# HOUSE OF ASSEMBLY

## Wednesday 23 September 2009

**The SPEAKER (Hon. J.J. Snelling)** took the chair at 11:00 and read prayers.

### PUBLIC WORKS COMMITTEE: PLAYFORD ALIVE—MUNNO PARA AND ANDREWS FARM PRECINCTS

**Ms CICCARELLO (Norwood) (11:02):** I move:

That the 328th report of the committee, entitled Playford Alive—Munno Para and Andrews Farm Precincts, be noted.

The Playford North Urban Renewal Project (now called Playford Alive) involves the redevelopment of the Peachey Belt suburbs of Smithfield Plains and Davoren Park, along with the greenfield land at Munno Para, Munno Para West, Munno Para Downs, Andrews Farm and Penfield.

The current stages include appropriate proximately 118 hectares of land located north of Curtis Road at Munno Para, Munno Para West and Munno Para Downs and 13.5 hectares at Andrews Farm South, together with the expenditure on associated supporting infrastructure. The Andrews Farm scope of works comprises:

- a four hectare primary school site;
- a commercial/retail site;
- two medium density sites;
- a lilac pipe reticulation network;
- stormwater and landscape enhancement works in Smith Creek;
- a culvert upgrade on Smith Creek crossing at Petherton Road;
- upgrading a portion of Petherton Road; and
- downstream stormwater works to provide flood protection.

The Munno Para stages 2 to 15b scope of works comprises:

- 1,138 lots, including approximately 50 super lots within the proposed Curtis Road town centre and mixed use zone;
- several innovative and affordable group housing sites;
- major internal connecting boulevards;
- the partial upgrade of Curtis Road;
- senior living sites;
- a major town park and several neighbourhood and local parks;
- safe and attractive bicycle and pedestrian networks;
- major stormwater works;
- a third lilac pipe reticulation network;
- partial closure, diversion and upgrade of Coventry Road;
- upgrade and reconstruction of Stebonheath Road;
- a road network to accommodate public transport routes;
- an R-12 private school site; and
- landscape and road upgrades to the northern portions of Peachey Road and Coventry Road and at the southern gateway to the project on Peachey Road.

The location of the two new schools within the project area (B-7 in Smithfield Plains and B-2 in Munno Para West) has required modifications to the road network to ensure appropriate access via public and private transport.

The modelling assumes joint funding by the LMC and the City of Playford (including federal government funding) for the upgrading of Curtis Road, which has a projected traffic volume of 20,000-plus vehicles per day. However, the current stage of the project includes only the first stage of the upgrading and does not include the funding of a grade separated rail crossing on Curtis Road.

Government agencies, the City of Playford and community leaders have been working together with the LMC project team to finalise the plan. Consultation has occurred with respect to community facilities and services, the development of the proposed new school facilities and proposed traffic management upgrades in the draft structure plan. Residents have been very supportive of the proposed safety and security improvements and for more general practitioners and community health services to better serve the community.

The committee is told that, in the overall plan, a key outcome relates to coordinated delivery of all stormwater management. A number of catchments flow from the Hills through the development, all ending up at Smith Creek near the Northern Expressway. LMC is working with the council to model the whole network to ensure that there are holding points for detention basins to control water flows. LMC is also working with the council to integrate the public parks, wetlands and aquifer recharge systems into the urban form, together with a recycled water scheme proposal to bring treated wastewater from Bolivar to mix with council stormwater. The water will be reticulated back through a pipe system to all reserves and parks as well as individual homes for irrigation and toilet flushing.

The overall project is intended to provide improved education facilities, high needs housing, affordable housing, more integrated human services delivery, integrated stormwater detention systems and sustainability initiatives.

One of the overall objectives of the Playford Alive project is to reduce the concentration of the Department for Families and Communities from 30 per cent in the Peachey Belt to 10 per cent by spreading some of this housing into the new greenfield area. The level of high needs housing provided by DFC will double the State Housing Plan target and a discount of 12½ per cent will be provided for those purchases. Some 20 per cent of dwellings will be affordable housing which, again, is double the State Housing Plan target. The retail lots will be marketed and sold through Century 21, which was appointed as a result of an open tender.

The project includes an expenditure allowance of an average of $7,250 per lot (including stage 1 lots) for a marketing advantage benefit pack as part of a unique marketing proposition. The advantage pack will include the $500 rebate for solar/gas boosted hot water systems, front fencing (which is mandated as part of the new urbanism principles and is an essential element of integration with the renewal area), side and rear boundary fencing and a landscaping rebate/voucher system.

The advantage pack is also a key tool to ensure early establishment of properties that will build in overall quality and value in the project. As the advantage pack will be operated on a cost recovery basis with a value for each individual lot being added to the market price, it has not been modelled in the cash flow but has been included in the total capital expenditure approval.

Gross revenue is expected to be in the order of $249.3 million. Net revenue after GST, discounts for affordable housing, the community fund, selling costs and commission is expected to be $217.3 million. The project surplus is anticipated to be in the order of $81.5 million.

Based upon the evidence it has considered, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work.

**Mr PISONI (Unley) (11:08):** This was certainly a very worthwhile project. I think I should point out that the quarterly report that came out close to three months ago stated that, in terms of return to government, the project was 50 per cent over budget. I think that is an interesting figure. I point out to the parliament that, at a time when we have the Treasurer warning us about cuts in revenue, in the area of housing developments being undertaken by the government we have seen a 50 per cent increase over and above what the government expected to earn in profit from this program.

I think that there are two points to be made here. The first is that we are seeing that this government certainly has trouble controlling its spending, and its budget difficulties obviously relate

to the problem it is having in containing its spending. We have seen examples of that throughout the year.

Another point I would like to make is that perhaps the biggest beneficiary of the first home owners grant is the state government through its land releases. There is no doubt we have seen an increase in the price of a certain level of property in the marketplace—that price bracket aimed at first home buyers. We have not seen an increase in supply but we have certainly seen an increase in demand. I think that anyone who understands the supply and demand process knows that that will lead to a price increase.

The quarterly report certainly showed a substantial increase in the price of those properties. They are being sold on the open market, and there is no discount to make the housing affordable, even at market value. The LMC told us these packages fall into the affordable housing bracket, so it is effectively exempt from the 15 per cent affordable housing requirement because the whole development is described as being affordable. I think the quarterly report gave us some information that expanded on the information we were given at the briefing.

It is important to ensure that a good effort is put into greening the suburb. We know that trees make an enormous difference to temperature in suburbs and we have been experiencing some very hot summers in South Australia in recent years. There is no doubt that those suburbs that are described as the green, leafy suburbs are substantially cooler on hot days than those suburbs that do not have trees. Adelaide has a lot of suburbs with street trees and it makes a big difference to how the suburb feels and, of course, for flora and fauna. We are seeing smaller block sizes and the selling off of public land for housing developments that otherwise provided open space and room for urban forests.

Because of the tram development, I think about 100 established trees in the Parklands on Port Road were knocked over; and the poor management of the tram overpass caused residents in the seat of Ashford to lose 80 year old trees to put in a temporary track on their footpaths, when the whole process could have been dealt with by a closure of the track in 2005 for a six month period. The Anzac Highway underpass, of course, was very well into the planning stage at that point. However, it did not occur to the minister, or anyone in government, that they would need to deal with the South Road tram crossing at the same time and, consequently, we have seen the loss of significant trees there.

At Glenside we are seeing the sell-off of open space and the destruction of another 100-odd significant trees—the government is not able to tell us which ones will fall victim to the chainsaw—and this, again, has a big effect on the urban forests and on fauna in particular. Many native birds, introduced birds and even possums and other animals that we see in our suburbs have been forced out of nearby bushlands, particularly in the hot weather when we had a long period of drought, and have come into our leafy suburbs for food and shelter.

Last night I attended a meeting of Friends of the City of Unley Society, which is a group of people that monitors demolitions and the destruction of heritage buildings and the carving up of blocks within the City of Unley. Chris Daniels, from the University of South Australia, spoke about the importance of urban vegetation and how important the backyard is. He made a very interesting point about how Adelaide has developed to an inside out city; that is, we have the Parklands, then we have our inner suburbs which have relatively large blocks and lots of trees, and then, as we move out into newer developments, we are seeing smaller and smaller blocks, houses built from boundary to boundary, eaves almost hitting each other and no room for trees or greenery, with hard spaces everywhere. I think we found with the recent flooding that, the more we have in the way of hard spaces in our suburbs, the more run-off we get and the more water management and, in particular, stormwater management we need to put in place. It is certainly something that we need to address.

Dr Daniels went on to explain how important it was that we preserve our inner suburbs and the open space we have in our inner suburbs so that we do not lose any more of the ecology that we have in Adelaide. In newer suburbs such as Andrews Farm and Munno Para, we are seeing much smaller blocks of land, much smaller personal open space, and therefore it is important that we retain the personal open space that we have in our more established suburbs. Of course, in our newer suburbs, it is very important to ensure that we have street trees and parks with trees, and also lower-height foliage for bugs and insects. They are an important part of the ecology as well, and obviously they need protection from birds or other predators and areas in which to live and survive. It is all part of the ecology. It is all part of what makes living in Adelaide such a wonderful thing.

I enjoyed this presentation. I was pleased to see this activity happening in the northern suburbs, which is my old stamping ground. It was not all that long ago—35-odd years ago, I suppose—when I lived not far from the Parabanks Shopping Centre, when there was enough open space that you could hop onto a dirt bike and ride over homemade ramps and jumps just a few metres from where I lived. Of course, the area in behind the Central Districts Hospital is now filled with housing development. It is good to see that sort of development, but I do note the 50 per cent increase in the profit that the government has made from this project over and above what it expected.

Motion carried.

## PUBLIC WORKS COMMITTEE: ROXBY DOWNS POLICE STATION

**Ms CICCARELLO (Norwood) (11:17):** I move:

That the 329th report of the committee, entitled Roxby Downs Police Station, be noted.

The most recent forecast provided by BHP Billiton estimates that the total population of Roxby Downs and surrounding area will exceed 10,000 by 2016; however, there may be some shifting out of these projected time lines from the effects of the global economic crisis on commodities markets. The current population is approximately 4,500. The police station at Roxby Downs cannot be expanded to accommodate staff increases to facilitate the range of additional services required by the growing Roxby Downs community.

The new police station will accommodate 30 sworn officers and two administrative staff who will meet community needs associated with the forecast population expansion of Roxby Downs. The station will provide:

- public reception and interview rooms;
- accommodation and secure parking for police patrols;
- CIB incident room and accommodation;
- forensic crime scene laboratory and office;
- criminal justice prosecutors accommodation and storage;
- a conference room;
- a cell complex compliant with custodial management standards and the death in custody coronial recommendations;
- exhibit and drug storage facilities;
- meals room; and
- locker room and showers.

Site selection was based on a number of criteria:

- proximity to the centre of Roxby Downs;
- good ingress and egress for the operational deployment of police vehicles; and
- allowing the collocation of other justice agencies, including a courthouse subject to government funding approval.

On completion of the new station, the existing police station will be surplus to SAPOL requirements. Proceeds from the sale of the existing site will be available for return to the Consolidated Account to offset increased construction costs. The total expenditure authority is $10.313 million. However, $1.57 million is anticipated from the sale of the current police station.

Further, the Solicitor-General has advised that it will be necessary for the government to be party to an indigenous land use agreement before SAPOL can commence site works. A further $700,000 for the freehold purchase of the land will not be required if an indigenous land use agreement is entered into.

Construction is expected to be completed by September 2010. Public access will be from Burgoyne Street with seven public car parks, including one for people with a disability. A secure rear car park will accommodate nine covered car parking spaces for SAPOL patrol and operational vehicles, a covered and enclosed forensic vehicle inspection bay and 20 SAPOL staff car parks.

The secure rear car park will be accessed via automatic gates. There will be a minimal amount of external illumination of the car park for security purposes and security camera coverage of the car park and external perimeter of the building. The new secure car park and visitor car park will be accessed via a new driveway and a crossover from Burgoyne Street.

The western side of the facility will house a new cell complex, including three holding cells, a padded cell, an enclosed exercise yard and administrative and support areas. This will also be accessed from the secure rear car park. The police station has been located and configured in such a manner as to maximise future integration with an adjoining court building.

Best practice passive design measures are incorporated into the project design, with complementary active systems that maximise design outcomes in order to benefit the environment and comply with government ecologically sustainable development initiatives.

Electrical efficiency will be incorporated though high efficiency lighting, motion activated lighting control and submetering of energy consumption. Photovoltaic panels have been considered but not included as a source of energy collection and provision because of their high capital cost and low energy output.

On-site waste separation facilities will support recycling of paper, aluminium and other materials. During construction, contractors will be encouraged to recycle much of the demolished material and waste material generated through the construction process.

Materials and components will be selected to minimise quantities and ensure assembly techniques are simple and able to be easily dismantled and recycled or re-used. Where appropriate, transportation and energy costs will be minimised by using locally manufactured products and materials. The project has also been designed for future integration with an adjoining court building, allowing for the sharing of cell facilities to reduce costs should the court proposal obtain future funding approval.

Therefore, based upon the evidence it has considered and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public works.

**Mr PENGILLY (Finniss) (11:23):** I rise to support this project. The member for Norwood in her capacity as Presiding Member of the Public Works Committee has put forward many of the points that came out of the submission to the committee. Some interesting things came out of that submission. The population forecast by 2016 of 10,000 people in Roxby Downs will certainly place increasing pressure on SAPOL and its resources. Indeed, it is essential that it has an updated and suitable police station to look after that situation.

However, it is interesting to note that not so many years ago the Premier referred to Roxby Downs as a 'mirage in the desert'. All of a sudden, 10,000 people will be up there by 2016; so I do not know what has happened to the mirage in the desert. Indeed, things change quite dramatically and this enormous project is now taking place up there—which members on this side of the house support, and have always supported wholeheartedly. It would appear that a few members on the other side took a while to wake up to it.

The completion date of September 2010 is welcome, and we will watch with interest the project and the reports that come through the Public Works Committee. It is also interesting to note that we regularly hear from the government, particularly the Premier, long-winded speeches about wind and solar power, yet here we are with one of the sunniest places in the state, Roxby Downs, and we are not even having solar panels on a new police station—quite frankly, it is bizarre—let alone wind turbines. Perhaps there is not enough wind up there, or perhaps the contract fell through; I am not quite sure.

It is highly neglectful of the government not to have included solar power for the Roxby Downs police station; it is the ideal place for solar panels. We are probably not having them there because no-one would see them up there—unlike the showgrounds. The media and the television cameras are not up there very often, so we are not having solar panels on the Roxby Downs police station. In an area where power is at a premium, there are no solar panels. However, be that as it may.

Another issue arose (and there were some questions about this during the hearing) regarding the cells at Roxby Downs. They are holding cells and, as with many other country police stations, it is almost impossible for police to have prisoners in their holding cells for very long at all. It is far too difficult, and they have to be relocated fairly quickly to other prisons or more suitable

facilities. In this case, Roxby Downs prisoners will be relocated to Port Augusta fairly expeditiously. I know that in my electorate on the mainland if they take prisoners into police stations they are shifted fairly quickly; indeed, if they have to take a prisoner into custody on Kangaroo Island they are also flown out pretty quickly.

This is an issue for the police at Roxby. We hope the situation does not arise where they have too many prisoners, because it puts enormous strain on their resources. They have to be there for 24 hours watching prisoners, they have to look into the cells and observe prisoners regularly (I am not sure of the exact number of times), depending on the category of prisoner or their background. It is very tiring and puts great pressure on police resources in country areas. Quite simply, police in country areas do not have sufficient capacity to monitor prisoners, so they have to get them out. It will be interesting to see what happens up there with Roxby Downs police station, particularly if the predicted population does reach 10,000 by 2016, in terms of how much additional activity will go through the police station and how much the cells will be used.

Most members on this side of the house support the project, and we are pleased to see it come to fruition. We look forward to its completion in September next year, and await with interest the regular reports that will come through the Public Works Committee.

**Ms BREUER (Giles) (11:28):** How wonderful it is that we can change our opinions, and what a wonderful supporter the Premier is of Roxby Downs, its expansion, and my electorate. I pay tribute to him for that; he regularly asks me about what is happening in my electorate and he is very interested in what is happening at Roxby Downs and the progress there. He shows a great interest and is a good supporter.

It is wonderful that we can change our opinions, and it is a bit pathetic that the opposition continually has to bring it up. I am sure that the people over there have changed their minds over the years, and that what they thought 20 years ago is a lot different to what they think now. I think it is pathetic that they continually need to bring this up. I thank the Premier for his support of my electorate, and particularly of the Roxby Downs expansion.

I am delighted with the police station and the fact that it will be built there. It will play a vital role in the future of Roxby Downs and that area, because one of the things people in Adelaide perhaps forget is that these outback police stations service not just the town in which they are located but a whole area. That is particularly the case with Roxby. It is a long way between towns, so police have to service the whole area. They do not just work in their town; they are on the road a lot. I am very pleased that they are going to have lovely headquarters to go back to. In the next few years, with the expansion of Roxby Downs (which will happen, I know), it will certainly be required.

With the building of the project and the work that will be involved with that, I think people sometimes miss the fact that there will be a camp near Roxby, a few kilometres away, which will house 8,000 people, which is twice the current population of Roxby, and that will be just a camp.

You can imagine what will happen in that camp, when you have 8,000 people living there, predominantly males, I would say. There will be quite a considerable number of females, but it will be predominantly males. They will work long shifts, 10 to12 hours a day, and they will go home and have a few drinks, and all sorts of things may eventuate. It is a worry for the community, which is a bit concerned about what could happen in that camp. I am sure that it will be well controlled and well maintained. People will be there to make a fortune, and they probably will; but, there are all sorts of prospects that can happen, so we need to have a good, strong and reliable police force working in the area.

The other thing that police in outback areas are regularly involved in is crashes. We have some horrendous crashes in our outback areas. These officers are called regularly to attend to these accidents, and it is a very difficult time for them. They see some horrendous accidents. They are continually monitoring our roads, consistently watching people speed, which we have to be very careful of, and I am very pleased to see they are doing that.

All sorts of things happen on those highways. There are drug runs, and I have heard of them and probably seen them in progress. Police perform a considerable number of duties not just in Roxby itself but in the area around it. They need the centre, they need these headquarters, and I am really pleased that it is happening.

I want to pay tribute to the police in the Outback. I think they do an incredible job. They are continually putting their lives at risk. I guess you can say the same thing for police officers in

Adelaide, but they have a lot more backup in Adelaide than they have out there. If you are the only fella within 100ks of a community, it is pretty scary at times; and they do put their lives at risk.

Also, their families are probably more at risk than perhaps in anonymous Adelaide, because everyone knows where the local police officer lives. They know what they are up to, they know their families, and I continually think about that, about how much more difficult it is for people in those areas, for young police officers going out there, male or female, taking their families, and the pressures and tensions they have. In all those outback areas they do an incredible job.

They are often required to live in Aboriginal communities, where there is a lot of tension. They are identified as the police officer, so they have extra risks and involvement. Often, when police officers go out to these areas, there are housing issues, and sometimes we are lacking a bit in housing. I am hoping that, with the expansion of Roxby, there will be adequate housing for police officers and the public servants who live there.

It is one of the richest communities in South Australia, with the highest weekly wages in the area, because of the hours that people work and the good conditions and good pay they receive. One of the big issues in such a community, however, is that the people who do not work in the mine are often contractors or public servants, and their pay rates just do not match up with those who do. The cost of living is extremely high and rents are exorbitant, so we have to make sure that we have good housing for our public servants, particularly our police officers and teachers, in those communities. I am certainly keeping an eye on that and making sure that that will happen with the expansion of Roxby Downs.

Roxby Downs is the jewel in the crown of South Australia. It will bring incredible money into our state, but we have to make sure that the people who are living there have the right health and education resources, policing, etc. I am really pleased that the team that is looking after the Olympic Dam expansion has been so involved over a number of years and will continue to be so. I think they are doing a great job under the leadership of Paul Case, and I pay tribute to them.

I am very happy about this police station. It is a good day. I am pleased to see that this has happened, and I certainly will be supporting my community in the future.

**Mr PISONI (Unley) (11:35):** First of all, I have to take issue with the stereotyping of men, miners in particular, by the member for Giles. I would imagine there would be a thriving arts community up there at Roxby Downs. There might also be a book club the miners might attend, or there might also be quilt making or lawn bowls. There are plenty of activities up there for those miners. I find it offensive that it has been suggested that a man's only avenue for leisure is to drink, when there are so many other things men could do. Some of us might even know how to knit! I am shocked by the member for Giles' stereotyping of men.

The member for Finniss made an interesting point about the fact that, in a part of the state that receives in excess of 300 days a year of sunshine, we have not seen solar panels used in this project. As a matter of fact, I think the report stated that it was not a viable option. This reinforces the concern the opposition has had for quite some time that the Premier is interested in renewable energy only when he can cut a ribbon and attach himself to a project where it can be seen.

Of course, up at Roxby Downs, they do not have much traffic in the main street bringing journalists from metropolitan Adelaide to see these solar panels, and it is clear to me that there can be only one reason we have solar panels on our buildings. The solar panels we do see, particularly in our schools, are not enough to make any difference. We were told during one of the Public Works Committee hearings that solar panels on schools would barely be enough to run a single computer, yet we are told that part of the plan is to save power for schools. The real agenda is all about the Premier associating himself with green energy without his making any concerted effort to make the industry or the technology work. This is a classic example of where we had the perfect opportunity to use solar power, yet it was ignored.

Another point raised was that we were told there is no guarantee that the police station will be open 24 hours a day. I think that a police station with a staff of 30 in a town of 30,000 and the fact that, at this stage, we are not sure whether that police station will be open 24 hours a day puts in doubt the use of the cells; otherwise, I do not know how you can have a police station closed from about midnight to 6am. That would mean that we would still be seeing a waste of police resources, with police having to transport prisoners by road from Roxby Downs—perhaps at midnight every night—to Port Augusta because the police station at Roxby Downs will not be open 24 hours a day.

If I were a resident of Roxby Downs, that would be a concern and I would want to know why that was the case. Of course, we still could not get any idea of numbers or the time frame as to when more police would be stationed at Roxby Downs once the project was completed. It was made clear to us that there would not be 30 when the police station opened, but we were not able to identify just what the actual number would be.

I want to pick up on the point the member for Giles made about housing. She neglected to say that this government, in its last budget, earmarked 600 houses in rural South Australia to be sold. We heard the member for Giles refer to how expensive housing is in places such as Roxby Downs. The sad thing about this is that we did identify that police housing would be exempt from the 600 houses, and that means that the houses to be sold are those predominantly used by teachers in rural areas. It is already difficult to get teachers, particularly experienced teachers, into rural South Australia. Here we have a budget measure by this government identifying the selling of 600 houses in regional South Australia that will make it even more difficult to attract experienced teachers into the area.

Motion carried.

## PUBLIC WORKS COMMITTEE: VICTOR HARBOR TAFE

**Ms CICCARELLO (Norwood) (11:40):** I move:

That the 330th report of the committee, entitled Victor Harbor TAFE, be noted.

The Victor Harbor local government area has an estimated population of 12,811, with a further 22,026 in the local government area of Alexandrina and 4,439 in Yankalilla. The Fleurieu Peninsula population is expected to continue to grow at a rapid rate. Appropriate accommodation will be provided to TAFE to replace the campus on Adelaide Road. It will consist of skills laboratories for community services and nursing, a learning space, a virtual office area, general purpose teaching spaces, computer laboratory and administration areas together with staff and student amenities.

A 1.1 hectare site will provide the new campus with sufficient space to meet growth for the next 10 years and space for up to double capacity if required. The estimated capital cost of the building and associated works is $9.4 million (excluding GST). The general teaching areas include a space designated to provide hard-wired computing facilities but designed to adapt to the changing training needs over the life of the asset. The learning space will provide increased computing facilities to accommodate learning in information technology and will be complemented by access to the nearby council library.

The design of the campus also facilitates third party access to space by other community education providers or for other uses. The City of Victor Harbor has been consulted during the project design in order to minimise the impact upon the surrounding areas. Connectivity with other educational and recreational facilities via walkways and other linkages has been identified by council and will be negotiated with LMC during the land development.

Maximising passive design opportunities will be a design objective of this project. In addition, water usage will be minimised by use of six on-site 35,000 litre stormwater storage tanks, which will be utilised for landscape irrigation and flushing of toilets. The overall site is partly landscaped with low maintenance, mainly indigenous species planting. Sustainable horticultural principles will be employed in all landscape construction, including establishment drip irrigation, deep ripping and mulching. Natural grassed areas will be irrigated with retained stormwater collected from the hard-paved areas into swales which lead into a large detention pond. A small pump and chamber will be provided to pressurise the system for irrigation of the garden areas.

Training needs are anticipated to increase by approximately 75 per cent over the next 10 years. This is due to the forecast population growth in the area and the expected current unmet demand which would drive an additional increase in student numbers upon completion of the facility. This project allows for an increase of 100 per cent in the levels provided by the existing facility. It is also consistent with the department's key goal of ensuring that South Australians have the necessary education and skills to participate in the high skill economy.

A number of key initiatives will be adopted in this first facility designed and built under new guidelines. These will extend training to encompass e-learning, provide flexible multipurpose space that can be adapted to a number of needs and encourage third party access to facilities. The main program area of community services is expected to experience high growth due to the demographic shift in the South Coast population, in particular growth in the dependent age cohort (0-14 years and 65 plus years). Skilled labour in the community care sector will be essential to

meet the needs of the region, and TAFE has an important role to play in providing the necessary training to prevent a skills shortage in the industry.

In addition, community care courses are in high demand by students in the region. In 2007 students from the region were offered 12,500 hours of education in community services at another campus. This indicates that an increase in capacity of 35 per cent at Victor Harbor will be filled immediately by student demand.

To ensure high utilisation levels at the new campus, it is planned to offer nursing qualifications, which use similar facilities to a community services program and can be provided with little additional capital investment. Despite a high level of construction in the local area, demand for courses in pre-vocational trades is modest. There was only limited take-up in a course offered in 2007. The capital cost required to build a purpose-built workshop is excessive given the demand.

In an attempt to reduce the capital cost and provide flexibility, a mobile facility was investigated as an alternative, but the excessive recurrent costs were prohibitive. The federal government has announced the introduction of trade training centres aligned to secondary schools and potentially including TAFE as a partner. The proximity of the proposed TAFE campus and the Victor Harbor High School has led to consultation to determine how this may benefit both parties.

Social benefits include the provision of vocational education and training in a region with an increasing population and allowing residents to train locally rather than being required to travel to an alternative campus to study. The nearest campus is 54 kilometres away, and none is accessible via public transport from the South Coast. An analysis of the cost of travel has indicated a cost to the community of $778,000 per annum within a decade.

Other social benefits that come from providing education include retaining population in the local area, increasing workforce skills (which may attract new business), and a decrease in unemployment. A higher skilled workforce is also more likely to attract higher salaries: typically, higher household incomes have a positive flow-on effect in social and economic benefits in the local community. Construction was expected to commence in July 2009 and be completed by July 2010.

Based upon the evidence it has considered, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public works.

**Mr PENGILLY (Finniss) (11:46):** Well, I say 'hallelujah, brother' that we have finally got to talk about this report in the parliament. It has taken five months since we had this hearing—15 April this year—to get to it. That says to me that we need to speed up how we get the public works reports through the parliament. It takes too long. These are important issues, and this is extremely important to my electorate.

The member for Norwood has covered a considerable number of points that I could raise, and I probably do not need to repeat them. However, at the risk of repeating earlier speeches that I have made in this place on the subject, let me just remind the house that the Liberal government had this measure in its budget in 2001 and the Rann Labor government canned it on coming into office. Here we are, some seven years later, and the Victor Harbor TAFE will come to fruition—although it is important to note that at the moment nothing whatsoever has happened with respect to on-ground works at Victor Harbor. Indeed, the students are still in the somewhat inadequate facilities that were temporary as far back as about 1990, as I understand it. They are still waiting to go into the new premises when they are completed.

This is a good measure. However, it is not all good, because this facility has been scaled back: it is not the facility that should be built on the South Coast. It is not big enough and it does not cater for enough TAFE training opportunities. There is a focus in that area, quite correctly, on aged care. That is a highly important issue. It is critical that we have enough people training in aged care at TAFE on the South Coast, and I wholeheartedly support what is taking place there in relation to aged-care training.

The member for Fisher, in a previous life, when he was a minister responsible for TAFE in the Brown Liberal government, had quite a bit to do with the possibility of establishing a TAFE college in that area, and he will probably want to say a few words. It is extremely disappointing that this Rann Labor-National Party government has scaled back the Victor Harbor TAFE and that it will not allow for full training facilities to be put in place for carpentry and similar trades so young men

have the opportunity to learn a trade. Unfortunately, they still will have to go over the hill, so to speak—over Willunga Hill—to the city and other TAFE facilities, and be away from their homes and families. This facility will not cater for that. Once again, that is an abrogation of responsibility by the Rann Labor government in relation to the South Coast.

