HOUSE OF ASSEMBLY

Thursday 16 July 2009

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

VALUATION OF LAND (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 June 2009. Page 3292.)

Ms SIMMONS (Morialta) (10:37): Having considered the Hon. John Darley's bill in the context of the state's valuation system, where the Valuer-General provides over 845,000 valuations on an annual basis in accordance with the current requirements of the Valuation of Land Act 1971, I advise that the government supports two of the six amendments.

The Valuation of Land Act 1971 has been in operation for 37 years, with the fundamental intention of providing a sound valuation basis for state and local government to determine fair and equitable rates and taxes. It has served South Australia well: we have a fair, independent and transparent valuation process, with sound systems and practices that are tried and tested and supported by court precedents. However, the State Valuation Office currently monitors, analyses and reports on valuations in an environment that is substantially different from the early 1970s when the legislation was enacted.

With this in mind, the Valuer-General has presented the government with an ongoing reform agenda comprising three elements involving a legislative system and business practice and process innovation. The Valuer-General does not seek to change the intent of the act but rather to deliver further efficiency, transparency and clarity in an environment where valuations are being challenged by an increasingly savvy community that also wants increased access to information concerning their property. This reform agenda also recognises contemporary issues that need to be addressed.

The Valuer-General delivers site and capital valuations in accordance with the act and is guided by the international standards of accuracy and uniformity. Importantly, he recognises that accuracy and relativity (also referred to as uniformity of valuation) needs to be addressed in a considered manner by the staff of the State Valuation Office on an ongoing basis. The pursuit of relativity, or the need for all similar properties to be valued at the same amount, is arguably the prime motivator in Mr Darley's agenda, and it is his view that fairness and equity need to be addressed. This is also a view we agree with, but it is the proposed approach to the matter that we cannot support for reasons I will discuss later, especially as there are viable alternatives to Mr Darley's key preferred recommendations, outlined within the Valuer-General's legislative review position paper, which aims to deliver more streamlined and cost-efficient solutions in a more simplified manner.

As I have said, the government supports two of Mr Darley's six recommendations, the first of which relates to year operative for notional values. We support this; however, it does raise possible implications for rating authorities. Section 22A(2a) was designed to help rating authorities manage their budgets and currently requires a notional value determined after a request of the property owner to be applied in the following financial year. As such, rating authorities, particularly local government, would not have their current budgets impacted by refunds associated with reduced values with a volume unable to be forecast.

Mr Darley's recommendation to delete section 22A(2a) creates the opportunity for the notional value to come into effect for the same year in which it was applied for. As notional values are concessional values, determined at levels below a property's true market worth, this would require revenue to be returned or credited to the property owner with no opportunity for the rating authority to manage the resultant financial consequences.

That said, notional values taking effect for the current or following year have no impact on the Valuer-General's practices or procedures, nor should it lead to an increase in notional value applications; thus, there are no resourcing implications. The benefits of this recommendation are logical and should be actioned immediately, subject to consultation with rating authorities. The government appreciates that this matter was raised.

The second recommendation, relating to the valuation of heritage land, is supported, although it will result in a redistribution of property rating and tax revenues. Currently, a heritage listing is not part of the criteria for which a property can receive the benefit of a notional value. Section 22B, which addresses heritage land only, requires the Valuer-General to ignore any potential that is inconsistent with its preservation as a place of state or local heritage. This requires the Valuer-General to consider the restrictions placed on the improvements, and to have regard to these restrictions in determining the site value that would otherwise assume the improvements had never been made.

Implementing Mr Darley's recommendation could affect around 22,000 properties. This change enables a heritage-listed property, be it owner occupied or not, the same type of concessional value as a residential notional, providing it has existing or potential for subdivision and regardless of the purpose for which the land is used.

In contrast, a residential notional value under section 22A cannot be granted if the property is not owner occupied or the property is being used for a commercial or industrial purpose. The purpose of a residential notional value is to prevent an owner occupier from being rated off the land as a consequence of its worth increasing beyond that of a single residential house block, due to an alternative commercial or industrial use or potential for subdivision.

Mr Darley suggests an amendment that would grant something more to a heritage-listed property than that which is currently provided for under the notional value provisions in section 22A. This again leads to a redistributive impact for rates and taxes should these properties reduce in value.

There are resourcing issues for the Valuer-General associated with this amendment, particularly in relation to the timing of its introduction. In its first year the Valuer-General would require sufficient time to undertake the valuation task required prior to the values coming into force. As such, the government supports in principle the recommendation relating to the valuation of heritage properties, subject to consultation with rating authorities and consideration of the time lines of its introduction.

However, the government is not in support of Darley's amendment to relativity. In delivering a general valuation for rating and taxing purposes, the Valuer-General is faced with the same challenges as every other jurisdiction, both in Australia and overseas, in providing a valuation base for rating and taxing purposes that is both accurate and uniform and, therefore, relative.

To achieve this annual valuation task of more than 845,000 assessments with the resources available, the Valuer-General utilises mass appraisal techniques in accordance with widely adopted international best practice. In reality, mass appraisal is the simultaneous valuation of multiple properties and does not entail individual property inspections of all properties as part of the process. The objective of mass appraisal, in accordance with international best practice, is that an acceptable percentage of properties are within an acceptable range of the correct value, ensuring that acceptable levels of valuation, accuracy and uniformity (relativity) are provided.

The Valuation of Land Act 1971, through the provision of an objection process, accommodates the fact that valuations are subjective professional opinions and that it is not feasible for the Valuer-General to be in a position to have all the facts and resources to deliver a general valuation where all the valuations are accurate. Therefore, property owners who feel their valuations are not accurate are given the opportunity of bringing their concerns to the attention of the Valuer-General for his consideration.

Recent crown law opinion outlined significant case law that supports the longstanding practice that the Valuer-General's principal objective, in accordance with the Valuation of Land Act 1971 and its definitions, is accuracy, meaning that valuations must be determined or justified with reference to market evidence or sales and not other valuations, which are simply an opinion of value. Therefore, if a valuation is considered fair and reasonable with reference to market evidence, it will not be amended upon objection even if it is demonstrated that it might be too high when compared to other valuations that the Valuer-General has determined.

The current and longstanding practice in these instances is that those valuations that are identified to be low on a relativity basis will be addressed in the next general valuation. Mr Darley during his incumbency as valuer-general consistently applied these practices. A standard Notice of Disallowance of Objection letter, sent from Mr Darley and dated 29 August 1990, states:

The valuation has been determined having regard to property sales and is considered reasonable. The relativity questions you have raised will be investigated for the next general valuation, but, as previously stated, your valuation is considered reasonable.

The proposed changes seek to place relativity as an issue to be addressed ahead of accuracy. This can lead to the consequence where valuation is made less accurate so that it can be in line with a valuation that is undervalued. In essence, the Valuer-General need make only one under-valuation and this would be sufficient for other property owners in their locality or state to seek a reduction.

Time expired.

Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition) (10:47): It is my pleasure to speak on this bill on behalf of the opposition and to confirm that the opposition supports all six amendments introduced by the Hon. Mr Darley in the other place. Having previously worked for 27 years in local government has given me somewhat of a detailed understanding of how Valuer-General systems work and the concerns that they raise within the community when a valuation attached to a property is seen as being incorrect, or there is an inequality between the value of adjoining properties. We need to ensure that the opportunity does exist for the public at large to have access to the information they need to assess whether they want to appeal against a valuation, or to look at what their neighbour's valuation might be to see whether a relationship exists between them.

I think that the Hon. Mr Darley in bringing this bill before the parliament—and, as all members in this chamber would know, he served previously as a valuer-general and therefore has a far greater detailed knowledge than many of us could ever hope to achieve—has done so on the understanding of what changes need to occur. The relationship he has with the community and the number of concerns that are brought to him has emphasised the need for this change to occur across the six amendments.

While it was noted during the debate that occurred in the other place that the government intended to support only two of those amendments (and that has been confirmed by the member for Morialta in her contribution today), I hope there might be an opportunity to review that situation, because it seems to me that, in looking at the bill, the amendments seem quite sound.

Mr Darley has a great knowledge of this area. In my discussion with him on the bill, he provided me with some comments made by the Hon. Ian Hunter in the other place. One quote from the Hon. Mr Hunter is, 'Currently, a heritage listing is not a criteria to which a property can receive the benefit of a notional value.' A notional value implies that, instead of the full capital value or market value of that property being attached to it for rating valuation purposes, a notional value or a reduced value is given to the property which reflects its current use, and therefore a lesser degree of return can be expected from that.

In noting this comment from the Hon. Ian Hunter, the Hon. John Darley has informed me that that is not correct. Based on his knowledge of the bill and the legislation covering South Australians, the ability to reflect a notional value for a property that is heritage listed does occur. Therefore, we believe that the comment made by the honourable member in the other place is incorrect.

Mr Darley also mentioned another comment made by the Hon. Ian Hunter concerning multiple objections. That is a bit of a shame, because they do have to provide an opportunity for multiple objections. Again, he asserts that a comment made by the Hon. Ian Hunter was incorrect. Let us see whether there is an opportunity to review this, because some landholders in South Australia do have multiple properties and they need that option.

All members of parliament would be aware of the fact that, at the time of council rates, land tax bills or, indeed, SA Water accounts (which have a valuation attached to them) being sent out, concerns are expressed by thousands of South Australians about the value attached to their land by the Valuer-General. In the main, people are understanding and accepting of this. I know that the Valuer-General attempts, as much as is humanly possible—and given that there are hundreds of thousands of individual properties to which a valuation is attached, it is a very difficult role—to ensure that each valuation given to a property reflects what its market value would be via the capital value or, indeed, its site value for the unimproved value of the land, but many people are very concerned about this and they want to ensure the system is improved.

By introducing this bill—and the opposition in the upper house certainly gave it full support—the Hon. Mr Darley is doing so on the basis that South Australians need to be given the

opportunity to ensure that openness and accountability exist. One of the improvements highlighted within the bill is the opportunity for people to sit down with the valuers in an effort to understand the issues behind the value which has been attached to the property and, indeed, to see whether there is an opportunity or scope for a review to take place.

I think that is a good move, because openness and accountability and the ability to discuss how to improve everything within our lives is a good thing, and valuations are no different. In a commercial sense, the valuations attached to these properties make an enormous difference to the rates and taxes paid for these properties and, indeed, to the equity attached to the people's land holdings and their businesses, because land and buildings form a significant part of that equity.

This bill gives us an opportunity for us to improve it. I am confident that other members of the opposition will speak on this bill. Yes; I am getting some nods of agreement behind me. I am also confident that the opposition will be supporting all six clauses when the debate occurs at the committee stage of this bill.

I know that the Hon. Mr Darley has introduced this bill on the basis of his discussions with hundreds of people from around South Australia. Certainly, the opposition is supporting this bill, given the fact that we are contacted by many people on a daily basis concerned about valuations attached to their properties, especially in relation to land tax valuations—and it will soon be the season for council valuations—and they would expect us to support this bill. I confirm that the opposition will support the bill in its entirety.

Mr WILLIAMS (MacKillop) (10:53): I am sure that, after giving its opinion on this bill, the government now wants to adjourn it. I inform the government that some of us think this should be debated and voted on, because I am sure the government will not put any other opinions. The reality is that the valuation of land is a very important function of state government, and the impact of land valuation is greatly felt across the community.

We know that one of the failings of this government is to do with land tax. This government is hooked on the increasing revenues that it is receiving from land tax, so I can understand why the government would not want the citizens across the community to have greater access to information about the valuation of their properties, and I will give a few examples if time allows me.

Land tax in this state is a burning issue in the community, yet this government would deny the community access to information on how their properties are valued. I think that is an absolute shame. Denying people this information goes to the heart of democracy. The Hon. John Darley in the other place, I think, has brought to the parliament a very fine piece of legislation. It is based on sound principles and it would enhance the valuation system.

The valuation system is one whereby the Valuer-General goes out and makes a valuation, and that valuation has always been subject to appeal by the land-holder. That is the only check/balance in the system, and it is the contestability of the valuation between the land-holder and the Valuer-General which allows us to come to a landing on what is a fair and equitable valuation. If we make that contest an uneven, one-sided affair we will never get to the point where we have a fair and equitable valuation across the whole community, and I believe that is the situation in which we now find ourselves.

With respect to my own farm, some years ago I received a valuation on two parcels of land which were next door to each other but quite dissimilar, and they were given the same valuation per acre. They were relatively small parcels of land, of the order of 100 acres. They were quite dissimilar because one had about 20 acres of scrub on it, which I was unable to do anything with, it was totally non-productive, and it also had a 60 acre swamp on it, which became inundated with about a metre of water every winter. So, in reality, of that about 100 acres less than 30 acres was productive for the whole year. The block next door was very highly productive and had a good soil type. It got wet in the winter, but it was a highly productive piece of land. Those two parcels of land were valued identically.

When I went to the valuation department in Mount Gambier and spoke to people there and told them why I thought the value of the one parcel of land should be reduced, to my dismay, the response was, 'If we accept that the two pieces of land should be valued completely differently, because you are making the argument that one is much more productive than the other, what we will do is increase the value on the more productive piece and leave the valuation on the less productive piece where it was.' That was the response that I received from the Valuer-General's department. I left knowing that I had no chance of getting fairness and equity in that situation.

That is why I say that the valuation on those two parcels of land is wrong. The Valuer-General knows it is wrong, because I have explained to him why it is wrong, as I have just explained to the house, but there was no interest in sorting it out; there was no interest in the Valuer-General's department to get it right. I was told, 'Look, we are all powerful. You are just a little citizen with no powers. Go home and forget about it.' That is what was going to happen, and that is what happens in every street in every town and community in this state: the citizenry are powerless when it comes to arguing their case. This piece of legislation before us will address that and will enhance the valuation system.

Another example that has come to my attention in the last couple of weeks is a valuation that has been put on parcels of land in national parks that have shacks on them. The government is of the mind that these shacks should disappear, that they should go. There are some at Milang, which are used on Tourism SA brochures to highlight some iconic sites in South Australia, but the government wants to get rid of them. There are a number of them around the Coorong in my electorate and there are a number on the Glenelg River in the electorate of Mount Gambier.

I have debated the issues with regard to these shack sites at length in this place to try to get the government to come to its senses and allow them to be freeholded, as a lot of other shack sites across the state have been, to give better tenure. However, the reality is that these shack sites have limited tenure. The tenure is tied to the lessee and, on the death of the lessee, the estate is obliged to remove the shacks and it reverts to vacant crown land.

The lease they have with the Department for Environment and Heritage prevents any subleasing, so the shack sites cannot be sublet, they cannot be rented out on a daily or weekly basis, and they cannot be used as a permanent residence. Yet, the lessees of these shack sites in the last few weeks (at the end of June) received a letter increasing their annual rental fee to the Department for Environment and Heritage by over 300 per cent, and the letter stated that the rent has gone up because of the new valuation (because the leases allow for a new valuation every three years). The lessees are told they can appeal the rent but, if they do, they have to give some evidence, but they are not given access to any of the information about how the valuation was reached. They have received a letter saying that the valuation is based on other similar sites across the state.

Mr Speaker, how can you put a monetary value on something which, by definition, cannot be traded? How can you put a market value on something for which there is no market? Yet this government makes claims to these people—and, unfortunately, there are only a few hundred of them across the state so they have a small political voice—that a market value can be established for something for which, by definition, there is no market. That is one of the problems we find with the current valuation system. Further, the government, to this point at least (and I am working on this currently), is refusing to give these citizens access to any information as to how they establish the value on these pieces of land. This bill goes towards trying to correct those sorts of anomalies.

I argue that the valuation system should be robust, it should be something that we can all trust, and it should be something which shines with fairness and equity, but it does not. Unfortunately, in South Australia, under this current Labor government, an increase in valuations is being used to prop up a Treasurer who lost control of his budget the day he came into office, and therein lies a significant problem.

We have seen in recent days that the government has been at pains to ensure that those out on our roads collecting fines did not waiver from their duty for more than a few hours because the government is hell-bent on raising every dollar it can. We find the same thing with valuations. The government does not want the people of South Australia to have the ability to appeal their valuation because the government is so desperate for every dollar it can get, and that is a direct result of mismanagement.

We have a government that is turning its back on good, sensible reform to our valuation system because it cannot afford to give up one dollar in revenue, and that is a shame. I support the bill in its entirety.

Debate adjourned on motion of Mrs Geraghty.

COMMONWEALTH POWERS (DE FACTO RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 14 May 2009. Page 2774.)

Mr VENNING (Schubert) (11:04): We support this private member's bill, which is important because the federal parliament last year introduced the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill, making landmark changes. It is not a matter that is in my natural area of interest, but it is important when we see these changes to the Family Law Act which allow financial causes, arising out of the breakdown of de facto relationships, to be dealt with in the Family Court and the Federal Magistrates Court.

Until now, only parenting issues for separating de factos were heard in the Family Court, with financial matters regarding property settlement heard in the state courts. However, for the system to work, it is necessary for each state to refer its power to the commonwealth. Existing constitutional powers over the territories enable the commonwealth to legislate over the ACT and the Northern Territory.

To date, all states and territories except South Australia have passed legislation to enable the Family Court and the Federal Magistrates Court to take jurisdiction as of 1 February 2009, so we are already months behind. According to practitioners in family law, South Australia is a laughing stock, which I think is regrettable, and we should all take some responsibility for that. It all appears to be based simply on the personal whim of the Attorney-General who, for reasons best known to him, is singularly disinterested in bringing us into line with other states.

I do not know what his position is and why that would be the case. I would be interested to hear from the government why that is the case and whether there is any reason for it, but I am not aware of the reason. I know that our new leader introduced a private member's bill to refer South Australia's de facto relationships powers to the commonwealth in the House of Assembly on 14 May 2009 to try to get the Attorney-General to move on it. Again, we still have not seen any action.

I hope that something will be said by the government on this issue—if not now, then very shortly—because it is rather embarrassing. I cannot see for the life of me why this is because it is a very simple matter. We are supporting it because we cannot see any reason why not. Nobody has put anything to us, and I cannot see any personal, religious or any other reason why this has not been addressed. It should be just a matter of quickly agreeing to it and getting on with other business. The Liberal Party supports this bill.

Debate adjourned on motion of Mrs Geraghty.

SUMMARY OFFENCES (PIERCING AND SCARIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 March 2009. Page 1868.)

Mr GOLDSWORTHY (Kavel) (11:08): I sought leave to continue my remarks on 5 March, and my comments this morning are a continuation of that contribution. I was talking about the report of the Select Committee on the Tattooing and Body Piercing Industries, tabled in the parliament. I want to speak to the house about the report, which was comprehensive; it comprised 50-odd pages and made 15 recommendations. I want to quote a couple of paragraphs relevant to this bill regarding body piercing. Under the heading of Body Piercing, the report states:

> The problem of regulating body piercing is more complex than regulating tattooing because of the enormous range of piercing available and the lack of skills and qualifications held by those operators performing these procedures.
>
> The only relatively simple aspect of this subject is traditional ear piercing. This is so entrenched in sections of our society, and with some small risk of complication, that it should continue to be permitted to be performed on any minor with parental consent, provided that the equipment, the person performing the procedure and technique are approved by the licensing authorities.

It seems clear that the comments about regulation and licensing, in the context of tattooing, should have similar application to body piercing establishments. Under the heading 'Summary of Evidence as it relates to the Terms of Reference' it reads:

> (c) the effectiveness of enforcement under the Summary Offences Act 1953 and other legislation;
> Currently there is no provision under the Summary Offences Act 1953 for prohibiting body piercing in minors. Given the lack of powers accorded to the police to investigate suspected incidents of underage tattooing, and the inability of the fine to function as an adequate deterrent, it is clear that penalties and the police powers should be reviewed.

I think that is important information in the context of debating this legislation, in terms of the fact that it has been difficult to monitor and police these activities. However, as I said, the report tabled

by the select committee contained 15 recommendations and very interesting information. The opposition supports the bill.

Debate adjourned on motion of Mrs Geraghty.

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT BILL

Adjourned debate on second reading.

(Continued from 5 March 2009. Page 1860.)

Mr VENNING (Schubert) (11:12): South Australia is currently the only state in Australia which does not have legislation in place mandating good payment practices in the construction industry. I think we are all aware of this issue in our own personal lives, and this bill seeks to address this simply by implementing such legislation.

Security of payment is a term used mainly by subcontractors to describe the need to secure long-term guaranteed arrangements for payment for work performed or material supplied. The construction industry operates under a hierarchical chain of contracts system, which means that if one element in the chain collapses or fails to pay a debt it can create an enormous financial strain on other parties in the chain. In other words it is like a domino effect: one part of the chain needs to be paid so that, in turn, they can pay their bills.

We are all very much aware of companies who get into financial difficulties because of other contractors down the line; in fact, if one goes broke it often takes two or three others with them. This bill will provide the construction industry with a procedure for claims for progress payments by people carrying out construction work, for the provision of a payment schedule by a person owing money, indicating the amount they will pay, and referral of disputed claims to an adjudicator for determination on payments to be made.

It is my understanding that, following consultation with stakeholders, there is general support for this legislation and, as such, the opposition supports the bill. I believe the Hon. Iain Evans would certainly agree, being a member of this place and owning a building company. It is well worth supporting; I know that the opposition supports it and I hope the government will also, because I cannot see any reason at all—

Mrs Geraghty: The bill comes from this side.

Mr VENNING: It is your bill; Tom is waiting for amendments. The opposition supports this; I cannot understand why it was delayed.

Mrs Geraghty interjecting:

Mr VENNING: Can we not do those amendments between now and the other place? I cannot understand why you introduce a bill, we are well through it and now you—

Mrs Geraghty: Don't go down that path.

Mr VENNING: You want to bring in your own bill—that is all right: I am not getting excited. I am just wondering why we cannot speed this through the process as we are agreeing with it and people out there right now are certainly being affected by this. The quicker we can do this the better; we support the bill.

Mrs GERAGHTY (Torrens) (11:15): I will adjourn it, as we are waiting for amendments which will improve the bill.

Debate adjourned on motion of Mrs Geraghty.

POLICE (PROHIBITION ON PERFORMANCE TARGETS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 March 2009. Page 2103.)

Mr VENNING (Schubert) (11:16): This bill was introduced by my colleague, the venerable, long-term member, the Hon. Graham Gunn, enjoying his last six weeks in this place after 39 years. This is one of the things about which he is passionate. People question why this person can hold a marginal seat all these years and be successful. It is because he takes on issues like this to protect his constituents, and they very much respect the advocacy he has given them over all those years for that reason.

This bill brought in by the member for Stuart will inhibit police from directing police officers to stop a certain number of cars per day or month, or from requiring an officer to issue a certain number of fines. The member for Stuart brought this bill before the house after receiving continuous complaints from his constituents regarding the over zealous and unreasonable issuing of expiation notices by police. As I have said ad nauseam, the reason the member for Stuart has been here for so long is that he represents his constituents well. He listens to the people of his electorate and represents them well in this place.

I support this bill, as does the opposition, I think. I am uncomfortable—

Members interjecting:

Mr VENNING: I am sure they do. I always proudly support the Hon. Graham Gunn, but with issues like the open road speed limit of 130 kilometres I supported him, but my party did not, so we allowed a conscience vote on it. The Hon. Graham Gunn puts it out there and provides the perimeters within which we can legislate. I support this bill, and I am uncomfortable with the fact that the police apparently have targets or directives to stop a certain number of vehicles or issue a certain number of fines within a certain time frame.

I am very impressed with police officers, because they are real people, and I have many friends who are police officers and they tell me that this is the case. They are being told to get out there and go to the spots where they can meet their targets. It is true: they do not like it either. It is a directive from above. In today's paper we note that they will not now put up the signs. You will drive through the speed traps and will not know—

Mrs Geraghty: That is because speeding motorists attack them. That's outrageous!

Mr VENNING: It is outrageous. The member for Torrens says it is outrageous, and it is. These people should not be attacked, as they are doing their job after all. The removal of those signs is a big shift in legislation. I do not believe they can do that without bringing it to this house, as it was in the legislation. I question the police commissioner's ability to give a directive to remove the signs, and I would like the Attorney-General to look at this, as I believe it is a breach of the act to do that, and many people will be upset. If I get pinged, at least I will know I have done it, because I have driven past a sign. As the house knows, I am well practised at this and, if I am going to get pinged, I have to know that I have done it. On some days on the notorious Gomersal Road there are often two speed traps a few kilometres apart. So, if you are not careful, you could do your licence in one day, by not being aware.

Mrs Geraghty: You shouldn't be speeding.

Mr VENNING: The member for Torrens is dead right, but you have to be aware of what you should be doing, and sometimes you are not. Otherwise, you have to drive at 50km/h everywhere. Irrespective of that, I am very concerned about the removal of these signs. The police should be out in the community protecting people, not stopping citizens (who are just going about their daily business) because they are trying to meet their quota of fines or cars stopped. In this instance, the police are tax collectors.

We know that, often, it is not the police doing this, we have special traffic officers who now operate these devices, but in a lot of country areas it is police officers driving patrol cars and motorcycles. After the Yunta incident, we are now pushing to have police officers operate in pairs. This will put a tremendous drain on resources. This is one area in which they could say, 'Well, hang on, we need to cut back here and put more police officers where they really need to be.'

I am aware of a 22 year old man who was driving home from TAFE late one afternoon and was randomly pulled over by a police officer. He had never been in trouble with the police before and had never received a speeding fine. The police officer said that he had not broken any of the road rules and proceeded to go over his car very thoroughly, a car that his father had spent many hours restoring. It was not an enhanced performance motor vehicle but a nice looking stock standard VB Commodore in fairly original condition. I think it had mag wheels and a CD player, but that was about it.

Upon returning home to his mum and dad, the young man was quite distressed. He said that the officer had spent quite a bit of time looking over the vehicle. He said that, in his opinion, it was obvious that the officer was trying to find something wrong with the car. In the end, the young man received a caution for having a dirty windscreen, and that was obviously all the officer could find wrong.

These incidents happen, and this is just one instance. I do not think we should have a full inquiry about it, but I think people need to know that our constituents are going to tell us about these problems, and I will raise them as the Hon. Graham Gunn has always done. I believe that these are the sorts of circumstances that the member for Stuart is trying to prevent by bringing this bill before the house.

I believe that motorists are aware that, at any time, they may be stopped for random alcohol and drug testing. I have no problem with that. People know my history on this: I have pushed it every day in this place and, at last, people understand what a serious problem drug taking is.

Mr Goldsworthy: They wouldn't support it initially.

Mr VENNING: They would not support it. It was nearly two years after I first introduced it that the government was dragged, kicking and screaming, to introduce its own bill, which was the same as the one that I put forward some 12 or 18 months earlier. I do not have a problem with any of this but, when it is clear that an officer has pulled over a motorist and tried to find anything to officially caution the driver, I think things have gone a bit too far. The police are there to protect our community, not to be over-zealous tax collectors because they are trying to meet performance targets.

As I said, I was very concerned to read today's paper. I have no problem at all with those speed detection cameras being there, but I do have a problem with the inconsistency of speed limits. We know that the default speed limit is 50 within Adelaide; some of the main roads are 70, some are 60 and some are 50. It is very inconsistent and people are not sure, particularly when the speed limit is changed.

The biggest fine I have received was when driving behind Angaston. I was in a hurry to get to a funeral and went over the top of the hill onto the back road, which used to be 80. I assumed it was 80; there was no speed sign. I came out of a side street and got picked up for doing 80 in a 60 zone.

Mr Pengilly: Did you pay the fine?

Mr VENNING: Yes, I paid the fine, and the rest of it that went with it. It was the road between Angaston and Moculta, a road that I do not often go on. It was always 80, but it has been changed. I did not see the sign, because the sign was back in the town, which I did not go past. This is how you can get caught. I got caught, and I was happy to pay the fine, and I did the time as well, as it turned out. I am happy to say that next week cameras will be there. All I can say here is that I do not believe that any police officers should be told, 'Get out there and don't come back until you've pinged so many people.' That is harvesting the motorists, and it is not fair. I support the Hon. Graham Gunn—again!

Mrs GERAGHTY (Torrens) (11:25): That was a very interesting and enlightening contribution from the member for Schubert. The government will not be supporting this bill for reasons that I will outline. Relative to its population, South Australia has a high fatality rate in comparison to other states and territories. In line with a national commitment to reduce the number of annual road fatalities by 40 per cent by 2010, the South Australian government has committed to curbing the high fatality rate.

Serious casualty crashes are also unacceptably high, and South Australia's Road Safety Reform Strategy has set a goal of reducing serious injuries to less than 995 per year by 2010. The expectation of achieving these reductions does not rest solely with the South Australian police. South Australia's Strategic Plan and the South Australian Road Safety Strategy identified the need for a multidisciplinary approach by both government and non-government agencies by supporting new technologies and safer road conditions.

As a community we should not accept that road trauma is inevitable. Adopting a lower tolerance requires an increased level of ownership of road safety by the broader community, as well as support for higher standards of driver behaviour. Major contributors to road trauma, such as drink driving and speed, are unacceptable, so too is driver behaviour, which in the past has been tolerated as being 'inattentive'. I think that is a really silly term, a silly excuse.

South Australia Police has made a major commitment to achieving this challenge by actively applying education, deterrence, enforcement and policing techniques in recognition that road death and injuries are preventable. Police, as one of the agencies responsible for road safety, should take, and have taken, a lead role in working with the community to raise the standard of

acceptable road user behaviour, to be clear about those standards and to educate and intervene to reinforce those standards.

In the past, road safety may have been seen as the enforcement of traffic laws by specialist traffic police. This traditional approach has undergone a fundamental shift in recent years. Every police officer across all ranks and all functions now has the responsibility and is expected to actively contribute to achieving a reduction in deaths and injuries.

SAPOL has developed the SAPOL Road Safety Strategy 2006-10 to underpin the problem-solving approach taken by police in relation to lower tolerance and increased detection of any traffic offence in any location across South Australia, including the areas where the member for Schubert travels. It recognises that police across all functions, including patrols, investigators and members of the many specialist SAPOL units, interact with the community through their daily duties and can contribute to improving and modifying driver behaviour by intervening not only in serious offending but at all levels of poor, careless and inattentive road user behaviour. This action by police is integral to reducing the number of deaths and injuries that occur on roads in partnership with road users and the wider community.

All offending behaviour, including that which may be considered by some to be minor or trifling, can cause harm. Road safety is a core police function, and police have a strong focus on interaction with the community in relation to lower levels of offending to reduce the likelihood of any offending becoming more serious.

