nominate for his North Shore seat—the DLP elected as a consequence.

The Hon. G.M. Gunn: The DLP won the seat.

The Hon. M.J. ATKINSON: The DLP won the seat. Mr Harrold, I think, rings a bell as the name of the member. An Australian situation comedy was based on it called *House Rules* starring Jackie Weaver, I think. Anyway, be that as it may, my view is: shoot one, educate a thousand. If a party registered officer forgets to lodge a voting ticket and all the party's upper house above-the-line votes are lost, bet you no-one ever does it again, that is, fails to lodge a ticket. All this is doing is protecting the Electoral Commissioner and saying, 'Well, the Electoral Commissioner may contact the registered officer and remind them of their obligations, but, having done that, there is no

further liability.' One saving provision here is that, if a voter votes above the line, the vote can be saved by the voter also voting below the line formally.

Mrs REDMOND: I thank the Attorney for his explanation. My difficulty is that the clause provides: (a) a notice of intention to lodge a voting ticket has been given; but (b) a voting ticket is not then lodged in accordance with the requirements of subsection (2)(b). It seems to me that what we are talking about here is that what follows must of itself occur after there has already been the failure; the time limit has already expired.

Whilst I appreciate that our Electoral Commissioner is very likely to do the right thing and let people know that they only have a couple of hours to do this, if one reads the section that it refers to—and that is notice of intention is given and a voting ticket is not then lodged in accordance with (2)(b)—one will see that it is only triggered at the point where there has been the failure to lodge. My question is: why at that point, after the failure has already occurred—which, according to the Attorney's explanation, cannot then be corrected—would the Electoral Commissioner then notify people?

The Hon. M.J. ATKINSON: In the situation that the member for Heysen canvasses, the Electoral Commissioner would ring the registered officer of the party and inform them of the catastrophe. However, our intention is that the Electoral Commissioner might do that as the deadline approaches and no voting ticket is there, just to be generous.

Mrs REDMOND: Again, I thank the Attorney, and I understand the good intentions of the Electoral Commissioner in doing that. However, the section seems to only be triggered once the failure has occurred to lodge by the time. Therefore, what is the point of the section? I do not understand why we have a section that says, 'You have given notice that you intend to lodge a voting ticket and you failed to lodge the voting ticket within the time required under the act,' and the Electoral Commissioner can then notify the candidate of that failure. I do not understand why that provision is there, because it does not seem to have any purpose.

The Hon. M.J. ATKINSON: The intention of the provision is courtesy and for the Electoral Commissioner to tell them the bad news. It would be a pity if they continued on with a general election campaign with the false hope that a vote above the line for their ticket was going to be counted, because it is not.

Clause passed.

Clause 21.

Mrs REDMOND: The current section provides that a polling booth is to be properly established and that each polling booth must have certain things. Subsection (2) provides that no premises licensed for the sale of liquor may be used as a polling booth. What this section does is add, 'except if the pubs close down', or whatever provision it is. I take it therefore that there must be towns in the state where the only appropriate place to conduct a polling booth consists of the local licensed premises.

The Hon. M.J. ATKINSON: Yes, that is correct.

Clause passed.

Clause 22.

Mr HANNA: I move:

Page 15, line 3 [clause 22, inserted section 66(5)]—After 'in a prominent position' insert:

in each compartment in which a person may vote

I feel strongly about this. This clause in the bill deals with electoral material that is prepared for use in polling booths on polling day. I do not have any problem with the requirements for the actual material. It is what one would expect—a list of candidates and so on—but I particularly noticed the new proposed clause 66(5), which says that the presiding officer at each polling booth must cause the displays, etc., to be placed in a prominent position in the polling booth.

The problem I have with that is that I think it is essential that the material is placed in each compartment. Some voters who go in will have grabbed a handful of how-to-vote cards, some would not have, but they go into the booth and have their name marked off. Most then go straight into a compartment and, as quickly as possible, do their duty. It seems to me that a lot of people

expect—and they should be entitled to expect—that the electoral material that they need will be up on the wall of the compartment in which they actually cast their vote.

I do not think it is good enough for it to be up on the wall somewhere else or up on a set of boxes or on some sort of display in the middle of the polling booth area. I think it should be within each compartment, so that people who have not clearly thought through what they are going to do should at least have the list of candidates for the upper house and for the lower house and the other material that is specified in the section.

The Hon. M.J. ATKINSON: The member for Mitchell makes the mistake of thinking that the public of South Australia is as interested in politics as he is and we are. They are not. I think many South Australians going into voting compartments during our state general election are somewhat surprised by the number of upper house preference distributions that leap out at them from every voting compartment.

The sheet containing this information is so large that it goes around the three sides of the voting compartment. In fact, there are so many candidates and so many tickets that it has to be an enormous document that no well-adjusted person would read from start to finish. No, not even the member for Heysen and I are so interested that we tarry in the voting compartment to read the lot. It is specialist knowledge, and only a small proportion of the number of people who come to vote are interested in it.

Nevertheless, it is important that that information is available to them. It does not need to go in every voting compartment, but it needs to be available in a prominent place in the booth, so that those people like the member for Mitchell, who want to see where the 35th preference of the Save Babe group goes, can consult a booklet hanging up in a prominent location in the booth. To plaster it across the three sides of every voting compartment is overkill.

Mrs REDMOND: I actually think that there is some merit in the position being put by the member for Mitchell because, in spite of the Attorney-General's protestations about the amount of material, it has been obvious to me at any number of elections that it would have been simpler for everyone and would have saved on an enormous amount of printing if, rather than handing out how-to-vote cards, each of three or four people could have had their how-to-vote card inside each compartment. That would have saved the chopping down of forests in terms of the number of how-to-vote cards handed out outside. There is an enormous variety, I accept.

I remember seeing a cartoon about a federal election, where the number of Senate candidates was so long that it was basically a roll of toilet paper rolling out beyond the premises altogether. It was the sort of election where it was going to take the Attorney and I a long time to complete our vote, given, first of all, that we had to locate the person we hate the most, and count backwards and then check that we filled in all the numbers. For most elections, in most communities, most people would prefer to have just the various options up in front of them and be able to follow them; so, I think there is considerable merit in the position put by the member for Mitchell.

The Hon. M.J. ATKINSON: My understanding of this is that it is not a question, as the member for Heysen thinks, of copying down the numbers on the sheet displayed in each voting compartment. On the contrary, the sheet is up there to tell people what is the consequence of putting the number 1 in the box next to the group. In fact, the whole idea is to save them filling out the whole ballot paper.

