LEGISLATIVE COUNCIL

Wednesday 18 February 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:17 and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:20): I bring up the 12th report of the committee.

Report received.

The Hon. J.M. GAZZOLA: I bring up the 13th report of the committee.

Report received and ordered to be read.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Murray-Darling Basin Commission—Report, 2007-08

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Reports, 2007-08
- Bordertown Memorial Hospital
- Lower North Health Service Inc.
- Millicent and District Hospital and Health Services Inc.
- Mount Gambier and Districts Health Service
- Penola War Memorial Hospital Inc.
- Port Augusta Hospital and Regional Health Services Inc.
- Port Pirie Regional Health Service Inc.
- Renmark Paringa District Hospital Inc.
- Riverland Regional Health Service Inc.
- Waikerie Health Services Inc.

Agreement Contemplated by Section 96(2) of the Food Act 2001 for Exercise of Functions under the Food Act 2001—Report and Memorandum of Understanding between the Minister for Health and Local Government Association of SA Inc.

Natural Resources Committee Report on Eyre Peninsula Natural Resources Management Board—Response by the Minister for Environment and Conservation

Natural Resources Committee Report on Natural Resources Management Board Levies 2008-2009—Response by the Minister for Environment and Conservation

MARJORIE JACKSON-NELSON HOSPITAL

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:22): I table a copy of a ministerial statement relating to the Marjorie Jackson-Nelson hospital made today by the Premier.

Members interjecting:

The PRESIDENT: Order! How soon we forget our heroes!

COPPER COAST DISTRICT COUNCIL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:23): You should hang your heads in shame—a really good woman! You are disgraceful. I seek leave to make a ministerial statement about the District Council of Copper Coast.

Leave granted.

The Hon. G.E. GAGO: I have previously informed honourable members that I have received a serious complaint in relation to the process undertaken by the District Council of Copper Coast to sell land located at Owen Terrace, Wallaroo, to Leasecorp for development of the Wallaroo town centre, which includes a Woolworths supermarket. That complaint relates to

whether the council had breached section 49 of the Local Government Act 1999 by failing to comply with its contracts and tendering policy by not providing all prospective purchasers of the land with an equal opportunity to submit their best and final offer.

I sought legal advice from the Crown Solicitor's Office on the matter. The Crown Solicitor's Office considered that it required further information and instructed the Government Investigations Unit to acquire that information. I can now report that the Crown Solicitor's Office has completed its investigation and has provided me with its advice. The Crown Solicitor did not find evidence of financial impropriety on anyone's part; did not find evidence of a personal relationship between council members, council staff and Leasecorp that might cause concern; and did not find evidence of conduct that gives rise to any serious allegation of improper conduct. As a result of the advice, I consider that a formal investigation under section 272 of the Local Government Act 1999 is not warranted at this time.

As members know, upon my instigation a due diligence and governance audit of the council has been undertaken. The objective of that audit was to enable any shortcomings in the council's decision-making processes to be identified and action taken to address them, so that the community can be reassured that council's processes are robust and transparent. I expect to receive a copy of that final audit report shortly.

Nevertheless, I am very concerned by the lack of clarity and confusion in relation to these processes, and I have also asked officers from the Office of State/Local Government Relations to meet with the Copper Coast Council to ensure that its policies are clear and unambiguous in relation to calling for expressions of interest and contracting and tendering. I will also make available officers to assist the council to put in place a process for determining future actions that may result from the audit. It is my intention to ensure that council processes are fair and transparent and in keeping with good governance practices. I have also written to the council about these matters.

The need to have clear and broad powers to obtain information from councils to assist with the early resolution of any complaints or concerns has been apparent to me and has identified the need to improve local government contract and tendering policies and practices to ensure that the public sector standard of probity and accountability is applied. There is clearly a need to revise the legislative framework for local government contracting and tendering which was introduced in 1999, and to provide councils with clearer guidance in this area. It is my intention to do so in consultation with local government.