Setting benchmarks for increased detection of road safety offending has been in place since July 2007. The benchmark process measures a range of actions, such as breath testing, expiation notices, cautions and defect notices, which are able to be taken by individual police officers who observe inappropriate road user behaviour. It is one of many business activities monitored across all sections of SAPOL. Individual officers have always had the ability to apply discretion, where they consider it appropriate to do so, by formally cautioning road users. The benchmarking process has not removed that discretionary capacity.

In conclusion, the government supports strategies aimed at saving lives and reducing serious injuries on our roads. The simple fact is that we do not have to speed.

Debate adjourned on motion of Mr Williams.

NATIONAL HEALTH REGULATION SCHEME

Ms CHAPMAN (Bragg) (11:31): I move:

That this house—

(a) notes that the federal government is planning a national health regulation scheme for 10 different and varied health professions—chiropractors, dentists, medical practitioners, nurses and midwives, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists;

(b) notes that the proposed scheme has raised many concerns in all of these health professional areas and in health consumer forums, and will provide a bureaucratic and expansive regime, the cost of which will inevitably be passed on to South Australians visiting these professionals;

(c) notes that while the proposed scheme purports to 'provide greater safeguards to the public', many key stakeholders, such as the Australian Medical Association, the Australian Society of Anaesthetists and the Australian Association of Surgeons, believe that patient safety and standards will actually be compromised if the states press ahead with uniform legislation;

(d) requests the Minister for Health to make a statement detailing South Australia's position on a national health regulation scheme as a matter of urgency, including what consultation has occurred with local representatives of the 10 professions involved, and with consumer and other interest groups; and

(e) declares that this house will never agree to any national scheme which has the effect of centralising more power in Canberra and which undermines the current operation of South Australia's registration bodies comprising local profession representatives and input from members of the South Australian community.

It is with pleasure that I move this motion today. It is quite long, and it is detailed for the benefit of members. Essentially, it is to raise significant questions about the federal government's plan to introduce a national health regulation scheme to cover regulatory arrangements, largely in respect of registration and accreditation, for health professionals: chiropractors, dentists, medical practitioners, nurses, midwives, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists.

It raises concerns about the health professional areas and their stakeholder representatives as to the question of whether the proposed scheme claiming to provide greater safeguards to the public will, in fact, compromise patient safety and the standards that are applied. That is the major concern that underpins this.

It is fair to say that in this motion we are calling for the Minister for Health here in South Australia to make a statement detailing what the South Australian government's position is on this matter and what consultation has occurred and to declare to this house that we, as members of the opposition, will never agree to a national scheme which has the effect of centralising more power in Canberra without any direct benefit for South Australians, and which, indeed, has potentially negative impacts, without proper consultation and recognition—not just asking and calling for the submissions of stakeholders but actually to listen to what they have to say and the concerns they raise.

The history of this matter is that it started with the Council of Australian Governments (COAG), when the federal, state and territory governments get together and make decisions about what would be in the interests of all Australians. One would like to think that a number of the COAG agreements that come from these meetings take into account the diversity across the country and introduce new policy or legislation that is for the benefit of all Australians.

On the face of it, that is meritorious but, back in March 2008, the COAG signed an intergovernmental agreement to establish a single national registration and accreditation scheme; to get this going, they introduced legislation in the Queensland parliament. The Queensland health minister introduced the Health Practitioner Regulation (Administrative Arrangements) National Law Bill in 2008, following on from that agreement. It was strongly opposed by the opposition in Queensland.

The Hon. Mark McArdle MP, the member for Caloundra, spoke passionately on the bill and rightly pointed out the extraordinary alarm that was being voiced across his jurisdiction in Queensland and, indeed, national bodies about this legislation. So, before proceeding on to implement this legislation in other states, and at a national level, the COAG reconvened, thankfully, and started to review this matter.

I must say that I find it rather churlish of COAG to attempt to introduce legislation to start this type of action in Queensland, in the full knowledge that it does not have a Legislative Council. There is no house of review in Queensland so, of course, this legislation will be shoved through—all the more reason, of course, why we must protect, recognise, have high regard for and fight for upper houses in this country. This is exactly the type of abuse that can occur—using the Queensland parliament as a means to shove something through.

There was such public outrage about this at professional levels that the government pulled that process through COAG, convened again this year and has now introduced for public consultation a health practitioner regulation national law. An exposure draft was published last week. The Australian Health Workforce Ministerial Council announced that the ministers were releasing the draft legislation for the scheme for health professionals.

It has some new aspects to it. I do not know—perhaps they were unintended; perhaps they were deliberate—but they have not had a lot of oxygen by way of announcement by any government, federal or state. However, again, there has been outrage in the community, and I will come to that in a moment. There appear to be, on the face of it, attempts to sneak through hidden agendas with this type of legislation; causing the very concerns which a number of my colleagues in opposition around the country have raised and which, at the national level, the stakeholders have raised.

One of the aspects of this bill is to have a national registration scheme. At present, each of these disciplines of health professionals has a board: we have a Medical Board, a Nurses Board, a Chiropractors Board, etc. These play an important role in identifying and ensuring that the people who purport to and seek to practice, apart from being registered (which is a legal requirement), have certain standards of academic training, experience and refresher qualifications when they have been absent on leave, etc. Those standards play an important role.

Part of this new scheme was to introduce a system whereby there would be a national registration scheme. Presumably, one could go into this, identify if Nurse X was registered in any state in Australia, and there would be access to that record. Universally, across the country, the relevant professional bodies said, 'No problem with that. We have the information technology and we have the capacity to be able to provide this sort of service. We do that at a national level in a

number of other professions and for other purposes. It is a good idea.' Everyone agrees with that: that is the easy bit.

But here is the hard bit: the hard bit is the concern raised repeatedly by medical associations and other disciplines, including colleges of the medical professions, nurses and chiropractors, etc., that the proposed scheme would be vulnerable to political interference. How is that so? The reason that they claim this would occur is that, unless you keep the standards of academic training and qualification independent of politicians, you run the risk of actually diminishing and devaluing the training requirements and quality standards for the purposes of undertaking a particular profession.

The danger is that if a department is motivated by the imposition of a requirement by a treasurer, for example, to cut costs or to have some efficiency savings (or other ways they gloss up getting rid of people these days), then the one thing to do is to reduce the cost of training professionals. One way of doing that is to reduce the number of years people might have to train or undertake a tertiary qualification or perform practical work. The danger is that you diminish the quality and standard of the professional involved. This is the core of the concern.

It appears that in more recent COAGs there was an acceptance that this was a concern of the professions, and they then looked to how they might address that and how they might remove potential political interference from that. They have introduced a scheme of panels that, from my reading of the draft bill, are still potentially under the influence of political interference by the appointment of people on these panels.

What happens? The health minister is under pressure; the Treasurer is saying, 'Cut costs; not got enough money.' One way, of course, is for them to say to their department, 'Okay; we're going to diminish the necessary standards. That will reduce the cost. We can provide a service to more people more cheaply but, the danger is, more dangerously.' Therefore, those concerns have been echoed again around the country, and they remain a major aspect of concern.

Why the federal Labor Party and the state administrations whose government benches are currently occupied by Labor members want to go down this line ought to be obvious to members of the parliament; that is, they want to provide a cheaper service and get the same service done cheaply. That will compromise the health standards, potentially, for patients. That is the dangerous outcome for patients.

Another aspect that I want to raise today is something that has become even clearer since I gave notice of moving this motion: what else is the government trying to push through? I noted in the draft when I was provided with this a couple weeks ago that the obligation of professionals has also increased. We actually already have laws that require that, if someone, for example, a doctor, is holding themselves out to be professionally qualified and registered and they have obligations in respect of their capacity to remain registered and therefore have the right to practice, they must also have professional indemnity insurance.

Medical specialists, of course, are in this category, as you would expect. Obstetricians, for example, have a very high insurance premium because of the extraordinarily large common-law payments that are made when children are born with some disability that has been found in the courts to have resulted in some way from the negligence of a practitioner. They are very high and, of course, if a baby is born with significant incapacity as a result of a finding such as this, it may need medical treatment and support for life, so these are multi-million-dollar payouts.

I raise this issue because it is not as though it is unique to have in this exposure draft the obligation of professional indemnity insurance as a prerequisite to being able to be registered under this new national scheme because, for many professions, it is already there. It is built into the cost of operating their practices; it is built into the cost of public administrators providing the services of medical and other health professionals in hospitals and health services operated by government. That, of course, is very significant, as we know, within the state budgets around the country that have the principal responsibility for employing such health professionals in many of the public hospitals that are networked across the state and, of course, in other jurisdictions in the country.

What it raises, though, as many members, I am sure, would now be aware, is the great concern of midwives across the state and across the country. It is proposed that there be a large rally against these regulations because of the imposition that this bill, if it becomes law, will place on midwives by requiring them to have professional indemnity insurance. What I say is this: it is of concern to me that if there is a backdoor way of excluding midwives from actually being able to

carry out their practice, particularly in home births, which is the service they provide, then we are going to exclude an area of choice for women.

Just this last week I read that some male midwife made some great statement about how women have to endure the pain of childbirth to bond with their children. I have never heard such utter rot. However, what is important is that women do have a choice about where they have their baby, how they have their baby and which professional people they have with them. That is a personal choice of women.

It seems to me that it is scandalous that, at this level, there will be a requirement for insurance, which will put these people out of business and unable to offer a professional service. I have said it many times but I place on the record again that I have children, and I elected to have them in a hospital. If I had any more (actually, if I had any more I would slash my wrists) I would make sure that it was in a hospital. That is my personal choice, and I think it is important for women to have that personal choice.

What is important here, though, is that women should not be denied the opportunity to have a home birth with a midwife in attendance if that is their choice. What is important here is the government is saying that it needs to provide protection when, for example, a midwife does not elect to work in a triage situation with other general practitioners or specialists in attendance in relation to difficult or multiple births. There are some who do that and, again, that may be a dangerous practice. However, home births can be safe provided midwives understand when they are getting into trouble and understand the importance of having links with a hospital, other specialists and general practitioners in order to be able to get help when it is required. That is the key. What is important is that the Australian Labor Party go back and make sure that it looks at the question of informing the client—

The DEPUTY SPEAKER: Order! The member's time has expired.

Ms CHAPMAN: Inform the client of insurance, not require it.

The DEPUTY SPEAKER: Order! The member's time has expired.

Ms SIMMONS (Morialta) (11:47): I rise to oppose this motion and to give a brief explanation to the house of the government's position. On 26 March 2008, which happened to be my daughter Katie's 25th birthday, the Council of Australian Governments signed an intergovernmental agreement to establish a national registration and accreditation scheme for health practitioners.

The development of a national registration and accreditation scheme arises from the Productivity Commission report into Australia's health workforce commissioned by the Council of Australian Governments in 2004 to develop a more sustainable and responsive health workforce while maintaining a commitment to high quality and safe health outcomes.

Currently, registration and accreditation of health practitioners is the responsibility of each individual state and territory government, with more than 80 registration boards in operation across Australia. Requirements for registration and the professions required to be registered to practise vary across jurisdictions. Introducing a national scheme for registration and accreditation of health practitioners will provide improved safeguards for the public by allowing data on health practitioners to be shared, including criminal history, practice restrictions or clinical history. This will help avoid unfortunate situations that have occurred in the past where a board in one state or territory has registered a practitioner unaware that he or she has been subject to investigation or sanctions in another jurisdiction.

Having recently been part of the Social Development Committee Inquiry into Bogus, Unregistered and Deregistered Health Practitioners, during which we heard diabolical and damning evidence, I realise just how important this situation can be. I remind the member for Bragg that the member for Hammond and the Hon. Stephen Wade in another place were equally horrified by the evidence that we heard in that committee.

This scheme will also provide benefits to health practitioners, who will need to be registered only once in order to practise in more than one Australian jurisdiction, which means that they can go across borders and see patients quite easily across those borders.

The national scheme will commence on 1 July 2010, and it will initially cover 10 health professions: medicine, nursing and midwifery, pharmacy, physiotherapy, psychology, optometry, osteopathology, chiropractic, podiatry and dental. Aboriginal and Torres Strait Islander clinical

health workers, Chinese medicine practitioners and medical radiation practitioners will join the scheme from 1 July 2012.

The implementation of the national scheme has been undertaken in three legislative stages. The first stage, the passage of the Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008 by the Queensland parliament in November 2008, as the member for Bragg indicated, established governance and legal structures to facilitate the development and implementation of the scheme.

The second stage of the draft bill, the Health Practitioner Regulation National Law, was released for consultation on 12 June this year. This bill covers the operational arrangements of the national scheme, such as the registration and accreditation arrangements, arrangements for the handling of complaints and dealing with performance, health and conduct matters, and arrangements for information sharing and privacy protection.

The third stage is the adoption of the national law by all jurisdictions in their respective parliaments. This third bill will also provide the opportunity for jurisdictions to preserve those arrangements from their current health practitioner legislation that are not covered by the national law, such as the licensing of pharmacy premises in South Australia.

The development of the national scheme has been the subject of extensive consultation with regulatory bodies, practitioners, professional associations, consumers and other key stakeholders, both nationally and locally in South Australia. On 29 June 2009, over 96 people from registration boards, professional associations, educational institutions and consumer bodies attended a stakeholder forum held in South Australia to discuss the draft bill. A number of people from South Australia also attended a national forum in Canberra a week earlier to discuss the draft legislation. The Department of Health has held information forums with registrars and members of registration boards to discuss each of the papers and the legislation released as part of the consultation process.

Officers from the department have also met with representatives from registration boards and professional associations prior to ministerial council meetings to seek their views on policy directions. The department also convenes a meeting each month with registration boards to advise them of the progress of the implementation of the national scheme and to discuss the transition issues. The department is also in the process of establishing a newsletter to distribute to registration boards, to advise board members of the recent developments in the implementation of the national scheme.

The Minister for Health (Hon. John Hill) has also met with a number of professional associations, including the Australian Medical Association and Australian Nursing Federation, to seek their views on various aspects of the national scheme. He also met with registration boards to discuss the national scheme.

It has been difficult trying to get agreement across nine different governments and 10 different professions. There is general support among stakeholders in jurisdictions for what the national law sets out to do, although some areas require clarity. I would like to emphasise that most of these areas involve how the legislation is drafted, not the policy direction that is proposed.

The proposed national scheme will continue to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered. Again, given the findings of the recent bipartisan inquiry, this government believes that this is really important.

The new scheme will also include provisions to prohibit practitioners who are deregistered from applying for registration for a specified time, from using a specified title or providing a specified health service. This gives effect to one of the recommendations from the Social Development Committee's report on bogus, unregistered and deregistered health practitioners, which calls for amendments to legislation to ensure that deregistered health practitioners are unable to re-establish themselves under a different title and/or continue to practise in unregulated areas of health care.

Under the national laws, South Australia will have at least one member on each of the profession-specific national boards. These national boards may establish a committee in each state and territory to handle registrations and complaints in a way that provides an effective and timely response to the health practitioners and consumers in that jurisdiction. These committees or state boards would ensure that there is a local presence.

Health ministers will continue to be responsible for the appointment of members of these committees, and the Minister for Health (Hon. John Hill) will propose that the current practice of appointing members from the relevant professions (as well as community members) to represent the public interest continues. The Council of Australian Governments committed $19.8 million to support the implementation of the national scheme.

The income raised from the registrant fees across Australia will pay for the scheme, as currently occurs with the registration boards in South Australia. The national boards for each profession will be responsible for the setting of the registrant fees. It is a legislative requirement that these fees are reasonable and give due regard to the efficient and effective operation of the national scheme.

The National Registration and Accreditation Scheme for the health professionals has been agreed to by all jurisdictions and has been subject to extensive consultation nationally and within each jurisdiction. The scheme will ensure that practitioners continue to provide services in South Australia at the highest standards of competence and conduct while providing for nationally consistent standards and qualifications in registration and removing barriers that inhibit registered practitioners from more easily establishing practices in South Australia.

I recommend that all members read the bogus, unregistered and deregistered health practitioner report that was handed down in this place. I ask that the house oppose this motion.

Ms CHAPMAN (Bragg) (11:56): I conclude by thanking the one speaker from the government who raised the question of the bogus practitioners' action arising out of a committee report to this parliament. It is something which the government indicated it would deal with a couple of years ago. It sent it to a committee. We welcome that report, and we will, of course, look at the legislation that ultimately emanates from it, which, I hope, the government will hurry up and deal with. It is an area that needs to be looked at and, subject to receiving this draft bill, I look forward to supporting something to ensure that that gap is closed.

Quite frankly, that has nothing to do with the national registration scheme, which is to take control of the registration and accreditation—and introduce a whole lot of other aspects—of the professional standards that are applied to 10 areas of health professional in this country. I am disappointed that the government has not seen the merit in ensuring that it take some responsibility. We know that 26,000 people are employed in the health department in this state, many of whom, of course, are health professionals and the large majority of whom are nurses.

We have an ever-increasing number of midwives coming through our universities with specific qualifications, and the government needs to take a good look at this and not simply accept at the national level what the federal minister is proposing. The Hon. Nicola Roxon has the conduct of this matter now; and it is about time that the health ministers around the country take a good look at this and understand what this is really all about. We need to secure this properly to ensure the future safety of patients in South Australia and that proper administration is able to be undertaken without overlap, without bureaucracy and without control from Canberra.

We need an assurance that we have a capacity in this state to continue to determine our own destiny in the provision of public health services and ensure that those professionals who are employed in our private sector are also up to scratch. This COAG agreement is very important. It will crush the capacity for South Australia to act independently. Already we have had the issue of midwives exposed, and I understand there are some issues in relation to standards that might apply to other services across the country, including the Royal Flying Doctor Service.

These are issues that must be looked at, not rubberstamped by state Labor health ministers just because the Hon. Nicola Roxon says so from Canberra. That is not acceptable, it is not responsible and it is completely negligent for any government—particularly a health minister—to go down that line.

I indicate that, whilst I am concerned that a government representative has spoken against this, I will still be putting the motion and ask that the house consider its passing favourably and understand the consequences that will occur to this state and the health of over 1.5 million South Australians if this is not attended to. I commend the motion to the house.

The house divided on the motion:

AYES (10)

Chapman, V.A. (teller)	Evans, I.F.	Goldsworthy, M.R.

AYES (10)

McFetridge, D.	Pederick, A.S.	Penfold, E.M.
Pengilly, M.	Pisoni, D.G.	Venning, I.H.
Williams, M.R.		

NOES (25)

Atkinson, M.J.	Bedford, F.E.	Bignell, L.W.
Breuer, L.R.	Brock, G.G.	Caica, P.
Ciccarello, V.	Conlon, P.F.	Geraghty, R.K.
Hanna, K.	Hill, J.D.	Kenyon, T.R.
Key, S.W.	Koutsantonis, A.	Maywald, K.A.
O'Brien, M.F.	Piccolo, T.	Portolesi, G.
Rankine, J.M.	Rann, M.D.	Simmons, L.A. (teller)
Thompson, M.G.	Weatherill, J.W.	White, P.L.
Wright, M.J.		

PAIRS (8)

Redmond, I.M.	Lomax-Smith, J.D.
Griffiths, S.P.	Stevens, L.
Hamilton-Smith, M.L.J.	Foley, K.O.
Gunn, G.M.	Fox, C.C.

Majority of 15 for the noes.

Motion thus negatived.

VICTORIAN BUSHFIRES

Dr McFETRIDGE (Morphett) (12:05): I move:

That this house recognises and thanks South Australians for their outstanding effort in assisting the victims of the Victorian bushfires.

Members will remember the condolence motion that was passed in this house shortly after the Victorian bushfires and the passionate speeches that were made on both sides of the house. However, the effort from South Australia involved more than just kind thoughts and empathy from members of parliament and many members of the community. A lot of on the ground work was done and a lot of material was sent to Victoria, and I would like to talk about some of the areas in which I was involved and able to assist, along with many members of the South Australian community, as an example of what South Australians can do and frequently do to assist people who have been affected by natural disasters, whether they are large or small.

The terrible fires in Victoria on 7 February made worldwide news. I read this morning that $350 million was raised by the Red Cross through donations, $250 million of which has already been distributed to victims of the bushfires. A lot of that money came from South Australians.

I was in the Riverland for a Liberal Party seminar just after the bushfires and I was contacted by a chap I have known for quite a long time through my veterinary practice, Mr Paul Scragg, of Meadows. Paul is a farrier, and he said to me, 'Duncan, we can help the Victorians. It's not only money and people that are needed and it's not only people who are affected; a lot of animals are affected. The Victorian Farmers Federation is assisting the larger farmers but there are many smaller farmers who need to be assisted—hobby farmers and particularly horse owners.'

So, Paul Scragg, along with Mr Adrian Mathews of Meadows, spoke to Mr Dean Lewis of the Victorian Farriers Association. They were able to use the database of the Victorian Farriers Association and contact many of the clients of the various farriers in the Victorian bushfire affected areas and find out what the situation was, and they discovered that it was a dire situation. Obviously, the fires had destroyed not only all the pastures but also many stocks of feed, fence lines, stables and equipment; it was completely gone. Through the network of the South Australian

Master Farriers Association, facilitated by Paul Scragg and Adrian Mathews, we got the word out here in South Australia, and the response was overwhelming.

In the end, through Mr Scragg's group, we sent 24 truckloads of hay concentrate and dog food, and we even had a big parcel of hair care products given to us to take over and give to some of those hobby farmers and people who had been affected. Everything from three tonne trucks to horse floats to large semi-trailers was offered, without any need for payment or any obligation. We were able to facilitate some payment for fuel. It took a little bit of organising (and I will speak about that in a moment), but the overwhelming response was amazing.

Just a few weeks ago, my wife and I and a friend of ours helped to load a B-double from Milawa Transport to go across to the Alpine Shire with more hay because, obviously, it takes a while for pasture to grow back and for feed to be grown. So, there is still a desperate need. Milawa Transport had a B-double (because of the B-double regulations we had to split it to go down to Meadows; but that is another thing), and we have sent over another 400 square bales and 15 large round bales just in the last few weeks. And the need goes on, with the snow and cold weather over there. Hay and other feed is still required.

We had donations from Mildura to Lobethal, from Port Lincoln to Currency Creek, and from Mylor to Maitland. In total, we sent about 5,000 small square bales of hay, about 200 large round bales, 500 bags of chaff, bags of pellets and concentrate, and large bundles of horse gear—rugs, halters, buckets, feed buckets and brushes. It was uplifting to see what was being offered and what was being given without any thanks required. It made you very proud to be a South Australian.

I would like to quickly thank the former minister for agriculture (Rory McEwen), who was able to facilitate some contacts within the Victorian department of agriculture through Premier Brumby's office, and that was followed up by minister Paul Caica and his chief of staff, Paul Ryan. Thanks to minister Caica and Paul Ryan, we were able to ensure that people who spent a lot of money on fuel (and some spent thousands of dollars on fuel) were given some money to cover their expenses. It took a little bit longer than expected but, thanks to Paul and minister Caica, that has been fixed now.

The South Australian Farmers Federation was able to give us some advice but, unfortunately (and this is something that we need to take note of), there was not a lot of on-the-spot organisation. There were not a lot of protocols in place for this sort of incident, so that is something we need to look at.

Mr Don Plowman of PIRSA was very helpful. To take hay across to Victoria, you need to have a plant health certificate. Because of his logistical background with the CFS, Mr Adrian Matthews was able to organise a chain of responsibility (a trace-back chain), so we were able to get a blanket plant health certificate to take this material across to Victoria, and that certainly facilitated the ease of loading trucks and getting hay that had been donated across the border to where it should be.

Brian O'Connor of Premier Brumby's office was of particular help when things were not going quite as smoothly as we had hoped, and he was very useful in facilitating the placement of feed over there outside of the farriers association. The chief vet in South Australia, Dr Rob Rahaley, is a mate of mine and I spoke to him about some of the issues; and I would like to mention the fact that he helped.

The huge volumes of hay that we received were gratefully received at the other end, and I have seen lots of photographs of horses eating hay in bushfire-ravaged areas. It is a good thing that South Australians have done, and it makes me very feel very proud to be South Australian.

I would like to read into *Hansard* a list of some of the people who donated hay. They are: Sheila and Val Caddell of Meadows, Kirstie Hannan of Meadows, Emily Foster of Hahndorf, Robin and Lexie Kinlough, Abbie and Carla Cerchi of Meadows, Alan Humphries, Mike and Lyn Prescott, Tracey Nicol of Echunga, Lisa Kirkland of Mount Barker, Wendy Harrison of Woodcroft, Shelley Barritt of Kersbrook, Kirsty and Wally Rehn of Kersbrook, Juliet Bleby of Nairne, Zecevich Stud at Mount Barker, Mike Connell and Jane Homburg of Echunga, Mignon Williams of Hahndorf, Katherine Hope of Bridgewater, Diane Kerr of Strathalbyn, Sarah Harris of Echunga, Trudy Fischer of Strathalbyn, Mel Carter, Geoff and Tessa Fairweather of Flaxley, Frankie Hocking of Belair, Matthew Ward of Tinlins Wines, Alison Linford of the Onkaparinga Valley, Birgit Davis of Stirling, Catherine Smith of Nairne, Alexander and Jenny Yeeles of Goodwood, Sharon Connor of Mount Compass, Nola Saywell of Cherry Gardens, Tamzin Woodcock of Kersbrook, Carmen Hoen of Balhannah, Chris Meyer of Mount Gambier, Julie Payne of Mount Compass, Geoff Page of

Meadows, Kerry Glass of Meadows (a neighbour of my wife's farm at Meadows), Glen Liebelt of Littlehampton, and Stuart Adlington of Echunga.

Coopers Grains at Mylor were particularly helpful. They were selling bags of chaff at cost, and they delivered it to the farm at Meadows where my wife had offered our property as a staging point. About 500 bags of chaff were purchased by people and then delivered through Coopers at cost, and it was a terrific help. My wife will not want me to mention this in *Hansard* but I will. My wife Johanna donated 900 bales of hay from our last year's crop, which was one of the first loads that went over.

As well as the large amounts of feed, there were huge piles of horse gear—rugs, halters, saddles, boots, buckets and feed buckets, that sort of thing—and all were well and truly accepted by those in Victoria. Goldner's Horse Transport, through Andrew Goldner and Kerry Glass, was vital in trucking over this equipment. Every time some horses went from South Australia across to Victoria, Andrew, through Goldner's Horse Transport at Somerton Park (constituents of mine)—and Andrew lives next to our farm at Meadows—loaded up the big horse transports with some of this equipment.

Rose Moss and Sheba Horse Shop at Victor Harbor donated a lot of equipment. Sandra Brown from Oakbank donated a lot of rugs and other equipment. Coralta Kennels at Coromandel Valley (a client from one of my vet practices) donated a lot of rugs and equipment.

Northern Suburbs Hairdressers donated $2,500 worth of hair products which was then distributed through the same outlets as the feed. The trucks that were offered were everything from horse floats and 4WD utes that we could load up through to B-doubles. Some of the volunteer truck drivers were Bret Snapes, Graham Peoples, John Henke and Simon Palk from Toolern in Victoria.

As I said, the other day we had Milawa Transport from Victoria take some feed over. They came over and dropped some gear here in Adelaide and they had an empty truck going back, so they said they would take a load of hay back. Roy Muddock and his people came out of Queensland recently; I am not sure where they are based. I think Roy may work for John Lindsay at Lindsay Transport at Mildura. This was a case of people coming together. They came to Adelaide, unloaded and they knew that Victorians needed help, so they were more than happy to help out. I thank John Lindsay and Roy Muddock for going out of their way to facilitate this equipment going over to Victoria.

Mark Eckermann took his five tonne tray top over there for us and, as I said before, most of these people did not want any thanks at all. They just wanted to help out, and they did that efficiently and with much enthusiasm. Sarah Paech took her horse truck over to Victoria. We loaded it up and it is amazing how much feed you can get into a horse truck when you do not have any horses in it. Andrew Horn and Phil Schultz at Lobethal Freight Lines also made themselves available.

Some feed came across from Port Lincoln. Jenni White facilitated, through Dennis Transport, a truck to go across from Port Lincoln straight to Victoria. Jacob van Dissell and Michael van Dissell took across their three tonne truck. As they say, little fish is sweet. It was able to be delivered over there and the feed was well received. Bob Moseley and Gay Manning at Greenock provided their trucks as well.

The endeavour of South Australians in this relief effort is something that I will never forget, considering how quickly people came on board and how enthusiastically they volunteered. I want to mention some of the local CFS groups that helped out. Meadows CFS sent a truck to make sure that, while we were loading the hay, there were no incidents. The crew also helped to load hay onto some of the semis and other trucks that were going to Victoria. Blackfellow Creek CFS was also very helpful in sending people down to help and to provide a fire truck at times when the Meadows CFS could not be there. It was a day of extreme fire danger. If we remember that day here, it was extremely hot and dry, and the last thing we needed was a fire in the hay and feed that we were sending across.

As a South Australian member of parliament, it makes me proud to stand in this place and talk about my fellow South Australians having donated the way they did. They expect nothing back from the Victorians other than to see their smiling faces and the wellbeing of the horses, cattle, goats and sheep of the hobby farmers that most of this feed went to. Because of the efforts that were made, those people who suffered are now better able to concentrate on getting the rest of their lives back together.

It is unimaginable to have a fire such as that in Victoria rip through your place. I know that some members in this place have experienced the Ash Wednesday fires and they have had similar experiences. The devastation in Victoria was visible through all the media. It was immense at the time and it was a wonderful thing to be able to help out and now to be able to stand in this place and thank the people who helped out because I know that everybody in this place, when they spoke about the bushfires, was genuine about their expressions of gratitude and how proud they were of their constituents in each of their electorates.

I would appreciate any other members of this place speaking on this motion, not particularly about what the South Australian Farriers Association and the Victorian Farriers Association facilitated but about anything South Australians did, because it was far more than just a bit of feed. It was an effort from the whole of South Australia—one I am very proud of and one I am very proud to stand in this place and thank them for.

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (12:20): I support this important motion on behalf of the government and congratulate the member for Morphett for bringing it to the house. He has richly put on the record the broad contributions that South Australians made in relation to this devastating bushfire, the worst natural disaster Australia has ever experienced.