What the sheet is there for is to tell them where their preferences will go below the line should they subcontract their vote to the group by putting the number 1 above the line in the group's box. It is not as the member for Heysen thinks.

The second thing to say is that the idea that handing out how-to-vote cards at polling booths leads to a gross waste of paper and to the cutting down of forests is not true. If one collects all the literature one receives in the course of a federal or state general election campaign and puts it in a cardboard box and then weighs it against one day's junk mail from commercial sources, one will find that one day's commercial junk mail outweighs everything sent in the campaign period. We are not demolishers of forests, as politicians. A great deal of pulp and paper is not wasted at polling booths.

I was doorknocking before I came to the house yesterday. I was doorknocking in the morning; in fact, I got caught in the rain. However, I was doorknocking several people who had a very limited command of English, and yet, with just a few words, I managed to make it plain why I

was there, and they managed, I think, to understand. 'No speak English', 'Srpski', 'αριθ' and 'да' (da), and, so, we found our way there.

Clearly, those people—and I know this to be so—whether they are Vietnamese, Cambodian, Chinese, Greek or Srpski, will feel a lot more secure in casting their vote if there is a volunteer from their preferred political party at the booth together with a how-to-vote card for that party, which the voter can take with himself or herself into the booth. Putting up the party how-to-vote cards in the compartment is no substitute for personal service, especially if that personal service includes a how-to-vote card in the language of the voter. I think the member for Heysen brings Hills Anglophile assumptions to this debate which are not shared by multicultural inner suburban electorates.

Mr HANNA: The first point I want to make is about the Attorney's suggestion that I somehow think the electorate is as interested as I am or as other political practitioners are at election time. We all know that that is not the case, but it is precisely because a lot of people do not think much about politics and do not want to think much about elections that it is essential to have the how-to-vote tickets in the voting compartment. A lot of people refuse the how-to-vote tickets offered to them outside. I think some refuse them because they do not want to be seen to be partisan, even though they might not know anybody in the immediate vicinity. They do not want to be seen to show preference because it is, after all, a secret ballot. That is why we see some people take all of the how-to-vote tickets, and others take none.

At any rate, the current practice is that people expect to find those how-to-vote tickets in the compartment. I remind members that the current law is that each polling booth must have a poster representing the House of Assembly and the Legislative Council voting tickets. At least in relation to the how-to-vote cards submitted by the candidates in the election, they must be displayed in each voting compartment. That is the current law. Really, what I am doing is amending the government's amendment to try to keep the current position.

The Attorney-General deals with the easy argument here, but not the hard argument. The easy argument is in relation to the Legislative Council ticket. I appreciate that there is a practical difficulty in having something that is as big as a tablecloth nailed onto the inside of a voting compartment; however, in relation to the House of Assembly voting ticket, I think it is essential for the reasons that I have suggested. A lot of people expect it there and they rely on it. After all, whatever the parties have handed them—which may or may not be entirely accurate or easy to understand—at least in the voting compartment they have something official to go by. So, it is essential that that aid to accurate voting remains.

The Hon. M.J. ATKINSON: It is important that I correct myself here. The voting ticket for the upper house is not currently in every compartment. The member for Mitchell is right and I am wrong—it is outside the compartment. So, that is not the issue. I was wrong to say that that was the issue: it is not the issue. What is the issue is the how-to-vote cards for the House of Assembly being in every voting compartment. So, I apologise to the member for Mitchell. I think most people are sufficiently interested in politics that they would be willing to look at the how-to-vote card for the assembly district in which they live in the voting compartment.

I am advised by the Electoral Commissioner that, given the number of candidates in some House of Assembly seats, the poster becomes unwieldy and the print has to be shrunk to fit them all in to the voting compartment. Therefore, the best thing is to have them outside in a prominent place. I am willing to consider the member for Mitchell's amendment between the houses and to give some consideration to it, because I have heard some support from my valued colleague the member for Torrens, who is in favour of retaining the how-to-vote cards for the assembly in the compartment. We will argue this out between the houses. That is the best concession I can make for the member for Mitchell. I apologise for getting off on the wrong foot in that debate. The upper house voting ticket sheets, which are much bigger, will remain outside the voting compartment.

Mr HANNA: The Attorney-General has brought into the debate the view of the Electoral Commissioner. Of course, I respect the Electoral Commissioner and whatever point of view she might have. But I want to make the distinction between an opinion about the practicalities of putting in a certain sized sheet into the compartment and the policy issue of whether it is important for the voters to have that degree of information because of their level of interest, their level of knowledge and their level of capacity.

I think we make that decision as parliamentarians and, if we say that voters should have access to that information as they go into the compartment to vote, then I suppose it is simply for

the Electoral Commissioner to somehow make it work. While we take the views about practicalities into account, that is a really important policy decision based on our knowledge of our electorates. I just want to make that point because I do not want to diminish the point of view put by the Electoral Commissioner. I seek to put that into perspective against the fundamental democratic question that is involved.

I thank the Attorney for the concession that he has made. I am also willing to make the concession that the way my amendment is drafted, even though it is mine and I take responsibility for it, it could also be better expressed perhaps to make it clear that I am not so concerned about the Legislative Council ticket but I am very concerned about the House of Assembly ticket being displayed in the actual compartment.

The Hon. M.J. ATKINSON: Since the debate on this bill is a saga, I think there will be an opportunity to set up a cardboard voting compartment and have a look at some of the bigger how-to-vote card sheets from the last general election and each member can make a judgment about whether or not the sheet is helpful or unwieldy.

Amendment negatived.

Mrs REDMOND: I have a question on clause 22 before we put it to the vote. It relates to the very beginning of the clause, which deals with section 66 on the preparation of electoral material. I ask the question purely on the matter of the semantics. Subsection (1) provides:

The Electoral Commissioner must have the following electoral material prepared for use in polling booths on polling day:

When I read that I thought: why is the Electoral Commissioner having to prepare this material? I want to confirm that, in fact, the sense in which the word 'prepared' is being used there is that the Electoral Commissioner's obligation is to have that material 'available'.

The Hon. M.J. ATKINSON: The publication is the Electoral Commissioner's; the component material is supplied by the parties and the candidates; but it is put together in its final form by the Electoral Commissioner, so it may truly be said that she prepares it.

Clause passed.

Clauses 23 and 24 passed.

Clause 25.

Mr HANNA: I think this is the right place to ask the question. It relates to postal votes. The Attorney-General would no doubt have noticed that there are an increasing number of electors choosing to vote before the general polling date.

The Hon. M.J. Atkinson: Pre-polling.