When the Labor Party comes down there puffing and blowing and bringing out their big wheels to support their candidate, the community will not be fooled. People are awake to what is going on. If the Labor Party wants to bring down these people and promote their own side in the lead-up to the state election, they can rest assured that my memory recall will be such that the community will be reminded regularly that there was a seven year delay in the Victor Harbor High School project, and the delay to the TAFE project is seven years and will probably be eight or nine years by the time we get it up.

Yesterday, the health minister announced vaccinations for swine flu but I noted that the South Coast and Fleurieu Peninsula (including Yankalilla, Normanville, Victor Harbor, Goolwa, Port Elliot and Middleton) were left out again. We have an increasing number of senior residents down there and a multitude of young families who should have been on the list. We will just wait and see what the minister does about this over the next few days. I suggest he will act fairly promptly.

The Rann Labor government stands condemned for its inaction and putting these projects on the back burner, for inhibiting the development of the youth of the South Coast and not giving them the opportunity to have decent facilities. The TAFE staff down there are terrific, and are wonderful people who work in substandard facilities and have done so for years. My office has a trainee, and we are about to get a new one—I think this is number 14 or 15. They have all gone through the Victor Harbor TAFE in business studies courses, and I am sure that other members in this place also have trainees. However, the fact is that these poor young people (and they are predominantly young people) have to put up with what they have at the moment, and it is not good enough. There are also increasing numbers of 30, 40 or 50 year olds going through TAFE who want to upgrade their skills and go into different professions such as aged care and tourism.

Let me repeat: it is not good enough to have the young men, particularly, in the district—or even young women—who want to do these trades, leave their homes on the South Coast and Fleurieu Peninsula to go over the hill to reside in Adelaide in order to do TAFE training and apprenticeship courses, instead of being down where they belong. They put their lives at risk every time they get on the Victor Harbor-Adelaide or the Goolwa-Adelaide roads, whichever way they travel—or even from Yankalilla through to Adelaide. It is not good enough.

I stand here and condemn this government wholeheartedly for the delay in this project. I was pleased to support the project through the Public Works Committee. It is $9.4 million worth of money that will be well spent, but it could be a lot better, and I look forward to the opening of this as soon as possible.

**The Hon. R.B. SUCH (Fisher) (11:54):** I take an interest in this project because many years ago, as minister for further education, I was keen to see a training establishment, a TAFE facility, created at Victor Harbor adjacent to the high school. This has been a bit like an elephant's pregnancy: it has gone on for ages.

As the member for Finniss has just pointed out, this project has been downsized, which is unfortunate given that the Southern Fleurieu is a growth area. As has been indicated, young people—men and women—who want to do trades will still find it difficult to do so because they will have to travel to Noarlunga, Murray Bridge or Mount Barker.

In relation to this particular project, I am delighted that something is happening, even though it is downsized. It is good that it is happening, but it is being proposed under a cloud that is covering TAFE. We hear rumours. People who work at Panorama TAFE have written to me suggesting that that site will be shut down. I have written to the minister asking whether that is the case. What is the future for Panorama? It is important that we do not reduce the capability of TAFE to offer modern and important skills-based programs.

For a long time, the community has not appreciated the value of TAFE. Those who are in the know, like the member for Giles and people like me, fully appreciate the value of TAFE because we have had a lot to do with it over time. Sadly, I have regarded TAFE as one of our best kept secrets and was disappointed when the federal Howard government created stand-alone technical colleges, rather than building on the existing framework of TAFE. Anyway, two of those have now gone into the Catholic education system and the fate of the one in the Spencer Gulf area is not yet determined.

A member said that the state government did not allow the federal government to participate in TAFE. I am not sure of the accuracy of that but, whatever the reason, it was unfortunate that separate, stand-alone technical colleges were created rather than building on and within the framework of TAFE.

This development is long overdue. As minister I fought hard to keep the land—which members will appreciate, as you come into Victor Harbor from Adelaide is on the right-hand side and must now be worth a fortune—because I saw that as an offset for building a fantastic TAFE facility in Victor Harbor. What we see here today is a much scaled down version, involving a cost of $9.4 million. I look forward to the day when the people of Victor Harbor and the whole Fleurieu area have access to a wider range of TAFE skills-based programs, rather than that which this facility in its current projected form will allow.

Motion carried.

## SOCIAL DEVELOPMENT COMMITTEE: REVIEW OF THE DEPARTMENT OF HEALTH REPORT INTO HYPNOSIS

**The Hon. P.L. WHITE (Taylor) (11:55):** I move:

That the 29th report of the committee, entitled a Review of the Department of Health Report into Hypnosis, be noted.

It is important to note at the outset that the practice of hypnosis in South Australia is regulated by the Psychological Practices Act 1973. Section 39 of this act restricts the practice of hypnosis to certain registered professions; namely, psychologists, medical practitioners and dentists and, under particular conditions, to individual prescribed persons. In September 2006, the state government introduced the Psychological Practice Bill to, among other things, remove this restriction.

At that time, some parties raised concerns that the bill, if passed, would make it possible for untrained and unqualified individuals to legally carry out hypnosis and hypnotherapy. Those concerns prompted the Department of Health to commission its report, and the Social Development Committee was asked to review the department's report in the context of its ongoing inquiry into bogus, unregistered and deregistered health practitioners. Specifically on 7 May 2008, the House of Assembly resolved on a motion of the Minister for Health that the Department of Health's report be referred to the committee for its examination.

While the committee's examination of the report occurred at the same time as its inquiry into bogus, unregistered and deregistered health practitioners, the committee considered the issue separately. Given the limited scope of this term of reference, the committee also decided that it was not necessary to advertise this matter in the print media. Instead, the committee placed relevant information on its website and sought input from a number of relevant stakeholders.

Before going further, I take this opportunity to thank the other members of the committee for their contribution: the Hons Ian Hunter, Dennis Hood and Stephen Wade from the other place; and, from this chamber, Mr Adrian Pederick and Ms Lindsay Simmons. I also thank the staff of the Social Development Committee for their contribution: our research officer Sue Markotic and our secretary Robyn Schutte.

While hypnosis can be difficult to define, the committee was told that it is generally considered to be an altered state of consciousness in which an individual has an increased susceptibility to suggestion. Evidence suggests that hypnosis can be a useful adjunct to psychological therapy. It may also assist in the management of a range of symptoms and conditions, including chronic pain, obesity and sleep disorders.

The Department of Health's report notes that the introduction of the Psychological Practice Bill in 2006 needs to be viewed in the context of the National Competition Policy Agreement principles. Those principles state, amongst other things, that legislation should not restrict competition unless it can be demonstrated that it is in the public interest to do so.

Debate adjourned.

## MAGISTRATES COURT (SPECIAL JUSTICES) AMENDMENT BILL

**The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (12:01):** Obtained leave and introduced a bill for an act to amend the Magistrates Court Act 1991. Read a first time.

**The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (12:02):** I move:

That this bill be now read a second time.

A justice of the peace may be appointed as a special justice under the Justices of the Peace Act 2005. Like the position of justice of the peace, the role of special justice is voluntary. Special justices are laymen; they are not legal practitioners. Under the Magistrates Court Act 1991, special justices are permitted to preside over matters in the Petty Sessions Division of the Magistrates Court, as well as other matters if there is no magistrate available. Those changes were made during the life of the Rann government, although the bill originated in 1991. Special justices may not, however, impose a sentence of imprisonment in criminal proceedings.

This bill will amend the Magistrates Court Act to extend the jurisdiction of special justices to additional minor offences and procedural matters. This follows the government's announcement of an additional $450,000 to be provided for extra sittings by special justices and training within the court. Allowing a broader range of minor offences to be dealt with by special justices will free stipendiary magistrates to deal with more serious criminal offences. This improves outcomes for victims of crime, as well as increasing access to justice. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Special justices are appointed under the *Justices of the Peace Act 2005*. Like the position of Justice of the Peace, the role of special justice is voluntary.

Like Justices of the Peace, special justices are laymen. They are not legal practitioners. They undergo a TAFE S.A. training course to prepare them for their appointment.

Under the *Magistrates Court Act*, special justices are permitted to preside over matters in the Petty Sessions Division of the Magistrates Court as well as other matters if there is no magistrate available. Special justices may not, however, impose a sentence of imprisonment in criminal proceedings.

Special justices in the Petty Sessions Division of the Magistrates Court presently have jurisdiction to:

- deal with matters remitted to the Court under section 70I of the *Criminal Law (Sentencing) Act* (to remit or reduce fines where a debtor is unable to pay);
- conduct reviews of enforcement orders under the *Expiation of Offences Act 1996*; and
- hear and determine charges of offences against the *Road Traffic Act 1961* for which no penalty of imprisonment is fixed.

The Chief Magistrate has suggested that special justices be permitted to deal with minor offences generally, up to a maximum penalty limit.

This Bill will:

(a) extend the jurisdiction of special justices to hear and determine a charge of any offence with a maximum penalty not exceeding $2,500 and no penalty of imprisonment as well as some other prescribed offences with a maximum fine of $2,500 that do include imprisonment as a penalty (although special justices remain prohibited from imposing a sentence of imprisonment);

(b) permit special justices to hear and determine any expiable offence where the person served with the expiation notice elects to be prosecuted, including offences with a higher maximum penalty;

(c) allow special justices to deal with prescribed uncontested applications; and

(d) allow special justices to determine applications for review of cancellation of relief orders under section 10 of the *Expiation of Offences Act* as well as clarify that special justices may adjourn court proceedings and deal with minor procedural matters assigned by the Court rules.

The Bill makes it clear that special justices may deal with such matters even if a magistrate is technically available to hear the matter.

Special justices will undergo extra training, both at TAFE and in the Court, in these additional responsibilities.

This proposal should increase the capacity of the justice system to deal with offences. Allowing a broader range of minor offences and procedural matters to be dealt with by special justices will free stipendiary magistrates to deal with more serious criminal offences. This improves outcomes for victims of crime as well as increasing access to justice.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Magistrates Court Act 1991*

4—Amendment of section 7A—Constitution of Court

Section 7A provides for the constitution of the Magistrates Court and subsection (2) of that section provides for the Court to be constituted by a special justice in certain circumstances. It is proposed to repeal that subsection and substitute a new subsection (2) that will allow the Court to be constituted of a special justice in the following circumstances:

- when sitting in its Petty Sessions Division;
- when hearing uncontested applications of a class prescribed by the regulations;
- in any other case, when there is no Magistrate available to constitute the Court.

However, when the Court is constituted of a special justice in criminal proceedings, the Court is prevented from imposing a sentence of imprisonment. The main change to the subsection is the addition of prescribed uncontested applications to the matters that may be heard by special justices.

5—Amendment of section 9A—Petty Sessions Division

The changes proposed to section 9A will broaden the jurisdiction of the Petty Sessions Division of the Court. Currently paragraph (b) of that section allows for the hearing and determination of a charge of an offence against the *Road Traffic Act 1961* for which no penalty of imprisonment is fixed. Paragraph (b) is to be repealed and substituted with a new paragraph allowing for the hearing and determination of any of the following charges:

- a charge of an expiable offence where the alleged offender elects to be prosecuted for the offence;
- a charge of a prescribed offence (being an offence for which the maximum penalty does not exceed a fine of $2,500 but includes imprisonment and the offence is prescribed by the regulations for this purpose);
- a charge of any other offence if the maximum penalty for the offence does not exceed a fine of $2,500 or include imprisonment (but may include disqualification from holding or obtaining a driver's licence).

The jurisdiction of that Division will also include applications to conduct a review of an enforcement order under both sections 10 and 14 of the *Expiation of Offences Act 1996*. Currently, paragraph (c) only allows for reviews under section 14 of that Act.

6—Amendment of section 15—Exercise of procedural and administrative powers of Court

This proposed amendment clarifies that the exercise of procedural and administrative powers of the Court may be exercised by a Registrar, special justice or justice, in accordance with the terms of that section.

Debate adjourned on motion of Ms Chapman.

## SERIOUS AND ORGANISED CRIME (UNEXPLAINED WEALTH) BILL

In committee.

(Continued from 10 September 2009. Page 3971.)

Clause 3.

**Ms CHAPMAN:** I have moved an amendment on this clause, which essentially inserts the definition of the DPP in anticipation of clause 9. I think we have all spoken on it, and we are about to vote on it.

**The CHAIR:** Is there any further debate on the amendment? In that case, the question before the chair is that amendment be agreed to.

The committee divided on the amendment:

AYES (14)

| | | |
|---|---|---|
| Chapman, V.A. (teller) | Evans, I.F. | Goldsworthy, M.R. |
| Gunn, G.M. | Hamilton-Smith, M.L.J. | Hanna, K. |
| McFetridge, D. | Pederick, A.S. | Penfold, E.M. |
| Pengilly, M. | Pisoni, D.G. | Such, R.B. |
| Venning, I.H. | Williams, M.R. | |

NOES (25)

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

PAIRS (4)

| | |
|---|---|
| Redmond, I.M. | Foley, K.O. |
| Griffiths, S.P. | Simmons, L.A. |

Majority of 9 for the noes.

Amendment thus negatived; clause passed.

Clause 4.

**Mr HANNA:** One of the problems that arises with the current confiscation of profits legislation and this proposed legislation is the impact on people who are not actually targeted by the state in terms of their assets being questioned. In the case of a family or perhaps a business partnership, where one of the people involved is targeted under this legislation, does the government acknowledge that, by taking assets which are actually enjoyed by more than one person, completely innocent people could be affected by the confiscation of assets?

**The CHAIR:** That was a comment rather than a question, member for Mitchell?

**Mr HANNA:** I am not sure whether you heard the last bit, Madam Chair: it was a question, quite clearly.

**The Hon. M.J. ATKINSON:** Can the member repeat the question?

**Mr HANNA:** Fortunately, the Attorney-General's adviser was listening, and he may be able to suggest an answer to the Attorney.

**The CHAIR:** Member for Mitchell, if you have a question, the Attorney has asked whether you would repeat it. The chair also asks, because the chair did not hear the question, either.

**Mr HANNA:** That is fine; I will do that, Madam Chair. But then I need to place on record that the Attorney-General simply was not paying attention when I was asking the question.

**The CHAIR:** Order! Member for Mitchell, please repeat the question.

**Mr HANNA:** Well, what is out of order about that, I wonder. But I am quite happy to repeat the question. My question was in relation to clause 4, and it deals with effective control of assets. I was asking about the situation where there is a family or a business partnership, where a number of people enjoy the same asset, whether it be a home, business, car or something else. Does the Attorney-General acknowledge that people who are innocent—that is to say, not targeted under this legislation when an order for confiscation is sought—can nonetheless be seriously affected if an application is successfully pursued against the target?

**The Hon. M.J. ATKINSON:** Madam Chair, the situation was that the member for Mount Gambier was asking me a question and I did not catch the question at the end of the member for Mitchell's statement. If, as members, we are to be indignant and insulting to each other each time that happens and place on the record that another member was derelict in not hearing one of the sentences spoken in the committee, we will be going down a slippery path.

**Mr Hanna:** I think we are well down that path, Attorney.

**The Hon. M.J. ATKINSON:** I agree that, over the years, the member for Mitchell has taken the house down that path. The question by the member for Mitchell arises out of a constituent case. I, too, have met with those constituents, twice—

*Mr Hanna interjecting:*

**The CHAIR:** Order, member for Mitchell!

**The Hon. M.J. ATKINSON:** The situation is that the husband and wife share a house. The husband was found to be growing 80 marijuana plants and found with thousands upon thousands of dollars of cash. He was charged accordingly, convicted and given a suspended sentence. The Crown is in the process of seeking—under the existing legislation, of course—to confiscate his share of the home, which is the instrument of crime.

My understanding is that his wife has been detached from the proceedings, which was not disclosed to ABC television before *Stateline* covered the program. The confiscation is proceeding in the form of a pecuniary penalty, that is, the Crown does not seek to take the home but to take the husband's share of the home; therefore, should magistrate Gumpl in his judgment later this week uphold the pecuniary penalty, the husband, the offender, will have to pay the equivalent of half the value of the house to the Crown.

Magistrate Gumpl may decide that that is disproportionate to the offending. I do not know; that is a matter before the courts. However, what the member for Mitchell seeks to do is to pressure me as Attorney-General into intervening in a proceeding brought by the Office of the Director of Public Prosecutions and before the courts. If I gave into his importuning, the member for Mitchell would then turn around and say, 'Oh, that shows the need for an ICAC.' I have resisted the member for Mitchell's blandishments.

I have done my job as Attorney-General and allowed the matter to be determined according to law, but I have sought information about the case from the Office of the DPP. However, the way in which the member for Mitchell plays it, I'm damned if I do and I'm damned if I don't. People of goodwill will have different opinions about how this case should be decided. I must admit that I am not sure what would be a just outcome. Nevertheless, I have confidence in an independent judiciary to adjudicate the matter, and I will not be influenced by the member for Mitchell in interfering in that process.

**Mr Hanna:** Good!

**The Hon. M.J. ATKINSON:** The honourable member says 'Good!'—good that I am not doing what he is trying to pressure me into doing. I think that it illustrates the point. The situation with this legislation is that, yes, it is quite true that if someone is part of a family and one member of the family is subject to one of these orders, namely, one member of the family must account for how he or she acquired his or her wealth and cannot explain that he or she acquired it lawfully, there is a risk that the other family member who has had access to the use of the property, the enjoyment of the property, may thereby be deprived. That is quite true; we concede that.

**Mr HANNA:** I need to place on the record that my question was deliberately cast in general terms. I have not sought to pressure the Attorney-General in any way, in terms of intervening—

**The Hon. M.J. Atkinson:** Not much!

**The CHAIR:** Order!

**Mr HANNA:** —in the constituent case to which he referred. I have not even invited the Attorney-General to comment on a matter that is sub judice. However, I am glad that the Attorney-General answered the question that I asked in general terms in the affirmative. It does show the dangers of this legislation.

**Mr PISONI:** I want to bring to the attention of the Attorney-General a situation that arose in my electorate, and I would like to know how this clause or other parts of this bill might change that kind of situation in the future. A very beautiful specimen of an old bluestone maisonette in Scott Street at Parkside was purchased by a couple of 'developers' and some extensive work was done on the electricity supply to the house not long after the new owners took over the house. Six months later, a large marijuana bust occurred at that location. I was made aware of that and I popped around and had a chat to the police who were there, and large hydroponic equipment and plants of between three and four feet high were being pulled out.

I am not sure what the outcome of that has been but I am led to believe that, before any legal proceedings took place, a demolition application was approved and the beautiful home has now gone. I am just wondering whether this legislation would in the future prevent a situation such as that, with respect to the effective control of a property before the courts have made a decision to

confiscate the asset—whether the asset would be protected from any further work or expenditure or plans. The house was demolished because there were plans to build a couple of two-storey Tuscan villas in its place. Is the Attorney-General able to explain, for the benefit of my constituents, whether a situation like that would be avoided in the future under this legislation?

**The Hon. M.J. ATKINSON:** Under the Criminal Assets Confiscation Act, the Office of the DPP would apply for a restraining order to make sure that the property was there to meet the dollar value of any order that was subsequently made by a court. So, if it were alleged to be an instrument of crime, the idea would be to preserve its value so that when a court subsequently ruled that it was an instrument of crime the value would be there to meet the order. That is nothing to do with preserving heritage value; that is all to do with preserving the value. So, if it is as valuable or more valuable as a Tuscan villa—

**Mr Pisoni:** Or an empty block?

**The Hon. M.J. ATKINSON:** —or an empty block; quite—and the proceeds would be there to meet the order so that justice is done under the act, then that is not something that the Office of the DPP would interfere with. However, we are talking about another act; we are not talking about this act.

**Ms CHAPMAN:** I think the member for Unley's concern is that under the current act a situation has arisen where it appears that the use of the confiscation act has overridden the heritage requirements. I do not know the full facts, only what has been presented to the parliament today, but it is suggested that the assets were taken under control under the confiscation act—there was a place of crime and the process was followed—but this is a property that was worth a lot more if the land was vacant. So, the demolition of the property on it, which would have impeded the increased value, took place, which has overridden the normal local government development planning rules, or whatever rules might have otherwise been enacted to protect it. So perhaps it is a matter that is worth looking at in the future.

My question, however, is in relation to the discretionary trust process. Essentially, if 10 beneficiaries are identified under the discretionary trust, I suppose this bill proposes that one-tenth of the value of that trust will be the subject of the unexplained wealth order if it is under the effective control of the person against whom the action is being taken. My concern about these discretionary trusts is twofold, and I suppose it raises the question whether this is just too simplistic or whether there is some capacity for the court hearing this matter to vary them.

The discretionary trust is just that—whoever is the director can determine which of the beneficiaries will receive a distribution—so a nominal one-tenth, for example, if there are ten beneficiaries, may produce an inequitable result. I wonder whether, for the purposes of this legislation, there is any discretion for the judge to vary the value of the amount that is under the effective control of the subject person. That is purely on numbers at this point.

**The Hon. M.J. ATKINSON:** There is no discretion. The answer is no; it is much too hard to draft as the member for Bragg would want it.

**Ms CHAPMAN:** Clause 4(2) sets out some of the things to be taken into account and provides:

> (c) family, domestic and business relationships between persons having an interest in the property, or in companies of a kind referred to in paragraph (a) or trusts of the kind referred to in paragraph (b), and other persons.

That appears on the face of it to give the judge hearing this matter the capacity to receive evidence of the family, domestic and business relationships between the parties the subject of this, and the piece of property in question. On the face of it, it seems to give the trial judge some capacity to hear some evidence. If there is no discretion, it begs the question about why you would even bother to have this clause in there. The Attorney might be able to explain that.

Secondly, for the other parties in a family or beneficiaries of the trust, leaving aside the potential beneficiaries of the discretionary trust at this point (because they can be other heirs and successors in a discretionary trust—those who are alive and identified at the time of the application), how do they come to the court? What is the process for them to be able to come to the court to say, 'Hang on a minute, Uncle Joe's one-tenth share really doesn't represent the true situation. I want to be able to present evidence either to diminish that entitlement or to have a declaration made of some kind to increase the other beneficiaries' entitlement'?

**The Hon. M.J. ATKINSON:** The answer to the question from the member for Bragg is that there is no relationship between subclauses (1) and (2), and a reading of clause 9(3) will show that the court is able to determine that it would be manifestly unjust to make such an order. So, there is scope for discretion there.

**Ms CHAPMAN:** How do they apply to the court?

**The Hon. M.J. ATKINSON:** The member for Bragg will find her answer in clause 9(4), immediately under subclause (3), which she asked me about. That is to say, subclause (4) sets out how the other parties get before the court.

**Ms CHAPMAN:** Clause 9(4) says that there has to be a specification of the person's wealth and that any other person who might be affected has to be served. It does not say how they apply to the court.

**The Hon. M.J. ATKINSON:** My advice is that, because it is a civil proceeding, one would be served and then you would apply to be a party, that is, under subclause (4).

**Ms CHAPMAN:** Is the position then that there is no discretion as to what the division would be under a discretionary trust but, ultimately, when the application is made, the other beneficiaries would receive notice and they would have an opportunity to apply? Then there is an overall discretion, of course, in the judge hearing a matter pursuant to subclause (3). Do I have the procedure correct?

**The Hon. M.J. ATKINSON:** The member for Bragg has the procedure correct.

Clause passed.

Clause 5.

**Mr HANNA:** An interesting question arises about the extra territorial operation of the bill. If the target of an application has an apartment in Sydney or money in a bank account in London, to what extent can those assets be confiscated?

**The Hon. M.J. ATKINSON:** The member for Mitchell misunderstands the entire basis of the bill. The bill is not a confiscation of assets bill; that is, we are not seeking to seize real estate or chattels held in another jurisdiction. What we are doing is saying, 'This is the value of the assets you hold, even if they are in another jurisdiction. Explain how you acquired them. Should you not be able to explain lawful acquisition of them, then you will be billed for an equivalent amount.' The state of South Australia does not seek to seize, for argument's sake, assets in Dagenham, London, or chattels in Sydney. We seek the payment of money equivalent to the assets unable to be lawfully explained.

**Mr HANNA:** I am really going to the end of the process. If you successfully get an order for a payment of money which far exceeds the assets existing in South Australia, what do you then do? Does the person simply say, 'I do not have anything more in South Australia and I will not provide you with anything from outside South Australia.'

**The Hon. M.J. ATKINSON:** The assets held interstate could be seized under the Service and Execution of Process Act, and I believe there is commonwealth legislation dealing with property outside the commonwealth jurisdiction.

**Mr HANNA:** That is the answer to my first question, thank you.

Clause passed.

Clause 6.

**Ms CHAPMAN:** This is a provision to secure the information that might have been gathered and then used in some way, perhaps if the proceedings do not go through their full course or they are unsuccessful. I think it is one that is very important if this whole process is to be enacted in the manner the government wants it enacted. I do not think there is any similar criminal intelligence clause or protection of that information in relation to the current confiscation legislation, so why does there seem to be a need for it here, when it was not deemed necessary under our current confiscation legislation?

**The Hon. M.J. ATKINSON:** The answer is that the actions contemplated under this bill are civil actions. I am sorry; does the member for Bragg have a malady? She seems to be somewhat agitated.

The proceedings here would attract the civil discovery rules, so we wanted to change them to the extent necessary for this law. The difference with criminal assets confiscation is that that is clearly a crime-related proceeding, and we are happy with the rules applying in criminal law and procedure for criminal assets confiscation and did not need to do what we are doing here. We are doing what we are doing here because these are civil proceedings.

**Ms CHAPMAN:** That may be so; we have a slightly different view in relation to the approach taken in this legislation. Essentially, if criminal intelligence is gathered, this clause will prohibit it being transferred to persons other than yourself, Attorney, or your successor, and someone conducting a review. However, criminal intelligence can be accumulated and made available for the purposes of the confiscation, and I wonder why there should be a difference in the protection of it. Obviously, under our current legislation one can confiscate assets from someone who has committed a crime, but other criminal intelligence could be gathered during that process and there is no protection of that under this legislation in the same way. So we are not talking about protection of the offender in some way; we are talking about protection of the intelligence information.

**The Hon. M.J. ATKINSON:** Let me contrast the two proceedings. Under the criminal assets confiscation proceeding that the member for Mitchell was canvassing earlier, if the target of the order says, 'How do you know that I grew 80 dope plants at home?', the answer would be, 'Well, you were convicted of the same, and here is the transcript of proceedings.' You are not relying on criminal intelligence under criminal assets confiscation; you are relying principally upon a conviction, and there will be a record of proceedings. Here, in this civil proceeding, criminal intelligence can play a role. That is the difference.

**Mr PISONI:** I would like clarification on the information provided. I am interested to know the definition of 'criminal intelligence' and whether it extends to other jurisdictions. For example, I believe it is a crime to avoid tax; therefore, if your investigations determine that assets were not gained by illegal activities, however, they were still unexplained and therefore of interest to the Australian Taxation Office, is it the intention of this legislation then to pass on information to the Australian Taxation Office?

**The Hon. M.J. ATKINSON:** The point that the member for Unley raises is not pertinent to this bill. This bill does not have a role in determining whether criminal intelligence acquired by South Australia Police should be passed to the Commissioner of Taxation. I think that is more suitable—

*Ms Chapman interjecting:*

**The Hon. M.J. ATKINSON:** The member for Bragg interjects. What is her interjection?

**Ms Chapman:** If they fail an application under this, the first phone call made will be to the commissioner.

**The Hon. M.J. ATKINSON:** Of course it could, yes; but, the member for Unley's question is not really a question for the bill, because that would be determined by the legislation under which the Commissioner of Taxation operates, and that would be commonwealth legislation. If he wishes to make a point about sharing criminal intelligence, it is a point better made to the federal government and the Commissioner of Taxation rather than in committee stage on this bill.

**Mr PISONI:** It is not a point at all; it is a genuine question. I imagine that there is a number of small business people out there who may be in a situation where they have been doing business for somebody, and then the relationship breaks down, or there could be a personal vendetta. I imagine that there could be situations where rivals, or people who may be in dispute with somebody with whom they are in business, may think that allegations, which could lead to an investigation of this type, may have a backup of those allegations being passed on to another jurisdiction, that is, the Australian Taxation Office.

I am seeking clarification for those in the small business community as to whether this may have implications that are unintended by the South Australian government. If a lot of resources are put into obtaining this information and that information does not lead to the purpose of this bill, to confiscate assets, but there is a determination by those investigating or those who may have given information that led to the investigation in the first place, will there be some form of reprisal? What I would like from you, Attorney-General, is clarification as to whether the information that is classified by the Commissioner of Police as criminal intelligence would include tax evasion?