As a nation, we have never witnessed such human loss and suffering. Black Saturday records Australia's highest ever loss of life from bushfire: 173 people perished, entire communities were destroyed, families lost loved ones and lives were changed forever through loss and injury. It is in times such as these, when faced with such adversity, that Aussie mateship comes to the fore and we unite to help our fellow Australians.

I also acknowledge and applaud the selfless contributions made by all South Australians in assisting the victims of the Victorian bushfires. The plight of our Victorian neighbours touched our hearts and we gave very generously. The government pledged $1 million to the Victorian bushfire appeal on behalf of all the people of South Australia, and state agencies gave resources and expertise, sending equipment and personnel to assist on the front line and to support the recovery and rebuilding of communities. Country and metropolitan communities spent endless hours collecting donations of cash and kind.

It is impossible to speak too highly of the courage and commitment of the firefighters, emergency workers and volunteers who battled the terror of this bushfire. No words can adequately convey the gratitude we owe these men and women. I was privileged to see a number of these people off and also be there on their return, and the Premier joined me on a number of those occasions.

The efforts put in by our emergency services was nothing short of sensational. Approximately 800 personnel from the Country Fire Service, the South Australian Metropolitan Fire Service and the South Australian State Emergency Service volunteered for duty in Victoria. Some were deployed more than once, and many were prepared to be redeployed until the safety of the stricken communities was assured. These personnel worked closely with colleagues deployed to Victoria from the Department for Environment and Heritage and Forestry SA.

South Australia also provided four level 3 joint agency management teams that provided specialist staff to help in emergency management and recovery centres. The CFS undertook 55 significant movements of resources, including personnel and vehicles, into and out of Victoria, and volunteers and salaried staff from the SES assisted by sending personnel to help out in the interagency emergency management centres as well as providing peer support to the communities in need. Both salaried and retained MFS personnel provided expertise in structural firefighting to each appliance crew and engaged in fire suppression activities as part of the combined MFS/CFS firefighting teams. SAFECOM provided support personnel for expertise in incident management.

It is also important to acknowledge the efforts of other agencies that assisted in this disaster. South Australia Police offered assistance by sending one inspector, one senior sergeant and 48 general duty members. These officers were sworn in as special constables for the state of Victoria and then deployed to perform general policing functions related to the fires. In addition, the South Australian Ambulance Service and St John Ambulance volunteers and salaried staff assisted in a range of roles, including communications, first aid and coordination of support for incident management.

Forensic Science SA assisted in the difficult and traumatic task of victim identification, while staff from the Department of Primary Industries and Resources spent a week assisting with livestock assessments. I also wish to mention the assistance provided by the staff and volunteers of the South Australian branch of the Australian Red Cross, who worked tirelessly alongside state and federal government agencies to aid those in distress, and also the South Australian Department of Health, which had personnel on standby to be deployed. As a nation, as a state, as a community, without hesitation we went to the aid of our neighbours. We will forever be indebted to all who so generously came forward to assist in this horrific national tragedy and to all who continue to help to rebuild lives and communities. We certainly had a fantastic effort in providing the assistance.

The member for Finniss has reminded me of the volunteers who came across from Victoria for the Kangaroo Island bushfires, and we, of course, in part repaid our debt for their great efforts when we had the devastation on Kangaroo Island. But, as the member for Morphett outlined, this effort by South Australians was widespread. Government agencies played a role, as did individuals in the community, and to each and every one of them this house sends a very big heartfelt thankyou. Their efforts went a long way toward helping with the recovery effort and the people of Victoria are forever thankful. We have had appreciation expressed by the Victorian minister. To all the agencies and groups involved—whether CFS volunteers, Metropolitan Fire Service personnel who went over, people from the Department for Environment and Heritage, or all the individuals and groups, many of whom were listed by the member for Morphett—we are very appreciative of the great work done by all South Australians.

Mr PENGILLY (Finniss) (12:27): I also rise to support the motion put forward by the member for Morphett, as expressed very well by him. I also acknowledge the contribution made by the Minister for Emergency Services. The minister mentioned a moment ago the discussions he and I had had about the contribution made by Victorians during the fires on Kangaroo Island in December 2007. Without a shadow of a doubt South Australians felt that they wanted to assist the Victorians in that time of great drama and tragedy earlier this year. It is difficult for people, particularly in urban and metropolitan areas, to understand bushfire and the effect of fire. What happened in Victoria manifested itself across Australia in a great outpouring of grief and support.

As both speakers said, it was Australians coming together to help other Australians: that is what it was all about. You put politics and everything else to one side and get on with it on those occasions. I do not wish to embarrass the minister, but after last weekend he was on the phone to me about the situation on Kangaroo Island, which I greatly appreciated. Going back to the fires, we do not want to be in any doubt that we could have the same situation occur in South Australia. I hope it never does again. I know that the member for MacKillop was heavily impacted by the 1983 Ash Wednesday bushfires and many of us remember that occasion. During my term as chairman of the old CFS board, that was in the forefront of our minds at all times.

I am very happy to make public the contribution by people from my own electorate who went across to Victoria. I was at the annual dinner of the Parawa Agricultural Bureau a couple of weeks ago and the special guests for the night were a group of farmers who, under the Uniting Church banner, went over to Victoria to assist in the clean up. They spent a week over there, did an enormous amount of work and formed very close friendships with the people with whom they worked. They went in and did things and the people from my electorate could not believe the gratitude shown by the landholders, farmers and community people in Victoria.

I was at a Lions Changeover dinner (which many of us go to), and a group from the island drove over and went fencing and spent time over there. Indeed, the Mayor of Kangaroo Island, Jane Bates, is currently at Marysville, I think. She formed a friendship with the Mayor of Marysville, and she is visiting there now, which is a good thing. So, Australians do come together. When these things happen, we recognise that we need to pull together. The contribution from everyone was absolutely outstanding. Whether it was from government agencies, emergency services, fire services, it does not matter; we were all in it together. There is only one way to get out of it when these things happen, and that is together.

As the minister also said, the member for Morphett's motion is very worthy of being supported by all in this house. I do not think anyone would speak against this; I hope they would not. As I said earlier, we need to remember that this could happen to us. Another thing that we need to remember is that, when we have these crises—whether they be fire, flood, or whatever—and there is an initial great rush to get in and provide support (such as money, food, clothes, or

whatever), as we have witnessed, six months, 12 months and two years down the track, it is still ongoing.

So, there will be a need to assist these people in Victoria for a long time to come. Just the amount of work that has to be done in fencing, for example, is beyond them and, in many cases, the volunteers who went over from South Australia only did boundary fences. So, there are all the internal fences on properties, which are a huge job. Quite often, there is far more internal fencing than there is boundary fencing. These things do not go away.

My understanding is—and I will stand corrected—that there are still groups going over, whenever they get the opportunity, to assist with the cleanup, the re-fencing or anything they can. I know that vast quantities of feed have gone over from South Australia for livestock. Donated hay and grain have been gratefully received. I think it is most appropriate, and I have great pleasure in supporting the member's motion.

Dr McFETRIDGE (Morphett) (12:33): I thank the minister and the member for Finniss for their kind remarks. I know that every member in this place supports South Australians in their efforts during these times, and I know they are just as proud as I am.

I would like to say one thing. There was some hay left over at our farm that was spoiled by a bit of rain and, just to make sure that people do not think we are actually using it ourselves, that is actually going down to Planet Ark at the airport as mulch on the planting of new seedlings to reclaim some of that land along the Patawalonga Creek.

Motion carried.

SOUTH AUSTRALIAN TIME ZONE

Mr VENNING (Schubert) (12:34): I move:

That this house—

(a) notes the original designated time zone for South Australia is nine hours in advance of Coordinated Universal Time; and

(b) supports the shift of South Australian Time zone to nine hours in advance of Coordinated Universal Time, putting South Australia a full hour behind the Eastern States and a full hour in front of Western Australia.

It makes sense to maximise our use of the sunlight available to us. All over the world, it is done by matching the clocks to the sun. Australia's pioneers were not fools when they had three equal time zones across Australia, all one hour apart.

Originally in South Australia, our true time zone was also referred to as Meridian Time, which was established by an act of parliament in 1894. The act was entitled, 'An Act to Establish a Standard of Time in South Australia', and established our time as the 135th meridian of longitude east of Greenwich, which, for those like me who like things explained in simple terms, means that our mean time passed through the mid region of South Australia. This gave us three equal time zones across Australia, each one hour apart, as it is with most other countries in the world.

However, just prior to Federation in 1898, this parliament repealed the 1894 act and shifted our time zone 30 minutes to the east to a point outside of South Australia's borders in the vicinity of Warrnambool in Victoria, thinking that a uniform time zone for central and eastern Australia might be beneficial. The initial proposal was to adjust both our central time zone and the eastern time zone of New South Wales, Victoria, Queensland. The eastern time zone was to be shifted west, while, for central Australia, we would shift ours east. We met our commitment in setting ours on that common meridian, but they did not. The other states did not; they pulled out, presumably because they understood the disadvantage of moving their time zone out of kilter with the sun.

This leaves South Australia not as it should be: nine hours ahead of Greenwich mean time, but, rather, 9½ hours ahead. In consequence, our whole state works to a time zone fixed by a longitude east of our state borders, which is quite ridiculous. Effectively, while there is little effect on our eastern borders, Adelaide enjoys a year-round daylight saving of half an hour. As we travel west this effect is compounded, some areas being 60 to 90 minutes permanently behind the 'sun time'. You only have to go to Ceduna or Streaky Bay, and these areas, to see that children get up for school in the dark and go to bed in the evening in the daylight, which is quite nonsensical.

Mr Kenyon interjecting:

The ACTING SPEAKER (Mr Piccolo): The member for Schubert will continue with his remarks.

Mr VENNING: I just note the interjections by the member. I am not making fun of this; I think it is quite serious. I just cannot understand how this can happen, when children have to get up in the dark, an hour and a half before the sun comes up in some cases, and come home and try to get to sleep in the daylight.

The Hon. M.J. Atkinson: I get up in the dark now.

Mr VENNING: I know you do, but this is children. In this case, why can't the education department allow those schools to open at, say, 10 o'clock? They do not seem to want to do that. So we have these poor little kids getting on buses in the dark and going off to school. Effectively, there is little effect on the eastern borders, and Adelaide, as I said, enjoys a half-hour daylight saving, but surely we have to consider these young people, who live on the far West Coast, who have to put up with the extremes of our current time zone: they have to get up for school in the dark and go to bed in daylight.

Some influential groups would like to see our time zone shifted a further 30 minutes to the east, so that it and the eastern seaboard time zone coincide and we have only one—but on their meridian, not ours; again, the poor cousins. Some businesses claim that our economy would be better served by sharing a time zone with Sydney and Melbourne, yet have no difficulty at all in providing call centres from India—and we have all experienced that, more and more everyday—which is about four hours behind Eastern Standard Time.

By shifting to true Central Standard Time it will be possible to better utilise shared national resources; that is, peak demand for electricity in South Australia will be further displaced from the needs of the Eastern States. If we line up our time to the Eastern States so that peak power demand occurs coincidentally between central and eastern Australia, using our present infrastructure, the result would be a disaster. It would therefore be necessary to build new infrastructure solely to cope with peak load. This would be an inefficient use of national resource capacity.

It is a nonsense to contend that Australia would be better off with two time zones, especially since, for the summer months, Queensland manages, without economic detriment, to run its time one hour behind its southern counterparts; so it makes a mockery of that argument. If we look at the experience overseas, we find that Brazil operates on three time zones, Canada on seven, the United States on five, Indonesia on three—

The Hon. M.J. Atkinson: And what about the Russian Federation?

Mr VENNING: —and the USSR on seven.

The Hon. M.J. Atkinson: There is no such thing as the USSR.

Mr VENNING: Well, Russia on seven.

The ACTING SPEAKER: Order! The member will continue uninterrupted.

Mr VENNING: Our reversion to a true Central Standard Time would result in our time zone being coincidental with the most populous parts of Indonesia, Japan and Korea. With the possibility of minimal boom, sharing a time zone with these countries might give South Australia the same and natural advantage that Western Australia has because it shares the time zone with most of China.

Making a virtue of difference, by positioning South Australia one hour behind the eastern seaboard and one hour in front of Western Australia, business opportunities may be created whereby South Australia might be ideally placed as the coordinating point for businesses that operate between the east and west coast.

Why, you may well ask, would I seek to take on groups such as the media and Business SA? The answer is quite simple. I am not a bureaucrat, I am not a lawyer; I have never pretended to be. I have earned my success from the land, and you earn nothing in primary production unless it is based on good science, practical common sense and hard work.

What is more, I believe that the South Australian electorate at large and, indeed, the majority of members in this house are quite capable of seeing past vested interests, rhetoric and spin to adopt a measure which not only shows common sense but which I will demonstrate is practical and in line with good science.

I hope that the house will see the wisdom of this motion and not perpetuate a mistake made by those who sat in this place over a century ago, and vote instead for common sense and a sustainable future. It is time for South Australia to put an end to this half an hour time lag. I believe that this is eminent common sense. We have time zones equal across the world. It is all very well for the city slickers, who like to knock off and have three or four hours of daylight in which to follow their leisure pursuits, but what about—

The Hon. A. KOUTSANTONIS: I rise on a point of order. I am desperate to hear the member for Schubert's explanation on this, and I cannot for the interjections of the members for Norwood and Newland.

The ACTING SPEAKER: I warn the members on my right.

Mr VENNING: Thank you for your protection, sir, and, indeed, the minister. I believe—

Ms Ciccarello interjecting:

The ACTING SPEAKER: I warn the member for Norwood.

An honourable member interjecting:

The ACTING SPEAKER: Second warning, member for Norwood.

Mr VENNING: This is a first, sir. Do you feel the power coming to you?

The ACTING SPEAKER: Do you wish to continue your remarks?

Mr VENNING: I do. This is a motion—and I will say this in my final few words—that does not have unanimous support from my own side of politics.

An honourable member interjecting:

Mr VENNING: I do not know; it has not been gauged.

The Hon. M.J. Atkinson: It's about to be.

Mr VENNING: Not necessarily. I have constituents to whom I said I would introduce this meassure, and I have liaised with the shadow minister, the member for Morphett. Since the opinion piece under my name appeared in the *Sunday Mail,* I thought that I would be inundated with abuse and rhetoric from Business SA., but I have not heard a word. I did speak to Mr Vaughan about this matter and he just said, 'Well, you could be right.' But things have changed.

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER: The Attorney-General!

The Hon. M.J. Atkinson: Yes, I am here, sir—present.

Mr VENNING: We are getting very used to personal diatribe from the Attorney-General; that was personal. We are not going to go there again.

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER: Member for Schubert, are you finished?

Mr VENNING: No, I am not finished.

The Hon. A. KOUTSANTONIS: I rise on a point of order. The member for Schubert is trying to give an explanation on the divisions within his party. I want to hear them.

The ACTING SPEAKER: The member for Schubert is open to discuss the divisions within his party.

Mr VENNING: I want to round off—

The Hon. M.J. Atkinson interjecting:

Mr VENNING: I did what was required. I want to round off what I am saying without being—

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER: Attorney-General!

Mr VENNING: You know you are just taking up the time of the house. I want to say that, in the light of common sense, every other country in the world has equal time zones and surely, in equity and fairness, the people—adults and children—of Ceduna, Thevenard, Streaky Bay and all those far western communities are worthy of consideration in a matter like this.

Why should they have to live in a community where their clocks are out by half an hour? It would be bad enough living on an extreme if the meridian were in the middle of the state but, when it is east of the border, it is not fair or right. I ask the house to give this matter some consideration before it is debated again on, say, 10 September, and have another look at it. I gave a commitment to my constituents that I would raise this matter, and I have.

I say to people like the member for Giles, who represents Outback areas, that people are very much disadvantaged by having the clock set other than by the sun because they have to live by that. If we want to maximise electricity, power and light, we should be using the sun, rather than having a political idea of the time zone as it is. I ask the house to consider this motion and, hopefully, support it.

Mr KENYON (Newland) (12:45): I am rising to oppose the motion—

The Hon. A. Koutsantonis: Well, that's typical!

Mr KENYON: —as will be the member for West Torrens in a moment's time. I think it is fair to acknowledge that some sections of the rural community do not support the current time zone arrangements in this state. To be fair to them, when you are a certain amount of time behind the time zone there will be some consequences. The member for Schubert has mentioned getting up in the dark, which is something that I do most days, and going to bed when it is light, which was imposed on me when I was a child, and I am only slightly warped, so I can understand that there are some inconveniences across the state.

However, the matter involves the whole state and, while some people may be inconvenienced, and that is unfortunate, we ask: what is the overall benefit to the entire state? The interesting thing is that the issue of South Australia's time zone was only recently before the parliament. In February this year, both houses, with the support of the opposition (including the member for Schubert) passed the Standard Time Act which, apart from the heritage destruction of Greenwich Mean Time, imposed Coordinated Universal Time and maintained our being 9.5 hours ahead of Coordinated Universal Time, and that includes the half an hour differential with the Eastern States, of course.

In relation to the motion that the time zone be only nine hours in advance of Coordinated Universal Time, there does not appear to be any significant community sentiment for changing the current arrangement wherein South Australia is only half an hour behind the Eastern States. I think it is fair to say that only a small section of the population supports the proposed move, and it is mainly those from the western areas of the state, and we have talked about them before.

Equally, there is a sector of the public that supports a move to the adoption of the Eastern States' time, so that there is just one time zone between the Eastern States and South Australia. That is mainly from the business community through Business SA. It would certainly have a lot of business benefit, and there is no doubt about that. The government considers that any shift would cause problems and possibly costs that are disruptive and unnecessary.

If we were to adopt the proposal of the member for Schubert, it would include a fourth time zone and, in summer, there would be an extra time zone because the Northern Territory is legislated to be half an hour behind the Eastern States. So, we would be at odds with the Northern Territory and the central time zone of Australia would actually have two time zones. An extra time zone does not do anything for business or for international visitors who may come to our country. An hour's difference in time zones could create additional problems in the Riverland and the South-East for people who regularly traverse the eastern border of the state.

Mr Venning: What about the cows?

Mr KENYON: And, of course, the cows. Cows have problems with time and always have for as long as I can remember. It is not just the telling of the time, member for Schubert, it is getting a wristwatch with a band that is big enough to fit around the hoof of the cow. It is not an easy thing for cows—but we will try to ignore that.

A lot of people in the eastern part of the state in the Riverland, and particularly in the South-East, are moving across the border into Victoria and back, and it would not make their life any easier at all.

The subject of the state's time zone has been widely debated, including by a parliamentary select committee inquiry, which reported in 1995. The current state government and former governments, after fully considering all the issues involved with moving to a different time zone, have decided that the current arrangement should be retained with South Australia remaining 30 minutes behind Eastern Standard Time.

In the motion, this house is asked to note that South Australia's original time zone was designated as nine hours ahead of what was then Greenwich Mean Time but is now Coordinated Universal Time. This designation lasted for only four years, with the current arrangements being enacted from 30 April 1899. I think the member for Schubert suggested that we had never kept up our end of the bargain, but apparently we have.

The government is not in favour of an arrangement whereby Eastern Standard Time is one hour ahead of the state's time and will not support the motion for the reasons I have mentioned. However, the government will continue to monitor community sentiment and the relative merits of various proposals in relation to time zones and continue to liaise with the rural communities in the west of the state regarding the impact of daylight saving. I will be opposing the bill.

Ms BREUER (Giles) (12:51): I was very interested to hear the member for Schubert and see his motion because I do understand what the issue is for the member for Schubert. Having an electorate that consists of virtually all the western side of the state, I acknowledge that this is an issue of importance to communities out there.

The Hon. M.J. Atkinson: You do; not him.

Ms BREUER: Yes, I have that electorate covering the western side of the state so I am constantly asked about this. Messages come through to the office regarding the issue of time and particularly daylight saving when that occurs, so I understand full well what the member for Schubert is trying to achieve with this motion. I must say that I took exception to my colleague from this side when he said 'for the good of the state' because, unfortunately for us out there in rural areas, we sacrifice everything for the good of the state so often, so when I hear statements like that, it does tend to make my blood boil.

Why should we in those areas have to conform to Adelaide for the good of the state? Why can't Adelaide conform with us for the good of our communities? It does make me a bit cross when I hear comments like that. I am sorry to my colleague; I am not having a go at him, but this is just a country thing that we feel. We are consistently told 'for the good of the state' to conform with what Adelaide decides for us.

I do have some understanding of what the member for Schubert is on about and I know that one of the issues, particularly for young children, is school buses and having to be collected very early in the morning. It is still dark, and it is freezing cold. I am not a morning person and I will not get out of bed while it is still dark unless I absolutely have to but, for those young children, it is a real issue and an imposition for them.

I will point out one of the things that I cannot understand regarding this matter—and I have talked to people out in those areas about this; rather than trying to get rid of daylight saving or trying to change the time zone, etc., particularly in relation to those rural schools with school buses, for instance, why can't they start school an hour later? I believe that there are certain standard times for schools that they need to conform to, but you do not have to start school at 8.30 or 9am. Surely, if you have a number of young children, you could look at starting school later in the day. It is not going to matter very much to your community if you start at 9 o'clock or 9.30 and fit in with that.

That has always been an issue for me. Why do we need to stop daylight saving, which I absolutely support and love? I think daylight saving is fantastic. Why would we stop that because a few children have problems in the morning? I cannot understand why the schools cannot look at actually changing their time and why even some of the communities cannot consider changing their times and how they operate in some ways. Why can't this matter be sorted out locally?

Some people hate daylight saving, and the issue surfaces every year. As I said, I love daylight saving and I think most people do. Perhaps the older population have some issues with it but we have lived with it now for 30-odd years, and I cannot imagine life without it. I would like to

see it perhaps all year round. I think we have to ignore anyone who hates daylight saving and complains about it, and just get on with it. The great majority of people out there are not complaining about daylight saving: they are complaining because they do find the early morning very difficult for them.

I understand what the member for Schubert is saying, and in some ways I support him. I would actually support this motion, but I am very nervous about supporting it at this stage without a lot more information, because I understand the implications that supporting this motion could have on the state, on businesses and, indeed, on lives.

I see a lot of merit in what the member for Schubert says, and I will certainly be following this up a lot more, because I really want to speak out for the people in my area. However, I need a lot more information at this stage before I can support this motion. I think what I might do is sit down at some stage with the member for Schubert and perhaps the member for Stuart, and we can have a look at this and try to nut out something and see what we can come up with. Well done, member for Schubert. I am sorry that I cannot support you, but maybe in the future I will.

Motion negatived.

GENEVA CONVENTIONS

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (12:56): I move:

That this house—

(a) notes the 60th anniversary of the Four Geneva Conventions of 1949;

(b) congratulates the International Red Cross and Red Crescent Movement on its continuous fostering of the principles of international humanitarian law to limit human suffering in times of armed conflict and to prevent atrocities, especially against civilian populations, the wounded and prisoners of war;

(c) recalls Australia's ratification of the conventions and of the two additional protocols of 1977;

(d) affirms all parliamentary measures taken in support of such ratification at the national level with cross party support;

(e) encourages the fullest implementation of the conventions and additional protocols by the military forces and civilian organisations of all nations;

(f) encourages ratification by all nations of the conventions and additional protocols;

(g) notes that Red Cross was formed in Australia in 1914 and that Australian Red Cross is represented on the government board of the International Federation of Red Cross and Red Crescent societies; and

(h) recognises the extraordinary contribution made by many individual Australians, including Australian Red Cross members, volunteers and staff in the state of South Australia, for the practical carrying into effect of the humanitarian ideals and legal principles expressed in the conventions and additional protocols.

The date 12 August 2009 marks the 60th anniversary of the Geneva Conventions. There were additional protocols in 1977. The Geneva Conventions consist of four treaties and three protocols. Most commonly, these four treaties and three protocols are referred to in the singular as the Geneva Convention, which represents their updating in 1977 and the addition of the fourth treaty. The four treaties cover these areas:

1. The amelioration of the condition of the wounded and sick in armed forces in the field.

2. The amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea.

3. About the treatment of prisoners of war.

4. About the protection of civilian persons in time of war.

The three protocols of the convention deal with the protection of victims of international armed conflicts; the protection of victims of non-international armed conflicts; and the adoption of an additional distinctive emblem for medical services. These treaties and protocols are the basis of international humanitarian law. International humanitarian law is the set of international rules that seek to limit the effect of armed conflict on people, with the aim of reducing suffering.

Australia has ratified the Geneva Conventions, and the domestic implementing legislation (the Geneva Conventions Act 1957) deals specifically with the capacity for Australia to prosecute those accused of breaches of the laws of war, as well as the correct use of the Red Cross emblem. The International Red Cross and Red Crescent Movement has a specific mandate under international humanitarian law and promotes these laws.

Australian Red Cross has an international humanitarian law program that engages with those who most use this area of law, such as the Defence Force, Australian Federal Police and humanitarian workers. Australian Red Cross also promotes international humanitarian law to journalists, students, the legal vocation and the public.

Some of the obligations found in international humanitarian law relate to the work of states and territories. This includes the requirement to disseminate knowledge of the law 'so that the principles thereof may become known to the entire population', and I quote there from Article 144 of Geneva Convention IV. This means international humanitarian law should be taught in schools.

The Geneva Convention also requires the correct use of the Red Cross emblem and that military installations are established at a distance from civilian infrastructure. Every state and territory across Australia has a Red Cross International Humanitarian Law Committee, which focuses upon the dissemination of knowledge about international humanitarian law within the state.

The anniversary of the Geneva Conventions is also a time to recognise and celebrate the work of the Australian Red Cross, the International Red Cross and Red Crescent Movement.

The Australian Red Cross, founded in 1914, only days after the declaration of the Great War, has continued its work in Australia since that time, with today an estimated 60,000 volunteers and members delivering programs and support in Australia.

I commend this motion and, in recognising the significance and importance of the anniversary of the Geneva Conventions and their impact on humanitarian law, congratulate the Red Cross in Australia and, in particular, South Australia for its service to society in Australia and abroad.

Debate adjourned on motion of Mr Venning.

[Sitting suspended from 13:01 to 14:00]

ANSWERS TO QUESTIONS

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

RISTEC TAXATION SYSTEM

62 Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (30 September 2008). How much has been budgeted and spent on capital works for the RISTEC taxation revenue management system in each year of its operation?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations): The budgeted and actual expenditure for the taxation revenue management system project is listed in the table below. Consistent with the budget papers, the table breaks expenditure into investing and operating expenditure as required by accounting standards.

	BUDGET			ACTUAL Note: Due to the procurement timeframe extensions, yearly comparisons between budget and actuals is misleading.		
	Capital ($m)	Operating ($m)	Total ($m)	Capital ($m)	Operating ($m)	Total ($m)
2002-03	1.10	0.00	1.10	0.39	0.39	0.78
2003-04	7.00	0.00	7.00	0.87	0.41	1.28

	BUDGET			ACTUAL Note: Due to the procurement timeframe extensions, yearly comparisons between budget and actuals is misleading.		
2004-05	2.70	0.68	3.38	1.01	0.64	1.65
2005-06	8.60	1.27	9.87	0.00	1.23	1.23
2006-07	1.32	1.30	2.62	0.00	1.18	1.18
2007-08	7.31	1.75	9.06	0.00	1.32	1.32

During the earlier stages an initial extension of the RISTEC timeframe was associated with ensuring a sound procurement strategy for sourcing a replacement tax system. It involved significant market analysis:

- Following appointment of the Project Director in September 2003, investigation of the technology strategies adopted by other Australian tax offices indicated opportunities to reduce the risks associated with a project of this size and complexity.
- To take advantage of these opportunities time not included in the initial proposal needed to be allocated for detailed investigation and consideration.
- The investigation included assessment of interstate projects similar to RISTEC that were already underway at the time. It was important to allow time for these projects to progress to the point where they could deliver, and where their deliverables could be assessed. This time also allowed the project team to investigate the lessons learnt during the interstate projects and devise strategies to mitigate those that presented risks.

During the procurement process a second extension occurred:

- To ensure the procurement resulted in a highly reliable cost and timeframe estimate for implementation, it was necessary to develop an extensive set of business requirements for the Request for Proposal (RFP). The end result was approximately 250 functional requirements, each with multiple sub-requirements. It took 10 months to prepare the requirements and obtain all necessary approvals before going to market.
- Due to the size and complexity of the responses to the RFP, it took 10 months to complete a thorough evaluation of the proposed solutions.
- The negotiation stage took a further 14 months, which involved negotiating with multiple bidders and using the competitive environment to achieve the best outcome possible for the state.

During the market analysis and procurement periods three independent reviews were undertaken to assess the validity of the direction being taken. All reviews confirmed that the direction was appropriate.

The additional procurement time has been successfully used to:

- identify and procure a technology solution that offers significant benefits to the State in terms of additional revenue and reduced operational costs; and
- secure contracts that provide a high degree of certainty in regard to the cost and time to complete the implementation of the new tax system.

COMMONWEALTH PAYMENTS FRAMEWORK

93 Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (30 September 2008). How will the new Commonwealth Payments Framework, proposed by the Ministerial Council for Commonwealth State Financial Relations and to be implemented on 1 January 2009, impact the state budget and in particular, the delivery of the new framework on education and health funding?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations): As agreed by COAG in November 2008, the new framework for Federal financial relations will result in a significant rationalisation of specific purpose payments (SPPs), primarily through combining many into a smaller number of new national SPP agreements, without a reduction in total Commonwealth funding for these activities. This reform will see a reduction from the current 92 SPPs to five new

national agreements for delivery of core government services—health, affordable housing, education, skills and workforce development, and disability services.

In addition, new National Partnership (NP) arrangements will provide incentives for reforms, or for funding for specific projects, in areas of joint responsibility.

As reported in the 2008-09 MYBR (p.8), the total increase in revenue to the State from the SPPs is $192 million and from NPs is $438 million. Because the NPs require State and Territory contributions, the overall impact of the new money from the COAG reforms (as reported in the 2008-09 MYBR, Table 1.2, p.6) is $24 million positive over the 2008-09 to 2011-12 forward estimate period.