I recently released for public comment the Local Government Accountability Proposals Paper that contains my proposals for these and other issues.

QUESTION TIME

GOVERNMENT RED TAPE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:28): I seek leave to make a brief explanation before asking the Minister for Small Business a question on the subject of red tape.

Leave granted.

The Hon. D.W. RIDGWAY: An article written by Greg Kelton and titled 'Rann to cut red tape' appeared in *The Advertiser* of Thursday 27 September. It read in part, 'State cabinet has set a target of—

Members interjecting:

The PRESIDENT: Order! You do not want to waste question time.

The Hon. D.W. RIDGWAY: The article states:

State cabinet has set a target of saving business $150 million a year by cutting red tape. Premier Mike Rann said the target was part of the government's commitment to reduce red tape by 25 per cent by July 2008. 'Government agencies are already making good progress with a number of measures identified to date', he said. 'The exact dollar…savings to business will be independently verified.' Mr Rann said cutting red tape was one of the government's key strategies to make South Australia the most competitive business environment in Australia.

Recently, I was advised that the government has instigated an across-government contract for printing services. An information evening was held and some 60 people involved in the printing industry attended. A large number of people did not attend. For example, a person who had done

in excess of $160,000 worth of printing for the government did not attend the event because they were not aware it was being held. A number of people claim that they were not advised that the meeting was being held.

In light of the Premier's commitment to reduce red tape, I inform the council that I have here the 200-page document that is the questionnaire. It is the pre-qualification questionnaire to be completed in order to get a government printing contract. First, there is an information briefing; then there is the structure of this pre-qualification questionnaire; then there is part A (rules for submitting a response), part B (specifications), part C (indicative terms and conditions), part D (glossary), part E (response requirements) and part F (a nondisclosure agreement). It is a 200-page questionnaire prior to lodging an application for a contract.

Indeed, contracts were awarded to 13 companies. It is interesting to note that the government and the Premier, who recently announced a massive advertising campaign to promote South Australian companies, awarded contracts to 13 companies, including one with its head office in Victoria, one based in Western Australia with a South Australian shopfront, one based completely interstate, a multinational company and a company located in Victoria.

A number of people who have missed out on a contract have indicated that they will lose up to 15 per cent of their turnover as a result of not being awarded a contract, and a couple have told me that they will lose up to 30 per cent, which will result in staff reductions. My questions are:

1. How does a 200-page application form contribute to the Premier's claim that he will reduce red tape by 25 per cent by July 2008?

2. Why have interstate and overseas-based companies been given preference over good hardworking companies in South Australia that will now have to lay off staff as a result of this government decision?

The PRESIDENT: The minister will ignore all the opinion in the explanation when answering the question.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:33): There will not be much to comment on then. I am not sure who has responsibility for the printing contract and the details of it, but I will refer the question to my relevant colleague. This government has set targets in relation to cutting red tape, and it is achieving those targets. There is no better way of doing that than by introducing the reforms the government has made to our planning laws, which will significantly reduce red tape.

In relation to the printing contracts, as with any contract, of course there are statements about nondisclosure. Is the honourable member suggesting that we should let contracts that do not involve nondisclosure comments? When we talk about reducing red tape, we do not talk about throwing out the rules altogether. Of course, prior to a previous Liberal government being in office we had a government printer that protected jobs in this state. It was a previous Liberal government that decided to privatise that industry.

There are rules about letting contracts. I suggest that the Hon. Mr Ridgway ask the Hon. Mr Lucas about mutual agreements that we have with other state governments. It is interesting that at this time, all around the world, one of the greatest threats that we are facing in the current global economic environment is protectionism; and we see it in the United States. On the news this afternoon we heard that General Motors is cutting approximately 26,000 or 27,000 jobs around the world, outside the United States, as it is drawing back to its home base.