**The Hon. M.J. ATKINSON:** Yes.

**Mr HANNA:** Is it fair to categorise criminal intelligence as secret evidence?

**The Hon. M.J. ATKINSON:** No; and this is a deliberate campaign of lies by Hendrik Gout at *The Independent Weekly*—a deliberate misrepresentation of what criminal intelligence means. The purpose of criminal intelligence is to try to protect people who perhaps have been members or associates of an outlaw motorcycle gang, the kind of gang that may be declared under the Serious and Organised Crime Act, and those people decide to cooperate with police and give police information. What Mr Gout and his allies wish to do is to have those people exposed to being killed or maimed and their families killed or maimed by making that evidence available to the gangs themselves in a court proceedings.

What we do, by contrast, is say—and we follow High Court precedents here—criminal intelligence should be made available to the judge deciding the case, and the judge can determine whether it should be passed on to lawyers for the gangs—the target of the criminal investigation. If the judge so decides, the police, or the government agency prosecuting the matter, can then decide whether to withdraw the case, and therefore protect the criminal intelligence. So, No it is not right to characterise it as secret evidence, and I would hope the member for Mitchell would not go down that path, but I suspect he does.

The government defends its position on criminal intelligence, both in this bill and in the Serious and Organised Crime Act. Our policy on criminal intelligence has been tested at the highest level in the High Court, in the K-Generation case. Mr Gout told us again and again that we would fail in that case—that the likelihood was the High Court would strike it down as unconstitutional. It did not. Therefore, we follow the principles in K-Generation in the subsequent legislation we bring before the house. So, no, it is not secret evidence, and its characterisation as secret evidence is a highly politically partisan characterisation by the criminal gangs and their lawyers.

**Mr HANNA:** I suspect the Attorney-General reads *The Independent Weekly* much more closely than I do. My question is based on the observation that the Commissioner of Police brings this information to the Crown Solicitor, in a sense, to get permission for the whole application to proceed to court so that the target can be asked to explain their wealth. In that sense, it is evidence and, in the sense that it must be kept away from the target and their representatives, it is secret. So, it is secret evidence.

The Attorney-General might not have a problem with secret evidence. He might think it is very important to have secret evidence, but to me it is just a matter of spin and deception to say that it is not secret evidence. So, I was a bit surprised by the answer in that respect.

Progress reported; committee to sit again.

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

## BUS SERVICES

**Dr McFETRIDGE (Morphett):** Presented a petition signed by 242 residents of South Australia requesting the house to urge the government not to proceed with proposed changes to bus timetables for routes 680 to 685 due to commence on Sunday 27 September 2009.

## MAGILL TRAINING CENTRE

**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) (14:02):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. M.D. RANN:** The global financial crisis made a significant impact on the state's revenues to the point where, in the last state budget, the government was forced to make some very, very hard decisions. One of those decisions was to cancel the $600 million prisons' project (a public-private partnership project), which included a new high security prison at Murray Bridge and a new 90 bed facility to replace the Magill and Cavan youth training centres.

This new youth detention facility was to have been operating from 1 July 2011. Since that time, we have been looking at a variety of options to fund a new youth training facility, as I have said repeatedly, because we were aware of and acknowledged that the current Magill Training

Centre was not up to standard and needed to be replaced. In fact, since the state budget was brought down, the Minister for Families and Communities and I have repeatedly said that we would replace the old Magill facility as soon as it was financially responsible and possible to do so.

*Members interjecting:*

**The SPEAKER:** Order!

*Members interjecting:*

**The SPEAKER:** Order! I will not have my calls for order ignored.

**Mr Pisoni:** You are so transparent!

**The SPEAKER:** Order! I warn the member for Unley.

**The Hon. M.D. RANN:** I am delighted to inform the house today that cabinet has approved a new option to replace the Magill Training Centre, and we will go ahead with it despite opposition from the opposition. We will build—

*Members interjecting:*

**The Hon. M.D. RANN:** We will—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** I find an ethnic slur from the other side of the house deeply offensive. We will build a new $67 million, 60 bed secure youth justice facility to be constructed on a 7.7 hectare greenfield site at Goldsborough Road, Cavan, with room to expand if necessary, subject of course to future budget considerations. We expect this new facility will open in the second half of 2011.

Rather than close both the 46 room Magill Youth Training Centre and the 36 bed Cavan Training Centre, we will immediately spend $4 million to upgrade both these centres for their incumbents. Because we intend to keep the Cavan Training Centre open, it means that this new option will have 96 beds available as opposed to the 90 beds we would have had under the original plan. The facility will be funded by the sale of 15 hectares of state government land at Oakden, the future sale and development of the existing Magill site plus $5 million from contingency funds set aside in the state budget for existing correctional facilities.

The state government will now work with companies involved in the original public-private partnership before tenders are let for construction, because these consortia already have advanced plans for construction of a new centre. The Magill site and the land adjacent to the Strathmont Centre at Oakden will be sold by the Land Management Corporation.

We said we would fix it. We said that we would bowl over the Magill centre when we had the finances to do so. I know that members opposite—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** —will support the plan to provide even more beds in the best condition for those incumbent in these institutions.

## LEGISLATIVE REVIEW COMMITTEE

**Mrs GERAGHTY (Torrens) (14:07):** I bring up the 26th report of the committee.

Report received and read.

**Mrs GERAGHTY:** I bring up the 27th report of the committee.

Report received.

## PUBLIC WORKS COMMITTEE

**Ms CICCARELLO (Norwood) (14:09):** I bring up the 342nd report of the committee, entitled Tram Overhead Wiring and Substation Project.

Report received and ordered to be published.

**Ms CICCARELLO:** I bring up the 343rd report of the committee, entitled Port Adelaide Viaduct Upgrade.

Report received and ordered to be published.

**Ms CICCARELLO:** I bring up the 344th report of the committee, entitled Secure Electronic Common User Facility.

Report received and ordered to be published.

**Ms CICCARELLO:** I bring up the 345th report of the committee, entitled Better TAFE Facilities and Training for Tomorrow Projects.

Report received and ordered to be published.

**Ms CICCARELLO:** I bring up the 346th report of the committee, entitled State Aquatic Centre and GP Plus Health Care Centre.

Report received and ordered to be published.

### VISITORS

**The SPEAKER:** I draw to honourable members' attention the presence in the gallery today of students from Christian Brothers College, who are guests of the member for Adelaide, and students from Our Lady of the Sacred Heart College, who are guests of the member for Enfield.

## QUESTION TIME

### MAGILL TRAINING CENTRE

**Mrs REDMOND (Heysen—Leader of the Opposition) (14:12):** My question is to the Premier. Does the Premier admit that, rather than being motivated by a reconsideration of the government's financial circumstances, the government has today announced the upgrade of its Magill and Cavan facilities for youth detention because its polling is showing that the public knows this government is not listening?

**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) (14:12):** That is totally untrue. That might be the way the Liberal Party thinks. Can I say that the one thing I would not have expected today—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** The one thing I would not have expected today is for the Liberal Party leadership to be talking about its polling, because I think members opposite know what that polling shows. I can tell members opposite that the polling shows the Liberal Party in this state is seen as divided—totally and absolutely divided. That is the difference. What they see is a Liberal Party that is trying to paper over the cracks of their—

**Mr WILLIAMS:** I have a point of order, Mr Speaker.

**The SPEAKER:** Order! The Premier will take his seat.

**Mr WILLIAMS:** Mr Speaker, much as I might try, I cannot see any relevance between the question that was asked and the answer the Premier is giving.

**The SPEAKER:** The question is being answered in the spirit in which it was asked and is therefore orderly. The Premier.

**The Hon. M.D. RANN:** The Leader of the Opposition asked me about polling and I am replying about polling, because I have seen the Liberal Party's polling. The polling shows that the Liberal Party stands for nothing and spends more time fighting amongst themselves than they do fighting for South Australia, and that is the difference. People are not prepared to elect an opposition that spends all its time undermining its own leadership. That is the big difference, and that is the real difference.

Let us talk about infrastructure. The infrastructure spend is six times what it was when the opposition was in government, because we are getting out and doing things. We have thousands more nurses, more than 1,000 more doctors and record numbers of police. We have record jobs growth, record infrastructure spend and $2 billion more spent on health than did our predecessors.

What we said during a global financial crisis that has hit every government in the world is that we had to make some hard decisions. We said we were going to go ahead with projects such as a desalination plant for Adelaide. We were going to go ahead with rebuilding works on a whole series of projects such as the electrification of our train system, the extension of our tram system, and the new Royal Adelaide Hospital.

We said that we still had to make sure that we kept our AAA credit rating and, guess what? Members opposite said that would not happen. They said that we had not provisioned for the bad times. Within a day, our AAA credit rating was endorsed. What we had to cancel was a $600 million PPP project for prisons. I go out in the community and people say to me, 'You've got your priorities right. We'd rather have more doctors, more nurses and more police.' Can I just say this: we have said repeatedly that we believe Magill needs to be bowled over and replaced. So, what we have done—

**Mr PENGILLY:** On a point of order, I ask that the Premier address his answer through the chair.

**The SPEAKER:** He is addressing it through the chair. The Premier.

**The Hon. M.D. RANN:** We have said right from the start that we wanted to bowl over the Magill Training Centre, but what we had to do was unpick it from the arrangements for the $600 million worth of prisons. I have said in recent days—I have said all the way along—that, when it is financially possible and responsible to do so, we will build Magill. What you cannot stand today is that we are delivering. We are replacing Magill. I will ask members opposite to come and join me on the day the bulldozers move in, and I will ask members opposite to come and join me at the opening of this brand-new facility that will be top class.

## HIGHER EDUCATION

**Ms THOMPSON (Reynell) (14:16):** Can the Premier inform the house of recent developments in the South Australian higher education sector?

**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) (14:17):** Earlier today, I witnessed the international private education provider Kaplan and the University of Adelaide sign a memorandum of understanding to investigate the establishment of a Kaplan University campus in Adelaide. I was delighted to be joined by the minister for further education.

I note that members opposite know about Kaplan; I can tell by their riveted expressions. It is owned by the *Washington Post.* In fact, Don Graham, who was, of course, the chairman of the Washington Post Group and the former publisher of the *Washington Post*—perhaps better known to older members as the son of Katharine Graham—was here in Adelaide this morning to seal that partnership.

The partnership between Kaplan and the University of Adelaide will see both universities working together to expand access to high-quality career-oriented education programs for domestic students, as well as international students. This partnership offers the opportunity to further enhance South Australia's reputation for delivering world-class education. It also adds to Adelaide's standing as a University City of renown.

The objectives of bringing together the University of Adelaide with one of the world's biggest education providers—Kaplan—will provide local and international students with a wider range of study options to fit their different needs. Of course, members on the other side will remember when there were 6,000 overseas students in Adelaide. Today, there are about 30,000 overseas students. It is now our fourth biggest export. We expect that to rise within a few years to more than 60,000 students.

Of course, Kaplan—which is about basically offering education through online and other sources—is a way of building a bridge to people who would not normally see higher education as part of their life opportunities. So, it brings together Kaplan's reach and technology with the University of Adelaide's excellence. As I understand it—and the minister will correct me if I am wrong—the University of Adelaide has had more Nobel prize winners than, I think, any other university in Australia.

Kaplan University is part of Kaplan Higher Education, which serves more than 100,000 students through 70-plus campus-based schools and online operations across the United

States and other parts of the world. The proposal being pursued by Kaplan and the University of Adelaide is a neat fit with our University City concept. There is no doubt that this new venture could offer significant opportunities to provide even more South Australians—as well as interstate and overseas students—with access to higher education. In particular, I am pleased that this partnership is aimed at achieving high levels of participation from under-represented groups including working adults, students from low socioeconomic backgrounds, and students in regional and remote areas.

I have already mentioned that this is good for the economy. Education is now South Australia's fourth largest export, and our state is outperforming the rest of the nation in growth in attracting international students. Recent figures show a 23.1 per cent increase in the number of international students commencing studies in South Australia in the year to July 2009, which is higher than the national average. It has been a partnership between us, the universities, TAFEs and schools.

This year 14,802 new international students have begun their studies in South Australia. As I said, this has lifted our total number of international students to a record 29,563. Compare that to the lack of achievement under the former government, where we were the most underdone in Australia in terms of international students. To give you a comparison, and as I said, at the start of this decade the number of overseas students in our state education system was around 6,000.

Students from more than 130 nations have chosen to pursue their education in Adelaide, and international education is worth more than $740 million a year to our economy. I am announcing a target today that we will achieve more than 62,000 international students in South Australia by 2014, employing thousands of South Australians—and we are tracking in the right direction to meet those targets. This arrangement with Kaplan today will certainly assist.

## MAGILL TRAINING CENTRE

**Mrs REDMOND (Heysen—Leader of the Opposition) (14:22):** My question is again the Premier. What effect will today's announcement regarding Magill and Cavan have on the state's AAA credit rating, and has the Treasurer been informed of the proposal?

**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) (14:22):** It took this government to win a AAA credit rating; it took this government to deliver surplus after surplus until this government, like every government in the western world—

*Members interjecting:*

**The DEPUTY SPEAKER:** Order!

**The Hon. M.D. RANN:** —and other parts of the planet, was hit by the global financial crisis. But we were still able to retain our AAA credit rating, and this will not make any difference, because we have funded it through land sales. I will explain this; it is actually quite simple.

*An honourable member interjecting:*

**The Hon. M.D. RANN:** That is right. There is $5 million in the budget and then there is the sale of land at Oakden and the sale of where Magill currently sits. So, have I had discussions with the Treasurer? Yes. Did I have discussions in the last 24 hours? Yes. Were there meetings last week with the Treasurer? Yes. Were there meetings the week before? Yes. Were there meetings the week before that? Yes. Were there meetings the week before that again? Yes. Has this been done properly? Yes. Is this the right thing to do? Absolutely.

## MAGILL TRAINING CENTRE

**Mrs REDMOND (Heysen—Leader of the Opposition) (14:23):** I have a supplementary question. If there is no effect on the AAA credit rating, why has the government not moved to resolve this much sooner?

**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) (14:23):** I am going to explain this.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** The polling was in, and the polling said that the Liberal Party was hopelessly divided and unfit to govern. That is the truth, the absolute truth. Now, I would like to say this—

*Members interjecting:*

**The SPEAKER:** Order!

**Mr PENGILLY:** I have a point of order, sir. Can I again ask that the Premier address his response through the chair?

**The SPEAKER:** The Premier is; but if the member for Finniss continues to make frivolous points of order he is in danger of finding himself on the wrong side of the chair.

**The Hon. M.D. RANN:** Let me explain this, and I will try to do it as best I can, because I am a very big supporter of the Leader of the Opposition. She gets more support from me than she does from some of her frontbench colleagues. The point is: give her a chance.

The key thing is this: there was a $600 million PPP proposal and project. Because of the global financial crisis and the impact on revenue, the state could not afford to proceed on schedule with that project. Wrapped into that project was the building of new high security prisons as well as new youth training facilities. So, what we have done is we have very carefully unpicked the youth part of it, and then we have arranged some land sales, which means that we can fund it.

*Members interjecting:*

**The Hon. M.D. RANN:** It is interesting that members of the opposition are so disappointed that we are going ahead with demolishing Magill and building brand-new facilities. This is why you do not understand the people of this state. The people of this state know the difference between responsible financial management and record jobs growth. They know that during difficult times you have to cut your cloth. They know that we try to do the right thing. They know that we wanted to bowl over Magill. They know now that we are doing so responsibly, because we have arranged the finances in a way that we have unpicked it from the rest of the prisons deal, and we can deliver the goods.

## AUTOMATIC NUMBERPLATE RECOGNITION

**Mr PICCOLO (Light) (14:26):** Can the Minister for Police inform the house about today's launch of a trial by SA Police of mobile automatic numberplate recognition cameras?

**The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:27):** Today I had the pleasure of joining Chief Superintendent Paul Schramm in launching a trial of mobile automated numberplate recognition cameras. These state-of-the-art cameras will be fitted into four patrol cars, with each car having three ANPR cameras, two forward facing and one on the side, with the ability to scan registration plates of parked vehicles.

As a vehicle licence plate is read by the camera, the image is displayed on an LCD screen visible to police officers, and an audible tone alerts police if a registration numberplate matches a vehicle of interest. The cameras will be able to record the location of a vehicle at an exact time, have the capacity to scan a high volume of vehicle plates and work in all weather and lighting conditions.

Automatic numberplate recognition is widely used by transport agencies, compliance and enforcement authorities across the world. It increases the potential for offenders to be identified and stopped and appropriate policing responses undertaken. Intelligence, particularly relating to vehicle location, can link criminals to these vehicles as well as linking vehicles to crime scenes.

The cameras will also be able to identify unroadworthy vehicles and those that are unregistered, uninsured or stolen. SA Police will trial the cameras until the end of the year to assess their capacity to support police operations, crime reduction and road safety strategies. If the trial is successful, the use of these mobile ANPR cameras will be expanded even further, giving SAPOL a high-tech tool that will boost its crime-fighting ability.

Prior to today's announcement, SAPOL has been using two tripod-mounted ANPR cameras. The tripod-mounted cameras have been used by Operation Nomad to monitor vehicle activity in and around high-risk bushfire areas during days of extreme fire danger, as well as other tasks.

Earlier this year, I had the opportunity to meet with the head of operations at the National Policing Improvement Agency in London, who told us that, in areas where an ANPR technology has been deployed, there has been a considerable increase in the number of arrests. The majority of arrests, due to the use of these cameras in the UK, have been for criminal offences such as drugs and theft or they been the subject of an arrest warrant rather than driving offences.

The UK experience has shown automatic numberplate recognition technology is a powerful crime-fighting tool with enormous potential. I am confident that SAPOL's trial will prove to be very successful and that we will see the use of ANPR cameras in South Australia expanded in the near future.

## WILLUNGA BASIN DAM

**Mrs REDMOND (Heysen—Leader of the Opposition) (14:29):** My question is to the Minister for Water Security. Why did the minister choose to ignore the wishes of the people of Willunga, who clearly wanted the Willunga Basin dam completed?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:29):** I recall this question being asked yesterday, and I answered it yesterday. We are working with the community down there, and we are also working with the Willunga Basin Water Company—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.A. MAYWALD:** —and SA Water is working very closely with the community—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.A. MAYWALD:** —to ensure that we maximise the amount of recycled water available at the end of this year.

## SCHOOLS, BUSHFIRE AREAS

**Mr KENYON (Newland) (14:30):** My question is to the Minister for Education. What steps is the government taking to protect students in schools classified as being in extreme fire risk areas?

**The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (14:30):** I thank the member for Newland for his question and acknowledge his leadership in supporting his community in bushfire prone areas. Indeed, I know that he has taken me to schools and we have discussed this matter in the past.

Since the Victorian bushfires sent shock waves across Australia, with the tragic loss of life and property, we have been really forced to rethink our strategy across the country in terms of how we protect our communities. Certainly, the Department of Education and Children's Services has also looked at our facilities and at the schools and kindergartens we possess around the state, those key infrastructure centres which of course house our most valuable asset—our children—and they have to be looked after significantly during these events.

The Rann government has continued this year to put safety in our schools at the forefront of our strategy, and we have worked with the CFS to classify schools as those at the most risk and those at less risk, and we have put infrastructure in place to support those schools. We have already invested in 20 of the extreme high-risk schools to produce better infrastructure and support and, following further advice from the CFS and expert engineers, I am pleased to inform the house that we are investing a further $1.4 million in upgrading facilities in 16 schools that are recognised to be in high-risk fire areas.

The money is particularly going to be invested in static water supply facilities so that we will produce up to 72,000 litres of water storage, as well as, in some schools, investing in pumps and facilities to pump water should a fire occurred. This funding is part of the Rann government's $36 million School Pride asset funding program, which is a three year strategy. This investment ranges in contributions to various schools from between $33,000 and $170,000, depending on the scope of the work to be performed.

It is worth noting that many of these schools in risky areas are within the opposition leader's electorate, and I should mention that Scott Creek Primary, in her electorate, is one of those schools in a risk area that is receiving significant funds. In addition, Banksia Park International High will receive $110,000 and Melrose Primary $33,000.

Whilst the government is continuing its preparation for this year's bushfire season, significant work is already underway to minimise the risks for this season. We will continue to survey schools and preschools and work with the CFS and engineers to determine what additional infrastructure upgrades might be necessary. Of course, all schools in identifiable bushfire zones are required to have a bushfire management strategy, which is actually different from the strategies in place for a normal fire.

Clearly, the evacuation protocols are different and the risks are different, so they have to be different strategies. However, all our schools also have maintenance schedules, which include removing leaves from gutters, regularly cleaning these areas and also making sure that fire hydrants and infrastructure are functional. In particular, these water tanks will be of use for schools.

We will continue to work with the CFS to make sure that our schools are properly protected. Whilst we recognise that there is more work to do, we are well on track for protecting schools this fire season.

## WATER SECURITY MINISTER

**Mrs REDMOND (Heysen—Leader of the Opposition) (14:34):** My question is to the Premier. Has he received a letter from the member for Mawson expressing concern about the performance of the Minister for Water Security?

**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) (14:34):** Can I just say this: I receive letters—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** I receive letters from many, many members of parliament about local issues, and I think that is fantastic. Do you know something? We have an outstanding water resources minister, and we have outstanding members of parliament who fight for their electorates. That is what I encourage. The difference is what goes on over there. We have the member for Bragg and the member for MacKillop refusing to rule out a challenge—

**Mr PISONI:** On a point of order, sir: the question was quite specific. It was regarding a letter between the member for Mawson and the Premier. It has nothing to do with the opposition, sir; yes or no.

**The SPEAKER:** Order! The Premier must answer the substance of the question.

**The Hon. M.D. RANN:** I receive letters from all members of parliament. I have received letters from the member for Mawson.

*Mr Williams interjecting:*

**The SPEAKER:** Order! The member for MacKillop is warned.

**The Hon. M.D. RANN:** I have letters and communications from the member for Mawson on behalf of local constituents in the wine industry who are critical of SA Water. Do you know what? That is what the fibre and fabric of politics is about in terms of local representation. What I would encourage members opposite to do is also to write to me on behalf of their constituents.

*Members interjecting:*

**The Hon. M.D. RANN:** I do not actually knock back FOIs, because there is a difference in the arrangements now, where we have independent FOI officers.

The key point is that it is the right of every member of parliament in this chamber, and indeed even in the upper house, although we are all looking forward, given the historic vote last night. I was waiting to see figured in the media on the front page or somewhere that historic vote in this chamber, where an overwhelming majority of members voted for the third reading of the constitution bill to see a reduction in the number of members of parliament. I invite all members of

parliament to write to their relevant ministers on behalf of their constituents. That is called democracy.

## OAKLANDS PARK WETLANDS DEVELOPMENT

**The Hon. P.L. WHITE (Taylor) (14:38):** My question is to the Minister for Environment and Conservation. What are the latest developments in the proposed wetlands project at Oaklands Park?

**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) (14:38):** Last Sunday I had the great pleasure of attending a community meeting at Oaklands Reserve which was organised by the Oaklands Estate Residents Association. The association has been working with the state government and through the Adelaide Mount Lofty NRM Board and the Marion council to develop a project on that reserve and the adjacent land.

*An honourable member interjecting:*

**The Hon. J.W. WEATHERILL:** I did, courtesy of the member for Morphett. Sunday's meeting was focused on securing about three hectares of land that would add to the land that was previously dedicated by the former minister for the environment, the member for Kaurna, in 2004. Granting such a request has been given careful consideration. Over the years, state governments of both persuasions have grappled with this question of the uses of the land, including the current Rider Safe motorcycle training program that is conducted on the site.

I was pleased to be able to announce at that meeting that this state government will build on the previous commitment and provide the remaining parcel of land, worth $5 million, to complete the wetlands project, for which we received the princely sum of $2 courtesy of the member for Morphett via the Marion council. I should acknowledge the member for Morphett for his genuine support at that meeting. There were a few hecklers that he despatched, I must say. Apart from the hecklers, there was a lot of love in the air. There was Mayor Felicity-Ann Lewis and her council who created this vision, and she congratulated the government. There was, of course, the President of the Oaklands Park Residents Association, Mr Vincent Brown, who is famous for something else as well.

**Ms Fox:** What is he famous for?

**The Hon. J.W. WEATHERILL:** He was my English teacher at Henley High School. He gave me 10 out of 10 for the announcement.

*An honourable member interjecting:*

**The Hon. J.W. WEATHERILL:** He was almost in tears, so it was a very emotional time. So overcome were people that they were talking about publishing signs saying, 'Thank you, Pat.'

*Members interjecting:*

**The Hon. J.W. WEATHERILL:** That is right. No, a slogan which has never been seen on a sign before in this state. I think there was broad acceptance that this is a good project. It has been a long time in the making, and there is plenty of blame to share around about that. However, it is good that we have all come together to deliver this important wetlands project.

## HOWE, MS A.

**Mrs REDMOND (Heysen—Leader of the Opposition) (14:41):** My question again is to the Premier. Did the letter from the member for Mawson, which the Premier has now acknowledged he received, refer to the desire to have Anne Howe, the CEO of SA Water, replaced?

**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) (14:41):** It is no secret that the member for Mawson is not a great fan of Anne Howe.

## STEEL BUILDING SYSTEMS

**The Hon. L. STEVENS (Little Para) (14:42):** Will the Minister for the Northern Suburbs inform the house of developments regarding an international export deal for an Elizabeth-based housing company?

**The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (14:42):** Last week I was pleased to visit Superloc® Steel Building Systems (SBS) at its site at Elizabeth West as it made an exciting transition into the Middle Eastern construction market. SBS is a wonderfully innovative South Australian company. It employs around 200 people and provides work to about 500 contractors here in South Australia. Now based in the northern suburbs, the company began nearly 20 years ago as a small plant in Adelaide's west manufacturing components for housing and commercial construction.

The business has continued to grow and prosper, and today is a leading international provider of light gauge steel technology and manufactures what it believes is the best steel framing system in the world. Indicative of the company's growing success, SBS is now taking a massive leap into one of the world's largest building markets with the shipping of 12 containers full of machinery to Abu Dhabi to build factories producing steel products for housing.

I was at its site last Tuesday for the loading of the first shipment of 90 tonnes of equipment to build a new facility in the Middle East as part of a joint venture announced last year. We know that great things are happening in Adelaide's north, and this joint venture with a United Arab Emirates company to establish a Superloc® steel framing facility in Abu Dhabi is fantastic for South Australia. The $100 million expansion into the United Arab Emirates will mean that the company supplies components and software, as well as plant and equipment, for the booming construction market.

The Superloc® system provides major benefits in today's massive global housing shortfall by reducing construction time, maximising quality and minimising costs. The Superloc® steel framing solution is set to revolutionise the residential construction techniques in the Middle East. In fact, in the next five years, SBS will build up to six factories in the Middle East which, of course, means a steady stream of work for SBS employees here in South Australia. The factories to be built in the Middle East will be able to manufacture five times the amount of construction material produced in South Australia in any one year. SBS is using such advanced building technology that, if there were a need, the machinery could produce enough steel for an entire house every 45 minutes.

South Australian innovation will now be showcased on an international stage as SBS continues to explore growth into global markets, further expanding its South Australian business despite the current difficult economic climate. The success of SBS is testament to the quality product and services we have being produced in the northern suburbs, and is a great outcome for South Australian business and good news for South Australian workers.

## WATER SECURITY MINISTER

**Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition) (14:45):** My question is to the member for Mawson. Did the member for Mawson, when questioned by *The Australian* newspaper about the tenure—

*Members interjecting:*

**The SPEAKER:** Order! Just let me hear the question, please.

**Mr GRIFFITHS:** Did the member for Mawson, when questioned by *The Australian* newspaper about the tenure of the Minister for Water Security, tell *The Australian* that the deal was only for last term and this term—'If you do a deal, you keep a deal'—and did he also tell other Labor MPs that he had written to the Premier to say that the Minister for Water Security should be removed from cabinet?

**The SPEAKER:** The question is out of order. The member for Mawson has no responsibility to the house for comments he makes to a newspaper.

**Mrs REDMOND:** Sir, can I seek a point of clarification on that ruling, please? Earlier this year, you made a ruling when the member for Mount Gambier asked a question of the member for Hammond and allowed a question from the member for Mount Gambier to the member for Hammond in this house.