PAPERS

The following papers were laid on the table:

By the Minister for Environment and Conservation (Hon. J.W. Weatherill)—

Upper South East Dryland Salinity and Flood Management Act 2002—Quarterly Reports for the periods:
1 April 2008 to 30 June 2008
1 July 2008 to 30 September 2008
1 October 2008 to 31 December 2008
1 January 2009 to 31 March 2009

By the Minister for Agriculture, Food and Fisheries (Hon. P. Caica)—

Chicken Meat Industry Act 2003—Review of Operation Report

By the Minister for Forests (Hon. P. Caica)—

South Australian Forestry Corporation Charter

CLAYTON PUBLIC MEETING

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:01): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.A. MAYWALD: Yesterday a public meeting was held at Clayton to inform community members about the Goolwa Channel water level management project, which is currently under construction at the Lower Lakes. This meeting was chaired by the Hon. Dean Brown, a former premier of South Australia, and the Premier's special drought adviser. Presenters included Jarrod Eaton and Richard Brown (Department of Water, Land and Biodiversity Conservation), Peter Scott (Environment Protection Authority) and Piers Brissenden (Department for Environment and Heritage). During the meeting an individual chose to protest by throwing mud at the chair and the presenters.

I rise today to condemn this disgraceful incident, which has done nothing to further the debate in relation to the serious issues we are currently facing in the River Murray system. The Hon. Dean Brown—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: Thank you, sir. The Hon. Dean Brown has been working tirelessly to help communities around the Lower Lakes and throughout the River Murray corridor in South Australia in these extremely difficult times. He and the other public officers were merely doing their job, informing the community of the reasons behind work currently being undertaken by the state government, when the incident took place.

The Hon. Dean Brown has spent countless hours working with individual community members and community groups to develop solutions to a whole range of drought-induced problems, particularly around the Lower Lakes. He has attended and chaired many meetings in his liaison role, which he does on behalf of the state government.

As minister I am extremely confident in his abilities and incredibly supportive of the contribution he has made in helping South Australians deal with these extremely difficult drought-

related issues. The state government considers consultation with drought-affected communities to be of extreme importance, and we have held many meetings—almost too many to count—to ensure that local people are informed on a range of issues and projects.

I assure the house today that the government shares the frustration of communities of the Lower Lakes, but South Australia is not responsible for over-allocation of the Murray-Darling Basin and as a government we are not responsible for the drought. However, the government is responsible for trying to do the best we can with the small amount of water that is available to us.

Community consultation has guided the government's efforts in:

- buying water for critical human needs, the environment and critical plantings;
- coordinating pipelines around the Lower Lakes to deliver potable and irrigation supplies;
- developing temporary moorings for boats and houseboats for those who have been affected by the low water levels; and
- providing for emergency dredging of areas of the river to enable continued access to water and continued navigation.

We have been developing emergency solutions to enable the Lower Lakes to remain a fresh water body for as long as is humanely possible and preferably through—until the drought breaks—to a full fresh water recovery, as well as developing a long-term plan for the future management of the Lower Lakes. It is an extremely difficult time, and I implore people who, like the state government, are frustrated with the current circumstances to be a constructive part of managing through the worst drought we have ever experienced.

VISITORS

The SPEAKER: I draw to members' attention the presence in the gallery today of participants in the Business and Parliament Trust, who are my guests, and members of the Klemzig National Seniors Group, who are guests of the member for Torrens.

QUESTION TIME

STORMWATER HARVESTING

Mrs REDMOND (Heysen—Leader of the Opposition) (14:06): My question is to the Minister for Water Security. Why is the government running a campaign against the use of stormwater for drinking purposes? South Australians—

The Hon. M.J. Atkinson: You mean road water?

The SPEAKER: Order!

Mrs REDMOND: —already drink stormwater from the Murray-Darling Basin, stormwater from the Adelaide Hills catchment and recycled wastewater discharged into the Onkaparinga River, yet yesterday the minister told the house:

> We are not going to put at risk the South Australian water supply into our homes for drinking water by putting stormwater directly into the supply. End of story.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:06): I welcome the question, again, because it actually demonstrates the lack of understanding about direct potable re-use and stormwater, in a far more diluted sense, in our river catchments. The issue that the opposition is talking about is direct potable re-use. We are not going to put water off roads where the technology does not give us confidence that all the risks can be mitigated for public health reasons. We are simply not going to do it. Opposition members have clearly delineated their position on this. They want to drink water off roads: we don't.

STORMWATER HARVESTING

Ms CICCARELLO (Norwood) (14:07): Will the Minister for Water Security advise the house how much stormwater can realistically be harvested for re-use and what are the government's plans to increase investment in this area?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:07): I very much thank the member for Norwood for her question, and I understand her very strong interest in this area. In the midst of this extended drought and dealing with climate variability, all South Australians are keen to see that we make the most sensible use of the water

that is available to us. On Monday 29 June the Premier launched Water for Good, which is a comprehensive plan to guarantee South Australia's water security to 2050 and beyond. It builds on the extensive investment that our government is making to secure South Australia's water supply.

More importantly, the plan assigns a role for stormwater that is the result of careful and thorough process, which included the advice of independent consultants Wallbridge and Gilbert, consulting engineers, who were actually commissioned by the Stormwater Management Authority. The Stormwater Management Authority is a partnership between the state government and local government to manage flood mitigation and stormwater re-use programs. We decided that it would be sensible to get the experts to tell us what is a realistic number that can be re-used for stormwater in this state and then base our planning going forward on a realistic number—not pie in the sky numbers from non-experts who think they know a lot about it but do not.

This work, the Urban Stormwater Harvesting Options Study, was overseen by a steering committee, which included Colin Pitman, a renowned expert in stormwater re-use from the Salisbury council. The Urban Stormwater Harvesting Options Study concluded conclusively that there was the potential to harvest up to 60 billion litres (60 gigalitres) in greater Adelaide. This process was a vital part of ensuring that the Water for Good included a plan which was factually based and on which to build our investment for the contribution of stormwater management into the mix of our water resources. The state government is not running away from stormwater: we are embracing it. Salisbury council is a leader in stormwater harvesting and has invested significant—

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

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

The Hon. K.A. MAYWALD: Salisbury council is a leader in stormwater harvesting and, to put it into context, the Salisbury council has been developing projects over 20 years, since the inception of their works in this area, and they have invested collectively through state government, federal government, their own contributions and private investor contributions $200 million overall, and, at this stage, that has produced seven gigalitres of re-useable water. It is a valuable contribution, but it is not one that will fix today's ills, in anyone's terms. By 2013, our stormwater re-use—

Mrs Redmond: You should have started years ago!

The Hon. K.A. MAYWALD: We 'should have started years ago'. What did the Liberal Party do when it was in government? It cut funding to stormwater. The Liberal government cut funding. So, we 'should have done it years ago', and what you did was cut the funding.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: We currently have an application—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. Atkinson interjecting:

The SPEAKER: The Attorney-General will come to order! The Minister for Water Security has the call.

The Hon. K.A. MAYWALD: We currently have an application before the federal government for stormwater projects that will contribute another eight gigalitres of water for stormwater treatment and re-use. The Waterproofing the West project is a $58.6 million scheme, which will harvest 2.5 gigalitres through wetland aquifer storage and recovery projects at Cheltenham, Riverside Golf Club and Old Port Road. The Adelaide Airport Stormwater Scheme is a $9.7 million scheme, which will harvest over a gigalitre of stormwater to reduce the draw on mains and groundwater supplies; Unity Park Biofiltration project; the Water for the Future project, $19.2 million; Waterproofing the South Stage 2 is another $30 million; the Adelaide Botanic Gardens Aquifer Storage and Recovery is another $5.8 million being invested; and the Barker Inlet Stormwater Re-use Scheme is another $7.8 million project. These are all extremely good projects

and demonstrate, quite clearly, that this government is committed to investment in stormwater re-use projects. No matter how much spin the opposition puts out, that is the case.

Let me talk about spin and why you cannot trust the debate that comes from the other side of the house. I would like to quote from the Leader of the Opposition's recent newsletter, 'The Redmond Report', in which she talks about stormwater harvesting. The newsletter states:

> The Bridgewater oval, above, looking more like a lake after a flash flood engulfed the scoreboard and washed away part of the boundary fence. The water eventually ran out to sea.

Is that the case?

The Hon. M.J. Atkinson: No, not true.

The Hon. K.A. MAYWALD: It is not true. If the leader had been better informed when preparing her electorate publication, she may have found out that run-off from the Bridgewater oval does not run out to sea. Advice received from the Adelaide Mount Lofty NRM Board is that the run-off generated feeds into the Cox Creek—

Mr Williams interjecting:

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

Mr Pederick interjecting:

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

The Hon. P.F. Conlon: You are a bully, Mitch.

The SPEAKER: The Minister for Transport will come to order! The house will come to order!

The Hon. P.F. Conlon interjecting:

The SPEAKER: The Minister for Transport has been called to order once.

Mr Williams interjecting:

The SPEAKER: The member for MacKillop has been called to order several times. The Minister for Water Security.

The Hon. K.A. MAYWALD: Thank you, sir. If the leader had been better informed when preparing her electorate publication, she may have found out that run-off from the Bridgewater oval does not run out to sea. Advice received from the Mount Lofty NRM Board is that run-off generated in the area feeds the Cox Creek catchment, which naturally supplies the Onkaparinga River and Mount Lofty storages, which is where most of Adelaide's stormwater is currently captured.

STORMWATER HARVESTING

Mrs REDMOND (Heysen—Leader of the Opposition) (14:14): Can I first of all assure the minister that I had already picked up that error and we had it corrected for the next newsletter. My question is again to the Minister for Water Security. How much of the government's water security expenditure announced in the 2009-10 budget relates to stormwater research? Yesterday on radio the minister was asked whether the government is putting money into stormwater research, such as the work at Flinders University. The minister's response was, 'There's good work being done everywhere and the South Australian government certainly supports research in this area.' Yet it appears that not one cent of state government money is being invested in the research.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:15): I will obtain details for the leader on what we have invested in the past—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —and what projects are being undertaken in relation to water quality research. I do not have those figures to hand. However, I can assure the leader that it was the South Australian government, in partnership with Salisbury council, that undertook the recent study that looked at drinking water/re-use of stormwater. The state government, again in partnership with Salisbury council, worked on a project where we got particular scientists together to look at the issue of using treated stormwater in the drinking water supply. What that research

came up with was that it is possible on a small scale, but when asked whether they would say now that you can just immediately transfer that to a large scale they said no.

The problem is that the opposition does not understand that we do not want to put public health at risk by putting treated stormwater off a metropolitan environment directly into the drinking water supplies. I do not want to drink it. Most of the people I speak to do not want to drink water that cannot be guaranteed to be good for our health. We do not want to put at risk the health of South Australians, because we know that the technology is not quite there yet. The technology may very well be there in the future and, if it is, then it changes the scenario.

However, at this stage our Water for Good plan says that the technology is not good enough for us to have confidence that putting treated stormwater off a metropolitan environment directly into the drinking water supply is good for our health. We do not believe that the technology is good enough yet, and it is not good enough yet according to the scientists. We are, therefore, very different from the opposition. We do not want to drink it: they do.

LEARNER AND PROVISIONAL DRIVERS

Mrs GERAGHTY (Torrens) (14:17): Can the Minister for Road Safety advise the house of the changes the government is making to improve the safety of learner and provisional (known as P1) drivers?

The Hon. M.F. O'BRIEN (Napier—Minister for Employment, Training and Further Education, Minister for Road Safety, Minister for Science and Information Economy) (14:17): Young South Australian drivers are significantly over-represented in crashes. On average, 27 per cent of all fatalities in South Australia are of people between 16 and 24 years of age. Novice drivers between 16 and 20 years of age are up to three times more likely to be involved in serious road crashes than older more experienced drivers. Last year, 362 people aged 16 to 24 were killed or seriously injured on South Australian roads, and many of these crashes could have been avoided.

Research carried out by the Centre for Automotive Safety Research at the University of Adelaide has identified the early years of driving as the most dangerous for drivers. In the first three months of driving, 3.24 per cent of provisional licence holders were involved in car crashes. Rounding that up to 4 per cent, that means nearly one in every 25 drivers on their P1 were involved in an accident in the first three months of driving. Research has also shown that using a mobile phone while driving increases crash risk by at least four times. So, the link is fairly inescapable.

Effective at 31 August this year, the state government is banning all learner and P1 drivers in South Australia from using any type of mobile phone while driving. This mobile phone ban forms part of our government's measures to further strengthen the graduated licence scheme for young drivers in South Australia. The mobile phone ban includes using a mobile phone in a hands-free mode with a loudspeaker operating or sending text messages. The ban will continue to apply until a provisional licence holder progresses to P2.

Similar bans for L and P1 drivers using mobile phones and related technology have been introduced in Victoria, Queensland and New South Wales. It will continue to be legal for L and P1 drivers to make or receive calls and use any other function of their phones while the car is stationary, but this exemption will not apply to a stationary vehicle at stop lights or in a traffic queue.

It is very important that the government does everything it can to assist novice drivers in developing their driving skills and, in turn, to protect them on our roads. This is a measure I know will have the support of all parents in South Australia whose sons and daughters have just commenced driving on our roads.

SPEED CAMERAS

The Hon. G.M. GUNN (Stuart) (14:21): My question is to the Minister for Police. Will yesterday's snap decision to remove speed camera signs result in increased speeding on our roads? Did the minister consider any alternative action to address the concerns and safety of mobile camera operators?

The Hon. K.O. Foley: Gunny, you wanted unrestricted speed limits up in your electorate.

The Hon. G.M. GUNN: I am happy, Mr Speaker, to debate that issue with the Deputy Premier any time he wants—particularly during the next election up in Stuart. It has taken me all morning to work myself up to asking this question and now you have put me off.

It has been the government's position that signs advertising that motorists have just passed a mobile speed camera are safety measures because they have the effect of slowing motorists down. In 2004, the officer in charge of the Road Traffic Branch, Superintendent Roger Zuener, told *The Advertiser* that the signs are needed to educate the public. Can the minister further assure the house that this decision will not add to the impression of many motorists in the public that these cameras are nothing more than revenue-raising matters for the Treasury?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:22): I thank the member for his question. The member would be aware that this is an operational matter—a matter for the police commissioner. The police commissioner has taken this decision because of the health and safety issues for government employees. Two decisions were taken yesterday by the commissioner: one, that they are going to take steps to install protective film on the windows of the cars; and two, to remove the placement of signs after mobile camera operating sites. I was informed of this by the commissioner yesterday and, as I said, the reason he took this decision was because of health and safety issues.

AQUACULTURE INDUSTRY

Ms THOMPSON (Reynell) (14:23): My question is to the Minister for Agriculture, Food and Fisheries. What contribution is the growth of South Australia's aquaculture industry making to the strength of our economy, particularly in regional South Australia?

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (14:23): I thank the honourable member for her question and acknowledge her love of South Australia's fine seafood. South Australia's aquaculture industry has shown a consistent—

An honourable member interjecting:

The Hon. P. CAICA: —dual gold medallist—growth over the past 10 years, and the state government remains committed to supporting its future growth and the job and investment opportunities it creates, especially in our regional areas. South Australia provides significant areas of sheltered waters, many of which are ideal for the aquaculture industry, with finfish aquaculture located at Fitzgerald Bay, oysters at Franklin Harbor, a world-class finfish and tuna hatchery at Arno Bay, in addition to tuna, mussels, finfish and abalone all being farmed in the area surrounding Port Lincoln.

The South Australian aquaculture industry is widely acknowledged as a leader in terms of promoting innovation and ensuring that research and planning is undertaken to support the sustainable growth of the industry. A report has been completed by the Adelaide-based firm EconSearch entitled 'The Economic Impact of Aquaculture on the South Australian State and Regional Economies 2007-08'.

The new figures reveal that there was a 25 per cent jump in the value of production in our aquaculture by the end of 2007-08, with the report also indicating that South Australia's aquaculture industry now generates 56 per cent of the state's seafood production value. The industry is now delivering $264 million annually in farm gate value and, on top of that, a further $71 million in processing and food service, plus $322 million in flow on benefits.

Over the last decade, the tuna industry has almost doubled its harvest volume from 4,927 tonnes to 9,757 tonnes—that is amazing—while their farm gate value has grown from $120 million to almost $187 million. Over the same period, the oyster industry—and I know that oysters are the love of many members in this house—

Ms Fox: Not me.

The Hon. P. CAICA: Well, when your palate matures, I am sure that you, too, will love them. The oyster industry has moved from producing 1.3 million dozen oysters for sale, with a total farm gate value of about $6 million, to nearly 5.5 million dozen oysters worth about $31 million. Collectively, the rest of the industry has moved from 612 tonnes, with a total value of $6 million, to almost 6,000 tonnes, worth over $45 million.

While significant growth has occurred in the finfish industry, I am certainly pleased to inform members that South Australia's industry is also acknowledged as one of the most diverse, which includes various land-based finfish, algae, marron and yabby enterprises, in addition to those I have previously mentioned.

It is also very pleasing to note the projected growth by existing industry participants. Between now and 2010-11, our finfish industry is forecasting a 23 per cent growth; the oyster industry another 14 per cent; and, interestingly and pleasingly, the mussel and abalone industries are each forecasting 100 per cent growth over that period. The report indicates that more than 3,000 people are employed on aquaculture farms and in associated businesses, with 66 per cent of those jobs—and I know this will please members opposite—being in regional areas of our state.

The Hon. A. Koutsantonis interjecting:

The Hon. P. CAICA: Some of them think they do, Tom. I am sure they will join with this side of the house in congratulating the aquaculture industry on its outstanding success. With the continuing support of the government—and I trust the opposition—I am confident that more of our high quality seafood produce grown in our pristine waters will reach lucrative markets around the world and keep generating jobs and investment in our regional communities.

MARINE PARKS

Mr PEDERICK (Hammond) (14:27): In light of the last question, my question is to the Minister for Environment and Conservation. In determining the boundaries for Marine Park 6 adjacent to the Lower Eyre Peninsula, will the minister be adopting advice provided by the Marine Park 6 pilot working group established by his department? At the government's invitation, representatives of the Lower Eyre Peninsula recreational and commercial fishing industries and local government provided through this pilot group an exhaustive submission that was supported by extensive input from highly credentialled scientists. There is a strongly held belief in the community that their findings and recommendations will be ignored.

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) (14:28): I am more than happy to take into account the advice that emerges from the working groups that I have established. I would also be grateful to know what the Liberal Party's position is on marine parks, because the honourable member has stated that there is actually no good reason for marine parks. So, he clearly does not actually agree with marine parks. We have the former minister for the environment, who is urging us to actually get on with marine parks, saying that they are such a great idea. I must say that I am a bit puzzled about who the shadow minister for the environment is. I do not think that that has been clarified.

The Hon. P.F. Conlon: I think they're all in the audition phase.

The Hon. J.W. WEATHERILL: That's right. What emerged in the course of discussions about marine parks is that all parties to the debate—the environmental group and the industry group representing both aquaculture and other wild catch fisheries—really came to a pretty clear consensus, and that is that the idea of actually talking about and consulting on outer boundaries by themselves was not really the most effective way of dealing with it. Who actually imposed that amendment on the government's bill in the upper house? It was those members sitting opposite. They amended the legislation in the upper house to have us consulting on outer boundaries which do not change any of the rights and responsibilities.

Mr VENNING: I rise on a point of order. The minister is debating the issue.

Members interjecting:

The SPEAKER: Order! No, I do not think the minister is. I will listen more closely to what the minister is saying, but I do not think that he has strayed into debate.

The Hon. J.W. WEATHERILL: Thank you, sir. It is a very important to understand the context of the question, because of the frustration of all groups (the conservation sector and the industry sector) which have been consulting on outer boundaries ahead of the process of zoning. What people want to know about is what you can do within the parks.

Why are we consulting on outer boundaries? We are consulting on outer boundaries because those members opposite, and their colleagues in the upper house, imposed on us an amendment to do so. So, I have to try to deal with the legislation that I have been presented with, which is to try to graft a process on to that, which is to have some preliminary looks at what the zoning would look like.

That was what both industry and conservation groups put to me. They said to me, 'Let's have a preliminary exercise to look at what the zoning might look at so that we can consider the

outer boundaries in that context,' and I, of course, agreed to that. They are very confident that they can reach agreement. Indeed, I must say that in the far West Coast there has been substantial agreement, and that will obviously be very influential in the way in which we choose to configure those outer boundaries.

In the South-East there has also been a fair measure of agreement about these matters, and that will obviously influence our thinking. In the area that the member asks about, that is, the Port Lincoln area, park No. 6, there has been a very wide divergence in points of view between the various sectors. The working groups have not been able to come up with an agreed position, so that puts me in the position of having to consider the competing contentions, which I will do, and make a decision based on those competing contentions.

I must say that I think that all groups that have participated in the process have found it to be valuable. Despite those opposite trying to whip up community concern and fear around the marine park process, despite the most intemperate remarks stating that recreational fishers will be locked out of almost half the state's waters (a complete misrepresentation of the position), despite the fact of the former shadow minister urging interested parties, particularly local governments along the coast and recreational and professional fishing associations reliant upon marine-based activities for their viability, to actively campaign against the current proposals—despite all that—those groups have actually been in active dialogue with the government and we will come up with a sensible solution which will deliver world class marine parks, but also strong viable commercial industries, while also protecting the lifestyles of recreational fishers.

MARINE PARKS

Mrs PENFOLD (Flinders) (14:33): My question is also to the Minister for Environment and Conservation on the same subject. Has the government considered the economic cost to Lower Eyre Peninsula communities as a consequence of declaring 2,627 square kilometres of the region's coastline a marine park, and will an economic impact statement be done?

The Lower Eyre Peninsula is home to many of the state's most popular recreational fishing tourist destinations that underpin the economy of the local communities. These communities are heavily dependent on recreational fishing and all its attendant benefits to commerce, industry, accommodation, hospitality, entertainment, as well as various services, including banking and health, and they are also dependent on a critical mass of visitations.

Real estate is also affected by the popularity and viability of these destinations. Local councils in the Lower Eyre Peninsula believe that Marine Park 6, if adopted as proposed in January 2009, will devastate the local economies.

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) (14:34): I thank the honourable member for her question. In relation to her specific questions the answers are yes and yes. In relation to the marine parks, I will make this prediction: in the future the professional fishing interests across South Australia that make their living out of fishing within marine parks will actually be using them as a marketing tool in the future.

MARINE PARKS

Mr PEDERICK (Hammond) (14:35): My question is to the Minister for Environment and Conservation. In the event that the government implements the Marine Park 6 boundaries, as proposed in January 2009, or something similar, does it anticipate compensating commercial fishermen for the loss of a large proportion of their traditional fishing grounds?

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) (14:35): The question really demonstrates the member's complete lack of understanding of the marine park process because he suggests that the declaration of the boundaries in the manner suggested has some impact on fishing. Of course, the declaration of the boundaries does not have any effect on anyone's rights to do anything.

The zoning process, which will be undertaken over the next couple of years in detailed consultation with the affected activities, will grapple with that question. Of course, the 100 per cent result, if we can achieve it, is to have no effect on any industry, and that is certainly our desire. We

have given substantial commitments to all the industries affected that, as far as possible, their activities will not be affected by the marine parks process.

For example, with respect to all aquaculture zones, which provide for existing and future aquaculture activity, it has been made clear that no sanctuary zones, which would have the effect of precluding those activities, will be in any of those areas. In relation to the wild catch fisheries, we have also given commitments that we will try to zone in a fashion that will cause no or minimal effect in relation to their industries.

It is not in our interest to carry out a zoning process that has any effect on industry. We want to make sure that we have not only a thriving recreational sector, which has its own economic benefits, but also a thriving commercial fishing sector because, as we heard earlier from the Minister for Agriculture, Food and Fisheries, this is a very important industry for our state.

We need to ensure that we have not only a thriving fishing industry that creates prosperity for future generations but also a marine environment that is capable of providing enjoyment for future generations. One should not underestimate the economic importance of protecting our marine habitat, as our marine environment, of course, is a source of tourism and an opportunity to create prosperity for those regional communities the member says he is concerned about.

Within the legislation, we included the capacity to compensate any fishing interest that has been affected or displaced effort that has occurred as a consequence of the marine park process; we hope not to have to use it, but it sits there as a commitment to the commercial fishing interests that they will be compensated should that occur. However, our objective is to make sure that we carry out the zoning process in a way that avoids that effect.

To assist those opposite to understand the marine park process, it is not about having large areas that exclude all activities. The size of a marine park is deliberately designed so that we can protect the marine environment in a way that does not necessarily involve the preclusion of people fishing in the whole marine park. They are multi-use marine parks, and the lion's share of the marine parks will, in fact, be habitat protection, which will have no implications for the lion's share of any fishing.

So, it is a complete misunderstanding and a misrepresentation by those opposite to suggest that the marine park process is damaging to the vital interests of the commercial or recreational fishing sector.

NAIDOC WEEK

Ms SIMMONS (Morialta) (14:39): Will the Minister for Aboriginal Affairs and Reconciliation inform the house of activities held to celebrate NAIDOC Week this year?

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) (14:40): NAIDOC Week is a time when Australians come together to celebrate the culture, heritage and achievements of Aboriginal and Torres Strait Islander people. It is an event that the member for Morialta and other members, including the member for Florey and the member for Norwood, often attend. I know other members of this place also participate in these events.

Since 1957, when it was known as the National Aborigines Day Observance Committee, NAIDOC Week has played an important part in promoting reconciliation among Australians. We often speak of the importance of reconciliation, and one of the most important aspects of reconciliation is to understand and value the heritage, culture and achievements of Aboriginal Australians.

Many activities took place this year, ranging from art and craft sessions to blue light discos and more formal events such as the annual flag raising. All this shone a light on the richness and diversity of Aboriginal culture in this state. A number of people braved the rain last Friday to have a family fun day near the cathedral. It was a wonderful day, which showcased a range of Aboriginal services and cultural activities.

The theme of this year's NAIDOC Week was 'Honouring our elders, nurturing our youth', and we remembered generations of Aboriginal and Torres Strait Islander people who devoted their lives to the service of their people. In so doing they have made South Australia a stronger and better place.

Of course, we must also look to the future and our youth, because it is the future lives of young Aboriginal people in this state that will be the measure of our success in closing the gap. One person, who has dedicated her life to this particular endeavour, is the winner of the 2009 Premier's NAIDOC Week Award. This award each year goes to an indigenous person who has shown exceptional leadership and dedication to their community, and the 2009 winner, Sharon Gollan, certainly displays these qualities. Sharon is a descendent of the Ngarrindjeri nation and has strong connections to many communities within and outside of South Australia.

She has worked for over 25 years to help Aboriginal children, young people and families in this state. Sharon has dedicated her career to tackling the problems that too many Aboriginal people face in their lives. Her groundbreaking work includes a range of programs she implemented while employed by the Department for Families and Communities to ensure that services were designed and delivered so that Aboriginal people could access them more easily.

These programs were considered cutting edge at the time and they are now incorporated into the everyday practices of the department. Sharon now works for the University of South Australia, helping both the university and its students to support Aboriginal people, furthering her strong belief—and one that I share—that education is the key to a better life for Aboriginal Australians.

I am also very proud to have her as deputy chair of the South Australian Aboriginal Advisory Committee and she is a very worthy winner of the 2009 Premier's NAIDOC Week Award. I am sure all members of the house would join me in congratulating her on her many achievements.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Bragg) (14:43): My question is to the Premier. When was the Premier first informed about the missing USB flash drive, which contained information regarding the new RAH and which was the subject of a ministerial statement by the Minister for Health on 18 June 2009, and by whom?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:43): Of course, I am the responsible minister. I advise the house as follows. On Tuesday 2 June an employee of the Department of Health's Major Projects Office lost a USB flash drive containing an electronic copy of some new RAH working files. Later that day the employee advised his director in the Major Projects Office of the loss of the drive. An extensive search has been undertaken and the drive has not yet been located. Both the Treasurer and I were advised of this event by our respective departments on Friday 12 June. This matter has been reported to SAPOL and the Crown Solicitor's Office, and the government's internal and external probity advisers have also been apprised of this event.

The matter has been comprehensively investigated by the Crown Solicitor's Office and its Government Investigations Unit. That investigation has, to date, included very detailed electronic analysis of relevant systems and detailed interviews with relevant persons. The results are anticipated in the near future. I am advised that it would be premature at this stage to comment further on the specifics of that investigation. All the things that ought to have been done by the government have been done.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Bragg) (14:45): As a supplementary question to the Premier—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: —is there some reason, Premier, why you will not tell us here in the parliament when you first knew about this?

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I rise on a point of order, Mr Speaker. The honourable member has been here long enough to know that she must address questions through the chair.

The SPEAKER: The question does need to be addressed through the chair, and—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: The house will come to order! The question is disorderly in that it was not addressed through the chair, for one thing. Also, I did detect a certain hint of debate in the question, but, if the Premier wishes to respond—Premier.

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) (14:46): Always happy to assist my friend, the member for Bragg—the Liberals' once and future queen. I also want to say that I do remember the Minister for Health telling me about this device, which I understand is on the cutting edge of information technology. He told me about the incident. I will check my notes and I will respond to the member for Bragg sine die.

SPORTING FACILITIES

Ms PORTOLESI (Hartley) (14:46): Will the Minister for Recreation, Sport and Racing inform the house how the government is planning for the future with respect to facilities for grassroots sports in South Australia?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:46): I thank the member for Hartley for her question and I acknowledge her interest in this area. The government has made a commitment to increase the level of physical activity across the South Australian community, and a key part of this process is providing facilities that encourage people to participate in sport and recreational activities. The government recognises this, and since 2006 has directed over $13 million in funding to provide grassroots sports facilities and equipment across the state through the Active Club program and the Community Recreation and Sports Facilities programs.

However, the demand on both the state and local government to manage, maintain and develop community sport infrastructure is ever increasing. There is also a growing recognition amongst sporting bodies that facility and other infrastructure sharing opportunities should be promoted in the interests of effective and efficient use of land and resources. As a result, the government has provided $250,000 in the 2009-10 state budget for a business case into the development of community-based sporting hubs to ensure the long-term sustainability of sports in South Australia.

This forward planning exercise will seek to provide a range of multi-use community level sporting activities and will ensure that facilities are flexible to accommodate changing use over time. We will be looking at opportunities to collocate sports with synergies in their requirements for facilities. This will make the most of the use of space, and savings will be achieved through economies of scale created by shared administrative accommodation and resources. The identification of current examples of sporting hubs and the potential to implement some of the strategies they have employed will also be explored.

The Ravensdale Community Sports Centre in Port Lincoln provides an example of the collaborative approach required to create a successful model. The project has brought together state, federal and local government funding in conjunction with contributions from the private sector and sports themselves. The end result is a first-class sporting hub that provides for the needs of hockey, football, netball, baseball, touch football, cricket, little athletics and table tennis, as well as serving the needs of the community.