Mr HANNA: Pre-polling. It seems to me that there are an increasing number of people who are doing so simply as a matter of slight convenience rather than having a profound reason, such as a disability or some employment which lasts through the entire period of voting on the actual day of the general election. Has any thought been given to tightening the requirements so that we actually have the original intent of the pre-poll provisions being carried out?

The Hon. M.J. ATKINSON: I think the government and the commissioner are happy to have the maximum number of people turn out, and if pre-polling means that they fulfil their obligation and do not forget it on the day then that is a good thing. I suppose those who vote pre-poll miss all the excitement of the dying days of the campaign, because there is no longer any opportunity to convert or sway them.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: As the member for Heysen says, we do not think that they will be distressed by that. For myself, I love polling day. I think it is a marvellous festival of democracy that people come out on one day, go to a public institution and cast, with a blunt pencil, their vote. Many churches and voluntary organisations use the opportunity to have a sausage sizzle or a jumble sale.

Mrs Redmond: Prospect Hill is the place to go.

The Hon. M.J. ATKINSON: Prospect Hill is the place to go. Where is that?

Mrs Redmond: Well beyond Meadows.

The Hon. M.J. ATKINSON: Beyond Meadows.

Mr Hanna: Settled by my ancestors, the Harveys.

The Hon. M.J. ATKINSON: Prospect Hill was settled by the Harveys, I am told. It is a chance to meet one's neighbours, and to have a slanging match with them, if you are working for different candidates on a polling booth.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Well, we also provide sustenance to stray Liberals who find their way into the Croydon electorate to hand out how-to-vote cards. I know that the President of the upper house used to travel from Naracoorte to Bool Lagoon booth to cast his vote, because he knew that it would be one of a few, if the only, Labor vote cast in that booth, and the hamlet of Bool Lagoon would spend the next year conducting a search to find out who it was who had voted for the Australian Labor Party.

The member for Mitchell is right that voting pre-poll does somewhat detract from the festival of democracy on the Saturday, but I am not prepared to take legislative measures to arrest the development.

Clause passed.

New clause 25A.

Mr HANNA: I move:

Page 16, after line 14—After clause 25 insert:

25A—Amendment of section 76—Method of voting at elections

Section 76(1)(a)—Delete 'all candidates' and substitute: not less than 11 candidates.

The proposal I bring is to allow a kind of optional preferential voting for the upper house. The Attorney-General, in the course of debate today, has already talked about the black and white option between numbering every box below the line in the Legislative Council ballot, or numbering one box above the line. As the Attorney-General said, the numbering of one box above the line subcontracts the power to give preferences to the party concerned.

There is something terribly undemocratic about that. Of course, it is people's choice to give up their power, but I do not think that it is something to be encouraged anywhere near as much as it is currently practised. It seems to me that the power can be diverted away from the political parties, which love to wheel and deal the upper house preferences, back to the voters in a way that makes it easy and convenient for them to express their preferences.

So, what I am suggesting is that where there are 11 candidates to be elected in the upper house, as is our current system, the voter in my proposal would have to number 11 boxes above the line, and those votes would run down the list for the various groups that had been marked, and votes would be exhausted after that if people did not continue to vote after those 11 numbers.

However, it would make very clear that somebody could vote Greens first, One Nation second, Family First third, Liberal fourth, Independent fifth, Labor sixth or in any kind of unlikely combination if they chose to, rather than the current options, which are either to vote laboriously below the line, with all the likelihood of mistakes that goes with that, or above the line and allow the party to determine that person's preferences.

The Hon. M.J. ATKINSON: It is the maths, dear boy, the maths. I gave this amendment a great deal of thought, and so did my advisers. Amendments Nos 10 and 11 introduce a form of partial optional preferential voting in upper house elections, and I suggest that amendment No. 10 be treated as the test amendment.

The government opposes these amendments. Amendment No. 10 amends section 76(1), which sets out how a voter must mark a Legislative Council ballot paper. This amendment will mean that an elector voting non-ticket need number only the boxes 1 to 11 on the ballot paper, the number of vacancies at each election, but will not have to number all the boxes as now.

The Electoral Commissioner advises that the member for Mitchell's amendment will cause this difficulty, and I am sure that he is not in the least concerned by this difficulty, but I will outline why we see it as a difficulty. Where ballot papers are not fully preferential in an election under proportional representation, those ballot papers that have no next preference on them, when

allocated after a candidate is elected or excluded, will not be available for distribution to any other candidate. This is known as exhausting: the preferences have exhausted.

Under the system proposed by the member for Mitchell, some of the candidates elected late in the count will almost certainly be below the quota that was required for those elected early in the count. For example, an elector votes 1 to 11 for the least popular candidates or groups. As each candidate is excluded from the count, the ballot paper is then distributed to the next preference. This continues as each of the candidates is excluded and, when it gets to the number 12, where the numbers will not continue, it exhausts, goes to nobody and is no longer in the count.

The commissioner believes that this could happen with a significant number of ballot papers because, while although only 5 per cent vote below the line now, this number may increase if electors need number only the first 11 boxes. I am sure that is the member for Mitchell's intention, and he would regard it as a virtue.

If this were to occur, there would not be 900,000 ballot papers remaining in the count (as occurs now) to elect candidates filling the last two or three vacancies; rather, these would be elected with substantially fewer ballot papers. An example is the Barossa Council election in 2006. This method, under the Local Government Elections Act, saw the 13 elected candidates failing to reach the designated quota but elected on the basis that they had the higher number of votes of the remaining candidates.

Similarly, Victor Harbor council had four of 10 elected without receiving the required quota. The others elected up to that point did. We think that it introduces inequality between the elected candidates. We think that it may be used as a misguided argument to de-legitimise the election and those elected late in the count; and, given that effect on the quota system, the government opposes the amendment.

Mr HANNA: I appreciate that thoughtful and considered response. It seems to me that nonetheless there is a democratic answer to those ballot papers which are exhausted. I admit, it is a problem that there could be a person who votes for the 11 most unpopular candidates and ends up with their ballot paper counting for nothing, effectively. However, there is a democratic answer to that, because that person has chosen to vote for people whom no-one else wants. I am paraphrasing, but if that is the case, there is no great injury to democracy if none of that person's candidates get elected.

It does make it more difficult for the surprise Independent or minor party candidate to be elected on less than 3 per cent of the vote, I suppose, because it might be harder for preferences at the end of the spectrum, away from major parties, to follow through to what I call the surprise candidate—someone who, in the whole scheme of things, would have expected to get only 2 or 3 per cent of the vote. Nonetheless, I think that the virtue in encouraging people to vote below the line and allocate their own preferences is the principle here which I am pushing. I think that the value gained, in democratic terms in people being able to allocate their own preferences, is greater than the shortcoming to which the Attorney-General has referred.