These are some of the challenges. Of course, when the world went into depression back in the 1920s, protectionism was one of the key reasons for that, and that is one of the reasons why back in the 1980s we had agreements between state governments that they would not have protective arrangements. What we do is let tenders and they go to the lowest bidder. Similarly, we would expect that if the other states—the states that hold 92 per cent of the population of this country—take the same attitude, South Australian contractors and suppliers would be disadvantaged in those markets, and that is the reason.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes, of course we want people to refer it, but governments have obligations under the agreements that we have had in place for many years now—for at least 20 years—that no favouritism will be given to local companies. That protects our companies when

they are competing for contracts with the other 92 per cent of this country's population. That is why we have them. Of course, a result of that is that we get services at a lower cost, which lifts the economy of the entire country, and that is why it is beneficial. It is why protectionism is so dangerous in the current world climate.

In relation to that particular contract, I will endeavour to find out the specific details because, as I said, it is not within my department so I am not familiar with those details.

PORT AUGUSTA PRISON

The Hon. S.G. WADE (14:37): I seek leave to make a brief explanation before asking the Minister for Correctional Services—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Wade can continue when the Leader of the Opposition ceases to interject.

The Hon. S.G. WADE: —a question about the Port Augusta Prison riot.

Leave granted.

The Hon. S.G. WADE: In her ministerial statement to the council yesterday regarding the riot at Port Augusta Prison, the minister studiously avoided addressing the causes of the riot. The opposition has been advised that immediately prior to the riot the minister raised with her department the concerns of community groups that the regime at Port Augusta Prison was too restrictive. As a result of the minister's intervention, a modified, less secure regime was introduced at the prison in the two weeks leading up to the riot.

Under the original regime when staff shortages occurred the whole prison would operate with more limited and more controlled prisoner movements. However, under the modified regime which resulted from the minister's intervention, only some sections of the prison would operate under a more restricted regime. Other sections would operate with less restricted movements. The opposition has been advised that the riot was possible only because of the introduction of the modified regime. Under the original regime, prisoners would not have had the opportunity to congregate and riot as they did. My questions to the minister are:

1. Was the change in regimes identified as a factor contributing to the riot in either the internal departmental review or the SAPOL investigation into the Port Augusta Prison riot?

2. Why in her statement yesterday did the minister not mention the modifications to the prison's operating regime prior to the riot?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:39): Yesterday I made a ministerial statement in which it was very obvious that I said what exactly occurred on the day. I am very happy to re-read it into *Hansard*, as follows:

> In the lead-up to the incident, Port Augusta Prison experienced a great deal of infrastructure upgrades that made daily routines more restrictive for prisoners. Until about August 2008, regular lockdowns occurred in the prison.
>
> The general manager was successful in negotiating and implementing changes to those restrictions, but the changes still resulted in restricted regimes for high-security prisoners in cases where staff had to be reassigned for operational reasons during a shift.

I do not dictate operational procedures in our prisons in South Australia, and nor should I.

PORT AUGUSTA PRISON

The Hon. S.G. WADE (14:40): Sir, I have a supplementary question. Is the minister suggesting that the regime was related only to building works and was therefore more restrictive, not less restrictive?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:40): In my ministerial statement yesterday I said that one of the factors—

The Hon. G.E. Gago interjecting:

The Hon. CARMEL ZOLLO: —yes, very secret—involved an exercise at the oval which had to be cancelled and prison officers were assigned to prisoners in the infirmary. The safety of Correctional Services officers is far more important than the cancellation of a particular exercise,

and I fully support the operational decisions made at that prison. Again, as the minister, I am not responsible for the day-to-day operational decisions that are taken.

CORRECTIONAL SERVICES OFFICERS

The Hon. J.M.A. LENSINK (14:41): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the safety of Correctional Services officers.

Leave granted.

The Hon. J.M.A. LENSINK: The most recent Productivity Commission report on government services shows that both prisoner on prisoner and prisoner on staff assaults doubled between 2006-07 and 2007-08. The opposition has been informed that the Department for Correctional Services does not have sufficient resources to equip all new Correctional Services officers following graduation. As a result, Correctional Services officers are being deployed in prisons without handcuffs, radios or even personal duress alarms, thus undermining prison security and placing prison officers at risk. This comes at a time when the security environment has been affected by the minister's 'rack, pack and stack' policy. My questions to the minister are:

1. How many Correctional Services officers are working with the appropriate equipment?

2. Given the government's claims that it gives the highest priority to officer safety and that it is effectively planning for prisoner growth, how did the government fail to provide sufficient equipment to all staff?