Collocation of facilities has the benefit of promoting and increasing access to a broader range of sport, recreation, health, education and community services. Consultation will be undertaken with key stakeholders to identify the best process for implementation of the concept.

This government wants to encourage as many South Australians as possible to adopt a healthy and active lifestyle. This project will provide the planned approach needed to ensure that our state's future sporting facility needs can be met in a sustainable manner, making it a crucial element of the government's overall mission to increase the levels of participation in sport and recreation at a grassroots level in South Australia.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Bragg) (14:50): My question is to the Minister for Health. How many people in your department and on your ministerial staff knew about the lost USB flash drive before you, and who were they?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:50): I am not sure the point that the deputy leader is trying to make here—

An honourable member interjecting:

The Hon. J.D. HILL: Sorry, I do beg your pardon, I can tell that the deputy leader has no interest in this question whatsoever, but the former deputy leader, the member for Bragg—and nor am I sure what public interest there could possibly be. I have given the house the information about when I was told—

Ms Chapman interjecting:

The Hon. J.D. HILL: Just calm, calm—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: For the acolytes of the former deputy leader behind her, I will calmly and patiently go through this. I was told on the date that I have just informed the house. I think it was 12 June, from memory. I will go back to my notes where it is written down—Friday 12 June. I am sure someone in my office was told before that because they told me, so that would obviously be the case. There would be people in the department who would have been told because they subsequently passed the information on to me. All that information is subject to any investigation that the Crown Solicitor's Office and SAPOL should choose to make.

Have I asked which people in my office were told before me? No. Why would I ask that, because it was not relevant. The Treasurer and I were told on 12 June and we asked the police and the Crown Solicitor's Office to investigate. If it is relevant to their investigations whether officer A or officer B was told before me, then I am sure they will pursue it.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Bragg) (14:52): I have a supplementary question. Who informed the Minister for Health that the USB drive was lost?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:52): Look, I cannot recall precisely in which order the conversations occurred, but I had conversations with the head of the—

Ms Chapman: You don't remember.

The SPEAKER: Order! The member for Bragg has asked her question.

The Hon. J.D. HILL: I was informed on the day. I had conversations on the day with my chief of staff, who I think may have told me first, and I had a follow-up conversation with the head of the department. The order in which people gave me the information, I cannot recall precisely which order it was, but I think it was in that order. I am happy to try to discover—

An honourable member interjecting:

The Hon. J.D. HILL: I am asked by one of my colleagues: it would be nice if the former deputy leader could advise the house of the names and addresses of those who produced the dodgy documents, but that is another matter altogether.

Of course, I am happy to provide the house with the information and I will seek advice from my staff as to which order, but I fail to see the relevance of this question. A USB device was lost. It has been reported to the police and to the Crown Solicitor's Office to investigate. If the order in which I was told by various people who work for me is relevant, then I am sure they will follow it up. If the former deputy leader has any information about the location of the missing USB, we would be very grateful if she would share it with us.

PUBLIC HOUSING

The Hon. P.L. WHITE (Taylor) (14:54): My question is to the Minister for Housing. Can the minister update the house on housing construction activity in the northern suburbs?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability)

(14:54): As we know, it is a very exciting time in South Australia in relation to the construction of public housing.

Mr Pengilly interjecting:

The Hon. J.M. RANKINE: Well, not for 20 years have we seen this level of construction in public housing.

An honourable member interjecting:

The Hon. J.M. RANKINE: Well, it is interesting to look at the contrast. Back in 1998 your lot built 34 public houses. In the next 12 to 18 months we will see something like 2,200 public houses built here in South Australia. So, apart from delivering the 1,500 homes as part of the economic stimulus package, the recent state budget provides for about 700 further homes through Housing SA programs, the Affordable Housing Innovations Fund or agreements with the commonwealth for indigenous housing.

In partnership with the federal government, we are also in the midst of rolling out $30 million in funding for Nation Building housing upgrades. This project involves taking nearly 400 houses that previously were not suitable for tenants, upgrading them and returning them to the public housing stock. The work being undertaken on all the houses is extensive. It includes new kitchens and bathrooms, polished floorboards and interior painting, electrical rewiring and improvements to plumbing. Homes will be improved externally as well. They will also have new gardens, rendering, aluminium windows and exterior painting. The upgrades are also being done with the environment in mind. Some will have new ceiling insulation to reduce energy costs and dual flush toilets installed.

I am pleased to inform the house that we have recently agreed to $2 million worth of contracts for upgrades in the northern suburbs for homes that will provide accommodation for 21 families. This is in addition to about 100 new homes that will be built in that area that have been approved by the federal housing minister, Tanya Plibersek, in stage 1 of the rollout.

Adding further benefit to the project, in four of the 21 houses being upgraded the work will be undertaken by BoysTown, an extremely worthwhile organisation operating through Elizabeth TAFE. BoysTown gives young people hands-on work experience and the opportunity to learn new skills through building work. The first round of upgrades is expected to be finished by September with the rest completed by the end of the year. Tenants should be able to move in shortly after. As properties become available, as I said, we expect to see about 400 upgrades around the state.

SHACK SITES, RENTAL INCREASES

Mr WILLIAMS (MacKillop) (14:57): My question is to the Minister for Environment and Conservation. Can the minister explain to the house—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: —how his department can claim that rental increases for shack sites from $920 per year to $2,800 per year are consistent with other rent determinations for similar sites throughout the state when no such similar sites exist?

The Department for Environment and Heritage has recently written to shack owners who lease shack sites in a number of national parks across the state advising of rental increases in excess of 300 per cent. After making inquiries as to how these sites have been valued and the rents determined, lessees have been told that in order to appeal against the increases they must produce market evidence in support of their appeal. However, by definition, these sites have no market value. The tenure of the site terminates on the death of the lessee, at which time the lessee's estate is obliged to remove the shack and abandon the site. The shacks cannot be transferred, sublet or rented and they cannot be used as permanent residences.

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) (14:58): I thank the honourable member for his question—it seems like his work rate has picked up since he has gone to the backbench. I had very few questions from him when he was the shadow minister.

The Hon. K.O. Foley: They're all auditioning.

The Hon. J.W. WEATHERILL: That's right. How many weeks has it been that I have not had a shadow minister for the environment? It demonstrates the seriousness with which they take that portfolio. Can you imagine if we had not filled a ministerial role in that respect for that long—an absurdity!

Mr GRIFFITHS: Sir, I have a point of order. The minister's comments are completely irrelevant.

Members interjecting:

The SPEAKER: Order! The Minister for Environment and Conservation will answer the substance of the question.

The Hon. J.W. WEATHERILL: Thank you, sir.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: This is, of course, something that happens on a rolling basis every year. It is a three year process of review of the rents for shacks—in this case, Glenelg River, Coorong, Little Dip and Carpenter Rocks.

In accordance with lease conditions, rental rates for shacks in the Coorong National Park, Glenelg River, Little Dip Conservation Park and Carpenter Rocks are subject to review every three years and the department undertakes this review on advice provided by an independent valuer. Rather than the member for MacKillop, we thought, for the hell of it, we would go for an independent valuer. We thought we could have gone for the member for MacKillop—we know he has real expertise, but not in this area.

It takes into account market evidence such as the significant upward trend in the value of waterfront land. It also considers market rentals in the private sector and alternative holiday accommodation, and it is consistent with rent determinations for similar sites across the state. This has been happening each year. As the land on which the shacks are built is leased from the Crown, DEH's responsibility is to seek fair and current market value for these public assets.

It is worth noting that they are fond of quoting the big increases; largely, that is as a consequence of the long period of review at three years. The rental changes range from $447 to $1,400 per annum at the lowest through to $2,400 to $5,600 per annum at the highest. However, most are in the range of $600 up to $1,700 and $1,200 up to $3,400 per annum. That is the nature of this process, and the various parties have their rights of review. They can challenge the valuation; they are free to do so.

VEHICLE IMMOBILISERS

Mr WILLIAMS (MacKillop) (15:02): My question is to the Minister for Road Safety. Given the government's supposed desire to minimise road trauma, can the minister explain to the house the police protocol in the instance of a stolen high performance vehicle which is fitted with satellite immobilisation technology? Will the police immobilise the car: (a) if it is stationary when located; (b) if it is involved in a high speed chase; or (c) will they disregard the option of using this technology to immobilise the vehicle?

The Hon. M.F. O'BRIEN (Napier—Minister for Employment, Training and Further Education, Minister for Road Safety, Minister for Science and Information Economy) (15:03): I—

An honourable member interjecting:

The Hon. M.F. O'BRIEN: Yes—I have to say that the questioner is immobilised. I could not make head nor tail of that question. I will read *Hansard* and I will get back to the questioner—hopefully with an answer that is a little more understandable than the question.

HOSPITAL EMERGENCY DEPARTMENTS

Ms FOX (Bright) (15:03): My question is to the Minister for Health.

Members interjecting:

The SPEAKER: Order!

Ms FOX: What is the government doing to help reduce demand on emergency departments?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:04): I thank the member for Bright for this important question and I acknowledge her great interest in the health area. Can I say in passing that, regarding the question asked by the member for Bragg about who told me what and when, I am advised by my office that the head of the department told me first, and I then had a subsequent conversation with my chief of staff.

In relation to the question asked by the member for Bright, the government's long-term strategy for dealing with the increased pressure on our health system is based on both increasing supply and reducing (or at least controlling) demand for health care services in our state. We are increasing supply by rebuilding our hospital system and employing record numbers of medical staff.

A key component of our plans to manage demand is keeping people out of our busy emergency departments unless they absolutely need to be there. This is especially the case over winter as our hospitals routinely see a spike in demand as people present with seasonal illnesses, including coughs and colds.

The instances and general awareness of swine flu is leading to an especially high demand this winter. I mentioned to the house yesterday that there was a 9.1 per cent increase in attendances at metropolitan emergency departments this June compared to the same time last year.

Last week I launched an advertising campaign encouraging South Australians to use emergency departments for emergencies this winter. Capacity within EDs must be maintained for traumas and medical emergencies. The campaign encourages South Australians to see their GP or call healthdirect Australia rather than attend EDs with minor ailments.

The fact is that a large number of South Australians (particularly younger South Australians) do not have their own doctor and, when something happens—when they get a bad cold or a flu—they do not know where to go, so they go to the hospital. What we would like to encourage them to do is develop a relationship with a GP and have somewhere that they can go.

The joint state and commonwealth funded healthdirect call centre provides South Australians access to high-quality health advice and information 24 hours a day, every day of the year. For the benefit of members, the number to call healthdirect Australia is 1800 022 222.

Today, I can announce that, in this financial year to the end of June, healthdirect received over 110,000 phone calls in South Australia. That is an average of about 300 calls every day. Callers are able to speak to an experienced registered nurse to discuss their illness or condition and receive advice. This is providing great comfort and reassurance to many South Australians, particularly those in remote areas. In fact, 23 per cent of callers were from rural areas.

Currently, about 84 per cent of calls are answered within 20 seconds, which is above the agreed service standard of 80 per cent. The average call lasts 10 to 11 minutes and allows people to determine whether they should go straight to a hospital or to a GP, whether their illness or condition should be treated or could be treated by a GP the following day or, indeed, if they can manage it themselves.

When it is assessed that action is needed to be taken by the caller, the main advice given is broken down in the following ways: 25 per cent are advised on how to look after themselves at home; 19 per cent are advised to see a GP within 24 hours; 17 per cent are advised to see a GP within four hours; 12 per cent are advised to attend an emergency department; and about 3 per cent only are told to seek an ambulance. In fact, I think healthdirect makes that arrangement for them.

By providing free and easily accessible information, we also hope to make it easier for people who typically do not manage their own health well to access health advice which can lead to the early detection and treatment of medical problems. The government's broad range of policies aimed at reducing demand upon our emergency departments, and articulated in South Australia's Health Care Plan, are starting to have some effect.

Between 2003-04 and 2006-07, our major metropolitan hospitals experienced a 14.7 per cent increase in demand for emergency department services. This equates to an average yearly

increase of 4.9 per cent. The increase in 2007-08 has slowed to 2.6 per cent, which is a remarkable achievement.

In the financial year to May 2009, emergency department presentations have actually decreased by 2.9 per cent across all emergency categories, which is consistent with the strong investment that the government has made in primary health care and out-of-hospital strategies.

Most significantly, the largest drop in attendance this year to date was a 4.8 per cent drop in category 4 and category 5 presentations. So, demand on emergency departments will fluctuate, obviously, on a year-to-year basis—and this year will be a busy year because of the swine flu—but we have managed to establish a downward trend in demand on emergency departments. This is a tremendous achievement, and the hardworking doctors in our emergency departments are to be congratulated, as are the departmental officials who have developed these strategies. I congratulate all of those people on this terrific outcome.

BURNSIDE CITY COUNCIL

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (15:09): I table a copy of a ministerial statement relating to the City of Burnside made earlier today in another place by my colleague the Minister for State/Local Government Relations.

GRIEVANCE DEBATE

VEHICLE IMMOBILISERS

Mr WILLIAMS (MacKillop) (15:09): I take this opportunity to further explain my question to the Minister for Road Safety. On Tuesday this week, *The Advertiser* printed a story headlined, 'Men arrested after car chase leads to a trail of destruction'. The story begins by saying that it was a case of two alleged car thieves who did not get away.

The Hon. M.J. Atkinson: They were on parole.

Mr WILLIAMS: They were on parole, too; the Attorney-General is right. The alleged perpetrators of this crime were on parole. The story goes on to tell of the destruction created by, I believe, two perpetrators in a stolen high performance car. The reality is that the high performance car was fitted with satellite technology which allowed Holden (it was a Holden motor car) to immobilise the car.

The owner of the car happens to be a constituent of mine, who I have been talking to this day. He said that when he reported the stolen vehicle to the police he also rang Holden Assist, and because the car was four years old and he had allowed the mobile assist technology to lapse Holden Assist told him that if he paid $350 they could re-establish the connection, which they did, and a short while after located the vehicle and told the police where the vehicle was.

I am informed, and my constituent was informed, both by Holden Assist and the police, that Holden Assist asked the police if they wanted the vehicle immobilised. It appears that the police said, 'No, we don't want it immobilised. We're sending around an unmarked car and we want to catch the culprits red-handed.'

When they arrived at the address the car was not there. They contacted Holden Assist who told them that the vehicle was now just around the corner. When they approached the vehicle it headed off and a high-speed chase ensued.

The police could have had that vehicle immobilised at any stage. I understand that it could have been immobilised when it was first found, and the vehicle would never have moved from where it was detected, or they could have immobilised the vehicle at any stage during the high speed chase, but they chose not to.

According to the story in *The Advertiser*, the vehicle was subsequently involved in a collision with a car on Findon Road (that was after going through a red light), subsequent to that it ran into a light, I think, at the intersection of Findon and Port roads, collided with another car, kept driving and was abandoned a short while after. The perpetrators were captured some four or five minutes after abandoning the car.

The Hon. M.J. Atkinson: Alleged.

Mr WILLIAMS: The alleged perpetrators; the Attorney-General is right. The government is at pains, on a daily basis, to tell us how serious it is about reducing road trauma, yet here we have

two perpetrators who, again, it is alleged that this car was involved in at least two robberies the night before, or two offences—I believe they were robberies.

The government had the opportunity to immobilise this car and make sure that no further damage or trauma would occur on our roads, yet it took the trouble to say to Holden Assist, 'Thanks, but no thanks. Let's let them get in the car and drive off.' Even when they became involved in a high speed chase they did not take the opportunity to have the car immobilised. I understand that there is no safety issue with immobilising these cars whilst they are moving; the car will slowly come to rest and the driver can quite safely pull over.

The Hon. M.J. Atkinson: You're blaming the police.

Mr WILLIAMS: I am questioning your seriousness, Attorney. My constituent is somewhat disturbed and distressed. Not only has he lost a very valuable car—his insurance company has come to the party—but, on further inquiries, both to Holden Assist and to the police, there seems to be some sort of conspiracy to now cover up. People that he was able to speak to a few days ago are now refusing to speak to him, and the story that is coming out from the police seems to be changing on a daily basis.

If the government is serious about its rhetoric then it should get some protocols organised on how to use the technology that is available, rather than bringing more and more draconian laws into this place on a daily basis.

NATIONAL AUSTRALIA DAY AWARDS

Mrs GERAGHTY (Torrens) (15:14): I had the opportunity to attend a presentation to local schoolchildren by this year's National Australia Day award recipients at Northfield Primary School and Ross Smith Secondary School. I understand that they also went to some other schools around the metropolitan area. This was the first time since recipients were presented with their awards in Canberra on Australia Day that the four national award winners were all able to attend the same presentation.

The day began at Northfield Primary School, where this year's four Australia Day award winners were welcomed to the school with a Welcome to Country presented by students from the school. The award winners were: Australian of the Year, Professor Michael (Mick) Dodson; Young Australian of the Year, Jonty Bush; Graeme Drew, Australia's Local Hero, who was an exceptionally interesting character; and Pat LaManna, Senior Australian of the Year. The students were exceptionally impressed with these truly delightful people.

Professor Mick Dodson, the Australian of the Year, told the students of his humble background, of being been brought up in Katherine, moving in with relatives in Darwin after the death of his parents and then going off to boarding school in Hamilton, Victoria. He talked about how he went on to attend university, where he graduated in law. He practised law with the Aboriginal Legal Aid Service and then became a barrister, working with the Northern Land Council.

Mick told the children of his surprise at being nominated for Australian of the Year. He stressed to the students the importance of a good education and doing their best, particularly enjoying what they do, so his message was a very good one. One of the students asked him who his hero was, and he said that it was Nelson Mandela.

Jonty Bush, the Young Australian of the Year, told students that, when she was 21, her youngest sister was murdered and that, just five months later, her father was killed in an unprovoked attack. She explained that her experiences had motivated her to assist others who were dealing with grief by becoming a volunteer with the Queensland Homicide Victims Support Group, and this led her to become the CEO at the very young age of 27. She also campaigned to have homicide laws in Queensland amended, following the acquittal of her father's killer. Jonty explained to the students how she developed the successful One Punch Can Kill campaign, which was adopted by the Queensland government.

Graeme Drew, Australia's Local Hero, told the students that he was a professional fisherman who operated from the small town of Bremer Bay in Western Australia, where he helped to found the Bremer Bay SES and Sea Rescue. After his nephew's tragic death from falling into a dangerous rip and being carried out to sea, he moved to establish a trust in memory of his nephew. The trust built a system called the Silent Sentry, which is mounted along dangerous rocky coastal areas, and this system has already been instrumental in saving two lives in Western Australia, and I know that he visited a number of our sea rescue people to talk about using that device.

Pat LaManna, the Senior Australian of the Year, told the students of his background as a poor Italian migrant whose father first migrated to Australia in 1936 and of how he and his family moved here after World War II. He told of building his business and becoming the 'Banana King' of the Melbourne Markets. He had been a member of the Lions for 40 years and, in 1972, he helped to establish the Lions Club of Melbourne Markets, which is one of the highest fundraising Lions clubs in Australia.

The students were exceptionally pleased to hear from these wonderful people who shared their experiences and motivated the youth. Our secondary school students were perhaps not as vocal in asking questions as our primary school students, but the award winners inspired all the students with their selfless attitude to making our community a better place to live. We were exceptionally fortunate to have these people here in South Australia—a first, I understand.

TURNER, MR M.G.

Mr PENGILLY (Finniss) (15:19): I rise today to make a small tribute to the life of the late Milton Graham Turner who died last Wednesday, 8 July. Milton was a lifelong Kangaroo Island resident. He was a councillor. He would be unknown to most members in this place. However, he would be well known to some members of the Rann cabinet because, on their visits to Kangaroo Island, he would have mercilessly beaten them around the ears about things he wanted advanced for the cause of the island.

I served with Milton for 10 or 12 years. He was originally on the former Kingscote district council, and he was a passionate supporter of the amalgamated council when it came into being in 1996. Milton was an interesting fellow. He was a devoted family man. His wife Margaret and he shared some 55 years of married life and had a wonderful time. Their four sons—Trevor, Haydon, David and Mark—have followed in their father's footsteps. Milton was on a farm and the farm was sold in due course for various family reasons. He became a shearer, and he could turn his hand to anything. At one stage he ended up as a fencing contractor, but then he developed some flats on Telegraph Road, Kingscote. He then developed Turner's tyre business and, ultimately, that section of Telegraph Road was Turner tyre, Turner Ford, Turner fuel—and the list went on.

Milton was a character. He was the original pelican man at Kingscote. Indeed, he started the pelican feeding at the Bay of Shoals. He thought he had about 25,000 visitors there during his time as the pelican man, before he decided to give it away. He loved the sea and he was a great fisherman. He had an intricate knowledge of the waters around Nepean Bay and the Bay of Shoals, where he grew up. He knew where there were native oysters. He would not tell anyone, but he would get a feed to share around. He was well known for providing fish to many members of the community, his friends and family.

His passion as the Kingscote ward councillor was for the town of Kingscote and what he could do for the town. He was quite pig-headed about where he wanted to go and he had very fixed ideas. However, he was always fair and always prepared to listen to the other side of the argument. I spent many hours in a former life in the council chambers with him. There were times, as I wrote to his widow Margaret, when I cheerfully could have throttled him. However, he probably felt the same way about me.

Milton was involved heavily in community affairs over most of his life, none more so than the racing club on Kangaroo Island, which he served for 60 years in various forms as a jockey, president and groundsman—and the list continues. He was recognised earlier this year by Thoroughbred Racing SA with an outstanding achievement award, about which he was very proud and humble. He was a member and player for Wisanger cricket and football clubs. He was a member of many other associations. He was a foundation charter member of the Kangaroo Island Lions Club and a Freemason. He gave 100 per cent to every organisation of which he was a member.

I think it is appropriate that, even though not many in this place knew him, his contribution to South Australia, the Australian way of life and, more particularly, his contribution to Kangaroo Island should be recognised. We have many people like Milton around the state of South Australia. They are the heart and soul of local communities. They put everything they have into communities and, given the position I currently have, I am happy to say a few words about Milton in this chamber today.

I know that Margaret and the family will move on. He was intensely proud of his family. His eldest son, Trevor, has served overseas in the Army and his grandson, I understand, has just returned from Afghanistan after a period of service. Trevor gave the eulogy and said that he was

the son that people did not know Milton and Margaret had because he left some 37 years ago. However, Milton and Margaret regularly travelled to the Eastern States to visit Trevor and his family. He will be well remembered. Vale Milton.

GAWLER EAST, DEVELOPMENT PLAN AMENDMENT

Mr PICCOLO (Light) (15:25): On 21 May the Minister for Urban Development and Planning (Hon. Paul Holloway) released the development plan amendment (DPA) for Gawler East. On the same day, the Minister for Transport (Hon. Pat Conlon) released the Gawler Growth Areas Transport Framework, which informs the DPA in response to the new urban growth boundary that was announced in July 2007. Community consultation for that DPA closes today, and I have strongly encouraged people in the electorate to provide feedback on the DPA to DPAC.

Reaction to the DPA has been mixed. Some people oppose it outright, some welcome it, and many do not oppose it but have a range of concerns they would like addressed. Opposition to the DPA comes in two key forms. First, there are people who are concerned about some aspects of the DPA, for example, traffic management (firstly, the proposed connector roads and, secondly, how new traffic may impact on the centre of Gawler itself). There are also concerns about the character of the proposed development.

There are issues regarding environment and biodiversity and the provision of social infrastructure. The provision of physical infrastructure, such as roads, bridges, and the like, have also raised concerns amongst the local community. The likely impact of the proposed neighbourhood retail centre in the proposed development on the existing commercial area has also created some debate. On the environment side, stormwater management has also engendered quite a bit of discussion. The lack of public transport in the locality has also been identified by the community as a key issue to be addressed.

These are legitimate concerns that need to be addressed if the proposed development is to be a net gain for the community. While I am personally confident that the physical infrastructure will be addressed through the cooperative discussions between the local and state governments and the developers, I think that some aspects of the DPA need more work.

The one area of particular concern to me is public transport. This part of the DPA is lacking in vision and in detail in my view. We need to get this right, because, if we do not, new residents who come to live in the area will adopt cars as the major form of transport and it will be hard to change them when public transport is later addressed. This has two impacts: first, it compounds the existing traffic problems in the town; and, secondly, it does not help promote environmental sustainability.

The second form of concern is the process itself. I think that the current statutory arrangements for DPAs are somewhat lacking and require a great deal of change if anxieties in the community are to be addressed. While the process is not an issue that is likely to be addressed by DPAC at its public meeting, I think it is one that should be because a great deal of community unease results from the lack of information caused by the process itself.

In an effort to address this lack of information, I arranged for a number of information sessions to be held with officers from the Department of Planning and Local Government and DTEI, who answered questions from local residents.

While the current statutory arrangements limited what the officers could address, nevertheless, they did help place the issues in context. I personally think that the statutory arrangements should be amended to enable more discussion around a draft DPA to take place before it is considered by DPAC. At the information sessions it became apparent that some people who had opposed elements of the DPA had not read the reports which informed it—a total of 21 reports.

I think that a more informed community would enable a more informed debate and discussion, which I think is critical if a DPA is to be accepted by the community. While it is always difficult to assess what level of detail should be provided at a conceptual level, nevertheless, I believe a more inclusive process is required and would gain community support.

As public policy makers, we have an obligation to make sure that the process is less threatening to people as possible. Our economic and social wellbeing requires us to grow in a sustainable way. Proposed planned new developments can help us grow and also resolve some of the solutions of existing problems.

Time expired.

MARINE PARKS

Mr PEDERICK (Hammond) (15:30): One of the most difficult parts of being in opposition is bearing the brunt of constituents' anger at having been deceived by this government whose dishonesty in dealing with community and industry groups is surpassed only by its arrogance. When these complaints begin to take on a familiar pattern and become constant and repetitive, it becomes even more difficult to assist, because what we are then dealing with is a government that is inherently arrogant, deceptive and completely unrepentant. Such a pattern has emerged and it has infected most, if not all, ministers and many of their departments. That pattern is one of broken promises, of hopes raised and dashed, and decent citizens left wary and untrusting of government.

The latest group to suffer this fate is the commercial fishermen of the Lower Eyre Peninsula whose fate is now in the hands of a minister and department who suffer from the Labor disease—so-called open doors but closed minds. This government boasts it consults widely with the people about all manner of things. They will state boldly on their final report that they have done so. They would have the reader believe that the consultation was somehow incorporated into the final decision and therefore the conclusion is popular and acceptable. This is rarely the case.

Representatives of the Lower Eyre Peninsula, local government and commercial and recreational fishing communities were invited to contribute to discussions and planning for a marine park, a subject now affecting literally hundreds of thousands of South Australians. They diligently went about thoroughly researching and preparing a submission, consulting carefully with respected scientists whose knowledge is current and relevant. On current form, when the minister's determination is given, nothing of their input will be apparent. Instead, vague studies from many years ago will likely take precedence over current and topic-specific science.

Comparisons have been made with fisheries around the world and conclusions drawn that bear absolutely no relevance to local conditions. For the minister to include statistics showing a 550 per cent recovery rate of fish habitat following the cessation of commercial fishing sounds reasonable. To learn that these statistics come from a location in the Philippines where dynamite and cyanide were the preferred fishing technique highlights how unbelievable and ludicrous such a comparison is. South Australia is acknowledged as having among the best managed fisheries in the world, but, no, the Minister for Environment and Conservation and his departmental experts can do it better.

This is the Labor disease: hear everything but listen to nothing; look at everything but see nothing; ask everyone but learn nothing. They say they consult widely, but take no advice. They send staff out to run public meetings designed to deceive the people into believing their opinions matter and will be noted. They send guest speakers and panel members to these meetings whose agenda is set and no discussion or negotiation is accepted. They have been sent to sing the minister's song and nothing else. They call it 'engaging with the community'. Nothing is more insulting than a broken engagement.

Well researched and presented submissions on bioremediation by community members have been ignored. Creative and cost-effective proposals for community projects to ease the water problems have been sidelined, only to find later that elements of their proposal appear in departmental plans. So much for engaging the community. Many disillusioned community members are already avoiding further community meetings in disgust.

The procession of complaints through my office is staggering. They cover almost every ministry. They include: aquatics, music education, country transport, prisons, education, police services and facilities, workers compensation, emergency services, roads, shared services, agriculture, country health—what a total fiasco that was (they called it 'consultation'), River Murray, Lower Lakes and other water management issues—an international disgrace, and now we have environmental marine parks—and that is just complaints to my office. In every one of these areas I have had individuals or groups complain to me that their opinion was sought and their input invited only to be completely discounted or simply ignored. South Australian electors should remember at the next election that this government suffers from an incurable disease—so-called open doors but a closed mind.

BRIGHTON COMMUNITY ECO-GARDEN

Ms FOX (Bright) (15:34): In September last year I had the privilege to attend a meeting with the Minister for Environment and Conservation, Mr Jay Weatherill, and a constituent of mine,

Mr Michael Dwyer. Michael Dwyer and another person came into the parliament to discuss with us some problems around sustainable transport and peak oil. At the end of that discussion, when Michael Dwyer was leaving, he and I stopped and had a chat. We talked about the grassroots activities that could take place in our electorate that would get people more involved with the ecological reality of today's world and we also talked about wanting to establish a community garden. It was a very casual chat, and I said, 'Look, you should go to the council and see if it will help you and, if it does, I will be 100 per cent behind you.'

It is less than a year later, and I am very proud to say that from that meeting and from that chat a Brighton Community Eco-garden has finally been established. The first official meeting took place at the end of November last year and more than 70 people attended. That was 70 people just really in the Brighton and Hove areas who wanted to get involved in a community garden. What people wanted from a community garden was not only the opportunity to meet other people who enjoyed gardening and to share knowledge but also to be instructed and learn about what gardening was, because I think that, certainly, people of my generation (I am in my late 30s) have not grown up as gardeners. I see some country members looking at me in slight horror, and I will say that I am an urban member of parliament and—

The Hon. M.J. Atkinson: One could not be more innocently employed than in the garden.

Ms FOX: Indeed, Attorney. I am sure that you spend a great deal of time there. I am a very urban person, but I think it is very important for urban people such as myself to learn as much as they can about the process of food production and how food gets from the soil onto our plate.