The Hon. M.J. ATKINSON: Notwithstanding the member for Mitchell's arguments—and I do not think his proposal is a great injury to democracy, but we disagree on this. My recollection is that candidates have been elected under proportional representation to the upper house who have simultaneously lost their deposit and been elected because their primary vote was so low that they got their quota on preferences. Just for myself, I would not want to see the vote exhaust of those people who vote for savebabe.com, Ralph Clarke Buy Back ETSA and Mick Samco (Independent). That is where I differ from the member for Mitchell. However, he says that if they want their vote to exhaust, vote for the 11 least popular candidates.

New clause negatived.

Clauses 26 to 28 passed.

Clause 29.

Mrs REDMOND: This is a relatively straightforward question. This provision deals with compulsory voting. The amendment itself seems to be just a technical amendment, if you will, changing the current wording from 'at the foot of the notice' to 'in the indicated place' in the notice, that is, where you give your response as to why you did not vote. Have there ever been any prosecutions in this state pursuant to this section for failure to vote?

The Hon. M.J. ATKINSON: I am told that about 8,000 infringement notices go out and that some people who do not pay end up having a prohibition order put on them for dealing with motor registration and suffer the consequences of that until such time as they pay through the nose (as a former attorney-general once advertised), and that some of those elect to be prosecuted. But I must say I cannot remember reports in *The Advertiser* of celebrated cases of people going to the Magistrates Court and saying that they are willing to go to gaol for the right not to vote. There used to be those kinds of stories in *The 'Tiser* in the 1970s; I just cannot recall any lately.

Clause passed.

[Sitting extended beyond 17:00 on motion of Hon. M.J. Atkinson]

Clauses 30 to 32 passed.

Clause 33.

Mrs REDMOND: I have a question, which I suppose is consequential to the matters I was asking about earlier. The main provision of clause 33(1) appears in an earlier clause: to extend the definition of 'ballot box' to include another secured facility that can be used as a ballot box. However, new subsection (4a) inserts a provision that states that if there has been a notice of intention to lodge a ticket for the Legislative Council but there has not been a ticket so lodged, and then a ballot paper for the election contains a voting square on the basis that there was going to be one lodged and someone votes using that, the ballot paper is informal unless subsection (4) of section 92 applies. Subsection (4) of section 92—

The Hon. M.J. Atkinson: You've voted below the line.

Mrs REDMOND: —basically—or subsection (6) of this section applies. It sounds as though it is actually allowing the validity of such a vote. Earlier, we seem to have said, 'Well, it's tough,' but now we are saying, 'But, nevertheless, if it's gone out as printed and you've got the box up there and you put your vote into the square, then you can have your vote after all.'

The Hon. M.J. ATKINSON: Excellent question, and my curiosity was shared.

Mrs Redmond: Piqued.

The Hon. M.J. ATKINSON: My curiosity was piqued, and now it has been sated. The answer is that the first way to overcome the lack of a voting ticket is to vote formally below the line. The second way to get around it is that the intention is clear, but we do not know of a situation where that has arisen yet, and we are not sure how you would do that other than voting formally below the line.

So, it may be that the second branch does not have any work to do unless the member for Heysen and I and the committee can think of some way, without there being a voting ticket, that a voter placing '1' in the box above the line can somehow remedy the defect by making his or her intention clear. I do not know.

Clause passed.

Clause 34 passed.

Clause 35.

Mrs REDMOND: My question really relates just to the heading because it always worries me when I see things about computer programs and elections. As primitive as our system might be—as the Attorney-General says a blunt pencil, although I find them usually quite sharp—with our little cardboard boxes, our bits of paper and our pencils, it seems to be a very good way of running an election. Mind you, in India, where the election has to run for weeks because of the number of people who are voting, I am not sure that it would necessarily be the way to go.

However, I am just worried about the idea that we would be using computer programs in any way in relation to the casting of ballots (à la hanging chads, as the member for Newland just remarked as he went by.) Two things concern me about computer programs: one is the possibility of using them for actually voting and the other is the possibility of using them for counting votes. I seek some assurance that we are not headed down that fateful path.

The Hon. M.J. ATKINSON: I share the worry of the member for Heysen, and I am assured that we are not going down that path. While I am Attorney-General, we will not go down that path.

Mrs Redmond: And nor when I am attorney-general.

Mr Hanna: You two have so much in common!

The CHAIR: Nor when I am attorney-general. We are all assured that we will not have hanging chads.

Clause passed.

Clause 36 passed.

Clause 37.

Mrs REDMOND: Clause 37 amends section 107 of the existing legislation, and I will just turn to that. In essence, section 107 provides:

> A court is empowered to make an order that a person found by a court not to have been duly elected is to cease to be a member of either house; or a person found by the court to have been duly elected but not returned as elected—

and so on. It goes on with a number of things. This clause adds two new subsections to that provision about the powers of the court. The two provisions are: that an election may be declared void on the ground of misleading advertising, but only if the court of disputed returns is satisfied on the balance of probabilities that the result of the election was affected by that advertising. My first question relates to that provision. What I seek to understand is how a court can be satisfied, on the balance of probabilities, about what may or may not have eventuated, depending on advertising.

The Hon. M.J. ATKINSON: It is a matter of evidence. We trust our courts to make these calculations.

Mrs REDMOND: My other concern about it is that, although 'advertising' is a relatively all-encompassing term, I wonder whether there is the potential for an election going off the rails because of, for instance, biased reporting, or some other such thing. So, if there was to be a media campaign, for instance—which is not strictly advertising but which could heavily affect the outcome—can that come within the concept of what we are aiming to deal with under this clause?

The Hon. M.J. ATKINSON: That is a very good question. Let us say for argument's sake that *Today Tonight* decided to launch a jihad against a particular candidate in the election. Let's say it was the member for Heysen, because of her failure to promise to release Henry Keogh from gaol upon her becoming attorney-general.

Mrs REDMOND: I have made no such promise.

The Hon. M.J. ATKINSON: I know that you have not made such a promise, and it is very much to your credit.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: The member for Heysen says that she would like to introduce a second truck to go alongside the 'free Henry Keogh truck' saying, 'Why release him? He did it.' In which case, she differs very strongly from her predecessor as shadow attorney-general, who I think more or less has made such a promise; but he will never be attorney-general again, so that will not happen. Let us say that Graham Archer of *Today Tonight* launched a jihad against the member for Heysen on the grounds—

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: I am sorry. I used 'jihad' figuratively. Let's say a campaign.