3. When will the minister accept that the Rann government's failure to manage prisons is placing Correctional Services staff at risk, and when will she provide all staff with the equipment they need?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:42): What a lazy opposition! Does the shadow minister not have questions in her own area to ask? It is extraordinary. What a lazy opposition! The member cannot think of a question within her own area. How extraordinary. I have no idea where the claims of the honourable member come from, although I do have my suspicions. The safety of our Correctional Services officers is always of paramount concern to us. If there is any truth (and I stress 'any truth') in the claims that the honourable member has made, I will ensure that they are investigated.

As I said yesterday, this government has embarked on a very aggressive recruitment campaign to ensure that our prison institutions are well staffed. We will continue to do so, because it is incredibly important for the safe and secure running of our institutions. Of course, we will always do that in a humane way. I think that members opposite simply cannot accept the responsibility shown by this government not only in building new prisons but also in committing funds to ensure that there is sufficient bed capacity in our prison institutions in this state. They simply cannot get over it. They cannot move on.

Members interjecting:

The PRESIDENT: Order!

CORRECTIONAL SERVICES OFFICERS

The Hon. J.M.A. LENSINK (14:44): Sir, I have a supplementary question. Will the minister undertake to provide a reply to this parliament with respect to the issue of whether there is sufficient equipment for all new Correctional Services officers, and will she undertake to do so within this year?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:44): I am glad that we now have a change of words. I think we have added the word 'if'.

The Hon. G.E. Gago: Backdown!

The Hon. CARMEL ZOLLO: Yes, it is an absolute backdown. The member has added the word 'if'. I am pleased that she added the word 'if'. As I said, I will undertake to investigate that, absolutely, because quite frankly I think the claim is outrageous. However, I will undertake to investigate that matter.

Members interjecting:

The PRESIDENT: Order!

VISITORS

The PRESIDENT (14:45): I draw honourable members' attention to the presence in the gallery today of the Hon. Mr Gilfillan, who I know is frowning upon some of the behaviour in here since he left.

QUESTION TIME

MINING ENGINEERS

The Hon. I.K. HUNTER (14:45): My question is to the Minister for Mineral Resources Development. Will the minister advise the chamber on the role played by the University of Adelaide in ensuring that a skilled workforce, including engineering graduates, is available in South Australia that the mining industry can access?

Members interjecting:

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:45): I thank the honourable member for his well-researched question. I echo the comments of my colleagues: it certainly is a welcome contrast.

Despite the ongoing global financial crisis, this government remains strongly convinced that the mineral and energy resources sector still has a major role to play in South Australia's long-term economic development. In the past, training for geologists and engineers has been hampered by the cyclical nature of the mining industry, as boom is followed by downturn, building towards yet another boom.

What is required is a training base that allows universities and other educational institutions to look through these cycles to provide a stream of trained mining engineers ready to meet demand as it arises, rather than its being caught short by a sudden surge of demand for these specialist skills.

Today, South Australia celebrated another milestone in the development of the state-based stream for the education of mining engineers with the University of Adelaide's inclusion in the Mining Education Australia coalition. The university joins the University of New South Wales, Western Australia's Curtin University and the University of Queensland to develop this important joint venture in education.

Mining Education Australia aims to provide a common curriculum for third and fourth year mining engineering students across four states. This curriculum has the support of industry through the Minerals Tertiary Education Council. I am advised that this is a unique arrangement in the world.

The coalition provides a sustainable platform for mining engineering teaching through the cycles of the resources sector. The University of Adelaide launched its Bachelor of Mining Engineering program in 2007, and it is expected to have more than 200 students when the semester begins this year. This builds on the university's Department of Geology and Geophysics, which had more than 250 first year students in 2008, making it one of the largest geology departments in Australia.