We also had people who wanted to be part of a community garden because they wished to grow specific plants, they wanted to learn about specific activities such as composting and pruning and they wanted to be able to teach their children about gardening and how gardening can be a pleasure as well as a survival task.

I would like to take this opportunity to thank the Holdfast Bay city council, because if it had not been for the council this would not have been able to happen. I would particularly like to thank Glen Millar, the Manager of Community Development, for the support and for granting the use of the land at the southern end of the community centre on King George Avenue, Hove.

I have stated before in this place that I do not have particularly green fingers—no, it is the thumb that you have; you have the green thumb—but I am interested in the idea and the viability of community gardens. One of the reasons for that is because in my electorate, certainly, open space is at a premium. We have almost no open green space in Holdfast Bay. There are a lot of built-up areas, and that is not good, because you get these smaller gardens where kids cannot really play a lot. They do not have the big backyards that they used to have.

When I was a kid my grandfather used to take me into the back garden, where he grew beans, peas, tomatoes and strawberries, and I was able to see that process occurring. However, that does not happen now with this generation—and it is not their fault; it is just our way of life. So, an urban child's coming to an understanding of where food comes from (which is very important) can be facilitated by community gardens.

I wish Michael Dwyer and his committee the very best for the Brighton Community Eco-garden. I hope very much that we might be able to see something similar happening in Glenelg and perhaps in Seacliff. I once again thank and, indeed, commend the council for the work it has done on this, and I look forward to learning how to grow something that is edible in the near future.

SERIOUS AND ORGANISED CRIME (UNEXPLAINED WEALTH) BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:43): I move:

That standing orders be so far suspended as to enable the introduction forthwith of the Serious and Organised Crime (Unexplained Wealth) Bill.

The DEPUTY SPEAKER: An absolute majority not being present, ring the bells.

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

Motion carried.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:43): Obtained leave and introduced

a bill for an act to provide for the making and enforcement of unexplained wealth orders; to make related amendments to the Criminal Assets Confiscation Act 2005; and for other purposes. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:43): I move:

That this bill be now read a second time.

The prosecution of the activities of serious and organised criminals and outlaw motorcycle gangs and their members is a high priority for the government. Outlaw motorcycle gangs and their members are involved in drug trafficking and other profitable crimes. One of the most effective ways to counter serious criminal offending is to confiscate the proceeds of crime.

The Criminal Assets Confiscation Act 2005 allows for the proceeds or instruments of crime to be forfeited to the state. However, forfeiture related proceedings may occur only where it can be shown on the civil onus of proof that the person has been convicted of a serious offence or that the person is suspected on reasonable grounds of having committed a serious offence and that the relevant property is either the proceeds of or an instrument of that crime.

The government considers that the effectiveness of these provisions is limited by the need to prove that the defendant, or some other person, has committed a serious offence. An important means of attack on the profits of organised crime, including the activities of outlaw motorcycle gangs, lies in the introduction of unexplained wealth orders. In general terms, these provisions will authorise the Crown to apply to a court for a declaration that a person, including an incorporated body, has unexplained wealth.

A person has unexplained wealth if the value of their approved wealth, calculated in accordance with the legislation, exceeds their lawfully obtained wealth. Any wealth the defendant cannot explain will be assessed and form the basis of a civil judgment debt due from the defendant to the government.

The proposed bill will authorise the Crown Solicitor to apply to the court for a declaration that a person, including an incorporated body, has unexplained wealth. Wealth is defined as everything that a person has ever owned or controlled, whether before or after the act comes into force. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The prosecution of the activities of serious and organised criminals and outlaw motor-cycle gangs and their members is a high priority for the Government. Outlaw motor-cycle gangs and their members are involved in drug trafficking and other profitable crimes.

One of the most effective ways to counter serious criminal offending is to confiscate the proceeds of crime. The *Criminal Assets Confiscation Act 2005* allows for the proceeds or instruments of crime to be forfeited to the State. However, forfeiture-related proceedings may occur only where it can be shown on the civil onus of proof that the person has been convicted of a serious offence, or that the person is suspected on reasonable grounds of having committed a serious offence, and the relevant property is either proceeds of, or an instrument of, that crime. The Government considers that the effectiveness of these provisions is limited by the need to prove that the defendant (or some other relevant person) has committed a serious offence.

An important means of attack on the profits of organised crime, including the activities of outlaw-motor cycle gangs, lies in the introduction of unexplained wealth orders. In general terms these provisions will authorise the Crown to apply to a Court for a declaration that a person (including an incorporated body) has 'unexplained wealth'. A person has 'unexplained wealth' if the value of their proven wealth, calculated in accordance with the legislation, exceeds their lawfully-obtained wealth. Any wealth the defendant cannot explain will be assessed and form the basis of a civil judgment debt due from the defendant to the Government.

The proposed Bill will authorise the Crown Solicitor to apply to a Court for a declaration that a person (including an incorporated body) has 'unexplained wealth'. Wealth is defined as everything that a person has ever owned or controlled, whether before or after the Act comes into force.

The proposed amendments will have these key features:

- The process will usually begin by application for a restraining order made on application by the Commissioner of Police. The application will ask the Court to be satisfied that the order is reasonably necessary to ensure payment of an amount that is, or may become, payable under an unexplained wealth order. The application for the restraining order will specify the property that it will cover. There is no need to show that the property is crime derived or related in any way. The restraining order will last for 21 days unless an application for an unexplained wealth order is made. In that case, the restraining order will normally apply until the end of proceedings.

- Since there is no need to show that the property is crime derived or related in any way, safeguards are needed. A key safeguard is that the Court may refuse to make a restraining order if the Crown makes no appropriate undertaking for the payment of damages or costs or both, should the target satisfactorily explain his wealth. The applicant is obliged to notify any person who is known to be an owner of any property specified and restrained, or having an interest in this property, so that these people, and anyone else who hears of the matter, can make an application to have their lawful interest in any of the property excluded from the order.
- The police have been given other investigative powers. First, a police officer of or above the rank of Superintendent may issue a written notice to a deposit holder—that is, essentially, any organisation that holds money in accounts on behalf of other persons—requiring the provision of information about accounts held by a specified person. Second, a police officer of or above the rank of Superintendent may apply to a Court for an order that requires a deposit holder to report specified transactions on such an account. Third, the Commissioner of Police may apply to a Court for an order requiring a person to give evidence to the Court about his wealth or to produce documents or material about his wealth. Fourth, the Commissioner of Police may apply to a Court for a warrant authorising the search and seizure of anything relevant to identifying, tracing, locating or quantifying a person's wealth. Some of these provisions closely follow existing provisions in the *Criminal Assets Confiscation Act 2005.*
- These extensive powers proposed for the investigation of a person's means and wealth do not require any showing of criminality and so require a special safeguard. The Bill proposes that the powers be used only against those convicted of or found liable to supervision for a serious offence, those subject to a control order under the *Serious and Organised Crime (Control) Act 2008*, or those about whom the Crown Solicitor has reasonable grounds to suspect have engaged in serious criminal activity, regularly associate or have regularly associated with persons who engage, or have engaged, in serious criminal activity, are a member of a declared criminal organisation or who have acquired property as a gift from or from the deceased estate of such a person. The decision of the Crown Solicitor on this point is unreviewable by a Court and the Crown Solicitor is not required to provide procedural fairness while acting in this gate-keeper role. The discretion of the Crown Solicitor is an independent discretion and he does not act on instructions in exercising this function.
- There will be no criminal threshold of proof for the making of the application for the full unexplained wealth order. Instead, an application may be made if the Crown Solicitor reasonably suspects that a person has wealth that has not been lawfully acquired. An application may be brought against any person or body corporate (a small business, for example) irrespective of whether the person or body corporate has been convicted of an offence, has been charged with an offence or, indeed, is suspected for any reason of committing an offence. There is no obligation on the Crown to prove or even allege the person or body corporate is engaged in any sort of criminal activity. Although this represents a departure from the current criminal assets confiscation where the Court must be satisfied, either by conviction or on the civil burden of proof, that the respondent has committed a relevant criminal offence, the effectiveness of unexplained-wealth declarations rests on the Crown being relieved of the need to prove the defendant is, or has been, involved in criminal activity or that a particular asset is linked to a particular crime.
- Once an application is made against a person or body corporate, any part of the person or body's wealth (all property owned or effectively controlled by the person, all property the person has given away at any time, all property the person has acquired and discarded or used, all services a person has acquired, royalties etc.) is presumed not to have been lawfully acquired. Effectively, the legislation deems all private wealth to have been unlawfully acquired.
- The respondent (the person or body corporate who is the subject of the application) bears the onus of establishing that his or its wealth has been lawfully obtained. All the Crown is required to prove is that the respondent owns or effectively controls wealth. The Court hearing an application may declare that the respondent has unexplained wealth if the Court determines that it is more likely than not that the respondent's proven wealth is greater than his or its lawfully acquired wealth. The Court may refuse to make an order only if the Court is satisfied that it would be manifestly unjust to make the order. It should be made clear that the relevant question is whether it is manifestly unjust to make the order for payment of the sum of money—it is not relevant to consider whether it would be manifestly unjust to lose particular property or the consequences of making the order. This order is not a confiscation order—it is an order for the payment of a sum of money as a judgment debt only. The clear intention of the Bill is that it is to be presumed that the order will be made and that the order will be for the payment of a sum equalling the amount of unexplained wealth.
- Where the Court makes an unexplained-wealth declaration, the respondent is required to pay the amount found to be unexplained to the Crown. The specific property restrained is then available to meet the payment of the sum declared to be owing. The judgment is an ordinary civil judgment for a sum of money and is enforceable under the *Enforcement of Judgments Act 1991*. Interstate judgments are exclusively the subject of the Commonwealth *Service and Execution of Process Act 1992*.
- As the Crown does not have to establish criminality, or link a particular asset to a particular crime; unexplained-wealth proceedings allow the wealth of those who may not have directly participated in crime, but who have benefited financially from crime, to be attacked on the basis that the wealth exceeds that which they obtained through lawful means. This legislation will provide a mechanism by which the Government can take clear aim at those who direct and who profit from the activities of criminal organisations but who are, themselves, insulated from any direct criminal liability.

Since this is an ordinary civil action, the ordinary rules of civil procedure apply. These include rules of discovery. As in other legislation of this kind, it is necessary to protect information that, as the Bill provides, 'relates to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety. This is the form of provision that was declared constitutional by the High Court in K Generation Pty Ltd v Liquor Licensing Court [2009] HCA 4. This kind of provision has attracted some unfairly harsh criticism. The High Court made it clear that the question of how the information is to be handled is up to the Court and not the Commissioner of Police. Further, the statutory provisions are similar to the common law concept of public interest immunity and no critic has taken the time to compare the two. There are ancillary provisions in the Bill, and perhaps the most important of these state that the proceeds must be credited to the Victims of Crime Fund and that providing for the awarding of costs in connection with proceedings. There are also extensive provisions for review of the operation of the Act.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines certain terms used in the measure. In particular, wealth of a person is defined to consist of all property that the person owns or has previously owned (including before commencement of the measure); all other benefits that the person has at any time acquired (including before commencement of the measure); and all property that is, or has previously been, subject to the person's effective control (including before commencement of the measure).

4—Meaning of effective control

This clause provides assistance in determining whether property can be said to be subject to a person's *effective control*.

5—Extra-territorial operation

This clause provides for extra-territorial operation of the measure (to the fullest possible extent).

6—Criminal intelligence

This clause contains measures for protection of the confidentiality of material classified by the Commissioner of Police as criminal intelligence.

7—Role of Crown Solicitor

This clause makes it clear that, where the measure specifies that a power or function is to be exercised by the Crown Solicitor, the Crown Solicitor is to exercise an independent discretion and does not act on instruction.

Part 2—Unexplained wealth orders

8—Determining the value of property and benefits

This clause sets out provisions that apply when determining the value of any property or benefits for the purposes of the Part.

9—Unexplained wealth orders

This clause provides for the making of an order (an *unexplained wealth order*) that a specified person pay to the Crown a specified amount if the Court finds, in accordance with the measure, that any components of the person's wealth the subject of the application for the order have not been lawfully acquired. In determining the proceedings, each component of a person's wealth specified in the application will be presumed not to have been lawfully acquired unless the person proves otherwise but if the Court is satisfied that it is not reasonably possible for a person to establish that a component of his or her wealth was lawfully acquired the Court may determine that the value of that component should not be taken into account in determining the person's total wealth.

10—Appeals to Supreme Court

Appeals may be made to the Supreme Court by the Crown Solicitor or a person subject to an unexplained wealth order.

Part 3—Investigative and enforcement powers

Division 1—Preliminary

11—Application of Part

Powers and functions under the Part may be exercised either before or after an unexplained wealth order, or an application for an unexplained wealth order, has been made against a person.

12—Limitation on exercise of powers and functions under Part

This clause provides that where powers and functions are to be exercised before the making of an unexplained wealth order, the powers and functions must be authorised by the Crown Solicitor unless they are being exercised for the purpose of investigating or restraining the wealth of a person who has been convicted of, or declared liable to supervision in relation to, a charge of a serious offence or who is or has been subject to a control order under the *Serious and Organised Crime (Control) Act 2008*.

The Crown Solicitor may not authorise the exercise of powers and functions unless satisfied that they are to be exercised to investigate, or restrain, wealth of a person who the Crown Solicitor reasonably suspects of being—

- a person who engages or has engaged in serious criminal activity; or
- a person who regularly associates with persons who engage, or have engaged, in serious criminal activity; or
- a person who is or has been a member of an organisation that is a declared organisation; or
- a person who has acquired property or a benefit as a gift from a person of a kind referred to in the preceding dot points or on the distribution of the estate of a deceased person who was such a person.

The clause also makes other provisions relating to an authorisation by the Crown Solicitor.

Division 2—Investigative notices, orders and warrants

13—Notices to deposit holders

This clause sets out a process under which a police officer of or above the rank of Superintendent may give a deposit holder a notice requiring them to provide information or documents of a kind specified in the provision. This clause makes it an offence (punishable by a fine of $10,000 or imprisonment for 2 years) to disclose to a person the existence or nature of an order, or information from which the person could infer the existence or nature of the order, if the order specifies that information about the notice must not be disclosed.

14—Monitoring orders

This clause allows a court, on application by the Commissioner of Police, to make orders requiring a deposit holder to report transactions of a kind specified in the order.

15—Orders for obtaining information

This clause allows a court, on application by the Commissioner of Police, to make orders requiring the giving of evidence, or the production of documents or materials, relevant to identifying, tracing, locating or valuing a person's wealth.

16—Warrants

This clause provides for the granting of warrants on application by the Commissioner of Police.

17—Powers conferred by warrant

This clause sets out the powers conferred by a warrant.

18—Exercise of jurisdiction

The jurisdiction of a court under this Division may be exercised by a judicial officer sitting in chambers.

Division 3—Enforcement powers

19—Enforcement of unexplained wealth orders

An unexplained wealth order is enforceable under the *Enforcement of Judgments Act 1991* if not paid within 21 days. The clause also allows a court to declare that property that is subject to the effective control of a person in relation to whom an unexplained wealth order has been made is to be taken to be property of the person for the purposes of the *Enforcement of Judgments Act 1991*.

20—Restraining orders

This clause allows the Commissioner of Police to apply to a court for an order preventing the disposal of specified property or preventing specified kinds of transactions involving safe custody facilities. The court may only make the restraining order if satisfied that it is reasonably necessary to ensure payment of an amount that is, or may become, payable under an unexplained wealth order.

21—Refusal to make an order for failure to give undertaking

A court may refuse to make a restraining order if the Crown refuses or fails to give the Court an appropriate undertaking with respect to the payment of any costs that may be awarded against the Crown.

22—Form of restraining order

This clause sets out the form of a restraining order.

23—Notice of restraining order

This clause sets out who should be given notice of a restraining order.

24—Right of objection

If a restraining order is made ex parte, a person who was, or should have been, given notice of the order may lodge a notice of objection with the court that made the order within 14 days after becoming aware of the making of the order (or such longer period as the court may allow).

25—Variation or revocation of restraining order

This clause allows a court to vary or revoke a restraining order. If, however, a variation or revocation is sought to enable the payment of legal costs, the court can only make the order if satisfied that there is no other source of funds for the legal costs.

26—Appeals to Supreme Court

This clause provides for appeals to the Supreme Court from a decision of a court under the Division.

27—Cessation of restraining order

This clause sets out the circumstances in which a restraining order will automatically cease to operate.

28—Contravention of restraining order

This clause sets out offences for contravention of a restraining order.

Division 4—General provisions relating to investigative and enforcement powers

29—Representation of Commissioner of Police

This clause allows the Commissioner of Police to be represented in proceedings under the Part by a police officer or by counsel.

30—Ex parte proceedings

A court may make an order under the Part on an application made without notice to any person.

31—Immunity from liability

This clause provides protection from liability for persons in taking action to comply with a notice or order under the Part.

32—Making false or misleading statements

This clause makes it an offence (punishable by a fine of $5,000 or imprisonment for 1 year) to make a false or misleading statement in or in connection with a notice or order under the Part.

33—Failing to comply with notice or order

This clause makes it an offence (punishable by a fine of $5,000 or imprisonment for 1 year) to refuse or fail to comply with a notice or order under the Part.

Part 4—Reviews and expiry of Act

34—Annual review and report as to exercise of powers

This clause requires the Attorney-General to appoint a retired judicial officer to conduct an annual review of the exercise of powers under the measure, to be presented to the Attorney-General by 30 September each year and laid before both Houses of Parliament. The Attorney-General, the Crown Solicitor and the Commissioner of Police must ensure that the reviewer is provided with such information as he or she requires to conduct the review. Any information that has been classified by the Commissioner as criminal intelligence must be kept confidential.

35—Review of operation of Act

This clause provides that the Attorney-General must, as soon as practicable after the fourth anniversary of the commencement of the clause, conduct a review of the operation and effectiveness of the measure (the report of which must be tabled in both Houses of Parliament). Again, any information that has been classified by the Commissioner as criminal intelligence must be kept confidential.

36—Expiry of Act

The measure will expire 10 years after commencement.

Part 5—Miscellaneous

37—Manner of giving notices

This clause sets out the manner of serving or giving notices, orders and other documents for the purposes of the measure.

38—Immunity from liability

This clause provides immunity from liability for the Crown and persons exercising powers and functions under the measure.

39—Protection from proceedings etc

This clause excludes judicial review and all other remedies in relation to certain matters under, or purportedly under, the measure. The clause also specifies that the Crown Solicitor is not required to provide procedural fairness in exercising a discretion under this Act.

40—Proceedings under Act are civil proceedings

Proceedings (other than proceedings for an offence) under the measure are civil proceedings and are subject to the civil burden of proof and civil rules of construction and evidence.

41—Ancillary orders

A court may make ancillary orders.

42—Consent orders

This clause provides for the making of consent orders by a court dealing with a matter under the measure.

43—Costs

This clause provides for an award of costs (on a solicitor/client basis) against the Crown.

44—Credits to Victims of Crime Fund

This clause requires money recovered under an unexplained wealth order to be applied, in accordance with guidelines issued by the Treasurer, towards the costs of administering the measure and the *Serious and Organised Crime (Control) Act 2008* and the balance must be paid into the Victims of Crime Fund.

45—Regulations

This clause contains a regulation making power.

Schedule 1—Related amendments

The Schedule makes a related amendment to the *Criminal Assets Confiscation Act 2005* to ensure that, where an unexplained wealth order has been made against a person, property and benefits taken into account as wealth of the person that was not lawfully acquired for the purposes of that order are not the subject of proceedings under that Act for a restraining order or a confiscation order (so that the person is not held to account twice for the same property or benefits).

Debate adjourned on motion of Mr Pederick.

REFERENDUM (REFORM OF LEGISLATIVE COUNCIL AND SETTLEMENT OF DEADLOCKS ON LEGISLATION) BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:48): Obtained leave and introduced a bill for an act to provide for the submission of the Constitution (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Amendment Bill 2009 to a referendum. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:49): I move:

That this bill be now read a second time.

This bill accompanies the Constitution (Reform of the Legislative Council and Settlement of Deadlocks on Legislation) Amendment Bill 2009—wait for it—which cannot come into operation unless it has been approved by the electors in a referendum. It is a procedural bill providing for the holding of a referendum and the means by which it is to be done. As South Australia does not have a referendum act of general application—and I am sure the member for Davenport knows that—it is necessary to ask parliament to pass a referendum bill for each proposed referendum.

The bill provides that the question to be put to the electors at the referendum is: do you approve the Constitution (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Amendment Bill 2009?

The bill requires that the referendum be held on the day fixed for a general election, and it is intended that the referendum be held at the next general election. The South Australian Electoral Commissioner will be responsible for the conduct of the referendum. The Electoral Act 1985 will apply, with necessary exceptions or modifications prescribed by legislation. I commend the bill to the house. I seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

1—Short title

This clause is formal.

2—The referendum

This clause provides for the *Constitution (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Amendment Bill 2009* to be submitted to a referendum. The provision specifies that the referendum must be held on the day of a general election (taking into account the requirement in section 10A of the *Constitution Act 1934* that the referendum be held not less than 2 months after the Bill has passed through the Parliament).

3—Conduct of referendum

This clause provides that the Electoral Commissioner is responsible for the conduct of the referendum and provides for the appointment of scrutineers for the purposes of the referendum, the application of the *Electoral Act 1985* to the referendum and the declaration of the result of the referendum.

4—Regulations

This clause provides for the making of regulations for the purposes of the measure.

Debate adjourned on motion of Hon. I.F. Evans.

CONSTITUTION (REFORM OF LEGISLATIVE COUNCIL AND SETTLEMENT OF DEADLOCKS ON LEGISLATION) AMENDMENT BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:51): Obtained leave and introduced a bill for an act to amend the Constitution Act 1934. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:52): I move:

That this bill be now read a second time.

In recent years it has been ALP policy to support our bicameral parliamentary system, and to investigate the reform of the other place. In November 2005, the Premier announced the government's intention to seek the views of the South Australian voters at the 2010 general election through a referendum. The reforms suggested were reducing the tenure of members of the other place from eight years to four years, reducing the number of members of the other place from 22 to 16 and having all members stand for election at the same time. In honouring that pledge I have had bills drafted that will enable the voters to choose whether they want to reform the other place in this way and also substitute a better procedure for dealing with deadlocked bills, or to keep the status quo.

The bill I introduce today, together with an accompanying bill for holding a referendum, is for the purpose of achieving that. The referendum would be held at the next general election in March 2010. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill would amend the *Constitution Act 1934* to achieve the reforms of reducing the number of Members of the Legislative Council to 16 and reducing the terms of M.L.C.s to four years coinciding with the terms of Members of the House of Assembly.

In addition, it would replace the current deadlock provision, which is so cumbersome that it is not used. The new provision is based on the equivalent in the Commonwealth *Constitution*, although there is an important difference in that it will be for the House of Assembly to determine whether the position the Legislative Council has taken on the deadlocked Bill should result in a double dissolution and general election.

At present, the President of the Legislative Council has only a casting vote. Since 1973 the President has also been able to indicate his concurrence or nonconcurrence in the passing of the second and third reading of a Bill to alter the *Constitution Act*. This Bill would give the President a deliberative vote on all questions, instead of only a casting vote and the very occasional and limited opportunity to indicate concurrence or nonconcurrence.

The Bill as introduced could not come into operation unless first it is passed by an absolute majority of both Houses of Parliament and then approved by South Australian electors at a referendum.

This means that the general election to be held in March 2010 will be conducted according to the provisions of the *Constitution Act* as it now stands. Eleven Members of the Legislative Council will retire and there will be an election to fill eleven seats. Those eleven Members will be elected for terms of eight years. However, if the electors approve the reforms, all the Members of the Legislative Council will retire at the general election in 2014, or at any earlier general election. At that election there will be only 16 seats to be filled.

If the Bill is approved by the electors, the new deadlock procedure would come into force on the Bill receiving the Governor's Assent. This would be soon after the results of the referendum are known.

The deadlock provision—section 41 of the *Constitution Act*—is entrenched. To alter or repeal it, there must be a Bill passed by an absolute majority in each House of Parliament and then the Bill must be approved by the electors in a referendum.

If the proposed reforms of the Legislative Council are approved, they would be irreconcilably inconsistent with section 41. At the least, section 41 would have to be substantially amended. So, a referendum on this Bill will be necessary for legal constitutional reasons, as well as because it has been promised.

If these Bills are passed by absolute majority, the referendum will be held at the next election in March 2014.

Mr Speaker, while these reforms are very significant ones, the concept of change to the Legislative Council is not, of course, new. The Opposition proposed similar changes in 2000. The Government looks forward to its support.

I commend this Bill to the House and seek leave to have the remainder of the second reading explanation inserted in Hansard without my reading it.

Number of Members of the Legislative Council

Since proclamation of the Province of South Australia on 28 December 1836 under the *South Australian Colonisation Act 1834*, the composition of the Upper House in South Australia has been changed on a number of occasions. The number of Legislative Councillors has fluctuated from 18 to 24. From 1857 to 1881 there were 18 Members. From 1881 to 1901 there were 24. From 1901 until 1913 there were again 18 Members. From 1913 to 1973 there were 20. Since 1973 there have been 22.

The Opposition's response to this proposed reform, to date, appears to be to claim that there will not be enough Members to do all of the work. This is to miss the point entirely. The message that this Government has received from the public is that there is a good deal of make-work going on, and that Members in the other place are justifying their existence by setting up a committee to examine everything under the sun.

In the other place, a desire by our business and community leaders to seek to have Government policy coherently reflected in legislation was described as the Government 'jamming its program unmolested through Parliament'. I think molestation of the legislation is a very apt description for the other place's contribution to the Government's legislative agenda.

Clearly, if there is to be a house of review there needs to be a workable solution for impasses. A deadlock resolution provision was inserted into the *Constitution Act* in 1881. It requires the dissolution of both Houses and fresh elections, or the election of two additional Legislative Councillors. It has never been used. It would be difficult to imagine the circumstances, today, in which it would be responsible for a Government to put the State to such expense and inconvenience, however clear the mandate was for a particular law. Labor attempted to change it in 1966 but failed in the Legislative Council. The State needs a modern and realistic mechanism for dealing with deadlocks. The Government has devised such a mechanism. A further forty years has passed and that is enough.

Under the Reform Bill, the mechanism involves these steps.

- A Bill, within 45 sitting days from transmission to the other place, is rejected or not passed in that other place, or amendments are proposed that are rejected in this place.
- The House again re-passes the Bill after a three-month interval and it is again rejected by the other place, or amendments are proposed that are rejected by the House within 30 sitting days.
- The House may then resolve that it is appropriate for both Houses to be dissolved on account of the position taken by the Legislative Council on the Bill.
- If the House so resolves, then His Excellency the Governor dissolves both Houses, provided it is not within 6 months of a general election.
- Following the election, this House again passes the Bill.
- Within 30 days of transmission, it is again rejected in the other place.
- His Excellency the Governor may then proclaim a joint sitting of both Houses.
- The Bill is passed by an absolute majority of the total number of the members of both Houses voting together.
- The Bill may then be presented to His Excellency the Governor for assent.

This mechanism is similar to that operating at the Commonwealth level. It gives the other place several opportunities to consider and negotiate on a Bill without what is effectively, today, a right of veto. This is far closer to the proper review character of a second chamber than the model we have today.

If the Reform Bill is approved by the electors it will be presented to His Excellency the Governor for assent immediately, but the reduction in the number of Members will take effect from the 2014 election or any earlier general election. This delay is necessary to accommodate the staggered nature of the terms of members of the Legislative Council. The new four year terms will start immediately. There will be no special provisions for the six who miss out on a seat at the 2014 general election because of the reduced size of the Council. In other words, the incumbents—including any who have just won a seat at the 2010 election—will all continue to sit until 2014 but at that point all of the seats will become vacant and subject to election.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will need to be submitted to a referendum under the proposed *Referendum (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Act 2009*. (If this measure does take effect as an Act, the sections relating to a reduction in the number of members of the Legislative Council, and the term of office of members of the Legislative Council, will come into operation immediately before writs are issued for the first general election of members of the House of Assembly next ensuing after assent.)

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Constitution Act 1934*

4—Repeal of section 10

Section 10 of the Act must be repealed by virtue of the scheme proposed by new section 41.

5—Substitution of section 11

From the commencement of this provision, the Legislative Council will consist of 16 members.

6—Amendment of section 13—Casual vacancies

These amendments are consequential by virtue of clause 7, which proposes that all members of the Legislative Council will retire whenever the House of Assembly is dissolved or expires.

7—Substitution of sections 14 and 15

The term of a member of the Legislative Council is a term expiring on the dissolution or expiry of the House of Assembly. A Legislative Council election will then take place whenever there is a general election for the House of Assembly.

8—Amendment of section 25—Continuance of President in office after dissolution or retirement

This clause is consequential on clause 7.

9—Amendment of section 26—Quorum of Council

This clause contains a consequential on clause 5. It is also proposed to amend the Act so that the President will have a deliberative vote on any question before the Council but will not have a casting vote. In the event of an equality of votes, the question will be lost.

10—Amendment of section 38—Privileges, powers etc of Council and Assembly

This clause is consequential on clause 11.

11—Substitution of section 41

This clause sets out a new scheme with respect to the settlement of deadlocks between the House of Assembly and the Legislative Council. It is based on the scheme under section 57 of the Commonwealth of Australia Constitution Act. Essentially, the scheme provides for a double-dissolution trigger if a particular Bill is rejected on 2 occasions by the Legislative Council, taking into account some specified time periods and other related requirements, and then for a joint sitting if the Bill is rejected on a third occasion following the ensuing general election.

12—Amendment of section 57—Restoration of lapsed Bills

This clause is related to the operation of clause 11.

Schedule 1—Transitional provisions

All members of the Legislative Council will be required to retire immediately before writs are issued for the first general election of members of the House of Assembly next ensuing after assent (taking into account the requirement for a referendum before assent). The new deadlock provisions will only apply in relation to Bills introduced into the Parliament after the commencement of this measure.

Debate adjourned on motion of Hon. I.F. Evans.

STATUTES AMENDMENT (CHILDREN'S PROTECTION) BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:54): Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993, the Criminal Law (Sentencing) Act 1988 and the Summary Procedure Act 1921. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:55): I move:

That this bill be now read a second time.

The bill amends the Summary Procedure Act 1921 and the Child Protection Act 1993 and makes consequential amendments to the Criminal Law (Sentencing) Act 1988 to establish measures to prevent and punish the exploitation of runaway children.