The Hon. G.M. Gunn: He's a nasty piece of work.

The Hon. M.J. ATKINSON: The member for Stuart interjects that Mr Archer is a nasty piece of work. Well, I will just leave it at that. Let's say Mr Archer of *Today Tonight* launches a campaign against a sitting member. Let's say it is the member for Heysen. He runs a series of programs denouncing the member for Heysen for her failure to comply with his menacing demands about Henry Keogh. She resists on principle and sticks to her principles.

Mrs Redmond: As I would do.

The Hon. M.J. ATKINSON: As she would, she interjects. She loses her seat as a result. After the general election, it is established that the items on *Today Tonight* are entirely false.

Mrs Redmond: Unfairly prejudicial.

The Hon. M.J. ATKINSON: Unfairly prejudicial. Can the defeated member for Heysen go to the Court of Disputed Returns and have the election result set aside on the grounds that she was defamed and that Mr Archer's contribution was advertising? My advice is that is a possibility, and it is especially a possibility with what is essentially an advertising supplementary program. But I think it is possible that a court would regard such a campaign, while masquerading as editorial, as advertising, and that could be used—

Mrs Redmond: You could get advertising masked as editorial.

The Hon. M.J. ATKINSON: I am sorry. Did I say—

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Yes.

Mrs Redmond: It's just that it's the reverse of the usual.

The Hon. M.J. ATKINSON: No, it is not the reverse of the usual. It is editorial content which is, in fact, advertising and designed to put the member for Heysen out of her seat because she would not comply. I think that is a possibility; I hope it is a possibility, but it would be for the courts to interpret.

Mrs REDMOND: I have another question on clause 37; in fact, it might be a couple of questions. I thank the Attorney for his answer and I trust that, when he says he hopes it is a possibility, he is talking about the possibility of the editorial being found to be advertising, not the possibility of my being thrown out of my seat.

The Hon. M.J. ATKINSON: I assure the member for Heysen that I would accompany her to court and offer my services to try to have her restored to her office.

Mrs REDMOND: I just want to get some clarity about subsection (6) in section 107 which provides that an election may be declared void on the ground of a breach of sections 109, 110 or 111. Section 109 deals with bribery; section 110 deals with undue influence and section 111 deals with interference with political liberty. On those grounds, elections can be declared void. The provision is as follows:

> An election may be declared void on the ground of a breach of section 109, 110 or 111 in accordance with the following provisions:

There are two separate circumstances. The first is as follows:

> if the Court of Disputed Returns finds, either on the basis of a conviction or on the balance of probabilities, that the successful candidate, or a person acting on behalf of the successful candidate with the successful candidate's knowledge, has committed such a breach, then the Court may declare the election to be void whether or not it is satisfied that the result of the election was affected by the breach;

Even if there is no conviction of the candidate for breaching the provisions of sections 109, 110 or 111, if the court decides on the balance of probabilities that the candidate either did it or the candidate knew it and endorsed it happening, then regardless of whether they think it affected anything, they can declare the election invalid. I want to clarify that that is correct.

The Hon. M.J. ATKINSON: The answer is yes, and the public policy behind this is that such conduct is so reprehensible that it should lead to the setting aside of the election, even if the conduct by itself did not affect the result. I think this is a customary distinction made in electoral law even before the current version of the Electoral Act.

Mrs REDMOND: Last, I want to confirm that the section goes on to say that even where a breach of those sections—the bribery, the undue influence and the interference with political liberty—was committed by someone else without the candidate's knowledge, the court can still decide that the election is void, but in that case they have to first decide that the result of the election was affected by the breach.

The Hon. M.J. ATKINSON: The member for Heysen is correct in her interpretation. Was there a question in there somewhere?

Mrs REDMOND: The questions that flows from that is, is it not then possible that a Machiavellian person could act in a way which might lead people to think that they are associated with a candidate when the candidate is completely innocent of anything? The candidate knows nothing, but some person actually sabotages that candidate's election by doing these things, without the candidate's knowledge, and provided that they have done enough mischief then the court can declare the election void.

The Hon. M.J. ATKINSON: Yes, that is a possibility but, of course, it would be perverting the course of justice.

Clause passed.

Clause 38.

Mrs REDMOND: I have one question, and it relates more to my lack of knowledge of computers than anything else. Clause 38 is dealing with publication of electoral material, electoral advertisements, and it provides for adding after 'in printed form' the words 'or through electronic publication on the internet.' I wonder to what extent any of this can be controlled, in reality, given that my limited understanding of the internet means that things can be sent via overseas back through various states and so on. To what extent is the publication of anything on the internet able to be controlled under this provision?

The Hon. M.J. ATKINSON: We are trying to legislate to the limit of our capacity, but if the person is beyond our jurisdiction and not amenable to the authorities of South Australia then there is not much that we can do about that.

Clause passed.

Clause 39.

Mr HANNA: I am particularly interested in the provisions which the Attorney-General wants to bring in which place limits on electoral ads and how-to-vote cards. I refer to the limits in the proposed new section 112B. This is in the context of where we already have a section 112 of the Electoral Act, which severely proscribes certain types of advertising.

The proposal by the government particularly bans reference to the name of the political party of different candidates in other people's how-to-vote tickets. I wonder why that would be. On the face of it, I cannot see a problem if I want to put out a how-to-vote ticket that says, 'Vote Hanna, Independent; Smith for Labor; Jones for Liberal; and someone for someone else,' and specifies the party. I cannot see any wrong in that, so I wonder why it would be banned, if I am reading the proposal correctly.

The Hon. M.J. ATKINSON: That is certainly not the intention. The intention of this clause is to stop political passing off.

Mr HANNA: I support that, as it is a dreadful thing, and I am sure that we are all agreed about that. If I put out something that looks very much like a Labor how-to-vote ticket and it actually switches the vote from someone else to Hanna the Independent, that is outrageous, it is wrong and it is a kind of electoral fraud. So, I completely agree that should be done.

However, I ask the Attorney-General to reconsider the way this clause is worded because I do not see any problem with what I suggested before, yet the way it is worded currently—that is, a person must not publish or distribute a how-to-vote card 'by reference to the registered name of a registered political party'—means that I cannot say, 'Put my name ahead of Bill Smith for Labor.' I think that is outrageously heavy-handed.