To support the university's involvement in the Mining Education Australia initiative, the state government has granted $100,000. This grant is in addition to the $1.48 million the government has allocated to the Resources and Engineering Skills Alliance (RESA) to develop skills-based training for the mining sector. The University of Adelaide's membership of Mining Education Australia is a major coup for this important institution, for South Australian mining and for the state.

While recognising the high standard of the university's undergraduate program, membership in the joint venture ensures South Australia plays its part in a world-leading initiative in mining education. This government, through Primary Industries and Resources SA, looks forward to working with the university to provide new opportunities for students, the mining industry and the local economy.

MURRAY RIVER BUYBACK SCHEME

The Hon. R.L. BROKENSHIRE (14:48): I seek leave to make a brief explanation before asking the Leader of Government Business, representing the Premier, a question about the Victorian water trading cap.

Leave granted.

The Hon. R.L. BROKENSHIRE: Mr President, you may well have been excited to hear the news last Friday that Senator Xenophon (formerly the Hon. Nick Xenophon MLC) succeeded in compelling the Rudd Labor government to bring forward up to $1 billion in water spending for water buyback, infrastructure and stormwater harvesting, amongst other things—

The Hon. R.P. Wortley interjecting:

The Hon. R.L. BROKENSHIRE: That's where we are getting to—as a stimulus for the communities and the environment along the River Murray. Mr President, like me, you may have even contacted the senator, supporting his staunch and intelligent fight for South Australia—unlike some of his fellow South Australian senators.

It came to light yesterday that a significant obstacle to that package being implemented is the 4 per cent cap on water trading in Victoria. Once again we have Victoria standing in the way of water reform and delivering benefits for the whole Murray-Darling Basin system, in particular, South Australia. My questions, therefore, to the Leader of Government Business for the Premier are:

1. Why did the Premier not come out to support the Xenophon position on the River Murray last week when he was under fire for holding up the $42 billion stimulus package?

2. Has the Premier congratulated Senator Xenophon for his fantastic achievement for South Australia?

An honourable member: Has the Family First senator?

The Hon. R.L. BROKENSHIRE: The Family First senator actually supported the amendments and voted with him.

3. Will the Premier call Premier Brumby today and insist that Victoria lift its unfair and selfish 4 per cent trading cap?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): I can hardly let that comment go. Of course, it has been long known that Victoria has had that limit with the cap. It is scarcely something that came to light yesterday. It might have been for some people, but it certainly was not for anyone who is well informed about the water debate.

Since the honourable member talks about Senator Xenophon's position in the Senate last week and what the Premier and others might have said about it, I can inform the honourable member what the Leader of the Opposition in this parliament said about it. In his press statement, Mr Hamilton-Smith sent Senator Xenophon a message of support in his talks with the Rudd government over the stimulus package. Interestingly enough, he did not seem to send anything to Malcolm Turnbull, who voted against it.

If the reports that I have read from the Senate are correct, it seems that the Liberal Party voted against the package with and without Senator Xenophon's amendment, so it opposed it all the way through. So I think it is rather extraordinary that Mr Hamilton-Smith should be writing to Senator Xenophon but not to his own federal leader, Mr Turnbull, who voted against it. It is rather extraordinary.

There also seems to be some confusion as to exactly what would happen. It is interesting that in his press release the leader in another place said:

> I have just returned from the Riverland and it is clear that the Murray needs the fast-tracking of federal money to buy water to keep the plantings alive. Irrigators face losing their livelihoods and local businesses closing without urgent financial support from Canberra.

That is what the Leader of the Opposition says when he is in the Riverland. What does he say when he goes down to the lakes? What he says when he goes down to the lakes is, 'We need water for the lakes.' Members like the honourable member aside, no wonder they are squealing when their deception is revealed, because what do they do? Why do members opposite not work out what they want to do with the water? Do they want to give more water to irrigators or do they

want it to go down to the lakes? Then we have the nonsense of some members opposite who are trying to suggest that 30 gigalitres down in the lakes will be enough. On a hot day, it is about one or two weeks' evaporation. It is just extraordinary.