*Members interjecting:*

**The SPEAKER:** Order! If the Leader of the Opposition is referring to what I think she is referring to, that was a question about travel undertaken by the member for Hammond using his parliamentary travel budget and—

*Members interjecting:*

**The SPEAKER:** Order! If the house will come to order I will attempt to clarify the matter for the Leader of the Opposition, but I am not going to be shouted down by members while I attempt to do so. The Leader of the Opposition would also be aware that the following day I made a definitive ruling regarding that question. The member for Hammond at the time was obviously keen to answer the question, and I allowed him to do so.

I am not saying that all questions to backbenchers are out of order. The question is whether the backbencher has some responsibility to the house with respect to the subject that is being asked about. In this case, the subject is comments that may or may not have been made by the member for Mawson to a newspaper, for which I cannot see the member for Mawson has any responsibility to the house at all.

**The Hon. P.F. CONLON:** Sir, on the point of order, would it be equally out of order for me to ask a Liberal backbencher if they have backgrounded the media on the shortcomings of their leadership, or something like that?

*Members interjecting:*

**The SPEAKER:** Order! Indeed, it would. The question is out of order. Does the deputy leader want to ask the next question?

## WATER SECURITY MINISTER

**Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition) (14:48):** My question is to the Minister for Water Security. Is the minister aware of the letter sent by the member for Mawson to the Premier, and has she had any discussions with the Premier about her future position in cabinet?

**The Hon. K.A. MAYWALD:** Mr Speaker, on your ruling, am I responsible to the house for letters that the member for Mawson might write to the Premier?

*Members interjecting:*

**The SPEAKER:** Order! There is a specific standing order to do with questions to non-ministers, and that specifically states the circumstances in which they might be able to be asked questions. With respect to the questions that can be asked of ministers, from my memory, the standing order says 'on any public matter'. So, there is a broader range of things that a minister can be asked.

**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) (14:50):** I am very happy to answer this. I have not spoken to the member for Mawson, by the way, in relation to—

*Mrs Redmond interjecting:*

**The Hon. M.D. RANN:** No, but I just say this: the future of the Minister for Water Security is much, much more secure than the future of the Leader of the Opposition, under the deal that was done, because I am told that the member for MacKillop and the member for Bragg are refusing to rule out a challenge to her leadership should the Liberal Party—

*Members interjecting:*

**The SPEAKER:** Order! The Premier will take his seat. The Premier is out of order. The member for Norwood.

## YOUTH PROGRAM GRANTS

**Ms CICCARELLO (Norwood) (14:50):** My question is to the Minister for Youth. Can the minister inform the house about the $40,000 in grants which will target disadvantaged youth in South Australia?

**The Hon. A. KOUTSANTONIS (West Torrens—Minister for Correctional Services, Minister for Gambling, Minister for Youth, Minister for Volunteers, Minister Assisting the Minister for Multicultural Affairs) (14:51):** Yes, I can give that information to the house. I am pleased to announce that the Rann government has announced it will deliver $40,000 in grants to help vulnerable young people in Adelaide's western and northern suburbs to live happier, healthier

and safer lives. All four recipients of a $10,000 grant are dedicated to promoting positive lifestyles and are working towards improving the lives of disadvantaged young South Australians.

The Get Rec program, run by the Service to Youth Council, is an innovative sport and recreation program aimed at improving the life skills and physical wellbeing of disadvantaged young people by encouraging their participation in sports. The program is designed to develop self-confidence and self-esteem, and enable young people to build positive connections with various sporting clubs. It also provides assistance with mental health, employment and drug-related issues.

The In the Zone Youth Gym Mentoring Program, run by Twelve25 Salisbury Youth Enterprise Centre, is aimed at linking disengaged young people through small group gym and weight sessions in a professional gym setting. These sessions connect young people with mentors and utilise the power of role models in order to reduce the risk of vulnerable local young people becoming involved in crime.

The two Salvation Army programs to receive a $10,000 grant will benefit young mothers and at-risk teenagers. The Young Mums Support Service in the northern suburbs provides an educational service and vital support to young mums in their early days of motherhood. The service also aims at decreasing social isolation by providing an avenue for them to build friendships with other young mums—which is very important, isn't it Vickie? The young mothers are taught how to look after their babies and are given practical advice on housing and the importance of continuing their education.

The Factory, which I attended personally, is a new youth drop-in centre at Kilkenny, which will help keep young people off the streets and give them a safe place to meet and socialise with friends.

**The Hon. M.J. Atkinson:** Where at Kilkenny?

**The Hon. A. KOUTSANTONIS:** I have forgotten the name of the street, but I will take you down there and show you. The centre will provide a place for young people in need of extra support with study, problems at school or home, issues with alcohol or drug use, or who just need a safe place to socialise and make new friends. The Factory will hold up to 30 young people at any given time, and the government's contribution will pay for start-up costs, including the purchase of sports equipment, furniture and computers.

These valuable programs are giving disadvantaged young people a better start to life through mentoring, sports, learning life skills and providing a safe and enjoyable place to relax and socialise.

**Ms Chapman:** And learn to drive?

**The Hon. A. KOUTSANTONIS:** Yes, probably that, too. The physical and mental wellbeing of young people plays an integral role in South Australia's successful future, and the Rann government is helping vulnerable youth by supporting community-driven ideas such as these four programs. As the Minister for Youth, I am very proud to be able to assist in providing these important life-changing opportunities for our young South Australians who so desperately need reassurance, guidance, encouragement and support in their adolescent lives.

## WATER SECURITY MINISTER

**Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition) (14:54):** My question is to the Premier. What is the difference between the payout figure for the CEO of SA Water and the Minister for Water Security?

**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) (14:54):** Can I say that, if that is the calibre—

*Members interjecting:*

**The Hon. M.D. RANN:** You want to be the Deputy Premier of South Australia, but no-one hears from you on any matters of substance whatsoever.

*Members interjecting:*

**The Hon. M.D. RANN:** I want to see, by the end of today, the member for Bragg and the member for MacKillop come out and say, 'We're right behind you, Isobel, after the election. Come what may—win or lose—we are right behind you. We rule out a challenge should the Liberal Party

be unsuccessful.' Neither of them would do so. As for your question, I do not know what the payout figures are for leaders of the opposition or deputy leaders but, considering the likely time span for your reign, I do not think it will be a big one.

## DISTRICT COURT APPOINTMENTS

**Ms FOX (Bright) (14:55):** Can the Attorney-General inform the house about the recent appointment of three new District Court judges?

**The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (14:55):** The house would now be aware that, on 4 June last year, the Premier and I announced a $48.1 million package over four years to speed up the state's court system in the interests of delivering swifter justice. Indeed, included in the package was the decision to reopen the Sturt Street justice precinct as dedicated criminal courts, and the member for Bragg, on behalf of the Liberal Party, has now panned that. Also built into the package was a move to more than double DPP staff numbers.

**Ms Chapman:** You had to fix it up.

**The Hon. M.J. ATKINSON:** Well, yes. The member for Bragg is right: we had to fix it up because, as one Liberal frontbencher told me when I first became Attorney-General, 'Mate, we were running the Office of the DPP on the smell of an oily rag.' That is how the Liberal Party ran the Office of the DPP. We have devoted additional resources to forensic science and appointed extra judges.

On 21 August 2008, His Honour Judge Brebner was appointed to the District Court as the first appointment to be made as part of the $48 million package. On 6 August this year, the Governor in Executive Council appointed three more District Court judges: Judge Paul Cuthbertson, Judge Mark Griffin and Judge Rosemary Davey. Two of these judicial appointments are brand new positions which, like Judge Brebner's position, was created through the Rann government strategy to tackle the criminal case backlog. The third appointment is to replace Judge Andrea Simpson who retired as a District Court judge.

The appointments introduce fresh faces to the District Court ranks of South Australia's justice system. His Honour Judge Paul Cuthbertson fills one of the two new positions. Judge Cuthbertson, the first of three new appointments to be sworn in, took his oath on 18 August. His Honour has had an extensive and distinguished career within the legal fraternity and was the founding member of Edmund Barton Chambers—chambers from which so many of our judges come, Justice Kourakis being among the greatest.

**The Hon. A. Koutsantonis:** There's something in the water in those chambers.

**The Hon. M.J. ATKINSON:** Quite. Judge Cuthbertson was one of the few barristers to have practised extensively in both civil and criminal jurisdictions, and a large part of his practice's work was in legal aid. Indeed, so many of my appointments have a background in legal aid. Judge Cuthbertson has also prosecuted on behalf of state and commonwealth DPPs regularly.

Throughout 1994, Judge Cuthbertson was retained by the Australian Securities Commission in Perth to assist in the charges against Alan Bond and other directors of Bell Resources in the matter of the Bell Resources cash strip. He also conducted the appeals in the bodies in the barrel murder case. Judge Cuthbertson is a fine addition to South Australia's team of judicial officers.

His Honour Judge Mark Griffin joined Judge Cuthbertson, filling the other newly created position, when he was sworn in on 20 August 2009. Judge Griffin has not only performed admirably as a solicitor and barrister in Australia, but also has extensive international experience. From 1993 to 1995, Judge Griffin worked in the United States, including in Boston, Massachusetts, as a trial attorney with the Committee for Public Counsel Services, commonly referred to as the Public Defender's Office.

Judge Griffin's principal field of practice has been criminal law, appearing as defence counsel; however, he has occasionally prosecuted for both commonwealth and state DPPs.

**The Hon. M.D. Rann:** Who's this?

**The Hon. M.J. ATKINSON:** This would be Judge Mark Griffin. He also worked in administrative law and has regularly worked on briefs in civil litigation. He is a Port Adelaide supporter, so let no-one say that I discriminate against those people in appointments to the bench.

Judge Griffin's vast experience both in Australia and overseas will be sure to serve him well in the District Court.

Her Honour Judge Rosemary Davey is the replacement for Judge Andrea Simpson, who retired as a District Court judge. Judge Davey, who was sworn in on 27 August, has had an eminent career as a prosecutor since being admitted to the Supreme Court of South Australia in 1982.

**The Hon. M.D. Rann:** Did you have a party to celebrate his induction?

**The Hon. M.J. ATKINSON:** We did, yes, Premier. There were parties for all of them; we had little soirees in the District Court judges, rooms after the appointments. Judge Davey has also served as a senior solicitor for the Corporate Affairs Commission and acted as a member of the National Crime Authority. Her Honour was appointed to administer the NCA as well as preside over hearings before the authority.

Judge Davey joins other highly qualified women judges in our continued feminisation of the bench. This government has made inroads into the male domination of the judiciary. Since the election of the Rann Labor government we have appointed judges Shaw, McIntyre and now Davey to the District Court, along with Judge Kelly, who has since been promoted to being a justice of the Supreme Court, where she joins justices Vanstone and Layton as Rann government Supreme Court appointments.

We have also appointed Ann Bampton as a master of the District Court; Sue Cole as a judge of the Environment, Resources and Development Court—

*An honourable member interjecting:*

**The Hon. M.J. ATKINSON:** Ann Bampton; some of us mix in legal circles and know these things. Christine Trenorden has been appointed as the senior judge of the Environment, Resources and Development Court, and there is Judge Leonie Farrell, who has been assigned to the Industrial Relations Court. In addition, just under half the Rann government's appointments to the magistracy have been women, including the appointment of Chief Magistrate Liz Bolton as head of the jurisdiction—despite attempts by some people to stop that.

*Ms Chapman interjecting:*

**The Hon. M.J. ATKINSON:** It is remarkable that the member for Bragg should interject about that, in respect of people trying to stop Liz Bolton being appointed. Being a judge demands commitment, great intelligence, and a solid work ethic—

*Mrs Redmond interjecting:*

**The Hon. M.J. ATKINSON:** —and South Australia is fortunate to have secured the talent of each of these new judges. The understanding that each of our new appointees has of the law is thorough—

**The Hon. M.D. Rann:** Are you saying that 25 years' experience as a JP doesn't qualify?

**The Hon. M.J. ATKINSON:** —and each possesses years of experience which can only be of value to our justice system. Regarding the Premier's interjection, we have reversed the Liberal government's decision to remove justices of the peace from the bench, and are in the process of restoring more and more special justices to bring the expertise of laymen back to the court—despite the disparagement of this policy by certain members of the opposition, including the leader. I look forward to seeing the product of their honest work and the speeding up of the court waiting lists.

## STORMWATER INITIATIVES

**Mr WILLIAMS (MacKillop) (15:03):** My question is to the Minister for Water Security. Given that the minister told the house that the government has undertaken research on community acceptance of the treatment of stormwater to drinking standards, and that, 'We have also undertaken work with SA Water internally, and SA Water have also undertaken some work internally—'

**The Hon. P.F. CONLON:** I rise on a point of order. The member may seek leave to explain the question rather than read a—

**The SPEAKER:** Order! The member for MacKillop should finish his question; he should keep going.

**Mr WILLIAMS:** Can the minister explain why the response to my freedom of information request reveals that no documents exist regarding any such research?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:05):** I will take that question on notice. I am not sure of the wording of the question you asked in the initial instance. I will take that on notice, and come back to the house on that.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.A. MAYWALD:** There was definitely some—

*Mr Williams interjecting:*

**The SPEAKER:** Order, the member for MacKillop!

**The Hon. K.A. MAYWALD:** —work that SA Water referred to in relation to the research that is being undertaken into drinking water, which I am aware of, I believe, and I will find out for the member.

## WATER RESTRICTIONS

**Mr WILLIAMS (MacKillop) (15:06):** My question is again to the Minister for Water Security. What criteria will the minister use to determine when water restrictions will be lifted in Adelaide, given that the Adelaide Hills water storages are approaching fullness?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:06):** I am very hopeful that, in the fullness of time, the member for MacKillop may one day actually understand the water situation, the water balance, in this state, but, obviously, I am going to have to explain it to him again.

The South Australian reservoirs in the Mount Lofty Ranges hold less than 12 months' supply for Adelaide. They do not hold major supply, as in New South Wales and Victoria, where they have three or four years' worth of supply in their dams when the dams are full. We have less than 12 months' supply. In fact, our backup, as the member for MacKillop well knows, is the Hume and Dartmouth dams, and until we start to see a recovery in the Murray-Darling Basin system, South Australia's backup supply of water remains at risk.

The water that is going into our dams at the moment is very welcome, though. It is extremely welcome to see the rain falling and our dams improving. The improvement in our dams provides for us an opportunity to pump less from the River Murray, which is great news, which is fantastic news. Pumping less from the River Murray means that we able to hold more in Hume and Dartmouth, and it enables us to reserve that water for our requirements for the following years' critical human needs.

The balance is important. We need to ensure that we still maintain vigilance, because the Murray-Darling Basin is not out of the woods yet. It is not out of the woods yet, and any suggestion from the opposition that that is the case is just foolishness.

## WATER RESTRICTIONS

**Mr WILLIAMS (MacKillop) (15:08):** I have a supplementary question. Given the minister's answer to my earlier question, how much water has been pumped from the Murray River for this water year to the Adelaide Hills storages, and how much of the water retained in the Murray system is available in this water year?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:08):** I will get for the member the details of the number that has been pumped, but it is substantially less than it was at this time last year. At this stage, it looks like there is about 40 to 60 gigalitres, I have been advised, that could be applied to our reserve for next year, all things being equal. But, we will look at the water balance at the end of October, once we have seen the results of the spring rain falls. We will do those numbers, and I will also bring back to the house the number on how much has been pumped so far, but it is substantially less than last year.

## PASTURE RESEARCH

**Ms BREUER (Giles) (15:09):** My question is to the Minister for Agriculture, Food and Fisheries. What is the significance of the government's support for pasture research in our state?

**The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (15:09):** I thank the member for Giles for her question and acknowledge her keen interest in pasture and pasture research.

Pasture research has been conducted by South Australian agencies for the past 60 years, with many new pasture varieties being developed. Many thousands of hectares of these plants are grown across our state each year, and they make a vital contribution to the success of our primary industries, especially the creation of jobs and wealth in our regional areas.

The South Australian Research and Development Institute (SARDI) leads the critical research into pasture varieties. It is important to note that this type of research is not a quick process. It involves considerable time and considerable investment. A new pasture variety may take up to 10 years to produce but, importantly, a successful variety will have a life of 20 years or more and continue to make a valuable contribution to improving agricultural productivity. Increasingly, we need new pasture varieties that can cope with more variable weather conditions and reduced water availability, new perennials that can help us manage the carbon balance and groundcovers that safeguard our soils from environmental damage.

Adaptation to longer term climate change, reduction in methane emissions, drought tolerance and heat shock are key traits that are being developed in the next generation of pastures. I am proud to say that this is an area in which SARDI is leading the nation. I recently had the most interesting and pleasurable task of opening what has been referred to as an 'inside out birdcage' at the Waite Campus of SARDI.

This bird-proof enclosure was constructed at a cost of around $70,000 and will protect a major research program that is assessing the attributes of 80 different varieties of Australian native shrub with the aim of developing a drought-proof native shrub for our livestock industry. Left unchecked, the birds eat the plants and seeds (which is understandable), but that means that the researchers are unable to evaluate accurately the performance of the plants.

Until now, on occasions our pasture team had to resort to staying on location overnight in a caravan so that they were there at first light to shoo off and ward off the local birdlife; they no longer have to do that because of the construction of this new enclosure. It is no small matter when we consider that pastures underpin the annual $21 billion grazing industries in South Australia and add some $1 billion in value to South Australia's farming systems.

This enclosure also serves another no less valuable purpose in that it has been named in honour of Eric Crawford, who was South Australia's first plant introduction officer. In fact, I am sure that the member for Stuart will remember the outstanding work of Mr Crawford as South Australia's first plant introduction officer. He made a great contribution to pasture improvement over 40 years until his retirement in 1989.

I am advised that his two most successful varieties—Paraggio and Parabinga—have been sown across more than 250,000 hectares of South Australia, and seeds from these varieties are still sold locally and internationally. It was my absolute pleasure to meet Eric and his family at the opening and thank him for his services in advancing agriculture in this state.

The enclosure will play an important role in securing a sustainable future for agriculture in our state. I think that the house will agree that this project is yet another example of the world-class research conducted by SARDI that helps to give South Australia the edge in many fields of endeavour.

## GRIEVANCE DEBATE

### NUCLEAR POWER

**Mrs PENFOLD (Flinders) (15:33):** The time has come when nuclear power and the Australian people are ready to go forward to provide plentiful clean energy and water for Australia and the world. My observations appear to be supported by a recent *Advertiser* poll in which 79 per cent of respondents agreed that nuclear power was the way to go in the future. Certainly, according to *Independent Weekly* reports, the Rudd government is using taxpayer funds to find out how to make nuclear a more acceptable power source.

South Australia has copious quantities of uranium and even more thorium available to build fourth generation large nuclear reactors that could provide Australia with clean power and burn up existing nuclear waste from Australia and overseas. A recent ABC science report drew my attention

to the advances in nuclear technology and prompted me once again to draw attention to the need for our state to be part of nuclear solutions for power, water and waste.

Instead of exporting uranium, taking the money and washing our hands of any responsibility for technology, South Australia can and should lead the world in nuclear research and development of fourth generation reactors. Until now, it would have been difficult to bring the Australian public with any government attempts to move in this direction. However, despite the Premier's public opposition to a nuclear plant in South Australia, the very fact that his government has scrapped the two mine policy, approved the Four Mile mine, and the Honeymoon mine is coming into production, clearly shows that we have moved on from past thinking.

While replacing Port Augusta Power Station and putting a reactor there could be seen as the obvious site, I would like to see the first reactor built in the Maralinga prohibited area and used in part to further clean it up. Some of the profits could go back to the displaced local Aboriginal people and also people and their families who were involved in, or affected by, the experiments without knowledge of possible future consequences and not protected from known consequences. These people have had the pain and should reap the gains of using uranium.

Maralinga has a number of advantages, as it is on the railway line that connects Australia north, south, east and west and can be connected to the port at Fowlers Bay. There is also a long, heavy duty airstrip available on-site. Uranium and nuclear waste can easily and safely be brought in from around Australia and overseas and processed, and the power can be connected into Australia's grid. A power transmission DC line across the Nullarbor would make our grid a truly national one, linking east to west.

Old technology reactors leave unburnt more than 99 per cent of the uranium fuel, wasting most of the potential energy and leaving a large quantity of long-lived waste that requires storage in safe remote repositories for thousands of years. However, in his article '4$^{th}$ generation nuclear power', Dr James Hansen stated:

> There are two compelling alternatives to address these issues, both of which will be needed in the future. The first is to build reactors that keep the neutrons 'fast' during the fission reactions. These fast reactors can completely burn the uranium. Moreover, they can burn existing long-lived nuclear waste, producing a small volume of waste with a half-life of only several decades, thus largely solving the nuclear waste problem.

I reiterate that the benefits of fourth generation power plant—the uranium—can be completely burnt and assist with the nuclear waste problem, all at a massively reduced cost. Further, Dr Hansen states:

> The other compelling alternative is to use thorium as the fuel in thermal reactors. Thorium can be used in ways that practically eliminate buildup of long-lived nuclear waste.

Dr Hansen identifies in his article the Integral Fast Reactor which has been built and tested in Idaho National Laboratory, stating that 'many enhanced safety features are included and have been tested, such as the ability to shutdown safely under even severe accident scenarios'. He also identifies the Liquid-Fluoride Thorium Reactor that that 'uses a chemically-stable fluoride salt for the medium in which nuclear reactions take place', going on to say:

> Both the Integral Fast Reactor and the Liquid-Fluoride Thorium Reactor operate at low pressure, which alleviates much of the accident risk, and high temperatures enabling more of the reactor heat to be converted to electricity, unlike today's Light Water Reactors. Both also have the potential to be air cooled and use waste heat for desalinising water.

Being able to provide all the power and water we need to facilitate the mining industry in the north and west of South Australia, plus cleaning up the existing nuclear waste problem while reducing $CO_2$ production may seem too good to be true, but I believe it is true.

## FESTIVAL OF MUSIC

**Ms BEDFORD (Florey) (15:18):** Speaking on the importance of education and the work of teachers, I draw the attention of the house to the success of this year's Festival of Music and a series of concerts that concluded at the Festival Theatre on Friday 18 September. The 2009 festival marked the 111$^{th}$ series and the 118$^{th}$ year of operation of the South Australian Public Primary Schools Music Society. The executive board president, Rob Harkin, and all involved are to be congratulated. Reading through the program notes, I see Suzanne Rogers acts as manager for the board and the Primary Schools Music Festival team, and she obviously does a very good job at both roles. Each member of her team has put in a great effort. I particularly mention Anne O'Dea, who teaches in the Florey electorate, for her commitment to the production of the concerts and also the students at Modbury West School.

Some of the statistics involved are detailed at the front of the program and are quite staggering. The Festival of Music is a South Australian Heritage Icon, as awarded by the Bank of South Australia in association with the National Trust of South Australia. It is a joint presentation of the South Australian Public (Primary) Schools Music Society and the Department of Education and Children's Services. The annual concert series is the culmination of a choral music education program, as well as a celebration of the excellence of music education in public schools. The Adelaide Festival of Music is conducted over 12 performances, each with different choristers and young performers. In total, over 230 schools are represented with more than 6,000 students involved.

Each concert features a mass choir of 455 primary students from participating public schools across the state, and anyone who has seen the serviettes at the conclusion knows how colourful that is. It is also accompanied by an orchestra of primary school students and supported by a primary performance troupe. There are a couple of orchestras and they take turns at backing the musical items each evening; and each of those orchestras does a marvellous job under a different conductor.

Students participating in the festival are trained at their schools by teachers who are supported by staff from the Primary Schools' Music Festival Support Service. In addition, each concert showcases six outstanding assisting artists drawn from DECS' schools across the state. This year there was a special collaboration with the Australian composer and musician John Schumann. The Festival of Music presented his 'Remember Me' as a tribute to the perseverance and achievements of John McDouall Stuart, a little recognised South Australian explorer. The music was enhanced by a dramatic performance from one of the performance troupes.

It was also interesting to see the kids get excited by singing *Nutbush City Limits* at the end. They think it is a new song but, of course, many of us in this place did know the words.

*The Hon. L. Stevens interjecting:*

**Ms BEDFORD:** Exactly. I was able to attend several of the performances because, unfortunately, choirs from the Florey electorate performed on different nights and therefore I would have had to attend seven times. Students from Modbury West, Wandana, Modbury South and Modbury Special School, Modbury Primary, East Para Primary, Para Vista and The Heights each sang on different nights and did a great job. I know that they did themselves, their schools and their parents proud, and I congratulate all involved on giving the students such a wonderful opportunity to perform in a truly great theatre.

Several students also had the opportunity to be showcased in different items and they did a great job. I do not think there was any sign of nerves at all—and in a full auditorium that is a pretty good effort. Another musical opportunity exists for students through the Instrumental Music Service's winter concerts and the music camps that happen during the summer. The winter concerts showcase the work of the Primary Schools Guitar Ensemble, the Primary Schools Wind Ensemble, the Primary Schools Percussion Ensemble and the Primary Schools String Orchestra.

Unfortunately, I was not able to go this year, but last year was a tremendous concert and not to be missed if members have the chance. I have spoken on both the concerts before so I will not go into full details here, except to say how wonderful it is that music plays such a prominent role in the lives of so many young people in this state. Music is a gift for life, and I see this in the example of the contribution of Mark Smith, Musical Director for the South Australian Police Rangers Youth Band, of which I am patron.

He is also involved in music camps as a tutor and recently won his section in the brass band competitions held in New South Wales at Easter. Whilst there he was also competing with the Kensington and Norwood Spring Gully Band, which is one of the state's premier brass bands. Members can see that you can make music not only your life but also bring an enormous amount of pleasure to people. He is continuing to work with students throughout the state, and I have great admiration for him.

He has worked not only with school students but also in the South Australian Police Rangers Youth Band, which gives young people the opportunity to continue their music after they have left school and before, perhaps, they manage to get jobs in symphony orchestras, which is very difficult to achieve. All in all, I commend the festival to the house. My colleagues who went obviously enjoyed the night. Those who did not attend will have the chance next year on at least 12 occasions to pop along and hear some of the great work being done by music teachers in this state.

Time expired.

## UPPER SOUTH-EAST DRAINAGE SCHEME

**Mr WILLIAMS (MacKillop) (15:23):** I bring to the attention of the house today a matter that has been troubling both me and my constituents for a considerable time. I mention it because of my frustration with the slowness of the processes of government and the inability of the minister for the environment to address this matter, which is impacting on some of my constituents greatly, and I will relay a story to illustrate that.

I refer to the drainage scheme in the Upper South-East in my electorate, and I remember voting against the bill that passed through parliament in December 2002 which gave the government power to compulsorily acquire a strip of land through farmland to build the drain. I argued at the time that we had been building drains in the South-East for well over 100 years without the need to do this, and I did not believe that we needed it then.

Through this process we now have landholders with titles that they cannot trade, because the government agency responsible for acquiring this strip of land for the construction of the drain will not finalise the titles. So, the owners of those titles cannot do with the titles things that they want to do.

I wrote to the Minister for Environment and Conservation well over 12 months ago, and I received a response from him on 18 August 2008. In the penultimate paragraph of his letter he said, 'The land acquisition process does not affect the sale of whole allotments and impacts only on dealings which involve the subdivision of land,' which is the very matter that I had raised with him in my earlier letter. I wrote back to the minister on 22 September (12 months ago yesterday), pointing out that that was the exact problem; it was where the owner of the land had wanted to subdivide.

Where the drain went close to the boundary of a piece of land and went through part of the next-door neighbour's boundary, the landowners came to an arrangement whereby they wished to swap the little bits that were cut off by the drain so that they were added to a larger portion of land for ease of management. That is relatively common, and landholders have been trying to achieve this and were prevented from doing so. As I said, I wrote back to the minister on 22 September pointing that out to him.

On 17 December, I again pointed out a particular case to the minister where a landholder had a number of sections, or titles, that he wanted to sell. The drain ran through them and there had been compulsory acquisition. In selling the properties, he wanted to reconfigure the titles because a public road ran through the properties. He divided the properties such that they would form one farm to the north and one farm to the south of the public road, and he wanted to sell them in that manner. He thought that would make the properties easier to sell; that it would be more attractive for someone who wanted to purchase them, rather than having parcels of land on each side of the road, which is a perfectly reasonable objective for him to pursue.

This person subsequently sold the properties but there has been no ability to settle, because the titles have not been finalised where the drains have gone through. Also, one of those properties has subsequently been sold. So, it has been sold twice in that period of time and still the original settlement cannot be settled. The subsequent settlement cannot be finalised and the original owner, who has moved on and is now farming in New South Wales, still has not been paid for the original sale. Off the top of my head, I think I am talking about something in the order of about three-quarters of a million dollars that is owing to this man. He cannot get access to those funds, because the state agency will not get off its backside and fix up those titles where the drains have gone through.