There is another problem, based on a real life example. My voting ticket at the last election had at the top of it, 'If you want to vote Hanna then Labor, vote this way; if you want to vote Hanna then Liberal, vote this way.' In a sense, I split the ticket but, of course, left it entirely for the voter to make up their own mind. That would be banned under this proposal, and I think that is utterly wrong. You have to be able to refer to political parties if you are to have a split ticket like that.

The Hon. M.J. ATKINSON: That is not the aim, and we will look at it between the houses to see whether the effect for which the member for Mitchell argues is really the effect. It is not a mischief so far as I am concerned. It is not a problem. Of course, you should be able to do what the member for Mitchell says his how-to-vote card did at the last general election, and there is no way I am going to punish or prevent it.

New section 112B states 'unless the candidate is endorsed by the relevant parliamentary party or registered political party (as the case may be)'. At the last election, in the member for Mitchell's state district, Rosemary Clancy was in fact the endorsed Labor candidate, and I think Jack Gaffey was indeed the endorsed Liberal candidate. So, the member for Mitchell putting out how-to-vote cards that said, 'If you want to give preference to Labor, follow this panel; if you want to give your preference to Liberal, follow this panel,' would be entirely in order under new section 112B as it is currently drafted. I do not see the problem.

Mr HANNA: I take the Attorney's point, but it seems to me that, if the mischief you are after is 'passing off', as he describes it, an element of dishonesty should be built into the section, rather than simply having a reference to the name of the party. New section 112B provides that a person must not publish or distribute a how-to-vote card, etc., that identifies a candidate by reference to political party unless the candidate is endorsed. That is fine. I just want to confirm then that there is nothing to stop me or any other party having a split ticket, which says 'If you want to vote Hanna then Labor, do this', or 'If you want to vote Hanna then Liberal, do that'.

The Hon. M.J. ATKINSON: This amendment and the Electoral Act generally are not preventing the member for Mitchell putting out a how-to-vote card, such as the one he put out at the last general election.

Mrs REDMOND: Madam Chair, I am a little lost. I know that we are on clause 39, but I am not sure whether the member for Mitchell's amendments to clause 39—

The CHAIR: The member for Mitchell indicated that he was not proceeding with his amendments Nos 12 and 13.

Mrs REDMOND: Thank you. I have a couple of questions in relation to clause 39. The first relates to the new section 112A, which provides that a person must not distribute a how-to-vote card unless it has the authorisation on it. There is a maximum penalty of $5,000. Assuming there is a how-to-vote card that some mischievous person wants to publish, it seems to me there are two thing they could do: either they could engage Salmat or Australia Post to have it distributed in an area; or the other thing is that they could have the army of volunteers that the member for Croydon has simply to letterbox the area. How does the Electoral Commissioner find out who published it? If someone just prints something and it does not say on it who printed it and it does not say who authorised it—

The Hon. M.J. Atkinson: It is unlawful.

Mrs REDMOND: I appreciate that it is unlawful. What I want to know is: how is its unlawfulness enforced?

The Hon. M.J. ATKINSON: In the same way as in the federal division of Lindsay where the local Liberal Party conspirators connected to the former member Jackie Kelly were busted distributing an entirely fraudulent how-to-vote card saying that Islamic extremists wanted the people of Lindsay to vote for the Australian Labor Party because the Australian Labor Party was better for Islamic extremism.

Mrs Redmond: It was a brochure rather than a how-to-vote card.

The Hon. M.J. ATKINSON: It was a brochure rather than a how-to-vote card. I can see the defence lawyer coming out in the member for Heysen. What happened was that their factional enemies in the Liberal Party were out at night videotaping them doing it. So, bully for their factional enemies. Yes, lots of people get away with putting out what I am afraid to say in the Labor Party we call 'cheat sheets'—unauthorised material—and sometimes people get away with it, other times they get caught.

The Hon. G.M. Gunn: You wouldn't get away with it in Stuart with my team.

The Hon. M.J. ATKINSON: The member for Stuart interjects that his comprehensive network of spies and informers in Stuart would not allow such a thing to happen, and maybe that is so. That is why it is regarded as unlawful to put out electoral material that is not attributed to a real person at a real address. I may as well foreshadow a change I have made in this bill, or I certainly intend to make, to stop one of the greatest abuses—

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: You do not know what I am going to say, member for Davenport.

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: No. The member for Davenport puts himself in the dock, and I was not even thinking of that particular abuse. I had not even got that close to that. I was thinking of the more modern abuse, and that is the kind of cyber rage that goes on in the blogs on the web—the kind of cyber rage that goes on, for instance, in the commentary that one is allowed to post online on the Adelaidenow site for *Advertiser* stories. It is a sewer—a cesspit—of criminal defamation and fraud. For instance, there is a person who purports to put their name on a commentary on our declaration of the Finks Motorcycle Club today on the Adelaidenow website. They put a name and say 'of Croydon'. A quick reference to the electoral roll revealed that there was no such person.

The Hon. I.F. Evans: He may not be an Australian citizen.

The Hon. M.J. ATKINSON: He has quite an Anglo name, I am afraid.

An honourable member: He might be English.

The Hon. M.J. ATKINSON: Yes—good tries, all of you, but I am afraid I have made up my mind on that one. What I am saying is—

Mr Hanna: Paranoia doesn't mean that you're wrong.

The Hon. M.J. ATKINSON: Exactly. What I am saying is that a greater abuse than creeping around in the dark putting unauthorised bogus material in letterboxes is what goes on on the Adelaidenow website every day, and that is people putting false and defamatory material on the blog site using pseudonyms or names that appear to be legitimate names from legitimate places but are not. I advise members to go and have a look at that website and see the kind of material that goes on it. Can you imagine what will occur when we have this Adelaidenow blog site in the course of a general election campaign?

Mrs Redmond: Plus Twitter—

The Hon. M.J. ATKINSON: Yes; plus Twitter and other blogs. That is to say, the most unlawful, fraudulent material will go on the web via these methods.

Mrs Redmond: And we'll still be back here talking about this paper—

The Hon. M.J. ATKINSON: As the member for Heysen said, we will be sitting here talking about tightening up the law for the distribution of bits of paper. When I was much younger, during an election campaign it would be required of every letter writer to the editor to put their name and address on the letter to the editor. And that was a good thing, to make sure that, if people were going to enter the debate about the general election, they were identified.

The Hon. I.F. Evans: Or at least on the roll—

The Hon. M.J. ATKINSON: No, they do not have to be on the roll, member for Davenport; that is just—

The Hon. I.F. Evans: How would the editor know?