In relation to that, the honourable member asked about the Premier's views in relation to the agreement that was reached in the Senate last week. I am sure the honourable member would be well aware that the Premier has written to the federal minister, Senator Penny Wong, seeking assurance and asking whether that agreement will mean extra water coming down the river and when that will be. The Premier asked that exactly because of the concerns this government has had for a long time as to whether we will actually get the water.

I do not intend here to criticise Senator Xenophon, but what I think we do need to put on the record is that, if we are to get more water to our irrigators and down to the Lower Lakes, the fundamental thing is that it needs to rain. One can only hope that, with the massive amount of rainfall we have seen in the northern parts of New South Wales, some of that will find its way down here. That remains to be seen. I am sure all of us would like that to happen, because that is ultimately the only way we will be able to deal with the severe water problems we face at the moment.

It is also worth commenting that one of the problems we have, since Victoria has been mentioned, as has come to light in the past 24 hours, is that the bushfire damage will severely affect Victoria's catchment areas, and as the trees recover they will absorb significant amounts of additional water, which might well affect the water flowing into those catchments. Clearly the Victorian cap on water is something this government has been long pressing to change. The Minister for Water Security has publicly commented on it. Of course it should be changed, but how that will be done is another matter.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It is interesting that the Leader of the Opposition in another place was so quick to jump out and support this package and—

The Hon. R.I. Lucas: Showing some leadership.

The Hon. P. HOLLOWAY: Showing some leadership! He goes to the Riverland and says, 'This is great for the irrigators', and goes down to the Lower Lakes, forgets about the irrigators, and says, 'Oh, we just need water for environmental flows'. Unfortunately, you cannot have it both ways. If we are to provide extra water in the Riverland, it will not make it down to the Lower Lakes. I suggest that members opposite work out what they want instead of trying to deceive the voters of South Australia with this duplicitous dual message by telling the Riverland one thing and the people of the Lower Lakes another.

It is important to note that on this very day there has been the opening of a scheme that was part of a $500 million or $600 million package to assist people living in the Lower Lakes by providing those people with quality filtered potable water.

Members interjecting:

The Hon. P. HOLLOWAY: Death by 1,000 cuts! This lot opposite do not even express gratitude to Labor governments, state and federal, that are spending a massive amount of money dealing with the water problems in the Lower Lakes. In the past month, in January, even in Victoria with the excessive water use caused by the bushfires, it was the lowest intake into the Murray-Darling system ever recorded. That is the heart of the problem.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: It is the lowest ever recorded in that month—lower than during any other summer. It is about time members opposite, instead of trying to create disinformation—

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order! The minister does not require any help from his back bench, as he is doing very well by himself.

The Hon. P. HOLLOWAY: The other point I make in relation to the Xenophon package is that it was essentially a bringing forward of money that had already been provided for by the

federal Labor government. It is interesting that that package was opposed by members of the federal Liberal Party.

Members interjecting:

The Hon. P. HOLLOWAY: And he has spent nothing of it. The honourable member says that John Howard put up that money. Why did he not spend it? He had 18 months after announcing it, and he did not spend a cent of it—that is how serious he was! If you believe that a stitch in time saves nine, it may have been a lot better spent then two or three years ago than now. This government has spent hundreds of millions of dollars, as was witnessed today, with the opening of the pipeline to service the people in Meningie and the Lower Lakes region. To return to the question, I certainly agree with the honourable member that the Victorian water cap is an impediment to successfully ensuring we get the transfer of water we so badly need for both our irrigation areas and the Lower Lakes?