As I said, I wrote to the Minister for Environment and Conservation on 17 December (that was the final letter I wrote), and I still have not received a response. When my office contacted the minister's office in mid-December we received an acknowledgment of my letter. My office has been in regular contact with the minister's office ever since, seeking a response to the last two letters that I sent and, more importantly, seeking some action so that landholders in my electorate who have had drains put through their farms and whose titles have been made such that they cannot settle on land transactions can get on with their life. This has been going on for three or four years—

**The DEPUTY SPEAKER:** Order! That is sufficient, member for MacKillop. You have taken it too far.

Time expired.

## EARLY CHILDHOOD DEVELOPMENT

**The Hon. L. STEVENS (Little Para) (15:28):** Today I would like to talk about early childhood development and, in particular, the Australian Early Development Index. Since the beginning of the Rann Labor government from 2002 onwards, a number of reports from various parts of government have indicated the importance of early childhood development. The former Thinker in Residence, Dr Fraser Mustard from Canada, also focused our attention on the importance of intervening earlier, the importance of understanding brain development and the importance of making progress at a population level. Recent COAG initiatives have meant that the federal government, at last, also has become involved in looking at this in a constructive policy sense, and is bringing in a number of initiatives to start a much more integrated and cohesive process across the whole country.

In particular, the Australian Early Development Index has been developed as a way of measuring children's development in five domains. This development index measures physical health and wellbeing, social competence, emotional maturity, language and cognitive skills, and communication and general knowledge. From 1 May to 31 July, across Australia, these checklists were completed for 261,000 children in the first year of full-time school. It covered 95 per cent of schools across Australia.

In South Australia, over the same time, these checklists were completed for 16,200 children in their first year of full-time school, which was 94 per cent of schools. So, for the first time, we have collected data on students across 94 per cent of schools. This data will be released later in the year, which will mean that in December national data will be available on the AEDI website; and it will be available for us to see just how our five year olds, right across Australia, in particular geographical locations, have measured up in terms of the criteria.

So, what is the point of this? The point is that, if we continue to do measurements of the AEDIs every year, we will be able to track these criteria applying to five year olds as they enter the school system and we will be able to see that if we make particular interventions early in a child's life we should be able to see positive changes to the AEDI results.

In the northern suburbs of Adelaide I have established a Northern Early Childhood Development Steering Committee. That steering committee has been meeting since the beginning of the year and is composed of: the regional directors of the state government departments of education and family and community services; the commonwealth managers of DEEWR and FaHCSIA; senior managers of Playford and Salisbury councils; the chief executive officers of the Children, Youth and Women's Health Service and the Central Northern Adelaide Health Service; the Chief Executive of Anglicare (in this case, Dr Lynn Arnold); the assistant director of Catholic Family Services (another very significant non-government organisation working in the northern area); and myself as chair.

This group will use the data to identify particular communities across Salisbury and Playford local council areas and determine how they might put their resources together to address early childhood services in particular communities.

The continuing collection of AEDI data over the years will measure the success of those strategies. This is an excellent innovation in the north, and we hope we will be able to make some progress towards positively changing outcomes for our youngest citizens.

## REYNELLA PRIMARY SCHOOL

**Mr HANNA (Mitchell) (15:35):** Parents who attended the Reynella Primary School AGM on 16 September this year received something of a shock. In very diplomatic language, it was conveyed that there was a proposal to withdraw the Instrumental Music Service (IMS) from that school. The Instrumental Music Service basically consists of specialist music teachers who go out and visit particular school sites. Their knowledge and experience goes far beyond what we could reasonably expect of our primary school teachers who are, of course, doing a brilliant job with a whole range of other curriculum activities.

Reynella Primary School has been named as a hub for the delivery of the IMS program. This means that students are invited from other primary schools in the area. In practice, 44 students attending currently at Reynella Primary School are students from the local school and one student is from another school, namely, Reynella South Primary. So, because there is a suggestion that the hub system is not working—I suspect because there is a concern about a lack of students going on to do music at Reynella East High School—a proposal has come from

Reynella East Primary and Reynella East High School that the IMS be withdrawn from Reynella Primary and instituted at Reynella East Primary in conjunction with Reynella East High School.

One of the disturbing things about this proposal is the lack of consultation. The proposal has obviously been discussed by those at Reynella East, taken to the relevant managers in the department and worked upon, and only after there was quite a concrete proposal has Reynella Primary School been informed. The governing council at Reynella Primary School has not yet had time to fully react to this, but there is a lot of consternation about what is proposed.

Just to put this in perspective, there is first a question of whether the hub concept is the most appropriate one. I believe that it is possible to deliver the IMS into a range of different schools in an area without further expenditure so long as there is a critical mass. At Reynella Primary, if over 40 students are involved, obviously that warrants getting some specialist music teachers to come out and deliver the service. That should be the case in any primary school where you can get those sorts of numbers.

It is completely unrealistic to expect the primary school students to travel to another primary school in another suburb during the day for delivery of one of their lessons. The minimum travelling time would be 15 minutes—probably closer to half an hour each way. Reynella and Old Reynella are areas where there is a significantly high number of two parents working per family, and it is unrealistic for parents to be ferrying their children around during the day.

In terms of the justification offered for this proposed change—namely, wanting to have a greater number of students going on to study music at Reynella East High School—I point out that the high school is zoned. Indeed, only about 40 per cent of Reynella Primary School students go on to Reynella East High School. One of the reasons for this is that many Reynella Primary School students live outside the Reynella East High School zone anyway. So, even if the music program was relocated to Reynella East and if it was possible to transport students from other primary schools to that site, many of the students would not be eligible to go to Reynella East High School anyway.

It is said that we are just at a consultation stage, so I am voicing my view very strongly that the program must not be withdrawn from Reynella Primary School. If it is not working there, it is not going to work anywhere else. The transport issue is the same there as anywhere else. If there needs to be cooperation with the high school to assist students of the music program and their education there, that can be done without changing hub arrangements.

So, I will be talking to a lot of local parents about their passion for their children to study music, and I will do everything I can to ensure that the Reynella East proposal does not go ahead. I have spoken to the minister informally about it and will continue to do so.

Time expired.

## SAFE COMMUNITIES INNER NORTH-EAST

**Mrs GERAGHTY (Torrens) (15:40):** On Monday last week I attended the unveiling of three very special murals at the Wandana Community Centre on Blacks Road at Gilles Plains. The murals were commissioned by the Safe Communities Inner North-East Group—now fondly known by its acronym SCINE—through a community arts grant provided by the City of Port Adelaide Enfield. The murals depict important safety messages: one around water safety, one on safety around the home, and the other regarding safety on our roads and footpaths.

There was considerable community participation in the design of the murals, and special mention needs to be made of the input from the Wandana Primary School (which is in the member for Florey's electorate), the Uighur Language School, members of the Blind Welfare Society (a very jolly lot, I might say), and the local community. The Wandana Community Centre said that to design one of the murals was one of the most inspiring events with which the organisers had the pleasure to be involved, and there was an exceptional contribution by members of the Blind Welfare Society as well as participants from the local community.

SCINE is a coalition of community service agencies located in the inner north-eastern suburbs of Adelaide, servicing Gilles Plains, Hillcrest, Holden Hill and Windsor Gardens. SCINE has been established to promote injury prevention and implement community safety initiatives under the guidance of the international safe communities indicators from the World Health Organisation's Collaborating Centre on Community Safety Promotion. It is rather a mouthful, but it has a very great impact in the community.

At the unveiling it was pleasing to see all these groups come together. It was particularly pleasing to have the Mayor of Port Adelaide Enfield there, Gary Johanson—he is exceptionally kind to the member for Florey and myself, very complimentary—along with Dale West, the CEO of Centacare Adelaide.

*An honourable member interjecting:*

**Mrs GERAGHTY:** Yes; Dale is indeed a wonderful fellow. The fundamental aim of SCINE is to reduce the risk of preventable injuries through community education, joint project development, promotion of the ideology of safe communities, and a willingness of agency partners to actively engage in SCINE programs. Some of the agency partners are the City of Port Adelaide Enfield (as I said), the City of Tea Tree Gully, Wandana Primary School, the Wandana Community Centre, the North-East Community House, Hillcrest and Holden Hill community centres, Frances Bedford and her office, WorkSafe SA, and a number of other interested groups. Of course, my office is also involved. These groups, with others, signed a memorandum of understanding of interested parties, giving an ongoing commitment to the Safe Communities Inner North-East Group.

The SCINE group has undertaken a number of initiatives, apart from the murals that were launched. Last year the group undertook a community safety awareness day at the Wandana Community Centre, and I must say that it was a most interesting event.

*The Hon. J.D. Hill interjecting:*

**Mrs GERAGHTY:** Yes; the Minister for Health has just said 'fantastic'. They are currently considering undertaking an initiative that would promote safety audits in local areas, including schools and homes.

While the SCINE group is in its relative infancy, similar groups are being established around Australia—and, for that matter, around the world—all with similar objectives of working to make our surroundings safer, and I think it might be worth members having a look at what the group is doing. They are a fantastic group of people with whom to be involved, and I am sure that the member for Florey would concur. It makes us very proud to be associated with them, and I wish them all the best with their initiatives.

Anything that we do to make our community and people in our communities safer is to be commended. I would urge members to have a look at the program, because it is something that is very valuable to have in our electorates, particularly the work they do around safety for elderly people in their homes and walking around our communities. I am sure we have all tripped over a footpath here and there.

## ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council did not insist on its amendment to which the House of Assembly had disagreed.

## LOCAL GOVERNMENT (ELECTIONS) (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and 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) (15:47):** 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.

This Bill is derived in large part from the work of the *Independent Review of Local Government Elections*. The Review was established on 20 April 2007 following completion of the 2006 local government election process. The former Minister acted in cooperation with the then President of the Local Government Association (the LGA) to commission an independent and comprehensive post-elections review.

The Review was jointly funded by the Government and the LGA. The terms of reference for the review were drafted in consultation with both the Electoral Commissioner and the LGA.

The Independent Reviewer had the benefit of advice from a Reference Group chaired by the Hon Ian Hunter, MLC and including officers from the:

- Local Government Association;

- the Office for State/Local Government Relations;
- the Electoral Commission;
- Office for Women;
- Multicultural SA;
- Aboriginal Affairs and Reconciliation Division;
- Office for Youth; and
- South Australia's Strategic Plan – Cabinet Office.

The Review began by reviewing the reports of previous reviews and examining literature published worldwide on local government elections. It then produced three Issues Papers, which were published in June 2007.

Consistent with the Review's Terms of Reference, the three *Issues Papers* covered three broad themes:

1. Improving Local Government *voter participation*;
2. Improving Local Government *representation*; and
3. Improving the Local Government election *process*.

The Review also considered it important to reach out to a broader audience than the few who would have the time or the inclination to peruse and respond to three long documents. Therefore, with the assistance of the Reference Group, a more compact questionnaire, characterised as a '10-minute survey leaflet' was produced.

The Review intended this survey to be distributed as widely as possible, and attract comments from not only people within local government, but also the wider public. More than 6,000 copies of the 10 minute survey leaflet were printed and distributed. A further 500 (translated into Vietnamese) were distributed in the Port Adelaide Enfield Council area. Another survey, asking similar questions, was conducted entirely online at a website hosted by the Office for Youth.

Through this process, input was obtained from 313 individuals and 26 organisations through feedback sheets or through detailed submissions and from 19 organisations through discussion at meetings.

The Review set up a website on which all its documents, submissions and comments to the Review were published. The website is still operating and has been updated to include not only the Review's *Interim Report* and *Final Report*, but also responses by the Government and by the LGA.

Voter turnout - South Australia's Strategic Plan

The *Independent Review* was undertaken in the context of South Australia's Strategic Plan. The Plan contains a number of topics and targets that guided the Review, but the most direct reference is the target to increase voter participation in Local Government elections in South Australia to 50 per cent by 2014. This Target 5.5 is regarded as a measure of strong, connected communities with citizens engaged in local decision-making.

Other relevant targets in the Strategic Plan, considered by the Review, are to increase women's participation in leadership roles, as well as targets to increase the number of Aboriginal South Australians participating in community leadership (T5.7) supporting multiculturalism (T5.8) and to increase the proportion of eligible young South Australians enrolled to vote (T5.4).

In the last local government elections, in 2006, only 31.6 per cent of eligible voters exercised their right to vote (a decline of 8.5 per cent since 2000). The South Australian Strategic Plan target to increase voter participation to 50 per cent by 2014 is therefore seen as particularly important to enhance the credibility of local government and as an indicator of strong and involved communities and healthy local democracies. Very low voter participation rates also result in some individual councillors being elected with a very small vote.

The Review noted that in general, local governments did not appear to have embraced the 50 per cent voter participation target. Although 20 councils achieved the target of 50 per cent participation rate in 2006, these were all small council areas and represented only 5.6 per cent of all eligible voters. In 2006, the 13 largest council areas all had participation rates of less than 30 per cent.

None of the councils with voter participation of less than 50 per cent presented the Review with any plans to try to achieve the SASP target. The Review noted that many councils had the view that the SASP target was a State Government target that did not concern them.

If there is to be progress towards achieving the SASP Target, effective measures must be targeted towards the largest councils; i.e. those with turnout below 30 per cent at their last election, who together represent about 800,000 enrolled voters (two thirds of SA's total). These councils are all in the Adelaide metropolitan area. In addition it will be important to support smaller and rural councils to maintain, and if possible increase, their existing, higher voter participation rates.

To that end, the Review noted two key aspects in which South Australian local government elections differ from local government elections in other States:

South Australia is the only State in which a State Electoral Office or Commission does not take responsibility for a central publicity and promotions campaign for local government elections. Leaving aside provisions for capital cities, the Review noted South Australia is also the only State in which property franchisees

(i.e. non resident owners and business lessees) are automatically enrolled without taking any action to seek enrolment.

Recommendations accepted

The Review's *Final Report* was released in March 2008. It made a series of 27 recommendations. The key ones dealt with these two differences between South Australia and other States. The overall thrust of these key recommendations was to divert resources away from what the Review saw as unnecessary administrative tasks associated with compiling a separate voters roll, and towards activities that heighten awareness of the role of local government and elected members, its elections, and individual candidates for election.

In December 2008, the State Government considered the *Final Report* of the *Independent Review*, and made decisions to adopt 23 of the 27 recommendations. The list of the Government's responses to each of the 27 recommendations is published on the Review's website.

Four recommendations rejected

Recommendations 14 and 25 involved altering the date of future local government elections so that they would fall 18 to 19 months after the date of State elections. This would have required extending the current term of office of all elected councils by 10 to 11 months, to conclude with an election sometime in September or October 2011, and every four years thereafter. The Government rejected both recommendations 14 and 25, and decided to leave the election date unchanged, on the basis that the present local government term is the first ever to run for four years and an extension of the current term to almost five years would unreasonably postpone the opportunity for democratic evaluation of current councils.

Recommendation 19 was to institute dual candidacy. The Review recommended that in council areas with a popularly elected Mayor, any candidate ought to be able to nominate for both Mayor and councillor. The Government rejected this recommendation, on the basis that that dual candidacy could confuse voters, would also add to election costs, and delay finalisation of results.

Recommendation 23 was to provide voters roll data to local government election candidates in electronic format. The Government rejected this recommendation, on the grounds that electors supply their information to the Australian Electoral Commission with the expectation that it will be used for electoral purposes only; and that the more widely the electronic roll is distributed the greater the risks that this information may be misused.

The remaining 23 recommendations were supported by the Government. To the extent that these recommendations require legislation to be implemented, this Bill seeks to do that.

Publicity campaign

The Local Government Association is supporting most of the measures in this Bill. However, I am aware that the LGA is opposed to Clause 7, which proposes to insert a new section 13A. This new section establishes responsibility for information, education and publicity for local government general elections.

This clause is one of the two key reforms in this Bill recommended by the *Independent Review of Local Government Elections*. It would place the responsibility for promoting elections into the hands of an independent statutory officer, the Electoral Commissioner. This is one of the centrepieces of the proposed reforms.

Despite the LGA's concerns, the Government is strongly of the view that it is appropriate to have the Electoral Commissioner, as an independent statutory officer, authorising and coordinating publicity for local government elections. It is also appropriate to have the Electoral Commissioner setting the budget for this campaign, albeit in consultation with the Local Government Association. This reform is necessary because in the past, local government has not taken sufficiently seriously the task of promoting its own elections. The *Independent Review* found that some local governments contributed as little as $300 to promoting the 2006 local government elections.

Authorising the Electoral Commissioner to carry out this function would bring South Australia into line with the practice in every other Australian State, and ensure for the first time, that local government elections are promoted vigorously, throughout South Australia.

Proposed subsection 13A(2) also places some responsibility onto local government to directly inform landlords, business lessees, and resident non citizens (perhaps via fliers that accompany rates notices) about the proposed change under which they would need to enrol if they wish to exercise a vote.

Property franchisees voters roll

The LGA is fully supportive of the other major initiative in this Bill, which is to reduce the administrative burden associated with compiling a separate voters roll. The Government and the LGA both agree with the *Independent Review* that it makes little sense for local governments to spend many thousands of dollars, of employees' time, updating a voters roll comprised of absentee owners, landlords, and business renters, when most of these people historically have shown no interest in voting. Under the provisions of this Bill, these people will still be able to exercise a vote, but only if they choose to enrol themselves in a local government election year. These proposed changes will not apply to the City of Adelaide because their implications would be significantly different for the capital city.

Bodies Corporate and groups

There is a related reform that applies to property franchisees who are bodies corporate or groups. This includes companies, incorporated associations, and couples or family groups who own property in two or more individual names.

Under the provisions of this Bill, a body corporate or a group that wishes to exercise a vote in a local government election will need to nominate someone to be a 'designated person' for that purpose.

The purpose of this restriction is to prevent individuals voting multiple times in the same election. The main effect of this reform is that a person who already has a vote as a resident in a council area will not be able to exercise any additional vote or votes (for example as a landlord) in the same council area. Under the provisions of this Bill, some groups and some bodies corporate will not be able to exercise a property franchise vote through any designated person. They may be unable to appoint a designated person who is not a resident. Nevertheless, their members or officers would not be disenfranchised, because each of their adult members or officers would have a vote as a resident.

Under this scheme, a designated person is not considered to be an elector. The 'elector' would remain the body corporate or group that authorised the 'designated person'. However, a designated person would be entitled to vote after:

- having been authorised to do so by the body corporate or group; and
- having his/her name placed on the voters roll as the designated person of the body corporate or group.

Under the present Act, a body corporate that has property in multiple wards of the same council, may nominate a different officer to stand as a candidate in each of the wards, and another different officer to stand as a mayoral candidate. The same right exists for a group that has multiple voting entitlements, to nominate different officers as candidates in different ward and mayoral contests.

Clause 11 adopts the concept of a 'designated person' who is authorised to exercise the rights of a body corporate or group for the purposes of a local government election. It provides that only this designated person (and not any other nominee) may be a candidate for election on behalf of a body corporate or group.

Again, the above reform will not apply to the City of Adelaide. Voting in more than one capacity in the City of Adelaide is already prohibited.

Supplementary elections

Section 6 of the Act provides that in some circumstances a supplementary election need not be held to fill a casual vacancy. The intent of the section is to minimise the potential cost of requiring multiple supplementary elections. However, the wording of the section might, in some circumstances, prevent a vacancy for a councillor being filled at the same time as a vacancy for a mayor. Clause 5 would abolish any restrictions on holding a supplementary election for mayor at the same time as a supplementary election for an area-wide councillor.

Prohibition on withdrawal of a candidate

There is an underlying concern that existing provisions in the Act, that permit a candidate to withdraw for medical reasons after the close of nominations, are capable of misuse to affect the outcome of local government elections.

For example, a person who already has a known medical condition may nevertheless nominate as a ward candidate, with no intention of remaining in the contest. The late provision of a medical certificate and the withdrawal of the candidate during the election period would cause the election in that ward to wholly fail, forcing a supplementary election at a later date. That outcome may be to the advantage of others.

Clause 6 of this Bill would prevent this occurring, by preventing the withdrawal of any candidate after the close of nominations. This would make the *Local Government (Elections) Act 1999* consistent, in this respect, with the *Electoral Act 1985*.

Any candidate who becomes too ill to continue as a candidate might consider urging his or her supporters to switch their support to another candidate.

Publication of candidate statements etc

Clause 12, which proposes to insert new section 19A— would provide voters with the ability to look up each candidate in a local government election, and obtain information about each candidate and his or her policies.

For candidates, it is intended to provide an effective campaigning tool. This scheme deals with some of the concerns that have been expressed about the necessary limitations of the printed candidate profile that accompanies the printed ballot papers.

Subject to any technical considerations to ensure the feasibility of the scheme, the LGA will be able to permit candidates to fully express their views, and provide links to additional information at the candidate's discretion.

Although this proposed new section would remove any civil liability from the LGA, and from the web hosts of such candidate statements, this would not give candidates authority to publish falsehoods or defamation. The candidate would remain legally liable for the content of these statements, and would face consequences in the same manner as if the offending material had been in printed form.

Publication of misleading material

Clause 13 would insert, into section 28, provisions that are drawn from section 113 of the *Electoral Act 1985* that apply to State elections. These provisions give the Electoral Commissioner the power to 'request' the withdrawal or retraction of a statement 'purporting to be a statement of fact that is inaccurate and misleading to a

material extent.' Just as under the equivalent provisions in the *Electoral Act 198*5, there may be legal consequences for a candidate who does not co-operate with such a request from the Electoral Commissioner. Failure to comply with a request will be a matter that a court may take into account when determining a penalty for a breach of section 28.

Caretaker policy

Clause 21 would require each local government to adopt a caretaker policy governing the conduct of the council and its staff during the election period. The provisions are modelled on similar legislation in Victoria. They would, at a minimum, prohibit a council, during an election period, making decisions about:

a) the employment or remuneration of a chief executive officer, other than a decision to appoint an acting chief executive officer; or

b) to terminate the appointment of a chief executive officer; or

c) to enter into a contract, arrangement or understanding the total value of which exceeds whichever is the greater of $100,000 or 1 per cent of the council's revenue from rates in the preceding financial year; or

d) allowing the use of council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of council resources by all candidates for election);

Other reforms

Other reforms in this Bill provide for:

- the provisional enrolment of 17 year olds, reflecting the practice for State and Commonwealth elections and allowing them to exercise a vote if they have turned 18 by election day;
- setting a definite time, 4:00pm, for the drawing of lots to determine the order of names on the ballot papers. This is intended to allow candidates and other interested parties to schedule their time to attend the draw, if they wish;
- reducing the length of time (from six weeks to 30 days) for provision of a campaign donations return after the completion of an election; and
- requiring campaign donation returns to be retained for four years, rather than three.

I commend this Bill to Honourable Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government (Elections) Act 1999*

4—Amendment of section 4—Preliminary

This clause inserts a definition of *designated person* for the purposes of other amendments contained in the measure. A *designated person* is a natural person, of or above the age of majority, who is an officer of a body corporate and is authorised to act on behalf of the body corporate for the purposes of voting or who is a member of a group, or an officer of a body corporate that is a member of a group, and is authorised to act on behalf of the group for the purposes of voting.

5—Amendment of section 6—Supplementary elections

This clause amends section 6 to ensure that a supplementary election for a member can be held at the same time as a supplementary election for mayor.

6—Amendment of section 7—Failure of election in certain cases

Currently the Act provides that if, after the close of nominations, a candidate withdraws his or her nomination on the ground of serious illness or ceases to be qualified for election, the election will be taken to have failed. This clause removes that provision and 2 other subsections that are consequential to it.

7—Insertion of section 13A

This clause inserts a new section 13A as follows:

13A—Information, education and publicity for general election

This proposed provision allows the returning officer (after consultation with the LGA) to arrange certain advertising and recover the costs from councils. In addition, the provision requires

each council, during an election year, to inform potential electors of the requirement to enrol to vote.

8—Amendment of section 14—Qualifications for enrolment

This clause alters the section dealing with qualifications for enrolment to include a requirement that a person enrolling on the basis of residency have been so resident for a continuous period of 1 month prior to applying for enrolment and to require lodgement of an application for enrolment from all persons entitled to vote other than natural persons who are enrolled as a House of Assembly elector for a residence in the relevant area or ward. The provision also allows for provisional enrolment and inserts an offence relating to the provision of false or misleading information.

9—Amendment of section 15—The voters roll

This clause amends section 15—

- to ensure that an entry in the voters roll relating to a group or a body corporate will include details of the designated person for the group or body corporate;
- to provide for the expiry of the voters roll on 1 January in each election year (subject to a provision regarding the holding of a supplementary election to fill a casual vacancy);
- to limit the entitlement to obtain a copy of the voters roll (in printed form) to nominated candidates;
- to ensure that the first copy of the roll provided to a nominated candidate is free (however further copies may incur a charge).

10—Amendment of section 16—Entitlement to vote

This clause makes amendments that are consequential to provisional enrolment and to the introduction of the 'designated person' concept and provides that a natural person may only vote in 1 capacity at an election or poll.

11—Amendment of section 17—Entitlement to stand for election

This clause is consequential to the introduction of the 'designated person' concept.

12—Insertion of section 19A

This clause inserts a new clause 19A as follows:

19A—Publication of candidate statements etc

This clause provides for the publication, by the LGA, of any electoral statements by nominated candidates and the candidate profiles under section 19(2)(b).

13—Amendment of section 28—Publication of misleading material

This clause inserts a provision equivalent to section 113(4) of the *Electoral Act 1985*.

14—Amendment of section 29—Ballot papers

This clause provides that the drawing of lots to determine the order of names on a ballot paper is to occur at 4 pm or as soon as is reasonably practicable thereafter on the day of the close of nominations.

15—Amendment of section 39—Issue of postal voting papers

This clause is consequential to the 'designated person' concept.

16—Amendment of section 47—Arranging postal papers

This clause substitutes a new subsection (2)(a)(ii) which is consequential to clause 10 and makes 2 other amendments that are consequential to the introduction of the 'designated person' concept.

17—Amendment of section 80—Returns for candidates

This clause shortens the time for lodgement of a campaign donations return from 6 weeks after conclusion of the election to 30 days after conclusion of the election.

18—Amendment of section 81—Campaign donation returns

This is consequential to clause 17.

19—Amendment of section 87—Public inspection of returns

This clause extends the time for keeping returns from 3 years to 4 years.

20—Amendment of section 89—Requirement to keep proper records

This clause extends the time for keeping records relating to returns from 3 years to 4 years.

21—Insertion of section 91A

This clause inserts a new section 91A as follows:

91A—Conduct of council during election period

Councils will be required, under this proposed provision, to adopt a caretaker policy to apply during election periods. The policy must at least include provisions prohibiting certain decisions of a kind set out in the definition of *designated decision*, but the clause makes provision for the Minister to grant an exemption in relation to a designated decision in extraordinary circumstances and allows for regulations to be made excluding certain kinds of decisions from the concept of a designated decision.

22—Amendment of section 93—Regulations

This clause amends the regulation making power to specifically provide for consultation with the LGA before a regulation is made.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *City of Adelaide Act 1998*

This Part makes related amendments and amendments of a statute law revision nature to the *City of Adelaide Act 1998*, and also ensures that the status quo is maintained in relation to various matters relating to enrolment , entitlements to vote and entitlement to stand for election.

Part 2—Transitional provisions

This Part makes provision relating to the conduct of comprehensive reviews required under section 12 of the *Local Government Act 1999*.

Debate adjourned on motion of Ms Chapman.

## ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MINTABIE) AMENDMENT BILL

**The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:48):** Obtained leave and introduced a bill for an act to amend the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981; and to make related amendments to the Opal Mining Act 1995 and to by-laws under the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981. Read a first time.

**The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:49):** 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.

Introduction

This Bill amends the *Anangu Pitjantjatjara Yankunytjatjara (APY) Land Rights Act 1981* (the APY Land Rights Act), some by-laws under the Act and the *Opal Mining Act 1995*. The amendments are necessary for the implementation of a new lease for the Mintabie opal mining township, which is located on land owned by Anangu Pitjantjatjara Yankunytjatjara (APY) pursuant to the APY Land Rights Act.

The changes have been based on consultation with APY and traditional owners as well as the Mintabie Miners Progress Association and relevant government agencies and will enable more effective management of the township.

Background

The township of Mintabie is located about 1100 kilometres north of Adelaide on the Mintabie Precious Stones Field. The Precious Stones Field has an area of approximately 100 square kilometres and the township is about 5 square kilometres in size.

Opal mining at Mintabie and the township were established before land was vested to APY in 1981. In recognition of this, the APY Land Rights Act included special provisions in relation to Mintabie.

Section 28 of the APY Land Rights Act leased the town area to the Crown through the Minister for Lands for 21 years. That statutory lease expired on 1 October 2002. Since that time the APY Executive Board has provided a series of interim lease extensions while a new lease has been negotiated.