The Hon. M.J. ATKINSON: I am sure that the letters editor runs checks. For instance, I can recall that, when I wrote my first ever letter to the editor, *The Advertiser* rang up and ensured that it was me. I think *The Advertiser* did a similar thing with my mother when she wrote, I think, a letter to the editor for the 1966—

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: —snap—general election. My view is that we have made a mistake by changing the law and allowing letters to the editor to be published that may be fraudulent, defamatory and bogus.

The Hon. I.F. Evans: Change the law.

The Hon. M.J. ATKINSON: I am. Then you have a little section in the paper, so small and obscure that no-one sees it, that says, 'Melvin Mansell of 121 King William Street takes responsibility.' Well, he does not really. My view is that that blog site, during a general election campaign, if the matter pertains to the general election, should contain the real name and the real street address of everyone who contributes to it. I know that that will probably be controversial and that *The Advertiser* and the media will scream blue murder and say that we are not keeping up with

technology. Yes, we are, and we are making the law what we think it should be so general elections are not perverted.

The Hon. I.F. EVANS: I just want to check that my understanding is right. You are still able to put out how-to-vote cards on behalf of a candidate for a party that advocates a first preference vote for a different candidate other than the party which the candidate represents and seek a second or third preference for your party as long as the leaflet is accurate.

The Hon. M.J. ATKINSON: You have to put yourself first.

The Hon. I.F. EVANS: I want to ask the question again then. In previous elections, how-to-vote cards have been put out that said 'If you are thinking of voting Greens but want to give Iain Evans your second preference, put Greens 1, Evans 2, Labor 3, someone else 4' and it has been properly authorised. That is an accurate piece of material, so why we are banning that, if we are banning that?

What is wrong with a candidate being honest enough to say that they are voting Democrats (and they were always going to vote Democrats) but if you want to give Evans your second or third preference above Labor then this is how you do it, and as long as it is accurate and endorsed what is wrong with that?

Mr Hanna: As long as you're not pretending to be them.

The Hon. I.F. EVANS: No; that's right.

The Hon. M.J. ATKINSON: My understanding is that what I am trying to do is say that is not legitimate any more, that if you want to put out a how-to-vote card which is for another candidate, say, 'Vote 1 Hanna, but don't follow Hanna's how-to-vote card, follow this how-to-vote card', you cannot do it except with Hanna's consent.

I stand by that because I have seen so many examples of that kind of ticket being passed off as the official ticket. We saw Labor do it, I think, some years ago in the Nunawading by-election and we saw the Liberals do it at the last general election to Family First, so that people were misled at the polling booth into believing they were receiving the Family First voting ticket when in fact they were receiving a Liberal alteration of the Family First how-to-vote ticket.

My view is that I do not think it is really possible to hand out such a how-to-vote ticket and to make it clear to the voter that this is not the ticket of the candidate, and, rather, it is someone substituting their order of preferences for that nominated by the candidate. I will give you an example so that it is plain. Let us take Davenport, which is the last speaker's electorate. He puts out a how-to-vote card saying 'Vote Iain Evans Liberal 1', and then he gives his preferences through to the last candidate consecutive numbers.

Is it okay for another person or another candidate to say, 'Yes, vote Iain Evans 1', but put the preferences in a completely different order so that if Iain Evans is eliminated in the count and his preferences distributed, that vote will have a completely different effect from the effect that Iain Evans, the candidate, wants. It is simply no good dressing it up as how to vote for Iain Evans but really vote for Labor.

The Hon. I.F. EVANS: I have to say to the Attorney that I appreciate getting on the record his endorsement for voting Iain Evans but I refer him to the Commissioner versus King which is in relation to the Court of Disputed Returns of my electorate. The Liberal Party state director ran an advert which I opposed but he ran it anyway and it ended up in the Court of Disputed Returns. In that matter, there were how-to-vote cards raised in the court that essentially said this: if you want to vote for a candidate with your first preference but want to give Evans your second preference, this is how you do it. The judge considered those, and in every case found them to be legitimate, because they were accurate in that they did not mislead the voter, and they were authorised by a real person at an address. The judge considered that, and decided that it was accurate. I say to the Attorney that I do not see what the problem is.

I am with the member for Mitchell on this particular issue. It should not be the content that is the problem, but whether it is misleading. I think it is a freedom of speech issue. I think you should have the right to say that you may want to vote 1 for Iain Evans, but you might want to give your second preference to others. As long as that is accurate in what you put out, as long as you do not say that it is the official Liberal Party ticket, it is not misleading. If you say it is the official Liberal Party ticket, it is misleading and already dealt with under the legislation, because misleading information cannot be distributed.

I am with the member for Mitchell. I do not see the issue. I will tell you why candidates like me have done it. The reality is that I have had a 10 to 15 per cent Greens or Democrats vote, and, so, for those people who are never going to change their mind, I try to attract their second preferences. In the lower house, the Greens and Democrats are going to drop out early, and I am inviting them to vote for me above Labor with their second or third preference. Surely, that is a legitimate request as long as my how-to-vote card is accurate and authorised.

The Hon. M.J. ATKINSON: I am not sure that this will mollify the member for Davenport, but this is a straight lift from section 351 of the Commonwealth Electoral Act; so, they have had this debate at commonwealth level. The effect of it is that you cannot claim on behalf of an association, league, organisation or other body, but that presumably allows you to do it as an individual, which is what the member for Davenport wants. I am advised, as I understand it, that an individual could do this, and that addresses the freedom of speech issue, but, it could not be purported to be done on behalf of an organisation or party.

The Hon. I.F. EVANS: Do you mean a political party?

The Hon. M.J. ATKINSON: Yes.

The Hon. I.F. EVANS: So a business association could do it, or a union, but not a political party.

The Hon. M.J. ATKINSON: You cannot purport to do it on behalf of an association, league, organisation or other body. For example, a trade union could not put out a ticket saying, 'Vote Greens but give your preferences to Labor' instead of the way the Greens ticket gives them. So, you could not have a body, association, or party doing it, but an individual could do so.

Mr WILLIAMS: I have been listening with interest to the minister's explanations. I am most interested in the minister's comment that this has been lifted straight out of the federal act. The minister might correct me if I a wrong, but I do not think that the federal act has a provision for lists to be handed to the Electoral Commissioner, whereby a party will give the list and then a vote will be formal if—

The Hon. M.J. Atkinson: No, that is right.

Mr WILLIAMS: Right. You may be able to overcome your dilemma, Attorney, whereby you would allow a party to advertise that, to vote for that party and follow its how-to-vote card, you merely put the number 1 next to its candidate. Then, the votes will follow their list, and there will be no fear that someone could misrepresent—

The Hon. I.F. Evans interjecting:

Mr WILLIAMS: No, that is what I am saying. There is no fear that someone could misrepresent themselves as being that party.