MURRAY RIVER BUYBACK SCHEME

The Hon. R.L. BROKENSHIRE (15:00): By way of supplementary question, I point out that the minister mentioned 30 gigalitres in his answer on the Lower Lakes. Will he explain why and how 24 gigalitres of water has been found to offset the acidification and environmental problems in Lake Bonney and the wetlands areas (which we support) when not one gigalitre or any accelerated remediation has been put forward for the Lower Lakes?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:00): I reject the comment that nothing has been put forward for the remediation of the Lower Lakes. Anything that can be done to save water upstream of the lakes will be of benefit, almost by definition, to the lakes. Any water conservation measure—and, of course, we have had severe water restrictions in Adelaide, for example—means that less water needs to be taken from the river and therefore it will find its way down to the lakes.

In relation to remediation of the wetlands, I will refer that question to the Minister for Water Security. There is some environmental allocation available for the river—not enough, of course; that has been the whole argument over the past few years in relation to the River Murray. Originally, there was a proposal for something like 1,500 gigalitres of environmental flow, and that figure was decided upon before the particularly severe drought we have experienced over the past two years. In an average year, we certainly need something like an additional 1,500 gigalitres available for the river for environmental flows.

Clearly, severe environmental stress is being placed on parts of the Murray, and I understand that in areas such as the Chowilla Forest and others that it is essential that at least some of the water that is available is used to protect those very important areas. It is important not just to protect them in themselves but also to protect the water quality in the river. I believe that is the source of water being used for these protected wetlands, but I will get that information for the honourable member from the Minister for Water Security.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Would the Hon. Mr Ridgway like to take over question time today? Would he like to take the Hon. Mr Lawson's question?

The Hon. D.W. Ridgway: The Hon. Mr Lawson might like to ask his own question.

The PRESIDENT: Well, the honourable member might like to come to order.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: And so should the Hon. Mr Dawkins.

BUSHFIRE PREVENTION

The Hon. R.D. LAWSON (15:02): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations questions about bushfire prevention.

Leave granted.

The Hon. R.D. LAWSON: The recommendations handed down by the Deputy Coroner, who conducted an inquest into the Wangary fires, included a couple of areas that required action by the Minister for State/Local Government Relations. The first was recommendation 7, which states:

...Minister for Local Government cause rural councils to appoint an Officer whose duties consist entirely of bushfire prevention, such Officer being required to become a trained, operative member of the South Australian Country Fire Service during the currency of his or her appointment.

The second recommendation involving the minister was No. 34, whereby the Minister for State/Local Government Relations and the Minister for Emergency Services are required to cause local plant and equipment that is suitable for use in bushfire fighting to be equipped with radios connected to the government radio network. My questions are:

1. In relation to the appointment of dedicated bushfire officers, given reports that some councils do not have such officers currently, can the minister advise the council what action the government has taken to ensure that recommendation 7 was fully implemented originally and continues to be enforced?

2. In relation to recommendation 34, can the minister assure the council that all local council equipment suitable for use in bushfire fighting is equipped with radios connected to the government radio network?

3. What steps are being taken to ensure that equipment is maintained in an operational state?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:05): I thank the honourable member for his questions. On 18 December 2007 the Deputy State Coroner, Mr Anthony Schapel, handed down his findings in relation to the Wangary bushfire coronial inquest, and he included 34 recommendations for action. Four of the recommendations—1, 4, 7 and 34—directly mentioned local government, and several other recommendations indirectly affected local government—such as recommendations 12 and 13 that deal with community education and communication.

The South Australian Fire and Emergency Services Commission (SAFECOM) coordinated a response to the recommendations on behalf of the state government, and a working party was established to progress work on a report that went through each of the recommendations and mapped out an action plan to determine a response to each. I am told that the working party comprised 24 representatives from 14 agencies and organisations, including the Office for State/Local Government Relations as well as the LGA. The Local Government Association established the LGA CFS reference group to provide it with council feedback on those recommendations that related to local government, and in May the LGA provided a response to the working party established by SAFECOM.