Description of the Mintabie township

At its peak in about 1990 almost 1,000 people were estimated to be living at Mintabie. It currently has a population of 100—150 people.

The main commercial activities at Mintabie are a hotel, four shops and second hand motor vehicle sales. With the decline of opal mining at Mintabie, most of Mintabie's commercial trade is now with Anangu.

Under the current APY by-laws, the hotel is not permitted to sell alcohol to Anangu. The current by-laws permit Mintabie residents to bring unlimited quantities of alcohol into Mintabie for personal consumption.

There is an Area School at Mintabie, which has about 30 students. The Mintabie school was built in the 1990s to replace the Marla school.

Town municipal activities such as the maintenance of internal roads and the airstrip, provision of water and rubbish collection are self managed through the Mintabie Miners Progress Association (MMPA), which is a voluntary body of Mintabie residents. There is a Mintabie tele-centre that was set up with funding provided by the Australian Government.

Management of the Mintabie township

There have been deficiencies over many years in the management of Mintabie, which has resulted in a range of problems. This has occurred despite provisions in the APY Land Rights Act for a Mintabie Consultative Committee comprising the State, APY and the MMPA to deal with issues relating to the administration of the precious stones field and township.

For example, there has been little regulation of the location of dwellings and other structures at Mintabie. As a result, about thirty per cent of the houses at Mintabie have been built outside the original town lease area established under the APY Land Rights Act. The town waste dump was also established outside the town lease area without direct agreement from APY. Many buildings at Mintabie have been erected without relevant approvals under the Development Act or the earlier Planning Act. No process was established to identify Aboriginal heritage areas to ensure buildings and other developments were not located near culturally significant sites. Environmental protection issues have not been adequately dealt with. The collection of site licence fees from Mintabie residents and the regular indexation of fees have also been deficient. In addition, there has been a failure to enforce permit requirements for visiting Mintabie, with most visitors not obtaining a permit and being unaware of the requirement to do so.

This Bill and the proposed new lease arrangements seek to address these and other longstanding issues where appropriate.

Mintabie Township lease negotiations

While the Mintabie Precious Stones Field continues indefinitely unless changed by Government, a new town lease allowing people to live and operate businesses at Mintabie requires APY approval. Negotiations for a new town lease, led by Primary Industries and Resources SA (PIRSA), which administers the precious stones field, began several years before the lease expired in 2002.

At that time, the APY Executive Board nominated Yankunytjatjara Council, represented by the Pitjantjatjara Council, as the appropriate body to represent traditional owners in the lease negotiations. Through this process a new town lease was prepared, but it was not endorsed when put to a general meeting of APY in mid-2002.

One reason for its failure was concern about activities at Mintabie that were causing problems on the Lands. A second reason was the strong disagreement at the time between the Pitjantjatjara Council and the APY Executive Board.

Following this set back, PIRSA and the Department of State Aboriginal Affairs (now the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet) recommenced negotiations, with assistance from the Crown Solicitor's Office. Recent lease negotiations have been with the APY Executive Board rather than Yankunytjatjara Council, although local traditional owners continue to have input.

In the last three years there have been four Special General Meetings of APY to discuss the Mintabie township lease, plus meetings with the APY Executive Board members and officers and the MMPA.

The APY position is that it agrees to the Mintabie township remaining provided a number of legal and illegal activities contributing to social and economic problems on the Lands are dealt with.

Issues that APY want addressed

In addition to the issues described above, APY's chief concerns are:

- alcohol and other drugs (mainly cannabis) entering the broader APY lands through Mintabie
- the operation of a second hand motor vehicle dealer at Mintabie. There have been allegations that vehicles bought by Anangu soon break down, which is contributing to financial hardship because they are often purchased on credit
- credit or 'book up' practices and the retention of Anangu bank key-cards by Mintabie shop keepers, which is seen contributing to financial hardship and is in conflict with the APY Mai Wiru stores policy.

  Note—

  Mai Wiru is a Pitjantjatjara/ Yankunytjatjara word that means 'good food'. The central aims of the Mai Wiru stores policy are to ensure stores on the APY lands sell healthy foods at affordable prices and comply with fair trading legislation.

- sale of pornography to Anangu at Mintabie.

SAPOL and the Office of Consumer and Business Affairs (which has investigated trading practices at Mintabie), have confirmed many of these concerns.

At Special General Meetings of APY about Mintabie in 2007 and 2008, APY determined that the following conditions needed to be met before it would agree to a new township lease:

- alcohol to only be consumed at the Mintabie hotel or at approved licensed functions;
- Mintabie residents no longer permitted to bring alcohol into the town;
- Mintabie residents to undergo police criminal history checks as part of licences for town sites similar to the practice for most others living or working on the Lands;
- no commercial second hand motor vehicle sales to be allowed at Mintabie;
- relevant aspects of the Mai Wiru stores policy to apply at Mintabie stores including sorting out problems with 'book up' using key cards, in consultation with APY and affected Mintabie store owners;
- prompter procedures for removing people from Mintabie who are engaging in activities seen as detrimental to the welfare of Anangu.

APY and the MMPA also agreed that the Mintabie Consultative Committee should be established under the Mintabie Township Lease Agreement rather than the Act because this will provide a more flexible and administratively simpler operating structure.

Amendments to the APY Land Rights Act

The Bill replaces existing sections 25-28 of the APY Land Rights Act with new sections. The Minister responsible for the new Mintabie provisions will be the Minister for Mineral Resources Development, as for existing Mintabie provisions.

The Bill establishes procedures for the Minister to delegate powers in relation to the Mintabie precious stones field, ensures that the State and APY are not responsible for maintaining licensed sites in the Mintabie town area, makes provisions concerning the Walatina grazing leases, sets out new procedures for entering and remaining at Mintabie, creates new Ministerial powers in relation to issuing site licences, makes an offence of entering and remaining at Mintabie or operating a business at Mintabie without a licence and establishes procedures for reviewing licensing decisions. The Bill also includes powers for APY to delegate the management of entry permits for Mintabie to approved persons.

These provisions are described in more detail below.

Retail and residential tenancies legislation

The Bill provides that the Retail and Commercial Tenancies Act and the Residential Tenancies Act do not apply to residential, camp site and commercial licences at Mintabie. Licensees currently only pay a ground rent of $400 to $600 a year for residential sites and more for commercial sites. Licensees have in some cases built substantial structures but no-one expects MMPA, APY or the State to be responsible for maintaining these buildings in the way expected of a landlord. Clause 29E of the Bill articulates this by stating that the Crown, APY and MMPA are not responsible for the repair of premises at Mintabie.

Walatina grazing leases

Section 29B deals with grazing leases granted by APY to the Walatina Aboriginal Corporation. Mr Yami Lester and his family operate Walatina. The grazing leases currently include land proposed to be in the Mintabie township lease area. Section 29B provides that the leases will not apply to the land in the township lease area so long as the Mintabie town lease exists. The area affected is about five square kilometres. This short circuits the usual processes of partial surrender of the grazing leases and later re-registration of a new lease over the town lease area. Walatina has a total lease area of some 9,000 square kilometres and does not currently graze cattle near Mintabie. Mr Lester and his family support the provision.

Provisions for entering and remaining at Mintabie

Section 25 of the APY Land Rights Act sets out the current statutory requirements for entering and remaining at Mintabie. Experiences since 1981 have shown that this section needs to be amended to better manage access.

Section 29C of the Bill specifies who can enter and remain on the Mintabie precious stones field and section 29D establishes new licence procedures for occupying land in the Mintabie township lease area. These provisions establish an administrative process whereby the Minister has discretion over the granting of licences to persons wanting to live at Mintabie. The Minister may require applicants for a licence to provide a criminal history check and can include relevant conditions on licences.

Under the Bill's provisions, people wanting to visit or reside at Mintabie will require an APY permit unless they:

- have a site licence to live at Mintabie;
- are a person named on a site licence;
- hold a Mintabie precious stones prospecting permit;

- are a member of a specified class of person, including students (and their parents/guardians) attending the Mintabie school from outside the APY lands (eg Marla), persons who work at the Mintabie school, employees of the Royal Flying Doctor Service, health care workers, ministers of religion and other approved classes of persons.

Unlike the current arrangements, these new provisions will enable PIRSA and SAPOL to readily determine who is legally permitted to be at Mintabie.

To remove an ambiguity, Section 29C(8) of the Bill specifies access and egress to Mintabie must be directly from the Stuart Highway.

Mintabie Consultative Committee

Section 26 of the current APY Land Rights Act establishes the Mintabie Consultative Committee. The purpose of the Committee is to provide advice to the Minister for Mineral Resources Development about issues related to the administration of the Mintabie precious stones field. The Governor appoints committee members and membership comprises two Anangu, a SAPOL representative, a representative of the Minister for Mineral Resources Development and a representative of the MMPA. The statutory committee will be replaced by a similar committee be provided for in the Mintabie Township Lease Agreement.

Exclusion of persons from Mintabie

Section 27 currently contains provisions for prohibiting persons from entering or remaining at Mintabie. The process involves an application to the Magistrates Court for an order prohibiting a person from being in Mintabie. Section 27(2) sets out the grounds on which an order can be made, which includes certain criminal convictions. The Bill retains these provisions and adds drug offences under part 5 of the Controlled Substances Act as grounds for exclusion.

To further strengthen the exclusion powers, the Bill includes at section 29F new offences of residing at Mintabie without a licence and operating a business at Mintabie without a licence. These provisions will enable PIRSA and SAPOL to act more promptly to remove any person at Mintabie who is a threat to good order and good relations with Anangu.

Mintabie site licences

Section 29D of the Bill sets out the process by which the Minister issues licences to occupy land in the Mintabie township area. Fees for licensees are based on a Schedule in the Mintabie Township Lease Agreement.

Section 29G includes procedures for reviewing licence decisions at the request of affected licence holders or applicants.

Opal Mining Act

Schedule 1 part 1 of the Bill sets out changes to the Opal Mining Act. New section 10A of the Opal Mining Act requires persons holding a precious stones prospecting permit to obtain an additional authorisation to operate at Mintabie.

Similar Mintabie-specific provisions are included for opal mining tenements (new sections 18A, 18B and 19A). This is because a person holding an opal mining tenement at Mintabie does not need to have a precious stones prospecting permit.

Similar to other areas of the Opal Mining Act, various administrative decisions related to Mintabie precious stones prospecting permits and opal mining tenements at Mintabie will be subject to review by the Warden's Court.

APY alcohol by-laws

As part of the township lease negotiations, APY has proposed changes to the APY alcohol by-laws. Under the new provisions it will only be permissible to consume alcohol on the Mintabie precious stones field at licensed premises or at specially licensed events unless APY agrees to additional rights to possess alcohol at Mintabie pursuant to relevant provisions of the APY alcohol by-laws . Persons delivering alcohol to Mintabie will also be required to notify the Marla police at least 24 hours beforehand.

Mintabie Township Lease Agreement and lease

The Mintabie Township Lease Agreement mentioned in the Bill will set out many of the details about how management of Mintabie township will occur. The substantive content of both the formal lease and the Mintabie Township Lease Agreement have been negotiated. It is proposed that these documents will be signed after this Bill has been finalised.

Transitional provisions

Schedule 2 makes transitional provisions for town site licences, the relatives of persons holding precious stones prospecting permits and opal mining tenements at Mintabie. Existing precious stones prospecting permits and opal mining tenements will continue until their expiry date but are altered to include conditions set out in the Bill. This will avoid the administrative difficulty for PIRSA that would have occurred if all opal mining authorities had to be renewed at the commencement of this amending Act. New town site licences will be required prior to the commencement of this new legislation.

Conclusion

This Bill represents an important step in providing for the continuation of the opal mining township of Mintabie whilst also addressing a range of longstanding issues that have been of concern to APY.

The Bill demonstrates the government's commitment to negotiating agreements on Aboriginal lands that provide fair outcomes for all parties.

I would like to acknowledge the active involvement of the previous Brown and Olsen governments, which commenced the negotiations for a new Mintabie township lease and agreement. I also want to thank the Anangu Pitjantjatjara Yankunytjatjara, the Walatina Aboriginal Corporation and the Mintabie Miners Progress Association who have all participated in and assisted negotiations.

After the passage of this Bill the new Mintabie township lease and related Agreement can be operating within a few months.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

4—Amendment of section 4—Interpretation

This clause deletes the redundant definition of 'Mintabie resident' and inserts definitions of terms used in the Act as amended by the measure.

5—Substitution of Part 3 Division 4

This clause substitutes a new Division 4 into Part 3 of the Act as follows:

Division 4—Mintabie precious stones field

25—Interpretation

This clause defines terms used in the proposed new Division.

In particular, it provides that the Minister, for the purposes of the Division, is the Minister to whom the administration of the *Opal Mining Act 1995* is committed, rather than the Minister to whom the principal Act is committed.

26—Expiry of Division

This clause provides that the proposed Division will expire should the Mintabie precious stones field cease to be a precious stones field for the purposes of the *Opal Mining Act 1995*.

27—Interaction of this Division with other Acts

In addition to preserving the effect of current section 29 of the Act, this clause provides that the proposed Division does not derogate from the provisions of the *Mining Act 1971* or the *Opal Mining Act 1995*. It also provides that the *Retail and Commercial Leases Act 1995* and the *Residential Tenancies Act 1995* do not apply in relation to premises or land in the Mintabie township lease area.

28—Delegation

This clause provides a power of delegation to the Minister in relation to the powers and functions of the Minister under the proposed Division.

29—Delegation of power to permit entry to Mintabie precious stones field

This clause provides that, despite sections 9F and 19(3) of the Act (which operate to prevent the Executive Board from delegating the power to grant a permit under the Act), the Executive Board may delegate the power to grant permission under the Act in relation to entry of persons to the Mintabie precious stones field.

29A—Inspection of Mintabie Township Lease Agreement

This clause ensures that a copy of the Mintabie Township Lease Agreement is available for inspection, without charge, at the specified times and places.

29B—Walatina leases not to apply to Mintabie township

This clause provides that the Walatina leases, being leases granted over the lands to the Walatina Aboriginal Corporation, do not apply to the Mintabie township lease area, although,

should the proposed Division expire under proposed section 26, the relevant area will once again be subject to those leases.

29C—Entry to Mintabie precious stones field etc.

This clause provides that a person must not enter or remain on the Mintabie precious stones field unless he or she is a person to whom proposed section 29C(2) applies, or he or she is otherwise entitled under the Act to be on the field (such as Anangu). The people referred in that proposed subsection are, in general terms, people who have rights in relation to, or responsibilities on, the Mintabie precious stones field, rather than those who are simply visitors to the lands. The clause sets out procedural matters related to the approval of the persons referred to in section 29C(2)(b), (h) or (i).

29D—Minister may issue etc licence to occupy land in Mintabie township lease area

This clause enables the Minister to issue (as well as vary, revoke and renew) licenses to entitle a person, and certain persons specified by that person, to occupy specified land within the Mintabie township lease area, should the area be leased by Anangu Pitjantjatjara Yankunytjatjara to the Crown in accordance with the Act. The clause sets out procedural matters in relation to the issue of a licence, including the persons to whom, and the circumstances in which, such a licence can or cannot be issued.

29E—Crown etc not required to keep premises in good repair

This clause clarifies that the Crown, Anangu Pitjantjatjara Yankunytjatjara or the Mintabie Miners Progress Association are not required to keep premises in the Mintabie township lease area in good repair.

29F—Offence to reside etc on Mintabie township lease area without licence

This clause provides that it is an offence for a person to reside in the Mintabie township lease area except in accordance with a licence under proposed section 29D. The offence carries a maximum penalty of a fine of $2 000, plus an additional maximum of $500 for each day during which the convicted person resided in the Mintabie township lease area in contravention of this subsection. A similar offence is provided in relation to the conduct of a business in the area other than in accordance with a licence.

29G—Review of certain decisions of Minister

This clause provides a right of review for a person aggrieved by a decision of the Minister under proposed section 29C or 29D, and sets out procedural matters in relation to such a review.

29H—Exclusion of certain persons from the Mintabie precious stones field

This clause is essentially a relocation of current section 27 of the Act, providing a court with the power to exclude a person from the Mintabie precious stones field, although it has been slightly modified to enable offences against Part 5 of the *Controlled Substances Act 1984* (being serious drug offences such as trafficking) to ground such an order.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of the *Opal Mining Act 1995*

1—Insertion of section 10A

This clause inserts new section 10A into the principal Act, providing that a precious stones prospecting permit does not authorise a person to prospect for precious stones on the Mintabie precious stones field unless the permit has been endorsed by a mining registrar as authorising such prospecting, and setting out procedural and administrative matters in relation to such endorsements.

2—Insertion of sections 18A and 18B

This clause inserts new sections 18A and 18B into the principal Act as follows:

18A—Special conditions for tenements in relation to Mintabie precious stones field

This proposed section provides for the imposition of conditions on precious stones tenements located on the Mintabie precious stones field, in particular a condition that the holder of the tenement must not reside on the Mintabie precious stones field other than in the Mintabie township lease area in accordance with a licence issued under this measure, or as otherwise allowed under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

18B—Director may cancel tenement on the Mintabie precious stones field

This proposed section makes special provision for the cancellation of the registration of a tenement on the Mintabie precious stones field.

Proposed subsection (1) requires the Director to cancel the registration of a person's tenement or tenements on the Mintabie precious stones field in the circumstances set out in the subsection.

Proposed subsection (2) provides that the Director may cancel the registration of a person's tenement or tenements on the Mintabie precious stones field in the circumstances set out in the subsection.

The proposed section also provides a right of review in relation to a cancellation arising because the holder of a tenement acted detrimentally to the welfare of Anangu or to the welfare of others on the precious stones field.

3—Insertion of section 19A

This clause inserts new section 19A into the principal Act, providing that the Director may require an applicant for registration of a precious stones tenement on the Mintabie precious stones field to provide with the application any other information reasonably required by the Director (including, in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant).

Proposed section 19A(2) provides that the Mining Registrar must refuse to register, or refuse to renew the registration of, a precious stones tenement on the Mintabie precious stones field in the circumstances set out in the subsection.

Proposed section 19A(3) provides that the Mining Registrar may refuse to register, or refuse to renew the registration of, a precious stones tenement on the Mintabie precious stones field in the circumstances set out in the subsection.

The proposed section also provides a right of review in relation to a refusal to register arising because the holder of a tenement acted detrimentally to the welfare of Anangu or to the welfare of others on the precious stones field.

Part 2—Variation of *Pitjantjatjara Land Rights (Control of Alcoholic Liquor) By-Laws 1987*

4—Variation of by-laws

5—Variation of by-law 1

6—Substitution of by-laws 6 and 7

7—Variation of by-laws 8 and 9

8—Variation of by-law 11

These clauses vary the by-laws made under the principal Act to make those by-laws consistent with the changes made by this measure, and to change obsolete references.

Part 3—Variation of *Pitjantjatjara Land Rights (Control of Gambling) By-Laws 1987*

9—Variation of by-laws

10—Variation of by-law 1

These clauses vary the by-laws made under the principal Act to change obsolete references.

Part 4—Variation of *Pitjantjatjara Land Rights (Control of Petrol) By-Laws 1987*

11—Variation of by-laws

12—Variation of by-law 1

These clauses vary the by-laws made under the principal Act to change obsolete references.

Part 5—Transitional provisions

13—Transitional provision—*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

This transitional clause provides that the spouses etc of holders of current precious stones prospecting permits who (until the repeal of section 25 of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*) are entitled to enter and remain on the precious stones field because of their relationship to the person with such a permit, will remain so entitled until the expiry of the current precious stones prospecting permit.

The clause also enables (despite section 29D(6)) the Minister to issue a licence under proposed section 29D(1) to a person who, in the 6 months preceding the commencement of that section, was entitled to occupy land within the Mintabie township lease area.

14—Transitional provision—*Opal Mining Act 1995*

This clause provides that a precious stones prospecting permit in force immediately before the commencement of clause 1 of this Schedule will be taken to be endorsed by a mining registrar as authorising a person to prospect for precious stones on the Mintabie precious stones field. This preserves the current rights of prospecting enjoyed by the holder of a precious stones prospecting permit until the expiry of that permit in accordance with the principal Act, with any future or renewed permits requiring an application for endorsement as contemplated by proposed section 10A of the *Opal Mining Act 1995*.

Debate adjourned on motion of Dr McFetridge.

**SERIOUS AND ORGANISED CRIME (UNEXPLAINED WEALTH) BILL**

In committee (resumed on motion).

(Continued from page 4041.)

Clause 6 passed.

Clause 7.

**Mr HANNA:** My amendment is consequential, so I will not proceed with it. However, I have a question for the Attorney-General on this clause. My question is really to ask the Attorney to place on the record the process and the term of appointment of the Crown Solicitor.

**The Hon. M.J. ATKINSON:** I always assume that once the Crown Solicitor is appointed he continues in office indefinitely, but I will take that question on notice.

**Ms CHAPMAN:** This clause is to make absolutely clear that there is not to be any interference in the discretionary role the Crown Solicitor will undertake and that he or she is to be absolutely independent. Is there any other similar appointment, jurisdiction or role the Crown Solicitor has in which he is specifically legislatively protected against any interference by you or anyone else?

**The Hon. M.J. ATKINSON:** Not that I am aware of.

**Ms CHAPMAN:** On the basis of the preparation of this bill, on whose advice did the Attorney-General rely for the inclusion of this clause? Did he receive any advice from the Crown Solicitor?

**The Hon. M.J. ATKINSON:** I will not be commenting or answering such a question; it is just a vexatious question.

**Ms CHAPMAN:** Did the Attorney-General receive any advice at all on the inclusion of this novel clause into this legislation, which is purportedly there to quarantine the Crown Solicitor from interference?

**The Hon. M.J. ATKINSON:** I received advice from parliamentary counsel and from my Legislation and Legal Policy Section. Nevertheless, the clause speaks for itself. If the member for Bragg objects to it I suggest she votes against it.

**Ms CHAPMAN:** I raise one other matter in relation to this, and that is that as I understand it the appointment of the Crown Solicitor is an appointment by the Attorney-General and, of course, if the Crown Solicitor made some decision, either acting alone or through cabinet I assume the Attorney-General can dismiss him or her. Is that the position?

**The Hon. M.J. ATKINSON:** The Crown Solicitor's terms of employment will be in his contract.

**Ms CHAPMAN:** At this stage, we do not have the terms of the contract, nor do we have the act, which I have called for, for the appointment powers. I ask the Attorney: do you alone or with cabinet have the power to dismiss the Crown Solicitor, for whose appointment you are responsible?

**The Hon. M.J. ATKINSON:** I suppose if the Crown Solicitor lost the confidence of the Attorney-General and the cabinet he would be asked to resign, and his remedies would be under his contract and under normal employment law.

**Ms CHAPMAN:** Do I assume then that this clause would protect the Crown Solicitor from dismissal by you as Attorney or the cabinet if you were unhappy with a decision that was made to proceed with an application for an unexplained wealth order, in other words, exercising the discretion under this act?

**The Hon. M.J. ATKINSON:** Usually a solicitor acts on the instructions of his client. I am, and the government is, the Crown Solicitor's client. What we are trying to do by this clause is to say that, for this matter, the Crown Solicitor exercises an independent discretion.

**Ms CHAPMAN:** Let me ask you: do you say then that you would be barred by this section from acting as the employer, including the power to remove him or her if you were unhappy with a decision made by the Crown Solicitor being exercised under this act?

**The Hon. M.J. ATKINSON:** I am afraid the member for Bragg is off on another frolic of her own.

**Ms CHAPMAN:** I have another question, Madam Chair.

**The CHAIR:** Member for Bragg, this is indeed seeking indulgence.

**Ms CHAPMAN:** I will ask it on all the other clauses, if you like.

**The CHAIR:** Member for Bragg, I would ask you to be concise.

**Ms CHAPMAN:** Is it proposed that the Crown Solicitor will receive any other payment or remuneration for this new independent role they will undertake in this new jurisdiction and, if so, how much?

**The Hon. M.J. ATKINSON:** No; second part, inapplicable.

Clause passed.

Clause 8 passed.

Clause 9.

**Mr HANNA:** I move:

Page 6, lines 33 to 35 [clause 9(1)]—Delete subclause (1) and substitute:

(1) The Crown Solicitor may make an application to the District Court for an order under this section in relation to a person if—

(a) the person has previously forfeited proceeds of an offence; or

(b) a confiscation order has previously been made against the person in respect of proceeds of an offence;

under the Criminal Assets Confiscation Act 2005 or a corresponding law (within the meaning of that act).

One critical problem with this bill is that the process of taking assets off a citizen can be triggered on the basis of a reasonable suspicion. Even if a citizen is able to establish that his or her assets have been lawfully obtained, it would be a massive imposition upon someone to be dragged through the courts in this way. As I have already pointed out, not many people would be able to justify the acquisition of a lifetime of assets down to the last dollar if required to do so. Most people would not keep their receipts and pay packets for more than five years, if that.

The net being cast by the government is extremely broad. One of the amendments the opposition and I have sought to effect here is reallocation of the gatekeeper role to the DPP. It is perceived that, in theory, the DPP would have somewhat more independence than the Crown Solicitor. The problem remains that the net is so widely cast. It is quite foreseeable that application may be made for a person to explain their assets, etc., under the legislation based on hearsay; that is to say that there may be some aggrieved person, such as a former business partner, a former lover or a former friend, who decides to make life difficult for their erstwhile companion and provides information to the police which can then be cast in the role of criminal intelligence.

The aspersions cast by such means would then trigger off the proceedings under this legislation, because they could amount to a reasonable suspicion and the Crown Solicitor could approve the proceedings. The problem I see with that is that, at the end of the day, there will be mums and dads, young people and old people affected by this who really have no criminal inclination or connection whatsoever, and it is for them that I speak up.

The halfway house, the compromise that I am suggesting, is that the legislation stand but be restricted in its application to people who have previously forfeited proceeds of an offence, or where a confiscation order has been made against a person in respect of proceeds of an offence under the current criminal assets confiscation legislation. This would mean that a crime would have had to be proved and that there is a connection already established between that person's assets and that crime.

It seems to me that if you look at that subset of people there may well be those who have, over a period of time, profited from crime but where it is difficult to establish the connection between all of the dubious assets and all of the criminal activity engaged in by that person. We know that, when there is a long history of criminal conduct, very often the DPP will look at only one most easily proved aspect of that conduct, or perhaps a period is the subject of the prosecution

because the evidence supporting the charge is better for that particular period. The DPP therefore does not necessarily proceed on the basis of all of the criminal activity over all of the period that offending occurred when it goes after someone.

I am suggesting that, once it is established that there has been a crime and that a person has benefited from that crime, they become fair game, in a sense. Even then, I am not happy with all of the provisions of this legislation, but at least it would represent an honest targeting of a criminal element in our society if this amendment is upheld.

**The Hon. M.J. ATKINSON:** The amendments proposed by the member have the general effect of linking applications for unexplained wealth orders to people who have already been the subject of confiscation orders and other forfeitures under the Criminal Assets Confiscation Act 2005. This in turn will necessarily mean that an unexplained wealth order is linked to specific crime-related activity by a person.

These amendments are not acceptable to the government. The whole point of the unexplained wealth system is that there is no necessary link to other confiscation proceedings or, indeed, any crime-related activity. The whole point is that the object of the proceedings has wealth and has to explain how he or she came by it. That is the essence of the scheme where it exists in Australia: in Western Australia (and I refer to the Criminal Property Confiscation Act 2000), in the Northern Territory (Criminal Property Forfeiture Act) and where it is proposed in Australia to date, namely, the Commonwealth Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009.

The government will not agree to having its adoption of the system so heavily watered down in this way. I think the member for Mitchell would simply be better off voting against the third reading, which I presume he intends to do, from the tenor of his comments in the house and outside the house. I would point out that the unexplained wealth bill is prefaced by the words 'serious and organised crime', so that is the context in which the judiciary will interpret it.

**Ms CHAPMAN:** The opposition has considered the member for Mitchell's amendment, and our position on this is that we will not support it. That is not to say that it is not without merit. There is no question that it does not completely obviate the need to have this bill. Obviously, it would capture a much more limited group of people. At the moment, under our confiscation legislation it has to be related to a crime, and this measure would be looking to secure funds from those who had some prior history. However, certainly, as the Attorney said, it would significantly reduce those that it would catch. I am not at all persuaded by the Attorney's statement that, just because there is a preamble to this bill that says 'serious and organised crime', that will—

**The Hon. M.J. Atkinson:** It's not a preamble; a preamble is different. It's the title.

**Ms CHAPMAN:** —to the title of the bill—make it any more secure. What gives us some comfort is that there is a gatekeeper who is supposed to reach a threshold on information before him or her that there is a reasonable suspicion that the person has wealth that has not been lawfully acquired. So, there is a process that we have to go through.