I introduce the bill as part of the government's response to recommendation 47 of Commissioner Ted Mullighan's report of the Inquiry into Children in State Care, presented to this parliament on 1 April 2008. The government shares his concern about the situation of young people who have run away from home or from a care institution and to take shelter with an adult who supplies money, shelter, food, alcohol or drugs in return for the child's providing sexual services to the exploiting adult or the service of selling drugs for the exploiting adult.

These young people are often unwilling to incriminate the exploitative adult for fear that this will cut off their supply of money, drugs or alcohol. Their experience of state intervention has not always been a happy one. Their very resistance to professional help makes these children all the more vulnerable to harm.

The options now available to separate these young people from exploitative adults are not effective because they depend on the young person's cooperation or because they are limited in their scope or application. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

In his report, Commissioner Mullighan explained the shortcomings of the current law this way in Chapter 4: State Response, Part 4.2: *Children in State care who run away: Stopping the perpetrators*:

- Section 76 of the *Family and Community Services Act 1972*...makes it an offence to unlawfully take a child from his or her placement, or to harbour or conceal a child. It is rarely used. Proof of the charge generally requires evidence from the child that he or she was 'induced' or provided with a 'refuge'. A child who absconds from a residential care facility to obtain benefits for sexual favours and/or leaves to go to a 'refuge' is not likely to be willing to give evidence against the person who gave those benefits and/or provided that refuge.
- Section 80 of the *Criminal Law Consolidation Act 1935*...makes it an offence to abduct a child under 16. However, it requires proof that the child was taken or enticed away by 'force or fraud'; or that the child was harboured by someone who knows the child was taken or enticed away in those circumstances. A youth support worker who took a 15-year-old child under the guardianship of the Minister interstate was recently convicted of an offence against section 80(1a). Generally, however, it is not well suited to deal with the situation where a child in State care runs to the paedophile because proof of 'force or fraud' would require the child to both report and give evidence against the offender.
- Section 99 of the *Summary Procedure Act 1921*...provides for a court to make a general restraint order against a person. However, it requires proof that a person has been behaving in an 'intimidating or offensive manner' on two or more separate occasions. Such proof in court would generally require the evidence of the child. Failure to comply with a restraining order is an offence punishable by imprisonment, although proof of non-compliance may require evidence from the child.
- Section 99A of the *Summary Procedure Act 1921*...provides for the making of paedophile restraint orders. It does not rely on the evidence of the child or children, and the application can be made by a police officer. An order may be made restraining a person from loitering near children in any circumstances, or it can restrain the person from being near children at specified places or in specified circumstances. The court must first be satisfied that the person has been found loitering near children on at least two occasions and there is reason to think the person will do so again unless restrained. 'Loitering near children' means the person loiters, without reasonable excuse, at or in the vicinity of a school, public toilet or place at which children are regularly present; and children are present at the school, toilet or place at the time of the loitering. Again, its applicability to children in State care who run away and are sexually exploited is very limited.
- Section 38 of the *Children's Protection Act 1993*...permits the Youth Court to make an order that a person not have contact with a child. However, this applies only to someone who is a party to an application for a care and protection order relating to the child; usually a parent, guardian or custodian. It is evident that the current legislative provisions are not generally suited to addressing this particular issue and/or would require evidence from the child.

Investigating and prosecuting sexual or drug offending by the adult is also difficult if the young person, as the alleged victim or primary witness, won't co-operate.

This Bill introduces additional measures that target the exploiting adult, rather than the child, and in a way that does not depend on the cooperation or evidence of the child.

Child-protection restraining order

The Bill introduces a child-protection restraining order that will restrain an adult person from having contact with a child under the age of 17 years if the person, not being the child's guardian, resides with that child somewhere other than the home of the guardian. To make such an order, the court must be satisfied that this living arrangement may expose the child to sexual abuse or drug offending, and thinks that, in the circumstances, the making of the order is appropriate.

For these purposes, the child's guardian is a parent of the child, a person who is the legal guardian of the child or has the legal custody of the child or any other person who stands *in loco parentis* to the child and has done so for a significant length of time.

There are three circumstances in which a court may make a child-protection restraining order against an adult living with a child in this way:

1. when the adult or any other person who lives at or frequents the premises where the child and the adult live or have lived has, within the past 10 years, been convicted of a prescribed offence;

2. when the adult or any other person who lives at or frequents the place where the child and the adult live or have lived is or has ever been subject to a child-protection restraining order; or

3. when the court is satisfied that, as a consequence of the child's contact or residence with the adult, the child is at risk of sexual abuse or of engaging in or being exposed to conduct that is an offence against Part 5 of the *Controlled Substances Act 1984*.

A prescribed offence is a child sexual offence or an offence against Part 5 of the *Controlled Substances Act 1984*. Child sexual offence' is defined to mean any one of a number of listed offences committed against or in relation to a child under 16 years of age. The list of offences includes rape, indecent assault, incest and offences involving unlawful sexual intercourse, acts of gross indecency or child prostitution.

One of the grounds for making a child-protection restraining order against a person is that, having satisfied itself of other relevant factors, the court is satisfied that the child's contact or residence with that person places the child at risk of sexual abuse and that the making of the order is appropriate in the circumstances. For these purposes a child is sexually abused not only if a child sexual offence is committed against or in relation to the child but also if the child is exposed to the commission of a child sexual offence against or in relation to another child.

A court can make a child-protection restraining order even if the defendant him or herself has not committed a sexual offence or even if the defendant is not the person allegedly sexually abusing the child, as long as it is satisfied that the risk of sexual abuse is a consequence of the child's contact or residence with the defendant, and the order is appropriate in the circumstances.

Being a civil application, the court must satisfy itself of the risk of sexual abuse on the balance of probabilities.

The other ground for making a child-protection restraining order against a person is that, having satisfied itself of other relevant factors, the court is satisfied that the child's contact or residence with that person places the child at risk of engaging in, or being exposed to conduct that is an offence under Part 5 of the *Controlled Substances Act 1984* and that the making of the order is appropriate in the circumstances.

A feature of the living arrangements at which these orders are aimed is the exploitation of the child's drug or substance abuse habit or addiction. If the court is satisfied (again on the balance of probabilities) that the adult is supplying the child with money to buy drugs or involving the child in some aspect of drug consumption, trade or manufacture, then, even though the adult has not been convicted of a prescribed offence, it may find that the child is at risk of engaging in or being exposed to conduct that is an offence under Part 5 of the *Controlled Substances Act 1984*.

The court will not make an order unless satisfied that it is appropriate to make it. In determining this, the primary consideration is the best interests of the child. In considering the best interest of the child, the court must have regard to anything it thinks relevant, including:

- the degree of control or influence the adult exerts over the child;
- the adult's prior criminal record (if any);
- any apparent pattern in the adult's behaviour towards this child or other children and any apparent justification for that behaviour; and
- the views of the child and the child's guardian to the extent that they are made known to the court. Of course, the child might not wish to attend, and nor, for that matter might the child's guardian. It is not compulsory for them to do so. So that they have the opportunity to put their views to the court, the Bill permits the court to require personal service of the complaint on the child or the child's guardian and to make any orders it thinks are necessary to give the child or guardian that opportunity.

When it makes a child-protection restraining order, the court may impose such restraints on the adult as are necessary or desirable to protect the child from any apprehended risk.

A child-protection restraining order may also provide for the temporary placement of the child (pending, if necessary, proceedings before the Family Court or the Youth Court) into the custody of a guardian or such person as the court directs or into the custody of the Minister to whom the administration of the *Children's Protection*

Act 1993 is committed and the care of such person as the Chief Executive or nominee directs. An order of this kind is subject to any current proceedings before, or orders of, the Family Court or the Youth Court.

A child-protection restraining order will expire when the child reaches the age of 17 years, or at such earlier time as the court directs.

The way child-protection restraining orders are sought, varied and revoked is the same as for other restraining orders under the *Summary Procedure Act*. It is likely that police will bring most complaints, acting on the advice of Families S.A., or on the advice of the child's parents or guardian, or both.

Proceedings for child-protection restraining orders, although directed at an adult, will inevitably identify the child and details of that child's relationship with the adult respondent and others. Because the purpose of the proceedings is to protect the child, the Bill restricts the people who may be present for these proceedings in the same terms as for child-protection proceedings in the Youth Court and prohibits publication of any information that might identify the child.

Section 19A of the *Criminal Law (Sentencing) Act 1988* extends the power to make restraining orders beyond the Magistrates Court to any court that finds a person guilty of an offence or sentences a person for an offence. The Bill amends s19A to ensure that when a court exercises the authority given by s19A to make a child-protection restraining order, the same special restrictions on publication and on who may be present in court apply to those proceedings in that court as to child-protection restraining order proceedings before the Magistrates Court.

Most child-protection restraining orders will be made by the Magistrates Court or by a court sentencing an adult for an offence and exercising the powers of a Magistrates Court by operation of s19A of the *Criminal Law (Sentencing) Act 1988*.

The Youth Court, however, even though not a court that sentences people for offences committed as an adult, may also make child-protection restraining orders by operation of section 7(c) of the *Youth Court Act 1993*. Section 7(c) gives the Youth Court the same jurisdiction as the Magistrates Court to make, vary or revoke a restraining order under the *Summary Procedure Act 1921* where the person for or against whom protection is sought is a child or youth.

These provisions are not directed at the victim of child exploitation but at the exploiter. A feature of exploitation is the dependence of the victim on the exploiter. Sadly, exploited children are only too likely to try to return to the exploitative adult even when the adult has been restrained from further contact with the child. It would, however, be counter productive for a restraint process designed to protect children to make the exploited child liable to an offence for conduct that is a product of that exploitation. The Bill provides that a child cannot be convicted of an offence of aiding and abetting, counselling or procuring a breach of or failure to comply with a restraining order.

The penalty for breach of a child-protection restraining order will be the same as for a breach of any other restraining order: a Division 5 penalty (a maximum penalty of two years imprisonment).

As they may for other kinds of restraining order, police may arrest or detain a person without warrant if they have reason to suspect the person has breached a child-protection restraining order.

Restraining the exploitative adult is only one part of the solution to this difficult problem. The other is moving the child to a safe home and arranging for counselling or other help that the child might need. As already mentioned, the child may often want to stay with the exploitative adult and may return to, or refuse to move out of, the adult's home after a child-protection restraining order has been made against that adult.

To help police and child-protection officers deal with these situations, the Bill makes a related amendment to s16 of the *Children's Protection Act 1993* to say that if a child-protection restraining order prevents a person from residing with a child and the child resides with the person during the operation of that order, the child will be taken to be in a situation of serious danger from which these officers are authorised to remove the child under section 16.

This amendment leaves no doubt that the officers have authority to remove the child forcibly if the child will not leave voluntarily.

Section 16 requires an officer who has removed a child in this way, if possible, to return the child to the child's home unless the child is a child who is under the guardianship, or in the custody, of the Minister or the officer is of the opinion that it would not be in the best interests of the child to return home, in which case the officer must deliver the child into departmental care.

Arrangements for the future care of the child are not the subject of this Bill.

Direction not to harbour, conceal or communicate with child

The Bill amends the *Children's Protection Act 1993* to authorise the Chief Executive to direct a person by written notice not to communicate with or harbour or conceal a named child who is under the guardianship or in the custody of the Minister. The direction will also refer to attempts to communicate or to harbour or conceal and assisting another person to harbour or conceal.

These directions are aimed to protect vulnerable children who are in State care from the kinds of exploitation referred to by Commissioner Mullighan in his report.

The Chief Executive may issue such a notice if he or she believes this is reasonably necessary to avert a risk that the child will be abused or neglected or that the child will be exposed to the abuse or neglect of another child, or to avert a risk that the child will be engaged in or exposed to illegal drug activity, or if the issue of the notice is reasonably necessary to otherwise prevent harm to the child.

The Act already defines abuse and neglect of a child as sexual abuse and also as physical or emotional abuse or neglect such that the child suffers or is likely to suffer physical or psychological injury detrimental to the child's wellbeing or such that the child's physical or psychological development is put in jeopardy.

The Bill makes it an offence for a person, without reasonable excuse, to contravene or fail to comply with such a direction. For non-compliance with a direction not to communicate with the child, the maximum penalty is $4,000 or imprisonment for one year. For non-compliance with a direction not to harbour or conceal the child, the maximum penalty is $15,000 or imprisonment for four years.

Offence of harbouring or concealing a child etc

In addition to giving the Chief Executive these powers to protect children who are under the guardianship or in the custody of the Minister, the Bill also makes it an offence to harbour or conceal such children or to prevent such a child's return to State placement knowing that the child is absent from that placement without lawful authority. The offence extends to assisting others to do these things. It carries a maximum penalty of $12,000 or imprisonment for one year.

For the purposes of the offence, a State care placement means placement of the child in the care of a person or in a place by the Minister exercising his powers in relation to children under his care and protection pursuant to s51(1) of the Act.

For each offence the maximum penalty is a fine of $12,000 and imprisonment for 1 year.

Neither offence requires proof that the person induced or enticed the child away or knew the circumstances of the child's absence from the State placement. All the prosecution need prove is that the person knew the child was absent from a State care placement without lawful authority at the time the person committed the prohibited act (that is, harbouring or concealing the child or preventing the child's return to the State care placement, or assisting another to do these things).

This does not entirely overcome the difficulty pointed out by Commissioner Mullighan in relation to an offence against s76 of the Act:

A child who absconds from a residential care facility to obtain benefits for sexual favours and/or leaves to go to a 'refuge' is not likely to be willing to give evidence against the person who gave those benefits and/or provided that refuge.

It is, however, an improvement, and will help stop the gap in cases where the exploitation of the child has already occurred before the Chief Executive has issued a direction or before a child protection restraining order has been made, or that occurs in spite of those actions.

Summary

This Bill cannot resolve the difficulties that Families S.A. and the courts may have in arranging the future care of a child who has been exploited in the ways I have identified.

It will, however, give State authorities and parents options to help separate vulnerable children from exploitative adults and by so doing, protect them from harm.

When a child runs away from State care and the Department knows who the child is staying with, the Chief Executive can give a written notice directing that person not to harbour or communicate with the child.

The Chief Executive can also give such a direction in a less extreme situation, when the child is still living in State care or placement but is spending a lot of time at another place with a person who is believed to be exploiting the child, or is frequently communicating with the child.

A person who does not comply with such a notice commits an offence.

There is also an offence of harbouring or concealing or preventing the return of a child to State placement or assisting another to do these things. It can be charged whenever there is proof that the person knew the child was absent from State placement without lawful authority, but will be particularly useful when the person cannot be charged with the offence of failing to comply with a notice (for example, for a person, not notified him or herself, who assists a notified person).

The proposed child-protection restraining order may be used for *any* child who runs away, whether from State care or from parents, and who by living with the person sought to be restrained is in danger of exposure to sexual abuse or drug offending. The order can impose whatever restraints the court thinks necessary to protect the child from apprehended risk, including restraint on *any* form of contact or proximity or on being in a particular place. It ensures judicial scrutiny is given to the restrictions sought to be placed on the alleged exploiter.

For children who are not in State care, the only option, other than asking police to exercise their power to remove children from situations of serious danger, will be the proposed child-protection restraining order. The parents or guardians of the child can make the complaint themselves under the proposal for a child-protection restraining order, without having to go through police or the Department, although the more usual course would be to go through police.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that operation of the measure will commence on a day to be fixed by proclamation. Section 7(5) of the *Acts Interpretation Act 1915* will not apply to the amending Act (in case it is necessary to delay the commencement of certain amendments beyond the second anniversary of assent).

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Children's Protection Act 1993*

4—Amendment of section 16—Power to remove children from dangerous situations

Under section 16 of the *Children's Protection Act 1993*, an officer who believes on reasonable grounds that a child is in a situation of serious danger from which it is necessary to remove the child in order to protect him or her from harm is authorised to remove the child from any premises or place. The officer is authorised to use such force as is reasonably necessary for the purpose. An *officer*, for the purposes of the section, is a police officer, or an employee of the Department for Families and Communities authorised by the Minister to exercise the powers of the section.

New subsection (1a), to be inserted by this clause, provides that if a restraining order has been made under section 99AAC of the *Summary Procedure Act 1921* preventing a person from residing with a child, and the child is residing with the person during the operation of the order, the child will be taken to be in a situation of serious danger from which an officer is authorised to remove him or her.

5—Insertion of heading to Part 7 Division 1

New provisions relating to harbouring children in the care of the Minister are to be inserted into Part 7 of the *Children's Protection Act 1993*. That Part is therefore to be separated into two Divisions. This clause inserts a heading to Division 1.

6—Insertion of Part 7 Division 2

This clause inserts Division 2 of Part 7 of the *Children's Protection Act 1993*.

Division 2—Offences relating to children under Minister's care and protection

52AA—Definition

This section provides that a reference to a child in Part 7 Division 2 is a reference to a child who is under the guardianship, or in the custody, of the Minister.

52AAB—Direction not to harbour, conceal or communicate with child

This section provides that the Chief Executive of the Department for Families and Communities may, by written notice, direct a person not to communicate, or attempt to communicate, with a specified child during a specified period. The Chief Executive may also direct a person by written notice not to harbour or conceal, or attempt to harbour or conceal, or assist another person to harbour or conceal, a specified child during a specified period.

The Chief Executive may only issue such a notice if he or she believes that it is reasonably necessary to do so to avert a risk of a type specified in the provision or to otherwise prevent harm to the child. The specified types of risk are as follows:

- that the child will be abused or neglected, or be exposed to the abuse or neglect of another child;
- that the child will engage in, or be exposed to, conduct that is an offence against Part 5 of the *Controlled Substances Act 1984*.

The maximum penalty for contravening or failing to comply with a direction of the Chief Executive is a fine of $4,000 or imprisonment for one year.

52AAC—Offence of harbouring or concealing a child etc

Section 52AAC prohibits a person from doing the following in relation to a child if the person knows that the child is absent from a State care placement without lawful authority:

- harbouring or concealing the child;
- assisting another person to harbour or conceal the child;
- preventing the return of the child to the State care placement;
- assisting another person to prevent the return of the child to the State care placement.

A State care placement is a placement of a child in the care of a person, or in a place, by the Minister pursuant to section 51(1) of the Act.

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

7—Amendment of section 19A—Restraining orders may be issued on finding of guilt or sentencing

Section 19A of the *Criminal Law (Sentencing) Act 1988* authorises a sentencing court to exercise the powers of the Magistrates Court to issue a restraining order under the *Summary Procedure Act 1921* against a person when sentencing the person for an offence.

New subsection (1b), inserted by this clause, provides that section 99KA of the *Summary Procedure Act 1921* applies to any proceedings of a court relating to a restraining order made by the court under section 99AAC of that Act.

Part 4—Amendment of *Summary Procedure Act 1921*

8—Amendment of section 4—Interpretation

This clause makes a consequential amendment to the definition of *restraining order* in section 4 of the Act.

9—Amendment of section 99—Restraining orders

This amendment is consequential on the repeal of section 99A. The Act will no longer include a general provision specifying the persons who can apply for restraining orders. Instead, each section under which application can be made for a restraining order is to specify who can make a complaint. A complaint may be made under section 99 by a police officer or a person against whom, or against whose property, the behaviour that forms the subject matter of the complaint has been, or may be, directed.

10—Amendment of section 99AA—Paedophile restraining orders

Section 99AA provides for the making of paedophile restraining orders. New subsection (a1) provides that a complaint may be made under the section by a police officer.

11—Amendment of section 99AAB—Power to conduct routine inspection of computer etc

Section 99AAB(2) currently includes a divisional penalty. This clause amends the section by making the form of the penalty consistent with other penalties in the *Summary Procedure Act 1921*. The maximum penalty, imprisonment for two years, remains the same.

12—Insertion of section 99AAC

This clause inserts a new section into Part 4 Division 7 of the *Summary Procedure Act 1921*. The provisions of Division 7 provide for the making of restraining orders by the Magistrates Court.

Under proposed new section 99AAC, a complaint may be made by a police officer or a child, or the guardian of a child, for the protection of whom a restraining order is sought under the section. The Magistrates Court may make a restraining order against an adult defendant for the purpose of protecting a child if—

- the defendant (who is not a guardian of the child) and the child are, or have been, residing together at premises where no guardian of the child also resides; and
- the defendant or some other person who resides at, or frequents, premises at which the defendant and the child reside or have resided—
- has been convicted within the previous ten years of a child sexual offence or an offence under Part 5 of the *Controlled Substances Act 1984*; or
- is or has been subject to a restraining order under section 99AAC; and
- the Court is satisfied that as a consequence of the child's contact or residence with the defendant, the child is at risk of sexual abuse (as defined in subsection (5)) or engaging in, or being exposed to, conduct that is an offence under Part 5 of the *Controlled Substances Act 1984*.

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

Under subsection (2), the Court's primary consideration when determining whether or not to make a child protection restraining order, and in considering the terms of the order, must be the best interests of the child. In determining the best interests of the child, the Court must have regard to—

- the degree of control or influence exerted by the defendant over the child; and
- the defendant's prior criminal record; and
- any apparent pattern in the defendant's behaviour towards the child or other children; and
- the views of the child and any guardian of the child; and
- any other matter that the Court considers relevant.

The Court may require that a copy of the complaint be served on the child or the child's guardian. The Court may also issue orders to ensure that the child, or a guardian of the child, is given an opportunity to be heard in relation to the complaint.

A restraining order made by the Magistrates Court under section 99AAC may do the following:

- it may impose restraints on the defendant that are necessary or desirable to protect the child from any apprehended risk;
- it may provide for the temporary placement of the child into the custody of a guardian of the child or another person as directed by the Court, or into the custody of the Minister for Families and Communities and the care of the Chief Executive of the Department for Families and Communities;
- it may include any consequential or ancillary orders.

A restraining order under section 99AAC expires when the child reaches the age of 17 years or at an earlier time specified in the order.

Certain restrictions, specified in subsection (6), apply if the complainant is not a police officer. For example, the Court must not issue a summons for the appearance of the defendant and must dismiss the complaint unless it is supported by oral evidence.

13—Repeal of section 99A

Section 99A specifies the persons who can make a complaint under Division 7. This clause repeals the section because, as a consequence of related amendments, each section under which a restraint order can be made is to specify who can make a complaint.

14—Amendment of section 99C—Issue of restraining order in absence of defendant

This amendment is consequential. Subsection (3a) of section 99C is not required because it is clear from the terms of section 99CA(2) that the provisions of that subsection apply despite any other provisions of the Act.

15—Amendment of section 99F—Variation or revocation of restraining order

Section 99F provides that the Court may vary or revoke a restraining order on application by a police officer or certain other persons. The section as amended by this clause will allow for the variation or revocation of a restraining order made under section 99AAC on application by a parent or guardian of the child for the protection of whom the order was made.

16—Amendment of section 99I—Offence to contravene or fail to comply with restraining order

Under section 99I, a person who contravenes or fails to comply with a restraining order is guilty of an offence. New subsection (5), to be inserted by this clause, provides that a child for the protection of whom a restraining order has been made under section 99AAC cannot be convicted of aiding, abetting, counselling or procuring an offence against section 99I relating to a contravention of, or failure to comply with, the restraining order.

17—Insertion of section 99KA

This clause inserts a new section. Proposed section 99KA prohibits the publication of any report of proceedings under section 99AB or proceedings under section 99F to vary or revoke a restraining order made under section 99AB if publication of such a report is prohibited by the Court or the report identifies the child for the protection of whom the restraining order is sought or has been made or reveals certain information relating to the child. The maximum penalty for a breach of this prohibition is a fine of $10,000.

Section 99KA also provides that no person may be present in the Court during proceedings for the issue or variation of a child protection restraining order. The following are excepted from this prohibition (but may be excluded by the Court):

- officers of the Court;
- officers of the administrative unit of the Public Service charged with the administration of the *Children's Protection Act 1993*;
- parties to the proceedings and their legal representatives;
- witnesses while giving evidence or permitted by the Court to remain in the Court;
- any guardian of the child for the protection of whom the restraining order is sought;
- any other persons authorised by the Court to be present.

18—Amendment of section 104—Preliminary examination of charges of indictable offences

Section 104(6) currently includes a divisional penalty. This clause amends the section by making the form of the penalty consistent with other penalties in the *Summary Procedure Act 1921*. The maximum penalty, imprisonment for two years, remains the same.

19—Further amendments

This clause updates the *Summary Procedure Act 1921* by substituting 'police officer' for 'member of the police force'.

Debate adjourned on motion of Hon. I.F. Evans.

CHILDREN'S PROTECTION (IMPLEMENTATION OF REPORT RECOMMENDATIONS) AMENDMENT BILL

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (15:57): Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993; and to make related amendments to the Health and Community Services Complaints Act 2004. Read a first time.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (15:58): 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.

On 17 June 2008, the South Australian Government tabled in this Parliament its initial response to the *Children in State Care Commission of Inquiry* report. Its response to the *Children on APY Lands Commission of Inquiry* report was subsequently tabled on 24 July 2008. In responding to both reports, the Government advised the Parliament that it had accepted the majority of the Commission's recommendations. The Government committed to a comprehensive implementation plan for the Mullighan recommendations, including: a package of legislation; a public apology to victims; an extra $2.24 million to prosecute child abuse cases arising from the Mullighan Inquiry; more police and social workers posted to the communities on the APY Lands; and a further $190.6 million over four years into the child protection system, including the introduction of reforms in keeping with Commissioner Mullighan's recommendations.

A number of the recommendations of the *Children in State Care Commission of Inquiry* along with recommendation 21 of the *Children on APY Lands Commission of Inquiry* suggested new or strengthened statutory provisions. The Government accepted all but one of these 'legislative' recommendations, as explained to Parliament in some detail on 17 June 2008 and 24 July 2008.

I now introduce a Bill, which amends the *Children's Protection Act 1993* and the *Health and Community Services Complaints Commission Act 2004,* as recommended by Commissioner Mullighan and to keep faith with the Government's commitments to this Parliament.

The Government is also introducing a Bill to address recommendation 47 of the Children in State Care Commission of Inquiry. These 2 Bills make up the 'package of legislation' committed to by this Government.

As recommended by Commissioner Mullighan, the amendments proposed in this Bill include:

- Enhanced provisions to promote child safe environments, including requiring a broader range of organisations to have criminal history checks for personnel working with children;
- Additional protection for mandatory notifiers;
- Provisions to ensure appropriate mechanisms are available to respond when a young person makes a disclosure of sexual abuse;
- Provisions to clarify and strengthen the role and powers of the Guardian for Children and Young People and Health and Community Services Complaints Commissioner; and
- Mechanisms to promote the participation of children and young people in government decision-making.

This Bill is a key part of the South Australian Government's overall response to the recommendations of the Commission of Inquiry. It will strengthen the robust legislative framework already enacted in South Australia to keep children safe from harm and will reinforce the principle that keeping children safe from harm is the responsibility of the whole community.

The Bill is introduced now with the intention of allowing it to lie on the table over the Parliamentary break. Following this introduction, a period of consultation will allow interested members of the community and affected organisations to consider and comment on the details of the Bill.

It is also my intention to introduce supporting regulations following passage of the Bill. The proposed regulations are described in the supporting material available on the Service SA Mullighan Inquiry website. The proposed regulations should be considered in conjunction with this Bill.

Child Safe Environments

There is a growing community expectation that organisations engaged in the provision of services to children should take appropriate measures to promote their safety and well-being. For this reason in 2005, the Government amended the *Children's Protection Act 1993* to require all Government, local government and non-government organisations that provide health, welfare, education, sporting or recreational, religious or spiritual, childcare or residential services wholly or partly for children, to establish appropriate policies and procedures to maintain child safe environments. At that time, the Act was also amended to require all Government organisations

and non-government schools to conduct a criminal history check on persons occupying or acting in 'prescribed positions'.

I note that at that time, a number of non-government organisations that were not legally obliged to conduct criminal history checks of staff and volunteers working with children, did so as part of their commitment to making children safe and because they saw this as 'good organisational practice'. I recognise in particular a number of our churches, sporting bodies and service organisations that undertook this positive step of their own initiative.

This type of support for the protection of children receiving services from organisations is important. The Commission of Inquiry observed that '*in order to achieve long-overdue reform to the protection of children in State care, there must be commitment from the whole-of-government, as well as non-government organisations and the community*'.

This Government believes that the 'child safe environment' framework in the *Children's Protection Act 1993* is fundamental to ensuring consistent child protection standards across the Government and community sectors. This Bill proposes to strengthen the framework in 2 ways. First, it introduces a new requirement for organisations to lodge a statement setting out details of their child safe environment policies and procedures with the Chief Executive of the Department for Families and Communities and second, it obliges those organisations already required to have 'child safe environment' policies and procedures to also undertake criminal history checks on persons working in prescribed positions in their organisations.

As I have noted above, those organisations outlined in section 8C of the *Children's Protection Act 1993* are already required to have in place policies and procedures that establish and maintain child safe environments. This Bill will require these organisations to lodge a statement of the details of their policies and procedures with the Chief Executive of the Department for Families and Communities as evidence that the organisation is engaged in making their organisation a safer place for children. The Chief Executive will be empowered to seek further information from sectors or organisations relating to their compliance with the child safe environment requirements.

The obligation to conduct criminal history assessments is extended to this same group. The group includes organisations providing health, welfare, education, sporting or recreational, religious or spiritual, childcare or residential services wholly or partly for children. This obligation applies to any business, service provider or group organised for some purpose or undertaking, whether incorporated or unincorporated. The requirement for criminal history assessments extends to all employees, volunteers, agents and sub-contractors working in a prescribed position in a relevant organisation.

The definition of 'prescribed functions' under section 8B(8) will be amended to provide greater clarity for organisations and to exclude certain 'low risk' functions. Up until now, a 'prescribed function' included regular contact with children or working in close proximity to children on a regular basis; supervising or managing personnel working with or around children on a regular basis; or accessing records about children. I propose that in situations where a person is under direct supervision and observation at all times by appropriate personnel, there is no need to have a criminal history check. For example, a specialist sports coach who is at all times supervised by a PE teacher with an appropriate criminal history check, would not need to have a check themselves. The requirement that all persons with access to records relating to children obtain a check also lead to some confusion. The definition of a record is enormously wide in scope. It encompasses commonly held records such as name, address and date of birth, or indeed a photograph. These types of common records may be handled by a large range of personnel in an organisation. In order to achieve a better balance between protection and practicality, I now propose that only personnel accessing the more sensitive type of personal records (the details of which will be set out in regulations) will require a criminal history check.