The Hon. M.J. ATKINSON: Well, there is that provision in South Australian law, and I think other jurisdictions are considering adopting it, whereby a mark in the square of one lower house candidate can be validated by a process after the initial count by reference to the registered voting ticket. But, as I was reminded firmly by a previous electoral commissioner, Steve Tully, it would be unlawful to advocate in South Australia that people vote that way. So, one could not advocate to vote in that way.

Mr WILLIAMS: What I am suggesting is that maybe you should change that part of the act so that that becomes lawful. A party could then advocate and advertise that, if a voter wanted to be absolutely sure that somebody was not misrepresenting the intentions of that party with how they might apply their marks to the paper, that they just vote 1 for that party. Their vote is then guaranteed to follow the official list of that party. It may be a third way, minister.

Mr HANNA: I now turn to proposed section 112C. As we go through this, the more I think that the best way of proceeding with this sort of reform is actually to get all the parties and the Independent members around the table and work through the issues, rather than debate it in the formality of the chamber.

The Hon. M.J. Atkinson: That is what we are doing. We are in a committee, the most effective committee of all—the committee of the whole house.

Mr HANNA: Yes, it might be quite a good select committee when it gets to the upper house. The problem that I have with proposed section 112C is that it is framed very broadly in terms of forbidding a claimed association with an organisation. So, I publish a newsletter which has

a photo of me standing in front of a goalpost with a soccer ball at the Sturt Marion Football Club. It says something like, 'I've just presented this club with a $2,000 cheque. They are a great club, and I totally support them.'

There is a suggestion there that a candidate is associated with, or supports the policy or activities of, an association, league, organisation or body. Unless I get consent for that in writing, it is an offence. I think that is overkill by a long shot. I can understand the mischief that is behind this, that is, the mischief that the Attorney-General seeks to address. I should not be able to falsely say that the Islamic jihad organisation supports my opponent in Mitchell. I also agree that I should not be able to say that the RSL thinks that I am the best candidate in Mitchell when, in fact, they do not—in this hypothetical example.

So, I can understand that one should not be able to make false claims about such things, but it is drawn so very broadly that, if I have a newsletter where I am associating with people from particular associations (such as my local sports clubs, a Rotary club or anything), there will be a suggestion—and that is all it has to be—that there is an association with that club; and if I do not get written consent, it is committing a criminal offence. I think that is overkill.

The Hon. M.J. ATKINSON: If the member for Mitchell looks at new section 112C(2), he will see that it does not apply if the person proves that he or she is authorised by the candidate to announce or publish the thing claimed. So, if the candidate is publishing an election propaganda which says he supports the Sturt soccer club and has always supported them, and goes to the matches and is photographed presenting a cheque and so forth, then clearly the candidate consents to being associated with the Sturt soccer club because he himself associated himself with the Sturt soccer club.

Mr HANNA: You can say whatever you like about yourself, even if it is not true. Presumably, as long as it is not too misleading, you can imply that you are best friends with the local soccer club, even if you have only been to one game in the last five years.

The Hon. M.J. ATKINSON: Yes. Let us say someone is running against the member for Mitchell in the next general election and he publishes a flyer saying, 'Islamic jihad supports Kris Hanna and his policies', a picture of a turbaned imam endorsing Kris Hanna to continue as the member for Mitchell. That is the mischief that is aimed at.

Mr Hanna: Isn't it misleading, anyway?

The Hon. M.J. ATKINSON: It is probably misleading, anyway, but there could be an argument that it appears, on its surface, to be helpful. For instance, when I was reading this section, I thought of an incident at the last general election where the Right to Life Australia (based in Victoria) put out the usual Right to Life material in Hartley endorsing the sitting member, Joe Scalzi. I do not know whether or not Joe Scalzi wanted Right to Life Australia to do that, but it went into each letterbox. It was not targeted to pro life voters, it was sent to everyone, including pro abortion or pro choice voters, and I imagine that the net effect was pretty ambiguous, and the then member for Hartley would have been entitled to say, 'Well, don't do me any favours like that again,' and to object under a provision like this, in that he did not ask to be associated with Right to Life Australia.

As politics gets cleverer and more cunning, then these kind of things will happen. You might ask yourself: what was the intention of Right to Life Australia in letterboxing the Hartley electorate supporting Joe Scalzi? Were they trying to help him or were they trying to harm him? Well, the intention was they were probably trying to help him, but they were not doing him a great favour. It does not take much cunning to work out that you can do a lot of damage to a candidate while purporting to help them without their consent, and this is what we are trying to aim at with these provisions.

Mrs REDMOND: Like the member for Mitchell and the Attorney-General, I understand the mischief that is sought to be addressed with the clause. However, it reads to me as though the local church, for instance, could put out a newsletter endorsing, in its own newsletter, a particular person who is a candidate and a member of its congregation but, unless it has gone to the bother of getting the written consent of the person, then it would stand liable to a $5,000 penalty.

So, like the member for Mitchell, it seems to me that, perhaps, we are using a sledgehammer to crack a walnut here. There certainly is a mischief to be addressed, but I am just not convinced that the wording of this section is necessarily the appropriate response. It seems to be so broad in its statement that it comprehends any matter announced or published by a person

on behalf of any association, legal organisation or other body, if it claims some connection with the candidate or, expressly or impliedly, suggests that the candidate is the candidate for whom the first preference vote should be given.

Personally, I am very much in favour of the separation of church and state, but I have been aware from time to time, over the years, of churches which have specifically said, 'We think you should vote for X.' That seems to me to be caught by this, and I do not think that that is the mischief that is intended to be addressed.

The Hon. M.J. ATKINSON: That is a fair point by the member for Heysen. It gets back to some remarks that I made very early on in this debate—and it seems like a long time ago—that if all the law were enforced to the nth degree we would be living in a totalitarian society.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: That is right; there has to be a complaint to kick this off. There has to be a complaint. It is only going to be a problem, it is only going to be enforced, where someone thinks they have been damaged by what has been done. What is more, it has to be a situation where a prosecution would be in order, there has been damage done and there is a wrong that needs to be righted. So, I do think this law will not have the effect that members argue for. Having said that, I can see that the member for Davenport wishes to return to the fray—once more into the breach, dear friends—and so I will move that progress be reported.

Progress reported; committee to sit again.

SUPPLY BILL

The Legislative Council agreed to the bill without any amendment.

At 17.59 the house adjourned until Tuesday 2 June 2009 at 11:00.