The opposition has presented an amendment to support the notion that this would be more independently done through the DPP. That is as it applies in other jurisdictions, and we think for good reason. It is of concern to us that it is the Crown Solicitor, as such, who is appointed. I have only briefly considered this matter, but the Crown Solicitor is someone who is appointed by the government (as is the DPP, of course). However, in this case it is someone who gives advice to the government under the Crown Proceedings Act 1992, is a corporate sole as such, and—

*Mr Hanna interjecting:*

**Ms CHAPMAN:** That is right, I should say it is a corporation sole, which may act through the instrumentality of the person for the time being holding the office or any other person to whom the officeholder delegates his or her functions. We know that is the case, because the Attorney-General might send to the Crown Solicitor a brief to say, 'I need some advice on this,' and the Crown Solicitor receives it and thinks, 'Right, I will delegate that to Joe Smith to prepare an opinion on that,' and that is quite lawfully done. It would be impossible, obviously, for one person to do all of the work that is required in that office.

There is no restriction in this bill, that I am aware of, that even requires that it has to be the person holding the position of Crown Solicitor and he or she must be the person who has actually undertaken the work and considered the criminal intelligence (the presentation from the police commissioner, or anyone else), that it is he or she who must make that determination and it should

be restricted to that. These are all the reasons the opposition is concerned about what is essentially a good initiative but almost utterly destroyed by the sloppiness of what has been presented to us.

However, we have made the attempt to redress some of our concerns in that regard, but it seems the Attorney-General is fixed on his desire to proceed with his bill unamended. Certainly, we have concerns. It would nullify the whole benefit of this bill except for one small sample of the community that it might still deal with, and we would be hopeful that, in allowing this bill to proceed without this amendment, in another place, wiser heads would be able to remedy the defects of what will come out of this chamber.

Of course, that is the chamber that the Premier has, until recently, wanted to get rid of altogether and was going to give the people of South Australia the choice of getting rid of. He now wants to completely undermine its role as a house of review. Nevertheless, I am still hopeful that there will be an opportunity for the council to remedy some of the defects of this bill. With those comments, I indicate we do not support the member for Mitchell's amendment.

**The Hon. G.M. GUNN:** I can understand why the member for Mitchell raises this issue, because it is very important when we are discussing measures that are draconian in nature that this parliament is fully aware of the consequences. I hark back to what happened with these disgraceful on-the-spot fines that we have.

When they were originally introduced into this parliament, this parliament did not have any idea, nor was it briefed, that these fines were going to be handed out like confetti, in some cases, and that people's rights were going to be abrogated and people would not have the ability to defend themselves properly against the most trifling and unnecessary on-the-spot fines. So I am always suspicious of the government.

I do not say this without experience in these areas or having dealt with them on a regular basis. I always take the view that common sense is the greatest asset you have, and if you treat people reasonably you will not have a problem, but when you act unreasonably that will generate another unreasonable course of action. That is why I make these comments without fear or favour today.

I had it brought to my attention yesterday morning when I was in my office at Kapunda. That is why, when I see certain vehicles around the place, I take the numbers and put questions on notice, and I have a few more to lodge in the next couple of days, because I believe unreasonable action has been taken. The parliament never intended those things to be revenue raisers, which they are. Read the local Barossa Valley newspapers from the last few days and see what the comments are, and then link it back to this.

I do not have much trouble with the amendment moved by the honourable member because, once this measure becomes law, members of this house will not have any say about it. All members in this place will have is someone who has become an unintended victim, because the average person would have no idea that these provisions are being put through the parliament. They would expect the parliament to apply common sense, not appease the egos of certain people who want to put things on the statute book to show how tough they are but, in actual fact, are taking away people's rights.

My comment to this committee is this: reading through these provisions very carefully, I think certain people who do not keep good records are going to have some trouble—and they may be quite innocent. In moving his amendment, I think the member for Mitchell has given us the opportunity to have the bill further considered in another place because, at the end of the day, we have a system where it is impossible for people to get adequate legal representation. If we are going to continue to pass laws like this, we will need to have a very large legal aid department or a public advocate available to citizens. I will not be here, but I guarantee that, in future, either the state or the commonwealth will have to provide legal assistance to people because members of parliament have passed laws of this nature.

I will just give an example, which I think is appalling. One of my constituents had to put up $2,500 before he could get legal representation to defend himself in the Magistrates Court. Before he got there, he had some legal aid assistance. I think it was put off and strung out three times, because it was pretty obvious that the police did not want to front up to the court, which put this aged gentleman—who had never committed an offence in his life—through great trauma.

I went and sat in the court, and it was most interesting. I sat in the court because I was concerned that an injustice had been perpetrated, and we encouraged him. I was proved to be right—

**The Hon. M.J. Atkinson:** As always.

**The Hon. G.M. GUNN:** I knew I was right. Common sense did not apply because the bureaucratic system was not prepared to admit that it was wrong, which is a disgrace. I told them what was going to happen, but they proceeded. It got to court, of course, and the magistrate threw the case out and awarded the $2,500 costs against the police. Fortunately, that person had the money, and we were prepared to back him, because we knew he was right. We knew that the system was against him. It was an absolute disgrace that that poor person and his family went through such trauma to reach that stage. They were at a complete disadvantage, as people will be under this, because the state, the government—its agencies and instrumentalities—has unlimited resources. That is my concern.

If people peddle drugs, of course the state should take their money, but there will be people who are involved in other things who will have difficulty defending themselves. If people are guilty, I do not have a problem, but I have a problem where people do not have the ability to defend themselves.

From my experience in this place—and I have seen all sorts of situations—I have come to the clear conclusion that you have to be very careful when you start taking away people's rights, because they do not have the ability to defend themselves. The Attorney must see it in his own office. I see it on a daily basis. I think the same thing will happen in this country as has happened in the United Kingdom with some silly on-the-spot fines. It got to the stage where it became so embarrassing that, one night, the government of the United Kingdom pulled the pin on some of those big councils and drastically reduced their ability to impose some of these silly things.

That will happen here because you have taken away people's ability to defend themselves. If you think people are not talking about it then you had better get out there. The Attorney reckons he knows a bit about political issues, you know, 'touch the wind'; well, I reckon I might know a little bit about what people are thinking in the political world. I think I have been a bit of a street fighter in my time, and I know what people think and I know what the political issues are. Continuing to take away people's rights without giving them the ability to defend themselves is not democratic and will cause people to react strongly. I think that what the member has done in challenging the Attorney is correct, it is right. We should not rubber-stamp these provisions.

**The Hon. M.J. ATKINSON:** The approach of the parliamentary Liberal Party to this bill is rather like its approach to the serious and organised crime bill. In the public square, when this was debated, the leader—in the case of the serious and organised crime bill the member for Waite; in the case of this bill the member for Heysen—said that they supported the bill. Indeed—

**Ms CHAPMAN:** I rise on a point of order. What is before us is an amendment presented by the member for Mitchell. He has moved it and spoken to it, as has the Attorney, as have I and as has the member for Stuart. I do not know what gives the Attorney licence to speak on this matter several times. We can speak once. If he has a question for the member for Mitchell I would be pleased to hear it; otherwise, we could have an argument back and forth all night on the member for Mitchell's motion.

**The CHAIR:** Order! The member for Bragg knows that the chair has been quite indulgent in relation to enabling discussion of this important bill. The Attorney.

**The Hon. M.J. ATKINSON:** The leaders of the parliamentary Liberal Party, the opposition, give the impression to the public that they support the serious and organised crime bill and that they support the unexplained wealth bill. The current Leader of the Opposition goes further, and says that we should have done it five years ago. However, when the matter comes on for debate in the parliament, the leaders are not present—neither of them. Just as the former leader was not present for most of the serious and organised crime bill debate, so the current leader has not been present for the unexplained wealth bill.

**Mr Hanna:** Not that you would refer to that.

**The Hon. M.J. ATKINSON:** No, not that I would refer to that, until the taboo was broken by the member for Mitchell—today, actually.

**Mr Hanna:** Petty.

**The Hon. M.J. ATKINSON:** But true. They send their lieutenants into the house—

**Ms CHAPMAN:** I have a point of order, Madam Chair. How can this possibly be advancing the committee stage of this bill? This is just an abusive tirade from the Attorney-General about the integrity of the members who are contributing to debate.

**The CHAIR:** Member for Bragg, debate is not permitted in points of order. The Attorney may continue, and address the amendment.

**The Hon. M.J. ATKINSON:** I am addressing the amendment because, as the member for Bragg and the mover of the amendment, the member for Mitchell, acknowledge, carrying this amendment would render nugatory most of the reach of the bill. It would have much smaller scope than if the current form of the bill prevailed. Really, we are talking about the reach or scope of the bill; we are going to the very essence of the bill.

The Leader of the Opposition in both the serious and organised crime bill (then the member for Waite) and in this bill (now the member for Heysen), having publicly pledged to support the bill, because they think that is popular, send their lieutenants into the house to do everything they can to amend the bill to negate the substance of its provisions—and, in the case of the member for Stuart, essentially speak against the bill, albeit in the committee stage. It may seem a clever strategy but it is not an honest strategy. The parliamentary Liberal Party is trying to play both sides of the street.

**Ms CHAPMAN:** Point of order! Now the Attorney is imputing motive of a member of this house, the Leader of the Opposition, and the member for Mitchell and myself, I think, are thrown in to boot.

*The Hon. M.J. Atkinson interjecting:*

**Ms CHAPMAN:** Furthermore, I take the point of order that the only thing, apart from the tirade of abuse that the Attorney has contributed to date, is a repetition of his previous statement, that is, that it restricts the extent of the bill. So, there is no new argument or no new value to the contribution other than a tirade.

**The Hon. G.M. GUNN:** The Attorney-General, in his usual charitable way, wants to reflect my opinion. I am not against appropriate measures, but what I am doing, and what this parliament and what his backbenchers should do, is question the government of the day, challenge the government, and make it explain what it intends to do. It is no good sitting back like rubber stamps and doing nothing. We are not elected to this place to be acquiescent or to say yes to the dear leader. We are here to challenge, debate and question. That is what we are here for. I know it gets a bit tedious and boring, and we lose a bit of sleep, but that does not matter. I do not mind that the Attorney has said charitable things about me on many occasions, and it has not done him much good.

**Mr Goldsworthy:** He hasn't said too many about me.

**The Hon. M.J. Atkinson:** I do it on merit.

**The Hon. G.M. GUNN:** One thing is that there has not been much merit in some of the things he has said about me, because it has been of considerable benefit to me.

**The Hon. M.J. Atkinson:** I almost got you three times. I feel like Wiley E. Coyote.

**The Hon. G.M. GUNN:** Just being a practical farmer, I don't understand what he is talking about. That reminds me of the time when Don Dunstan called me a troglodyte; I didn't know what he was talking about. Nevertheless, I am still here.

But I say again to the honourable member: no matter what he thinks about me, the member for Mitchell and others, we are entitled to question and challenge him on these provisions. I look forward to that process taking place further up the road. I think this amendment should be counted. I look forward to supporting the member for Mitchell at a later stage of this matter, but I just point out to the Attorney again that surely he does not expect us to rubber-stamp every provision he puts up in this house.

The committee divided on the amendment:

AYES (3)

| | | |
|---|---|---|
| Gunn, G.M. | Hanna, K. (teller) | Penfold, E.M. |

NOES (37)

| | | |
|---|---|---|
| Atkinson, M.J. (teller) | Bedford, F.E. | Bignell, L.W. |
| Breuer, L.R. | Caica, P. | Chapman, V.A. |
| Ciccarello, V. | Conlon, P.F. | Evans, I.F. |
| Fox, C.C. | Geraghty, R.K. | Goldsworthy, M.R. |
| Griffiths, S.P. | Hamilton-Smith, M.L.J. | Hill, J.D. |
| Kenyon, T.R. | Key, S.W. | Koutsantonis, A. |
| Lomax-Smith, J.D. | Maywald, K.A. | McEwen, R.J. |
| McFetridge, D. | O'Brien, M.F. | Pederick, A.S. |
| Pengilly, M. | Piccolo, T. | Pisoni, D.G. |
| Portolesi, G. | Rankine, J.M. | Rann, M.D. |
| Redmond, I.M. | Snelling, J.J. | Stevens, L. |
| Weatherill, J.W. | White, P.L. | Williams, M.R. |
| Wright, M.J. | | |

Majority of 34 for the noes.

Amendment thus negatived.

**Ms CHAPMAN:** This is probably the most significant machinery clause of the bill which actually sets out the procedure to apply to unexplained wealth orders. During the briefing on this bill I asked a number of questions which I am disappointed to note I have not had a response to. I will list them off, if you like.

*The Hon. M.J. Atkinson interjecting:*

**Ms CHAPMAN:** Notwithstanding the interjections of the Attorney, almost at the same time as the briefing by the Attorney-General's Department on one child protection matter, I similarly had a briefing from minister Rankine's department on child protection legislation, both of which are pending before the parliament, so I will not go into detail on them, but suffice to say that I had a prompt, immediate and comprehensive response from minister Rankine's office to the queries we had. I mentioned this in the parliament the other day, and conveyed my appreciation to her staff, because that was most helpful in our being able to progress areas on which we agree.

I have sought answers, and I am disappointed to note that I have not received any. The first was the value of the confiscated assets which have been forfeited to the Crown to date by order under our current act. It is a pretty simple question; it has been in operation only since early in 2005. Have there been 10 or 20 cases? What is the value of assets that have been confiscated under that act? I am yet to be provided with that information.

I also sought a list of the assets and a breakdown of both the confiscated assets and what had been declared by way of debt as an unexplained wealth order under the Western Australian legislation. The response on that was that they were not sure they would be able to give that breakdown but that some effort would be made to provide some of that information; it may not have been able to be broken down. Associated with that was any applications that had been made in each jurisdiction either under our act or Western Australian legislation where the judgments had determined that the application was unsuccessful, but not a word from the Attorney-General's office on that.

**The Hon. M.J. ATKINSON:** What was that?

**Ms CHAPMAN:** The judgments that had been made where applications for confiscation or an unexplained wealth order had been unsuccessful.

The fourth thing was confirmation and a copy of the submission, if it was available, as to the position of the Chief Justice of the Supreme Court on this bill. As the Attorney well knows, we inquire, as I am sure other members of parliament do, of the government as to what consultation it has undertaken and, where appropriate, we rely on the information that is provided in those briefings as to what inquiry has been made. We accept on the face of it assurances that are given where there has been an indication of support or otherwise. It does not always translate that way; sometimes we find out that consultation was really just a presentation and an opportunity to

question, but we would say there has not actually been a consultation in the true sense, and we make further inquiry. However, on the face of it, we are prepared to accept that.

It was our understanding, which was conveyed to representatives of the Attorney-General's office on that day, that the Chief Justice had declined to comment on this matter because of his concern of what would be introduced—not as a comment on the law itself but that, as a consequence of this law, there would be an extra burden on the courts to make that assessment.

**The Hon. M.J. Atkinson:** You just made that up.

**Ms CHAPMAN:** No. Can I just say that, on the day during the briefing, that was conveyed as a concern that was raised with us and about which we made inquiry. We were then told that the Chief Justice in the response—and I have noted it here—had declined to comment. I do not know whether that has come in a letter or whether he rang up the Attorney and said, 'Well, look, I'm not going to say anything on this unless you give me some more money.' Whatever. I do not know what his answer was. We made that inquiry and we would expect that we would have some response. If the Attorney does not want to give us any response during the course of the briefings—

**The Hon. M.J. Atkinson:** You wouldn't vote for it, anyway. You are just rusted on the—

**The CHAIR:** Order!

**Ms CHAPMAN:** Excuse me. The Attorney interjects that we are opposing. I have indicated the opposition's position on this. The concern that we raise, though, is that, not only have we not had these questions answered but we do expect that if you are not going to give us any information that you just tell us. 'Ask what you like, Chapman,' you could say. 'I don't care what you ask. We'll tell you what we want to tell you and we're not going to give you anything else.' Do not waste my time in a briefing—

*The Hon. M.J. Atkinson interjecting:*

**The CHAIR:** Order!

**Ms CHAPMAN:** The Attorney keeps interjecting about these things. We have more bills to deal with today, which we are happy to do, and the Attorney will be very pleased to know that we will be supporting a number of them. What is annoying, frustrating and frankly contemptuous of the members of the parliament here is that we go along to have these briefings and ask for reasonable information. It is reasonable for us to know how successful or otherwise the confiscation bill has been. It is reasonable, surely, that if it has some defects and some have been highlighted by any judgments in between that we know about it and that we might assist the government to say, 'Well, look, while we're here, shouldn't we be fixing up X, Y or Z?' That is pretty logical, just as we are assisting by giving an indication of support of this bill. We are trying to fix up the defects of it, but we have already indicated support.

In the absence of not receiving any of that information, I ask whether the Attorney has received any communication from Chief Justice Doyle in respect of his view of this legislation and, in particular, in relation to any added burden to the workload of his courts in the event of its implementation. If he has it in writing, will he table it, and if he has received it but it is oral can he tell us what it is?

**The Hon. M.J. ATKINSON:** Taking the last question first, yes, we have heard from the Chief Justice. He had some anxiety that it may add to the civil trial list. Well, that is just wrong because there will be only, at most, two or three of these applications in a year. To go back to the start of her diatribe, the member for Bragg talked about some questions that she asked on the child protection bill. What she withheld from the house is that she asked those questions only today. She asked for a list of people we had consulted, a copy of their submissions and a copy of the letters they had sent.

We do not breach the confidentiality of people who communicate with us by handing them over to the member for Bragg who, on previous form, will verbal them. Furthermore, we are not the parliamentary library. What the member for Bragg will not do is her own research. She has the research capacity of a naughty schoolchild. She asks the government to do all her research for her, and that is not something the government provides. I would have been ashamed during my period as shadow attorney-general (and it was a long period, something like seven years) to have asked Trevor Griffin's staff (then the attorney-general) to do my research for me; and his staff and Mr Griffin will confirm that I never did so, nor did I ever approach Mr Griffin or his staff asking for an

extension of time. Apparently, a fortnight's notice of a bill is not sufficient for the member for Bragg to respond in the parliament. In fact, the member for Bragg criticised us time and again for not introducing the domestic violence bill. Now that we have introduced it, she is seeking an extension of time and trying to put it off.

The claims that the member for Bragg has made in her previous diatribe rank with her claims about the Ceduna school detention room, the Mount Gambier kidney, the Kate Lennon payout and the Kate Lennon defamation case, all of them a complete invention, proved to be falsehoods, and not once has she had the decency to go back to the places where she made the claims, particularly to parliament, and to admit that she told untruths.

**Ms CHAPMAN:** I start by placing on the record the disgusting allegation just made by the Attorney-General that I or anyone else on this side of the house—or, indeed, anyone sitting behind him—would verbal a party who is being consulted in respect of a bill. That is utterly disgraceful. I ask, Madam Chair, that you require the Attorney-General to apologise for that statement and that he withdraw it.

**The CHAIR:** Attorney, while I do not think that that remark was unparliamentary, it has offended the member for Bragg, so I invite you to withdraw it.

**The Hon. M.J. ATKINSON:** No, ma'am.

**Ms CHAPMAN:** Well, I note the standards that we have reached. You are clearly down in the gutter—

*The Hon. M.J. Atkinson interjecting:*

**Ms CHAPMAN:** Whilst the Attorney continues to raise an issue that is in the parliament, he might like to read what was said the day after that issue was raised in the parliament, during which it was exposed—

*The Hon. M.J. Atkinson interjecting:*

**The CHAIR:** Order, Attorney!

**Ms CHAPMAN:** —that the Minister for Health, in respect of that issue, had made a claim about the disclosure of information on the kidney that was wrong, and the information that had come, and all of that was recounted the day after in this parliament. So, I would like the Attorney to read the *Hansard* before he starts coming in and making false allegations about a particular matter.

As we are clearly not going to get any information from the government (what the Attorney sees as a failure on the part of the opposition to do its own research), I just place on the record that we seek the information that would be available to the government but which has not yet been published, which includes the completed matters in relation to the confiscation of assets act (which currently applies). That is an act that we debated in 2004 and it came into effect in, I think, early 2005. If there had been any cases at all, the Attorney can know about that. Apart from judgments, we do not have any record of cases that may be pending until we receive the annual reports. The annual reports, of course—

*The Hon. M.J. Atkinson interjecting:*

**Ms CHAPMAN:** I said 'apart from the judgments'.

**The CHAIR:** Attorney!

**Ms CHAPMAN:** I do not know whether the Attorney understands that law reports are the judgments: we are talking about the same thing. Perhaps he needs to go back and do some legal training or something to understand that. However, in the meantime, this is information that is available to the government and, if it wanted members of the parliament to be informed so that they may support or constructively add to legislation that we deal with, one would think that the Attorney would be rushing to provide it. However, quite clearly, he does not, and he has the gall to come in here and say that he is not going to provide it.

We now know where we stand on this, that, clearly, anything that we ask for in the course of the briefings will not be provided. So, when Matthew Goode, or anyone else who comes along during the course of these briefings who is a well experienced adviser and offers to take that back and, subject to approval by the Attorney, provide that information, we leave that meeting on the understanding that it will be available. However, we now know the truth. The truth is that the Attorney, as a member of the government, on behalf of the people of South Australia, is not going

to do anything to keep the members here (including me) in the parliament abreast of the information that would be necessary for us to make a reasoned assessment. We can go blind on the basis of the information that is there—

**The CHAIR:** Order, the member for Bragg! I have been very indulgent in allowing you to speak for approximately five minutes on matters not at all related to the clause in question. Can you return to the clause in question.

**Ms CHAPMAN:** The question is that, when the Attorney says that there would only be two or three cases a year that might go into the list in response to what the Chief Justice has apparently said, did he make any assessment of those two or three cases on the basis of other jurisdictions or has he plucked it out of the air? In making that assessment, did he make any assessment as to how long, on average, these cases would be?

**The Hon. M.J. ATKINSON:** The only reliable public source of information about the Western Australian system is the annual report of the DPP. These are available online ('online' refers to the internet, for the benefit of the member for Bragg). The latest report was for the year 2007-08. The report does not specify how much was obtained specifically from unexplained wealth declarations. It is clear that they are few in number.

**Ms Chapman:** How do you know?

**The Hon. M.J. ATKINSON:** Because the Office of the DPP report says so.

**Ms Chapman:** No, it doesn't.

**The Hon. M.J. ATKINSON:** Well, as a matter of fact, it does. If the member for Bragg had even opened the report and had a look at it she would know that. I am relying on the report of the Office of the DPP for Western Australia, which has had this legislation now for nine years. That is why the Leader of the Opposition said we should have done it five years ago; that is to say, we should have done it more promptly after four or five years of experience in Western Australia. This argy-bargy about doing the research for the shadow attorney-general was never a problem with the member for Heysen: it has only been a problem with the member for Bragg.

Between 2001-02 and 2007-08 there were only seven finalised proceedings, two in 2007-08. So that is in a jurisdiction that has had this for the longest time. I think that answers the member for Bragg's question directly, but I am sure it will not answer it because the member for Bragg will just reformulate the question until no person could answer it. This compares with 219 on the ground of being a declared drug trafficker, with a total benefit from 67 in 2007-08 of nearly $8 million. Members can rest assured the government will be coming back to parliament with a declared drug traffickers bill as soon as business will allow.

So far as South Australia is concerned, the annual reports of the DPP show this: in 2005-06, $807,299 was paid into the Victims of Crime Fund; in 2006-07 it was $1,222,116; and in 2007-08 the amount was $1,686,520—a success which I am sure the member for Bragg will be weeping about.

The honourable member asked for an assurance that other litigants will not be disadvantaged by this new proceeding. Obviously, no such assurance can be given. If she had any experience outside the family law jurisdiction, she would know that. All that can be said is that the evidence from Western Australia is clear: these proceedings are likely to be lengthy and complicated, but there are likely to be very few, one or two each year, if that many. In the 2008 estimates the then shadow attorney-general asked:

> How many unexplained wealth declarations have been commenced or finalised in the last financial year, 2006-07? How many are expected to be finalised in 2007-08 or expected to be commenced?

The DPP replied:

> The answers are: none, and several are in contemplation. The major impediment to proceeding successfully with unexplained wealth declarations is not the inability to recruit senior prosecutors to manage them, but the problem with presenting appropriate accounting evidence from a forensic accountant upon which to base the application. There have been some very useful discussions in recent times between my office and the police department, the result of which is that my office presently has several applications under consideration. However, I am not in a position to indicate whether any or all of these will proceed to an application.

I would have thought the DPP is in a very good position to comment on this. There is a wealth of information supplied there to the member for Bragg, and I am convinced that it will not satisfy her. In fact, nothing I will say will satisfy her.

**Ms CHAPMAN:** Will the Attorney then answer the question of how he made the assessment that it would be two or three cases a year under the unexplained wealth bill that he anticipated would be the workload for the courts?

**The Hon. M.J. ATKINSON:** Upon the basis of the information I just supplied at some length from the Office of the DPP of Western Australia, which has had the legislation for nine years, and is a state of similar size to South Australia.

**Ms CHAPMAN:** Perhaps it is the mathematics, but I think the minister just said there were seven sets of proceedings from 2001-02 to 2007-08. I assume that to be in Western Australia. We still do not have a breakdown of which were unexplained wealth and which were confiscation or a combination of both, so how does he use that as the basis upon which to say that two to three cases a year would be heard?

**The Hon. M.J. ATKINSON:** I cannot supply the numeracy that clearly is missing from the member for Bragg's education.

**Ms CHAPMAN:** The Chief Justice having raised this matter and your giving an assurance that it would be two to three cases a year as your estimate of case load, what is the estimate of the length of these trials?

**The Hon. M.J. ATKINSON:** The question has a flawed premise. I did not give the Chief Justice an assurance.

**Ms CHAPMAN:** Having given this house an assurance that it is two to three cases a year that is the expected workload—

**The Hon. M.J. ATKINSON:** I did not give an assurance. I gave an estimate.

**Ms CHAPMAN:** Let me rephrase it. Having given the parliament an estimate that it would be two to three cases a year, what is the estimate of the length of those trials that you have identified would not result in any interference with the civil list?

**The Hon. M.J. ATKINSON:** Madam Chairman, I am not a clairvoyant.

**Ms CHAPMAN:** Have you made any provision—

**The CHAIR:** Order, member for Bragg! Can you explain to the chair how your questions relate to this clause, for my assistance?

**Ms CHAPMAN:** Madam Chair, we are talking about the unexplained wealth orders, and there are a number of subsections in this. This is the hub of the whole bill as to what is being proposed to be implemented.

**The CHAIR:** And the standing orders provide for three questions. I know you have the ability to keep asking questions on every clause and hold up the committee, but you have been considerably involved. I ask you to focus your questions so that we may move on.

**Ms CHAPMAN:** Have you made any provision, Attorney, for the two to three cases a year estimate and, if so, how much is in the budget to cover the cost of the court time?

**The CHAIR:** Attorney-General, do you wish to reply?

**The Hon. M.J. ATKINSON:** No, I do not.

**Ms CHAPMAN:** The member for Bragg.

**Ms CHAPMAN:** Do I take it, Madam Chair, that the Attorney just refuses to answer, or cannot answer, or cannot think of an answer? What is the position? He just wants to sit there like a stunned mullet?

**The CHAIR:** Member for Bragg, do you have another question? The question is that clause 9 stand as printed.

Clause passed.

Clauses 10 and 11 passed.

Clause 12.

**Mr HANNA:** I am not proceeding with the remaining amendment in my name, but I am glad to have the opportunity to speak to clause 12. This clause highlights just how easily the whole

process against a citizen can begin. Subclause (2) of clause 12, in particular, sets out the bases for the Crown Solicitor authorising the exercise of powers under the investigation part of the act. This investigation in itself will be an onerous imposition upon a citizen, whether or not it is ultimately found that there is unexplained wealth.

For the whole process to commence, the Crown Solicitor merely needs a reasonable suspicion that (a) a person is involved in serious criminal activity; (b) they associate with a person who is involved in serious criminal activity; (c) the person is, or has been, a member of a declared organisation, presumably a bikie gang or organised crime group, or similar; and (d) a person who has acquired a benefit from one of these other types of people. I am paraphrasing in explaining the various bases for action.

The Crown Solicitor's role might be thought of as somewhat redundant, in fact, because if the Commissioner of Police through his SAPOL officers presents to the Crown Solicitor an affidavit or otherwise presents criminal intelligence which says, 'This person we want to target is one of these people. We believe they are. We have heard from informants, who may be nameless, that this person is a person we are after.' Perhaps it will be sufficient for an assistant commissioner of police to say, 'I believe that this person is a member of the Finks motorcycle gang,' or 'We suspect that this person has engaged in serious criminal activity in the past, although they have never been charged with a criminal offence.'