The Act currently requires organisations to obtain criminal history checks 'from the Commissioner of Police or some other prescribed source'. The Bill will now amend this obligation and instead require an organisation to 'cause an assessment of a person's criminal history to be undertaken in accordance with the regulations'. This amendment will have no immediate impact on an organisation's obligation to conduct criminal history checks but will accommodate any future requirements arising from the work being undertaken at a national level to establish a framework for improved inter-jurisdictional exchange of criminal history information for screening of people working with children.

These amendments contribute to the safety and well-being of all children in South Australia and provide much stronger protections for children and young people who access services in the community. As I have noted, many organisations already conduct criminal history checks for employees and volunteers as part of their policies and procedures to maintain child safe environments. Extending the requirement will assist organisations to manage the risks associated with engaging people to work in positions of trust with children and ensure that consistently high standards are established for many of the key organisations that provide services to children.

Most Australian jurisdictions outside South Australia have introduced 'working with children' checks in recent years or are moving to introduce such checks. Jurisdictions which have such systems are New South Wales, Victoria, Queensland, Western Australia and the Northern Territory. These proposed amendments have been drafted with the benefit of experience in other jurisdictions as well as our own. They will also bring South Australia more in line with other Australian States and Territories.

As announced in this Parliament on 17 June 2008, an exemption scheme will also be established by regulations under the *Children's Protection Act 1993*. These will exempt organisations, positions and functions from the requirement to undertake criminal history checks in certain circumstances.

Exemptions will not be available for activities potentially posing a high-level of risk to the child, such as commercial child care, residential care, family day care, juvenile justice, child protection and the provision of services

specifically to children with disabilities. Also, the scheme will not override the prohibition preventing registrable offenders from engaging in child-related work set out in section 65 of the *Child Sex Offenders Registration Act 2006*.

A consultation paper setting out the elements of the exemption scheme is available on the Service SA Mullighan Inquiry website.

An exemption scheme is considered necessary because the potential range of organisations which will be required to conduct criminal history checks on personnel is quite broad and we recognise that not all situations pose a tangible risk to children. In considering which situations might attract an exemption, the Government had to balance the potential levels of protection and risk—considering all the elements in the environment—with the cost to organisations and individuals. A balance needs to be struck between ensuring that the best child protection mechanisms are applied and a sensible, workable approach is taken to the application of these new obligations.

It is therefore proposed that the following organisations, persons and positions will be exempt from the application of section 8B:

(1) A person who volunteers in their children's activities;

(2) A volunteer less than 18 years of age;

(3) A person who works or volunteers in a prescribed position for a period of not more than 10 consecutive days in a calendar year or for no more than 1 day in any month;

(4) A position in which all work involving children takes place in the presence of the children's parents or guardians and in which there is ordinarily no physical contact with the children;

(5) A person who undertakes, or a position that only involves, work that is not for the exclusive benefit of children and is not provided on an individual basis;

(6) An organisation that provides equipment, food or venues for children's parties or events but does not provide any other services;

(7) A person who has regular contact with a child as part of an employment relationship;

(8) A person who is appointed as a police officer;

(9) A person who is a registered teacher.

It is my intention to delay the proclamation of the new child safe environment provisions for one year, to provide the necessary lead-time to enable affected organisations to establish appropriate policies and procedures to comply with the new requirements. The requirement to conduct criminal history checks on persons working in prescribed positions will then be phased in over a three year period, commencing with those organisations and sectors identified as high risk. The timing of the 'phase in' period will be outlined in the regulations.

Notification of Abuse and Neglect

The mandatory reporting of suspected child abuse is the first step in stopping abuse and protecting children from further harm. As noted by the Inquiry, if Families SA is not alerted to potential incidences of abuse or neglect through mandatory reporting, the abuse or neglect of the child is likely to continue. It is therefore extremely important that the law not only protects the confidentiality of people who make reports under the Act, but also protects people from intimidation or unfavourable treatment when reporting.

In order to ensure that strong protections are in place to protect mandated notifiers when discharging their duty under the Act, it will be an offence to threaten or intimidate, or cause damage, loss or disadvantage to a person discharging or attempting to discharge the obligation of mandatory reporting. Providing additional protection to people subject to mandatory notification requirements will help ensure that notifiers are confident to provide Families SA with the necessary information to make an appropriate response in cases of suspected child abuse or neglect without fear of intimidation or unfavourable treatment.

Guardian for Children and Young Persons

The Guardian for Children and Young Persons plays a vital role in representing and advocating for the rights and interests of children and young people in care and as a monitor of that care.

In recognition of this important role, the Government has already provided funding to the Guardian to establish two new specialist positions to ensure that individual and systemic advocacy is provided for children with disabilities in care and Aboriginal children and young people in care.

This Bill strengthens the powers and functions of the Guardian in order to ensure that the legislative framework exists to enable the Guardian to continue providing a high level of support and advocacy to children and young people in care. In many cases, the amendments operate to formalise what is already occurring in practice and ensure that there is no doubt regarding the Guardian's role as an independent and impartial advocate for children and young people in care.

The independence of the Guardian is expressly recognised. The Guardian's functions and powers are also amended to make it clear that the Guardian is to act as an advocate for a child or young person in State care who has made a disclosure of sexual abuse. This amendment will provide greater clarity for children and young people who make a disclosure of sexual abuse whilst in care and for the organisations that support them.

The Guardian will be required to establish a Youth Advisory Committee. The purpose of the committee will be primarily to assist the Guardian in the performance of the Guardian's functions by ensuring that the Guardian is

aware of the experiences of, and receives advice from, children who are, or have been, under the guardianship, or in the custody, of the Minister.

The Guardian will be able to prepare a report to the Minister on any matter arising from the exercise of the Guardian's functions under the Act. The content of the report is immune from any ministerial direction and the report must be promptly brought to the attention of Parliament.

Government and non-government organisations involved in the provision of services to children are already required to comply with a request for information from the Guardian in connection with the Guardian's functions under the Act. However, as identified by the Inquiry, situations could exist where the Guardian might quite properly need information from an organisation that does not provide services to children and might need the support of the law in obtaining that information. To address this issue, this Bill makes clear the Guardian's powers relating to obtaining and using information. It allows the Guardian to obtain information from any person in connection with the Guardian's functions under the Act and establishes a maximum penalty of $5000 for non-compliance with a lawful request for information from the Guardian.

Charter of Rights for Children and Young People in Care

A *Charter of Rights for Children and Young People in Care* was developed during 2005-06 by the Guardian for Children and Young Persons, following extensive consultation with stakeholders, including children and young people in care. This Charter is a valuable resource for children and young people in care and articulates their rights in easily-understood language.

In accordance with the Inquiry's recommendation, this Bill establishes a legislative requirement that the *Charter of Rights for Children and Young People in Care* exists. This will ensure that the Charter will continue to be available to children and young people in care and to the carers and organisations that support them. The Charter will be subject to review at least once every 5 years to ensure that its content remains relevant and it is a useful resource for this vulnerable group.

Health and Community Services Complaints Commissioner

This Bill amends the *Health and Community Services Complaints Act 2004* to clarify the provisions of the Act in the child protection jurisdiction.

At present, the *Health and Community Services Complaints Act* implicitly allows the Commissioner to receive complaints from children and young people on a case-by-case basis. The Commissioner may also extend the time-frame in which a complaint needs to be lodged in certain circumstances, such as where the complaint arises from circumstances since the launch of the *Keeping Them Safe* reform agenda in May 2004. However, as noted by the Inquiry, the Commissioner's powers in relation to these issues are not expressly stated in the Act.

As recommended by the Inquiry, the Act is amended to expressly state the right of children and young people to complain directly to the Commissioner. This will ensure that there is no actual or perceived impediment for children or young people who wish to make a complaint themselves. The Act is also amended to provide that a relevant consideration for extending the 2 year limit on the child protection jurisdiction is that the complaint arises from circumstances since the launch of the *Keeping Them Safe* reform agenda in May 2004.

These amendments will ensure that appropriate complaints mechanisms are available to children and young people in South Australia and that these mechanisms are confidential, impartial and protected. These amendments will allow the Commissioner to better target information to this important and vulnerable group of service users.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure is to commence on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Children's Protection Act 1993*

4—Amendment of section 4—Fundamental principles

This clause amends a reference in section 4 of the *Children's Protection Act 1993* to the Aboriginal Child Placement Principle so that reference is also made to Torres Strait Islander children.

5—Amendment of section 6—Interpretation

The terms *government organisation* and *non-government organisation* are currently used several times in the Act but are only defined for the purposes of section 8B. This clause inserts definitions of those terms into the interpretation provision of the Act. The definition of *Aboriginal Child Placement Principle* is replaced with a definition of *Aboriginal and Torres Strait Islander Child Placement Principle*.

A new subsection makes it clear that an organisation may consist of 1 person.

6—Amendment of section 8—General functions of Minister

The amendments made by this clause have the effect of requiring the Minister to consult with groups representing or comprised of children and other persons who are or have been under the guardianship, or in the custody, of the Minister. This consultation is to take place so as to ensure that the Minister receives advice from, and is made aware of the experiences of, such persons.

7—Amendment of section 8B—Powers and obligations of responsible authority in respect of criminal history

This clause amends section 8B of the Act to make some adjustments to the requirement that certain organisations must ensure that a criminal history assessment is undertaken in relation to persons employed by the organisation who undertake functions involving contact with children or access to records relating to children.

Under the section as amended, the responsible authority for an organisation to which section 8B applies must ensure that, before a person is appointed to, or engaged to act in, a prescribed position in the organisation, an assessment of the person's criminal history is undertaken in accordance with the regulations. A prescribed position is a position in an organisation that requires or involves contact with children, supervision of persons in positions with regular contact with children or access to records relating to children.

The section currently applies to government organisations and non-government organisations to which its operation is extended by regulation. As a consequence of the amendment made by this clause to section 8B(6), the operation of the section in respect of non-government organisations will be extended so that it applies to all non-government organisations that provide health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children. This means that section 8B will apply to the same non-government organisations that section 8C applies to.

Section 8B as amended will also provide for the making of regulations under the section—

- prescribing the manner in which an assessment of a person's criminal history may be undertaken; and
- making provision in relation to the use of information relating to a person's criminal history received from another jurisdiction; and
- making provision in relation to confidentiality of information relating to a person's criminal history; and
- prescribing penalties, not exceeding $10,000, for offences against the regulations.

8—Amendment of section 8C—Obligations of certain organisations

Section 8C requires organisations to which the section applies to establish appropriate policies and procedures for ensuring that appropriate reports of abuse or neglect are made under Part 4 of the Act and that child safe environments are established and maintained within the organisations. As amended, the section will require that the policies and procedures comply with any requirements prescribed by regulation.

Under section 8C as amended, organisations to which the section applies will be required to lodge a statement setting out the organisation's policies and procedures with the Chief Executive of the Department for Families and Communities. The organisations will also be required to respond, as soon as reasonably practicable (and in any case within 10 business days), to any written request by the Chief Executive for information relating to the organisation's compliance with the requirements of the section.

Subsection (3) of section 8C, which specifies the organisations to which the section applies, is replaced with a new subsection. This is because of the definitions of *government organisation* and *non-government organisation* that are inserted into the interpretation provision of the Act by clause 5. This change to section 8C is not substantive. The section will continue to apply to all government and non-government organisations that provide health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children.

9—Insertion of section 8D

Proposed section 8D provides for the regulations to exempt organisations, persons and positions, or particular classes of organisations, persons and positions, from the application of Division 3 of Part 2 or from specified provisions of the Division. It also allows regulations to be made for transitional purposes which, by providing temporary exemptions or modifications, would allow a phasing in of provisions of the Division.

10—Amendment of section 11—Notification of abuse or neglect

The first amendment made to section 11 by this clause is consequential on the insertion of definitions of government organisation and non-government organisation that apply for the purposes of the whole Act.

The second amendment inserts a new subsection. Under the proposed subsection, it is an offence for a person to threaten or intimidate, or cause damage, loss or disadvantage to, a person to whom section 11 applies because the person has discharged, or proposes to discharge, his or her duty under subsection (1) to notify the Department for Families and Communities of a reasonable suspicion that a child has been or is being abused or neglected. The maximum penalty is a fine of $10,000.

11—Amendment of section 16—Power to remove children from dangerous situations

This clause proposes an amendment to section 16 that will make it clear that the section, which authorises the removal of children from dangerous situations, is in addition to, and does not derogate from, the powers of

authorised police officers under section 51(4) of the Act. Section 51(4) provides authorised police officers with certain powers in relation to the enforcement of orders of the Youth Court.

12—Substitution of heading to Part 7A

This clause substitutes a new heading to Part 7A to reflect the fact that the Part is now to deal with the Youth Advisory Committee and the Charter of Rights for Children and Young People in Care. Part 7A will now also include a number of offences in Division 4.

13—Amendment of section 52A—The Guardian

Section 52A is amended by this clause to expand the list of circumstances in which the office of the Guardian for Children and Young Persons becomes vacant. The section as amended will also provide that the Governor may remove the Guardian from office on the presentation of an address from both Houses of Parliament seeking the Guardian's removal. It will also provide that the Governor may suspend the Guardian from office on the ground of incompetence or misbehaviour.

14—Insertion of section 52AB

This clause inserts a new section.

52AB—Independence

Proposed section 52AB provides that the Guardian is to act independently, impartially and in the public interest in performing and exercising his or her functions and powers under the Act. The Minister cannot control how the Guardian is to exercise the statutory functions and powers and cannot give direction with respect to the content of any report prepared by the Guardian.

15—Amendment of section 52C—The Guardian's functions and powers

One of the Guardian's functions is to act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister. This amendment makes it clear that the Guardian is to act as advocate, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse.

16—Insertion of section 52CA

This clause inserts a new section dealing with the use and obtaining of information.

52CA—Use and obtaining of information

The proposed section requires any government or non-government organisation that is involved in the provision of services to children to, at the Guardian's request, provide the Guardian with information relevant to the performance of the Guardian's functions. If the Guardian has reason to believe that a person is capable of providing information or producing a document relevant to the performance of his or her functions, the Guardian may, by notice in writing provided to the person, require the person to do 1 or more of the following:

- to provide that information to the Guardian in writing signed by that person or, in the case of a body corporate, by an officer of the body corporate;
- to produce the document to the Guardian;
- to attend before a person specified in the notice and answer relevant questions or produce relevant documents.

17—Insertion of section 52DA

This clause inserts a new section.

52DA—Other reports

Under proposed section 52DA, the Guardian may, at any time, prepare a report to the Minister on any matter arising out of the exercise of the Guardian's functions. The Minister is required to have copies of the report laid before both Houses of Parliament.

18—Insertion of Part 7A Divisions 2 to 4

This clause inserts 3 new Divisions into Part 7A.

Division 2—Youth Advisory Committee

52EA—Youth Advisory Committee

This section provides for the establishment and maintenance of a Youth Advisory Committee. The primary function of the Committee is to assist the Guardian by ensuring that the Guardian is aware of the experiences of, and receives advice from, children who are, or have been, under the guardianship, or in the custody, of the Minister. The Guardian may consult the committee, or members of the committee, as the Guardian thinks fit.

Division 3—Charter of Rights for Children and Young People in Care

52EB—Development of Charter

Section 52EB provides for the development of a draft Charter of Rights for Children and Young People in Care.

52EC—Review of Charter

This section provides that the Guardian may review the Charter at any time. The Charter must be reviewed at least every 5 years.

52ED—Consultation

In developing or reviewing the Charter, the Guardian must invite submissions from, and consult with, interested persons (including persons who are, or have been, under the guardianship, or in the custody, of the Minister).

52EE—Approval of Charter

On the receipt of a draft Charter or a variation of the Charter from the Guardian, the Minister may approve the Charter, or the variation to the Charter; or the Minister may require an alteration to the Charter or the variation, after consultation with the Guardian. The Minister may approve the Charter or variation as altered. A copy of the Charter or variation is to be laid before both Houses of Parliament.

52EF—Obligations of persons involved with children in care

This section applies to persons exercising functions or powers under the *Children's Protection Act 1993*, the *Family and Community Services Act 1972* or a law relating to the detention of a youth in a training centre. Such persons must, in any dealings with, or in relation to, a child who is under the guardianship, or in the custody, of the Minister, have regard to, and seek to implement to the fullest extent possible, the terms of the Charter. The section makes it clear that the Charter cannot create legally enforceable rights or entitlements.

Division 4—Offences

52EG—Offence relating to intimidation

This clause makes it an offence for a person to persuade or attempt to persuade by threat or intimidation another person—

- to fail to cooperate with the Guardian; or
- to fail to provide information or a document to the Guardian as authorised or required under the Act; or
- to provide to the Guardian information or a document that is false or misleading in a material particular, or to provide information or a document in a manner that will make the information or document false or misleading in a material particular.

The maximum penalty is a fine of $10,000.

52EH—Offence relating to reprisals

Section 52EH provides that a person must not treat another person unfavourably—

- on the ground that a person has cooperated with the Guardian in the performance or exercise of powers or functions under the Act; or
- on the ground that a person has provided information or documents to the Guardian as authorised or required under the Act; or
- on the ground that he or she knows that a person intends to do either of these things, or suspects that a person has done, or intends to do, either of these things.

The maximum penalty is a fine of $10,000.

52EI—Offence relating to obstruction etc

Section 52EI provides that a person must not, without reasonable excuse, obstruct, hinder, resist or improperly influence, or attempt to obstruct, hinder, resist or improperly influence, the Guardian in the performance or exercise of a function or power under the Act.

The maximum penalty is a fine of $10,000.

52EJ—Offence relating to the provision of information

Under section 52EJ, a person must not—

- provide to the Guardian information that the person knows is false or misleading in a material particular; or
- refuse or fail to include in information provided to the Guardian other information without which the information provided is, to the knowledge of the person, false or misleading in a material particular.

The maximum penalty is a fine of $10,000.

19—Amendment of section 63—Regulations

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

- be of general application or limited application; and
- make different provision according to the matters or circumstances to which they are expressed to apply; and
- provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Chief Executive (or a delegate of the Chief Executive); and
- refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed person or body, either as in force at the time the regulations are made or as in force from time to time.

20—Insertion of Schedule 1

Schedule 1 inserts a transitional provision that applies to organisations that will be subject to section 8B after commencement of the measure but were not previously so subject. The provision requires the responsible authority for such an organisation to ensure that criminal history assessments are undertaken, in accordance with the regulations, in relation to certain existing employees and is required because section 8B, as amended, will require criminal history assessments to be undertaken only in relation to new employees.

Schedule 1—Related amendments

Part 1—Amendment of *Health and Community Services Complaints Act 2004*

1—Amendment of section 24—Who may complain

This clause amends section 24 of the *Health and Community Services Complaints Act 2004* to make it clear that a child who is a health or community service user may make a complaint to the Health and Community Services Complaints Commissioner about a health or community service.

2—Amendment of section 27—Time within which complaint may be made

Section 27(1) provides that a complaint under the Act must be made within 2 years from the day on which the complainant first has notice of the circumstances giving rise to the complaint. Subsection (2) authorises the Commissioner to extend the 2 year period in a particular case if satisfied that is appropriate to do so after taking into account various listed factors. Under the section as amended, the Commissioner will be able to extend the period if the complaint relates to the provision of a health or community service to a child and the complainant first had notice of the circumstances giving rise to the complaint after May 2004 (which is when the *Keeping Them Safe* reform agenda was launched).

Debate adjourned on motion of Hon. I.F. Evans.

SELECT COMMITTEE ON PRIVATE CERTIFIERS

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:58): I move:

That standing orders be so far suspended so as to enable me to move an instruction to the Select Committee on Private Certifiers without notice forthwith.

The DEPUTY SPEAKER: An absolute majority not being present, ring the bells.

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

Motion carried.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (16:01): I move:

That it be an instruction to the Select Committee on Private Certifiers that its terms of reference be extended to enable the committee also to inquire into building surveyors with amended terms of reference as follow:

1. That the committee inquire into the functions and duties of certifiers and building surveyors under the Development Act 1993, and in particular:
   - (i) the framework under the Development Act 1993 to handle complaints made against certifiers/buildings surveyors, and
   - (ii) the current process for accrediting certifiers/building surveyors in the state of South Australia, and
   - (iii) whether current methods of accreditation for certifiers/building surveyors is appropriate and/or whether other streams of accreditation should be considered; and

(iv) the appropriate qualifications required by certifiers/building surveyors to undertake tasks related to the structural integrity of buildings; and

(v) the system of auditing approvals provided by certifiers/building surveyors and adequacy of the current processes of enforcement in the event of a breach to the Development Act; and

(vi) any other matters directly relevant to the functions and duties of certifiers/building surveyors under the Development Act 1993.

2. That the committee inquire into whether the Building Advisory Committee or any of its members have been placed under any undue influence in the performance of their statutory duties.

The Hon. I.F. EVANS (Davenport) (16:01): I will make a contribution to this motion on behalf of the opposition, as a member of the select committee. The opposition supports this proposal. We do so because it became evident from the early submissions to the committee that the people making submissions interpreted the current terms of reference as restricting the inquiry to the activities of private certifiers, who tend not to do a lot of the work inside councils in relation to building approvals.

The committee felt that it would be difficult trying to take evidence and not consider the role of building surveyors in the local government area, while considering submissions about private certifiers that perform the same role in the private sector. It was the committee's recommendation to the government that it consider this matter. The government has acted very quickly—within 24 hours. The opposition thanks the government for that and supports the motion, and looks forward to taking submissions.

The Hon. P.L. WHITE (Taylor) (16:03): As a government member of the select committee, I concur with the comments of the member for Davenport. It was the unanimous view of members of the select committee that this instruction should be given to the committee in order to make it clear that, while we expected to take evidence from building surveying professionals, both in the private and public sectors, some submissions to the inquiry interpreted the terms of reference as just looking at private certifiers; so that has been amended with these new terms of reference.

We have not yet heard from witnesses. We have received some written submissions. If this motion is passed and the terms of reference are amended as indicated on the *Notice Paper*, the committee will readvertise and write to all those people who made initial submissions, inviting them to amend or extend their submissions, if they so wish.

Motion carried.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (16:05): I move:

That the time for bringing up the report of the committee be extended to Thursday 29 October 2009.

Motion carried.

STATUTES AMENDMENT AND REPEAL (FAIR TRADING) BILL

Adjourned debate on second reading.

(Continued from 14 May 2009. Page 2828.)

Mr PISONI (Unley) (16:05): It is my understanding that an amendment was agreed to in the other place and this bill is being presented to the House of Assembly without amendment.

The DEPUTY SPEAKER: Order! Member for Unley, can I establish whether you are the lead speaker?

Mr PISONI: Yes. The bill as amended is being accepted by the government. I believe that the government has an additional minor amendment which the minister will move shortly. In supporting the bill as amended, the opposition acknowledges the numerous important objectives sought by the bill in terms of protecting the rights of both consumers and service providers in reasonable balance. It is the Liberal Party's position that the balance is the most crucial factor in such legislation: the protection of rights and enforcement of responsibilities of both the consumer and, in this case, the potentially injured party, as well as the recreational service provider who needs to be able to access an affordable insurance product to carry on valued services that the public desires.

In terms of legal rights, the balance between the rights of the plaintiffs and the defendants is an important consideration which the Liberal Party is satisfied has been achieved in this legislation as it is presented here today. From the Liberal Party's point of view, it is also an important consideration that new or amended legislation does not add significant red tape burden to business; and, by the government agreeing to this amendment, we will come some way to achieving that in this bill. It should be recognised that these businesses provide an important and greatly appreciated role in the community.

In modern economies service providers are a growing industry and very much part of our economy and our gross state product. We will also be taking into account that many of the problems associated with insurance liability in this regard were caused not by the behaviour of recreational service providers themselves but by global events. One would notably remember the September 11 situation, which led not only to a great deal of fear and apprehension around the world but also a greater tendency to avoid risk, and insurance companies were no different. This is special reference to those participating in and providing services for recreational and sporting activities with a relatively higher risk factor.

The Recreational Services (Limitation of Liability) Act 2002 and the Consumer Transaction Act 1972 are both repealed, their subject matter being transferred to the Fair Trading Act. Penalties under the Fair Trading Act are also increased, as are powers for the Commissioner of Consumer Affairs. Clause 59 of this bill repeals the Recreational Services (Limitation of Liability) Act 2002, which repeal was proposed by the member for Davenport in his private member's bill introduced in June 2008.

After the member for Davenport's introduction of his bill, the government issued a discussion paper proposing repeal with the insertion of provisions relating to recreational services. The fact is that the Recreational Services (Limitation of Liability) Act 2002 has never adequately achieved what it was intended to do. As such, and further to the member for Davenport's previous private member's bill, the Liberal Party supports its replacement with better legislation.

There has been a desperate need within the recreational service industry for new and updated legislation which allows for the consumer to waive their rights, up to a point. A consumer can still seek legal recourse if a provider of a service has committed an act of recklessness, even though they have signed a waiver.

The important point in terms of the opposition's support for the bill is that service providers—that is, businesses—will be able to access public liability and other insurances, and at a price that ensures an ongoing viability of their operation and the public to access the services which they may require and which their businesses provide. Under the previous system, some providers have been unable to access any insurance. Indeed, since the 'insurance crisis' of 2002, the inability to obtain public liability insurance or the greatly inflated cost of premiums has forced many out of business or to cease trading.

The most contentious issue involved in this legislation has been whether the provider of sports and leisure activities which involve a 'significant risk of harm' can avoid paying damages to a minor who is injured as a result of a provider's negligence. A significant amendment allows the bill to be 'silent' on the issue as to whether a waiver can be granted by a parent or guardian on behalf of a minor, but is in no way a blank cheque, as this will be covered by common law—and I refer members to the speech by the Hon. Robert Lawson in the other place on this bill explaining the details of how that will work.

The removal of the clause removes the explicit provision that a waiver is only effective if given by an adult. With waivers being able to be signed on behalf of children, South Australia will also be in line with other jurisdictions around the nation which allow this.

Advice from the Insurance Council of Australia was that consistency with other states would avoid creating an additional class of consumer in South Australia. With the modification, the bill will allow for insurers to 'price the risk' and offer competitive cover and, as in the Victorian system, allow for a satisfactory and equal balance for both consumers of 'risky' products in sport and recreation and the providers of these services. Significantly, providers of services, under the terms of this legislation, will be unable to modify or minimise their liability for significant injuries that are caused by reckless conduct of which they are or should be aware.

Other aspects of this bill also worth noting include new powers for the commissioner in relation to enforcement under provisions of the Fair Trading Act, including to require traders to participate in conciliation where the value of goods is up to $1,000. This is most sensible. If

conciliation is not successful, the agreement will be enforceable in the Magistrates Court. I think that is an important point.

As someone who spent 22 years in my own small business, both consumers and business owners, particularly those providing services directly to the public, will welcome the fact that a less bureaucratic and cost-effective mechanism is available to deal with small claims, because, believe me, many happen in small business and it is difficult to have a policy covering every single scenario. It really is a learn as you earn situation, I suppose, when it comes to small business and dealing with customers' expectations, as opposed to what they actually receive. I can see that this change to the act will make it easier to resolve these situations.

Of course, conciliation is always a preferable option in terms of seeking redress, though, of course, we all accept that this is not always possible. New powers also for the commissioner to suspend the licence of certain traders whose conduct would cause consumers to suffer significant harm or damage is a positive step welcomed by the opposition. Hopefully, this will alleviate criticisms that the Office of Consumer and Business Affairs has not had sufficient powers to assist consumers adequately with their grievances.

I know how frustrating that can be for consumers, particularly those who do not have the time or the resources to pursue a retailer who may know the law very well and know that the Office of Consumer and Business Affairs can be a bit of a toothless tiger at times. They certainly push the limits, and I have experienced that in helping some of my constituents to deal with retailers who perhaps do not understand the value of return business and will push the boundaries in order not to honour a warranty or stand by their products. I know the frustration that people can experience in that situation. The bill also increases some penalties, which in our view is overdue, and the updating of these provisions is supported by the opposition.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (16:15): I thank the member for Unley for his contribution. Obviously, recreation and sporting organisations here in South Australia are of great benefit to our community and state, and this is a very important and complex area of law. The guiding principles throughout the development of this bill have always been the government's desire to ensure that we have a balance between the rights of the recreation providers and consumers but also that we actively promote sporting and recreational activities. The community will benefit from the provisions of the bill which also, as the member for Unley said, update and strengthen the South Australian fair trading law.

Bill read a second time.

In committee.

Clauses 1 to 35 passed.

Clause 36.

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

Page 17, line 21 [clause 36, inserted section 74H(4)]—Delete 'section' and substitute:

act or any other act or law

The circumstances in which the requirement to provide services with due care and skill can be modified or excluded has been the subject of some debate. The bill that was introduced in the other place originally contained an express provision that stated a modification or exclusion of liability would be void unless 'the consumer and any third party consumer are each of full age and capacity'. That provision was removed from the bill by an opposition amendment. Despite that amendment, neither a child nor parents will be able to modify or exclude the child's right to have services supplied with due care and skill. That is the effect, as the member for Unley said, of the common law.

However, as a result of the opposition's amendment, it is now possible for service providers to enter into an agreement known as an indemnity that requires a third party to compensate the child. The Independent Schools Association is concerned about this change and points out that schools may end up having to pay for the actions of service providers who failed to render services with due care. This amendment rectifies that situation.

Mr PISONI: The opposition supports the amendment and the intention of the amendment as agreed to in the upper house, which is to remove the clause enabling common law to be used to

settle such a claim or dispute. This is an unintended consequence of that amendment, so we are very pleased that the minister has brought this to the chamber today to ensure that those who are running the risk are held responsible for the risk. This further enhances the intention of the amendment that was agreed to in the other place.

Amendment carried; clause as amended passed.

Remaining clauses (37 to 60) and title passed.

Bill reported with amendment.

Bill read a third time and passed.

PUBLIC SECTOR BILL

The Legislative Council agreed to the amendment made by the House of Assembly to its amendment No. 1; did not insist on its amendment No. 15, but agreed to the alternative amendment made by the House of Assembly in lieu thereof; and did not insist on its amendments Nos 2, 3, 9, 10 and 12 to which the House of Assembly had disagreed.

At 16:25 the house adjourned until Tuesday 8 September 2009 at 11:00.