I ask members to put themselves in the position of the Crown Solicitor in that case. There is some evidence there, albeit only hearsay evidence. It is possibly the word of one person spoken to another person who speaks to an informant of the police that is presented in the form of the criminal intelligence presented to the Crown Solicitor. My rhetorical question is: what else can the Crown Solicitor do? How could the Crown Solicitor not reasonably suspect the person named in the criminal intelligence to be a suitable target, bearing in mind the provisions of this clause? It is going to be very easy for the police to link a target in the appropriate way, with relevance to those criteria.

I suppose the Attorney-General might reply, 'The police aren't going to present such intelligence to a person who has never come to their attention before.' I suppose that is true, but my point is that the role of the Crown Solicitor in this is almost redundant, because it is pretty hard to conceive a situation where the police present a dossier of criminal intelligence to the Crown Solicitor, making allegations based on what the police have heard and what they believe, all untested in the courts. It is hard for the Crown Solicitor to come to a conclusion that there is no basis for a reasonable suspicion. There is at least some evidence by the very fact of the situation.

There is some evidence before the Crown Solicitor. It may be weak evidence; it may be hearsay evidence; it may be untested evidence, but if a senior police officer says, 'Here we are; we believe this person ought to be a target, and we have heard from someone that they have done these bad things in the past,' or 'They're a member of this organisation,' it is going to be very hard for the Crown Solicitor not to come to the conclusion that there is a reasonable suspicion.

So, I ask the rhetorical question: why even have that role of gatekeeper there at all? It is purportedly to provide a safeguard against the Commissioner of Police simply picking a person out in the public and saying, 'I am requiring you to explain your wealth' and initiating the investigation process and, secondly, the court application process to actually require the explanation of wealth.

This whole scheme of the Crown Solicitor being presented with criminal intelligence and then forming a suspicion or not is purportedly a safeguard. I am really trying to suggest to the Attorney that it is a fairly weak safeguard, not because of the integrity of the Crown Solicitor but because the standard which the Crown Solicitor has to use is actually so low. The nature of the evidence which the police can provide and still meet the standard is perhaps questionable, and certainly need not have been tested in the courts.

Does the Attorney-General really believe that this mechanism of the Crown Solicitor being gatekeeper and being required to form a reasonable suspicion is any sort of substantive safeguard?

**The Hon. M.J. ATKINSON:** Yes, I do. Forming a reasonable suspicion is an age-old standard required of public officials, including police. It is hard to know where to begin to point out how erroneous the member for Mitchell's view is. I think part of it is that he has no experience in government or in office, and that is understandable. I believe that the Crown Solicitor will act with integrity. I believe he will apply the standard—which is a well-known standard—to public officials, and I am confident that he will fulfil the gatekeeper's role well. If the police convey information to the Crown Solicitor it will be tested rigorously, just as the information supplied to me by police for

the purpose of the Serious and Organised Crime (Control) Act was tested by me rigorously. At the time the member for Mitchell suggested that I was no gatekeeper, but I can assure him that I was.

Clause passed.

Clauses 13 to 17 passed.

Clause 18.

**Ms CHAPMAN:** This relates to the question of jurisdiction in the bill, which can be exercised by a judicial officer sitting in chambers. There are a number of other clauses that relate to who would hear these matters, and then there is some provision in clause 26 for appeal to the Supreme Court.

The Attorney-General has raised an issue of apparent ignorance on my part because of my failure to appear in a number of jurisdictions; I think his words were, 'Of course, you wouldn't know because you have only ever appeared in the Family Court.' If, in 20 years of courtroom appearances, I had appeared only in the Family Court of Australia, a court of federal jurisdiction, I would be proud to stand here and say that. It covers a number of different federal jurisdictions, and through that I have had the opportunity to have cases in the High Court, and been proud to do so.

So that the Attorney understands my lack of understanding of these processes, I indicate to him that I have appeared in criminal courts a number of times over that 20 year period. I retain my counsel certificate and membership of the Bar Association and ultimately, after this life, I will probably continue to do so. Hopefully, by then the de facto property legislation might have transferred to the commonwealth and I will not have to keep going back to the Supreme Court to deal with the property rights of those who cohabit.

The Attorney will be pleased to know that I have also had the privilege of appearing not only in a number of state courts but also, on one occasion, the industrial court. I would not suggest that that gives me some great expertise in industrial law, but it is an interesting jurisdiction. On one occasion I appeared in the bankruptcy court, when we successfully overturned an application for a declaration of bankruptcy against a shop-owner, and I have also appeared in a number of other state and federal jurisdictions.

That does not necessarily mean that I am an expert in the court processes of any of them, neither will I suggest in this house that, just because the Attorney-General only ever appears in courtrooms as a witness, a plaintiff or a defendant, he does not actually have the capacity to carry out his duties as Attorney-General. Unfortunately, some of his other limitations make that a difficult exercise for him to undertake.

However, there are many ministers in government who undertake their duties extremely well without necessarily having experience in a particular discipline, profession or business operation. I will give one example. I do not know that the current minister for agriculture has an extensive history in farming or agriculture in South Australia, but, on my assessment, there are a number of things he is managing very well as minister.

This continues to reduce our debates to alleged experience, proficiency or expertise. We understand what limitations we have, and when we inquire of those who have the expertise and resources to provide us with the information to ensure that we are properly briefed and well positioned to contribute positively to debates, that is denied. My question is: could the Attorney-General explain why this is necessary in the legislation, when I understand that there are other powers to enable sitting in chambers?

**The Hon. M.J. ATKINSON:** We included this out of an abundance of caution. The member for Bragg might reflect on the number of times she has criticised me because I have not had a practising certificate. I think readers of *Hansard* would want to know that as the background to the previous tirade.

Clause passed.

Remaining clauses (19 to 45), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

## HYDROPONICS INDUSTRY CONTROL BILL

Adjourned debate on second reading.

(Continued from 17 June 2009. Page 3199.)

**Mr PENGILLY (Finniss) (17:19):** I indicate to the house that I am the lead speaker on this legislation and that the opposition will be supporting the bill. However, there are a few things that we wish to place on record, which I will go through. Let me preface my remarks by saying that anything that can be done to suitably slow down, if possible halt (which will not happen), or hurt and curb the growth and trade in marijuana in South Australia is a good thing.

My electorate, more particularly Kangaroo Island, has a record of growing particularly good marijuana. As far as I am concerned, the people who indulge in that activity are the scum of the earth, and anything that can be done to pull them up is the best thing that can happen, not that there is a lot of hydroponically grown marijuana in my electorate, but I am aware that over the years it has become a great growth industry, so to speak (not to put a pun on it).

I even had the ridiculous situation a few years ago where, in the town of Kingscote, a local was growing it hydroponically in the roof of this house, straight opposite the police sergeant's home, attached to the police station. This was discovered some time after he had moved out, and he was openly boasting about it in the local hotel. That was a ridiculous situation.

I know any number of people now in their 40s and older who have consumed marijuana over many years, thinking that it has done them no harm at all, but they are as silly as chooks with their heads cut off, quite frankly. It has damaged them terminally. It does damage their brains. I am totally and adamantly opposed to drugs of any kind, and, in this particular case, marijuana.

I listened to and then read again the minister's speech on this matter. I very much support most of what he has said. The main facets of this bill will develop legislation requiring dealers who sell prescribed hydroponics equipment to operate under a full licensing scheme as well as introducing a compulsory online transaction monitoring scheme.

This legislation will require all licensed hydroponic dealers to complete electronic end user statements for reporting sales of prescribed hydroponics equipment. This is a good thing. We have no argument with this at all. It particularly focuses on retail stores and not wholesalers, targeting mainly the one-stop shops.

Most hydroponic wholesalers are interstate and overseas; they are not so much around the traps here. South Australia houses roughly, to the best of my knowledge, 90 hydroponics stores. Not everybody who goes into hydroponic stores, by any stretch of the imagination, who wants hydroponic equipment wants to grow marijuana or dope, but, indeed, it has become a fairly good industry for those who want to get into this sort of thing.

I am aware that South Australia Police believe that these retail outlets may be owned by or linked to serious and organised crime groups. If we can cause a glitch in their operations, all the better, and I am totally in favour of that. On a personal basis, if I become aware of a bit of a story or of marijuana growers operating, I have no hesitation in going straight to the police. I do not hesitate.

It is also interesting to note that, while the December 2007 fires on Kangaroo Island wiped out 100,000 hectares of scrub, they also wiped out most of the dope growers' crops for the year, so there were some beneficial aspects. Last financial year, 7,700 plants were confiscated and, as members know, one female plant grows one pound (equal to 3.5 to 4 kilos), which equates to 450 bags at $25 a bag, so it is an extremely lucrative industry.

Key pieces of equipment that will be affected by this legislation include devices such as control gear, lamp mounts and reflectors (which are designed to increase light and/or heat), ballast boxes, carbon filters and halogen lights (metal hailed lights, that is, high pressure sodium lights and mercury vapour lights of 400 watts or greater).

Other equipment includes cannabis bud or head strippers and rotisserie devices for seedlings. Quite frankly, most tomato growers do not need much of this stuff. Most garden centres and hardware stores do not stock all these prescribed items, so they must go to hydroponic stores to buy them.

The bill currently contains no requirement to maintain records of prescribed hydroponic equipment sold or any record of the purchaser's details within the hydroponic industry. It proposes that it is a condition of the licence that dealers must maintain records of all hydroponic equipment sold and that these must be forwarded to the police.

The bill proposes that it is a requirement for licensees and hydroponic industry employees to verify the identity of persons purchasing hydroponic equipment, and I think this is a critical issue, and I am most satisfied with that. At this stage, it is probably worth reading into the record correspondence from State Retailers Association (SRA), with which we have consulted. Its letter to the Hon. David Ridgway from another place states:

Dear David,

Re Hydroponics Industry Control Bill 2009 Draft Bill

The SRA has an interest in the Bill and previously contributed to the debate relating to the illegal application of hydroponic equipment by people with criminal intent

For your information, we enclose a brief paper on this Bill which clearly shows our concerns and suggestions.

We are very concerned that a specific group of retailers have been targeted to help with the enforcement of the law and then at their own cost and inconvenience.

We are further concerned that those people who use legal hydroponic equipment to legitimately grow illegal produce are now targeted as if they are criminals.

That is a concern. The letter continues:

Further while hydroponic retailers are targeted, many retailers and wholesalers of equipment that has uses that include hydroponics, are not targeted by the legislation, making the intent of the proposed legislation nothing more than a draconian political exercise that appears to 'do good', while in reality driving the criminals further underground, or to other sources of supply.

This Bill is not well considered nor will the public be well served as it offers nothing that will in any way help to control the illegal drug trade.

Unfortunately it would be very easy for the Government to slam any opposition to the bill and that is a political reality which won't encourage positive debate.

Obviously this Bill is set for a quick passage and to that end we would like to meet to discuss it..

The SRA's submission states:

We have previously addressed matters relating to the sale of goods that can be used for legal purposes of growing (vegetables) hydroponically and as such, we are also aware that the same goods can be used to break the law as can a kitchen knife, a fast car, or anything that can be put to inappropriate alternative purposes.

To gain further information before forming any views on the matter of the Proposed Hydroponics Industry Control Bill 2009, we arranged to meet with hydroponic goods retailers to that end.

They were asked to assume that the Bill would proceed in some form and accordingly should assess its likely impact on them as retailers, selling products that were legal, but with the possibility that the customer was planning to act illegally.

Initially it must be said, that the retailers (we met) were not in any way 'organised' and indeed it was quite obvious that many were not known to each other.

I think that is an important fact. The letter continues:

It would be fair to say that there was initially considerable opposition to the proposed bill and then for a variety of reasons, most of which related to superstition as to be Bills' intent and the fact that the discussion paper were short on many vital details. The important Governing Regulations were also not available, which didn't help matters. As a consultation process, this is very unsatisfactory and won't lead to the informed and reasonable comment that could otherwise result.

Generally those business owners present considered that they would achieve approval for a Licence, but didn't know if the same would apply to their staff, because they previously had no reason to pry into their private lives away from the workplace.

I remind members that this is the State Retailers Association's submission. It continues:

As we have already intimated, we ask the retailers to adopt a positive attitude to the draft Bill and to address those issues…

In relation to the licences, the association goes on to state:

1. There is no reasonable opposition to the basic intent of a Licence, nor the process that must be undertaken to obtain one. Retailers we spoke to considered that they would be successful with an application.

2. There is concern that the costs of obtaining a licence haven't been revealed…

3. Considerable concern was expressed however, at the possible interpretation or intent of Schedule 1(2)(c) of the Draft Bill. Does it in fact mean that any retailer who hasn't achieved a Licence within 3 months of the introduction date of the Legislation, will be required to close their business…

4. Concerns have been expressed that licence costs could be deliberately prohibitive in order to make legal trading uneconomic.

5. Will the Police in fact have sufficient time/resources to process all applications for Licences given that the bill seems to be aimed at gathering information for Police use, which they presumably don't have the time or resources to undertake themselves?

6. Why are non-sales staff required to have a licence? What about after-hours cleaners?

Are they required to have a licence? The minister no doubt will take these points into consideration as we go through this bill.

They have a number of other concerns, which I do not think I will read into the record. I know there may be others in the chamber who may wish to make a contribution. I will quote one other question, however: 'Will a retailer require approval to proceed with a sale?' This is under the heading 'Electronic transfer of information'.

All in all, without being tempted to labour the point forever and a day, I indicate that the opposition will support the bill. In my view and the opposition's view it is a sound bill. It makes sense and, returning to where we started from, anything we can do to disrupt, deactivate, disturb and otherwise create an inconvenience or generally make life extremely difficult for drug growers should be put in place, and you will have no problem getting support from this side of the chamber on that.

**Ms CHAPMAN (Bragg) (17:32):** I indicate that I will be supporting the bill. I wish to record a number of queries and concerns that I have. I say at the outset that the Assistant Commissioner—I think it is of Crime Services—Tony Harrison, and members of the South Australian police force provided consultation with me and other members of the parliament. They offered two briefings. I say the quality of the provision of information at the briefing was excellent, and I found those providing advice to us most helpful. I am not sure of Mr Harrison's exact title, and I do not mean any disrespect to him.

*An honourable member interjecting:*

**Ms CHAPMAN:** Assistant Commissioner Harrison. I did not want to reflect poorly on him: I just wanted to have the correct title. As the assistant commissioner, Mr Harrison had outlined to us the purpose of this bill as one of a number of arms to deal with the management of organised crime, particularly in relation to drugs. That was comprehensive and quite persuasive. He also explained to us that, since the introduction of the last wave of legislation—which was to do with all the equipment that is now outlawed as one of the 'tools in the tool box', to use the modern phrase—he was able to tell us that we had moved from some 90 hydroponic retail outlets in South Australia down to 50 or 51, as I understood his information.

All that sounds good, and it sounds as though some of these aspects are working, but the introduction of this bill, which is to impose a licensing regime requiring tests of being fit and proper persons, which is often a process we have, whether it is for lawful drugs for chemists, alcohol outlets and suppliers, guns and weapons, use of dynamite and so on—these are the sorts of hazards in the community which, if they are under the management of people who are not fit and proper or adequately responsible, are a danger to the community. So, we have a licensing regime.

In this instance it seems to be particularly used as a law enforcement means. From my understanding of the briefing, it goes along the lines that there are very few legitimate purposes where one would need to sell hydroponic equipment to be utilised in a lawful way. There may be some market gardeners and so on who would use equipment for their industry, but it is of limited utility out in the community, and to impose a licensing regime and fairly rigid structure to pass the threshold would weed out some of the baddies early on. Perhaps that may occur.

The prescribed equipment will be fairly tight; we were advised at the briefing that consultation with various industries had meant that that would not infringe unreasonably or impose a high level of impracticality on the operation of their businesses, so that seemed to be in order.

One of the acknowledged efficiencies, though, is that, whilst we might set up this regime here, that does not stop trade via the internet or in states where this regime is not imposed. Will people who are in the business for illegal purposes and who access and acquire hydroponic equipment simply buy it over the border? Quite probably. The answer that was provided to us was that at least it is one more hurdle they have to overcome to acquire that property for the illegal purposes of their new crop. I suppose the benefit might be short term, but I think it is still worthy of support.

I am also told that there would be a budget for about a year for one equivalent ASO4 level position, costing about $65,000, to set up the process in the police department. As I understand it, in the second and third years there would then be provision for a 0.5 position, that is, a person half time, to manage the operation of the licensing regime and that effectively, though, it would thereafter be a self-funding scheme on the basis that you would pay an initial application fee of $600 and $300 to $400 annual recurrent fee for this licence and that the cost of this licensing scheme would be met by the revenue it receives. I assume that all of that will not be financially burdensome and that its merits will outweigh that cost in any event.

The final matter, though, is the question of what we are doing by introducing a bill which provides that it will be the police commissioner and the police department who attend to this responsibility of licensing. This does raise a very interesting question. I am aware, of course, that the police commissioner has responsibility for the licensing of firearms. I suppose that is analogous to what is being proposed here, namely, that the police commissioner will be the person ultimately responsible for the licensing regime for the hydroponics industry.

However, it is unusual, and it is unusual for two reasons: first, we have other entities in the state, particularly the Office of Consumer and Business Affairs, which have a specific role to provide for the licensing of a number of industries. The Fair Trading Act of 1987 appoints and sets out the rules in respect of the Commissioner for Consumer Affairs, and one of its specific functions is to enforce codes of practice designed to promote fair trading and to safeguard the interests of consumers.

Admittedly, that is only one purpose of this act. If we were really frank, the purpose of this act is to try to kneecap the production of illegal drugs. But a licensing regime is one method by which we manage a particular activity, industry or product and, in those circumstances, it would be reasonable for the commissioner in that jurisdiction to have responsibility for this. There is another reason. It is not usually appropriate to combine the responsibility of the legislative role and the judicial role, and that is why we have a separate lot of judges to implement what we determine should be law down here. We have a police force to execute the implementation and enforcement of those laws.

In this instance, by setting up a regime which is under the police commissioner, effectively they become judge and executioner in one. There is the collating of the data, which would be the basis upon which a licensing regime would operate for it to be presented for the purpose of assessment to someone independent. Once they are in the licence structure, or if they fail, it would be up to the police force and other law enforcement agencies to implement it.

What is being proposed here, though, is that the Commissioner of Police take this responsibility. I was advised in the briefing that the reason for this is because they have consulted with the police commissioner and he is willing to do it, and apparently the others do not want to deal with it. That may be so. That is really one bureaucrat saying, 'I'll do the job' and the other bureaucrat saying, 'I don't want to have to do it.' What we are required to do—and I think it incumbent on the minister to explore this between here and the other place, at least—is to ask whether this role of the licensing itself should be with the police commissioner or whether, in fact, it should be independent of that.

This is in no way being raised as any reflection on the operation of the police and their officers. In fact, I understand that where they have had a role—for example, in the licensing of firearms—that is something that is properly undertaken. There is a direct link and an expertise in the police department in relation to weaponry and firearms which come with that and which are unique to it. However, I would suggest that an ASO officer, whether they are full time or part time, is better suited to be independent of the enforcers. I ask that the minister look at that matter between the houses.

**Mr PEDERICK (Hammond) (17:43):** I, too, rise to support this bill, which will require dealers who sell prescribed hydroponics equipment to operate under a full licensing scheme and will introduce a compulsory online transaction monitoring process. In 2005 the Controlled Substances (Serious Drug Offences) Amendment Bill was introduced. That legislation, as well as bringing in serious offences, was designed to deal with the problem of more serious precursor chemicals used for the creation of illicit drugs. I note that everyone within the MFS, SES and the CFS (in the country where I am) is trained now in what to do if they come across an illegal drug lab.

Members may not think that it happens in outlying areas, but several years ago I happened to drive into Tintinara. I was leasing some property down there, and I wondered about the large

police presence in the town. It came to pass that a friend of mine, who had a farm closer to the Coorong, had rented out his house but he did not know what was going on inside the house. It was a little embarrassing for him. He was not directly involved, of course. Quite a lot of illegal activity was being done from the rented property. Obviously, the perpetrators were caught, so it can happen anywhere.

In 2007 the Controlled Substances (Possession of Prescribed Equipment) Amendment Bill made it an offence to possess regulated equipment without reasonable excuse. This included equipment related to the cultivation of cannabis, such as metal halide lights, high pressure sodium lights and mercury vapour lights of 400 watts or greater, ballast boxes, devices (including control gear, lamp mounts and reflectors) designed to amplify light or heat, carbon filters, cannabis bud or head strippers, and rotisserie devices for seedlings.

Following this in 2008, the Controlled Substances (Controlled Drugs, Precursors and Cannabis) Amendment Bill acknowledged the difficulties arising from the reliance on police to prove certain intentions with regard to precursor chemicals and prescribed equipment. A specific offence for cultivating cannabis was also created. Both of those bills were supported by the opposition without amendment.

I note that the sandier country of my electorate of Hammond (and it is not something I boast about, but something I want to put on the record) evidently is reasonable cannabis growing country. There have been plenty of cannabis busts up through the Mallee towards Alawoona and Wanbi and, closer to where I live at Coomandook, down the road just north of Coonalpyn there is a patch of scrub where quite a few crops have been grown. The local farmer has discovered this because they tap into his River Murray water supply. River Murray water is pretty precious, especially with the price of water increasing, and these criminals always get caught out tapping into water lines like that.

The hydroponics industry is particularly vulnerable to infiltration by serious and organised crime. I note that there are about 90 hydroponic retail shops in this state, and South Australia Police purports that many have been owned by or linked to serious and organised crime groups.

The main facets of this bill are the licensing requirements and the online transaction monitoring systems that will be put in place. The businesses that are required to be licensed will be retail sellers only who sell prescribed equipment with a prescribed total wholesale value. The prescribed equipment is the items that I have mentioned, and these are already regulated. I note that the State Retailers Association has argued that it has identified over 2,000 sources of prescribed equipment, using hardware stores and electrical suppliers as examples. The capacity for electronic mediums, such as eBay, to be used has also been raised.

The police force is targeting one-stop shops in this bill, and the intent is to lessen the ease of gaining a full hydroponic set-up. The point has been made that most garden centres and hardware stores do not stock all the prescribed items, and specialist stores, such as lighting stores, can apply for an exemption. For the few non-hydroponic stores that stock complete kits, it will be at their discretion to maintain the stock or to go under the licensing regime. It is also noted that the deputy commissioner has not witnessed the prescribed set-up being used for hydroponic growth of legitimate substances (such as tomatoes) as it is simply too expensive on a broad scale.

While it is the commissioner who will decide on the granting of licences based on criminal intelligence, clause 5 of the bill states that he is subject to the minister's control. This is simply a division of powers, which is strengthened in clause 20, which provides that appeals against the commissioner's decisions go directly to the District Court. He will also approve applications to become a hydroponics industry employee, based on the same assessment as licence applications and attracting an application fee of about $600, along with a $150 annual service fee.

The bill outlines the licence application process and the $20,000 fine accompanying contravention of the licensing requirements. The commissioner will assess applications on the basis of a fit and proper person test; namely, discretion will be used as to the applicant's reputation, honesty and integrity and whether they have committed prescribed offences (and these would include firearm and drug offences) in the preceding five years.

I have mentioned the State Retailers Association. It has some concerns about the costs associated with licensing, but the police are currently considering the same schedule as is used within the security industry. The SRA has also expressed concern with respect to the transitional provisions, which state that, at the inception of the new legislation, a hydroponics business can only carry on business until a licence is achieved or until three months expires, whichever occurs

first. The police believe they have the resources to evaluate all licence applications within that period.

With respect to online transaction monitoring, some concerns have been raised about the ability to provide real-time information on transactions. The bill states only that prescribed information will be required of the buyer at the point of sale and that the licence holder will have to transfer such information to the commissioner as prescribed, which would possibly be electronically. It is worth noting that the information system will be controlled by SAPOL, because much of the online system is already in place.

In an information paper put out by SAPOL it is stated that licensed businesses will require a computer (obviously, for the online monitoring), and SAPOL asserts that the changes will be phased in and businesses will be provided with a grace period, training and advice. The paper also states that licensed dealers will not be disadvantaged in any way. At this point, there is no mention of real-time submission of information.

One issue with respect to the bill is that it adds significant red tape to the industry. However, this is required to make the industry less vulnerable to serious and organised crime. The bill will not be perfect, in terms of stopping all transactions for the purposes of cultivating cannabis, but will greatly lessen the ease with which it can be done. It is noted that the Hon. David Ridgway from the other place, who conducted the consultation for this bill, believes that stakeholder concerns have been addressed and will continue to be considered as regulations are introduced in line with the bill.

I can certainly say that this goes part of the way to helping to control the scourge of drugs in this state. As the father of a couple of young boys, it is good to see this legislation being put forward. I have seen the results of drug abuse. A friend of mine, whom I believe was heavily involved in illicit substances, is now basically a blithering mess at age 48, and he has been that way for a few years. It is very sad to see. That is all I can put it down to. This is a bloke I have grown up with in my local area and it is a great tragedy. We all know there are far bigger tragedies involving the use of drugs—many lost lives and many wasted lives. The more we can do as a community to pull up this scourge, the better. I commend the bill to the house.

**Mr HANNA (Mitchell) (17:52):** I am dealing with the hydroponics bill. The government is cracking down on the hydroponics industry. I think everyone in this place supports moves to limit drug use, and I suppose it could be said that is the ultimate aim of this legislation. It basically operates by outsourcing part of the detective function to the owners of hydroponic shops. They get the names of customers who buy the equipment which could be used for illicit drug-related purposes and then the police come in and get the names and they can match them with other information and go around and knock on the door of those people and ask to look at their plants. There might be some tomato growers amongst them but, nonetheless, the provision of information through the mechanism will no doubt assist the police in their duties.

I want to make two comments about two particular clauses of the bill. Clause 7 is another criminal intelligence clause, so we see this provision of secret evidence being used against various segments of our society creeping into more and more legislation—licensing regulation and criminal justice legislation. Secondly, I note in clause 26 the powers of entry and inspection go somewhat further than what we have in our Summary Offences Act.

I do not understand why you would not just require a general warrant, at least, before police force entry into people's premises. If there are reasonable grounds for suspecting a crime has just been committed or if there is evidence to gather, police with a general warrant can bust into a place, anyway, so I do not understand why we need clause 26(3)(c), in other words, the ability to break into premises on the basis of a reasonable suspicion. Why not require a warrant and, thus, the oversight of a magistrate, anyway?

I raise those issues from the point of view of individual rights. We see police getting more and more power to carry out their duties and, of course, we wish them well with their investigations in the ultimate goal of cracking down on drug abuse. However, along the way, I stand up for those people who are entirely innocent but have their shop broken into by police in the search for evidence. I ask for the oversight of a magistrate in providing a warrant before that happens, because I think that is the least we can do to maintain a balance between the individual, the police and the state.

**The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (17:56):** I thank the opposition and also the member

for Mitchell for their support. I acknowledge the shadow minister for correctional services, in particular, with regard to the significant support that he provides for this bill and the acknowledgment of the State Retailers Association.

We also received correspondence—probably the same correspondence. I met with representatives of the State Retailers Association. It would be fair to say, as the letter outlines, they had some concerns. I would not say at the end of the meeting that they necessarily agreed with all of what we are doing, but I think it might be fair to say they had a better appreciation, although they still held their views in certain areas.

The shadow attorney-general has made a number of good points, which I have taken note of. I also thank her for her acknowledgment of the briefings undertaken by Assistant Commissioner Harrison and others from the police. She talked about a range of areas—licensing regimes, fit and proper person test, the possibility of things coming from over the border, the costs and the revenue, and the role of the police commissioner, amongst a number of other items which obviously we will take particular note of. Also, of course, the shadow minister for primary industries and resources and then the member for Mitchell indicated their support.

I wish this bill a speedy course through both houses. It is an important piece of legislation which will have an impact upon the hydroponics cannabis growing industry. It is important that we do all we can. Obviously, with this particular bill, bringing into place the licensing of the industry and all the requirements that go with that will be a significant step in the right direction.

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

## PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 9 September 2009. Page 3759.)

**Ms CHAPMAN (Bragg) (17:59):** I rise to speak on the Personal Property Securities (Commonwealth Powers) Bill 2009. The bill was introduced by the Attorney-General on 9 September, and it effectively transfers matters relating to security and interest in personal property to the commonwealth, in particular to a commonwealth register. Under the Howard government, the Standing Committee of Attorneys-General (often known as SCAG) considered an Australian Law Reform Commission report back in the early 1990s. I seek leave to continue my remarks.

Leave granted; debate adjourned.

At 18:00 the house adjourned until Thursday 24 September 2009 at 10:30.