The government's response includes a range of legislative changes, and these will be incorporated into the work being progressed as part of the review of the Fire and Emergency Services Act 2005. The implementation of the non-legislative recommendations continues to be coordinated by the Commissioner of Fire and Emergencies in conjunction with the Wangary coronial inquest working party representatives. So, as you can see, a great deal of concerted and coordinated work has been done regarding those recommendations.

In relation to the radio network, I have received a report. I do not recall the exact details, but there was a reason the radio network recommended was not considered to be an optimal outcome. I cannot remember why that was, but all the appropriate stakeholders went through it and found it was not practical to recommend it. They devised an alternative strategy that involved furnishing equipment to specific vehicles rather than fitting it to all vehicles, only some of which might be useful for certain operations; specific equipment would be made available to put into the vehicles that had been determined as being useful for a particular operation.

So, and as I have outlined, the people on the ground who have to work with and operate that equipment, and use it to protect themselves and those around them, have been working together in various groups to operationalise the recommendations that have come out of the coronial inquest. A great deal of work has been done, and I am happy to bring back to the chamber the operational details and outcomes of that.

BUSHFIRE PREVENTION

The Hon. R.D. LAWSON (15:09): I have a supplementary question. Other than handballing the issue to a working party, what steps have you as minister taken to assure yourself that the recommendations have been implemented and continue to be implemented?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:10): The answer is: a great deal. There was an across-government response that included local government. My responsibility was to ensure that those recommendations that apply to local government were dealt with in an efficient and effective way in order to produce outcomes. That is exactly what has been done through groups working together with those people who have the appropriate information and skill to devise and implement the strategies that are necessary to meet those recommendations.

I received information from one of the groups—it could be four or five weeks ago, but it might be longer—that gave me a progress report on how those matters were occurring. Those matters were well underway. A number of actions had been achieved and implemented, and those outstanding had clear strategies to ensure they would soon be addressed.

NAIRNE PRIMARY SCHOOL

The Hon. R.P. WORTLEY (15:11): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the resolution of a complex traffic problem at Nairne in the Adelaide Hills.

Leave granted.

The Hon. R.P. WORTLEY: I understand that the three tiers of government have been working together in order to solve a complex traffic problem near Nairne Primary School. Will the minister explain what work will be undertaken and how this excellent—

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.P. WORTLEY: I know the Hon. Mr Dawkins does not have much interest in saving the lives of civilians. If he did he would sit there and be quiet while I ask this important question. All during question time he has consistently interrupted.

The PRESIDENT: The Hon. Mr Wortley should ask his question.

The Hon. R.P. WORTLEY: Will the Minister for Road Safety explain what work will be undertaken and how this excellent result will be achieved?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:12): I heard the word 'opinion' from the other side. Can you believe that, Mr President! I thank the honourable member for his important question. I am pleased to inform the chamber of the latest development in relation to this issue which was raised with me by the Nairne community. I personally visited the site and met with the local mayor, Mr Ferguson, in order to reach a resolution.

A three-way deal totalling $1 million has been struck, in which the District Council of Mount Barker, the federal government and the state government will each contribute $325,000. The end result will be smoother traffic flow and safer pedestrian access for school students on Princes Highway, near its junction with Saleyard Road and Woodside Road.

This funding will allow us to effectively redesign and dramatically upgrade this intersection and address the needs of all road users. The upgrade includes replacing the existing koala crossing with a pedestrian-activated crossing; the provision of separate left and right turn out lanes from Saleyard Road; construction of a pathway from Princes Highway to Nairne Primary School; footpath, kerbing, drainage improvements and a pedestrian refuge on Woodside Road; and installation of a pedestrian crossing over rail tracks on Woodside Road.

This is welcome news for the children who attend Nairne Primary School, the parents who drop them off and residents of this Adelaide Hills community as a whole. As a result of speaking with mayor Ferguson and corresponding with community members, I am certain the community will welcome these changes with open arms. I also thank and acknowledge the support of minister Albanese, along with mayor Ferguson.

This represents an excellent example of the three spheres of government working in partnership to meet the needs of the local community. I am advised it is expected that the work will be targeted to be completed by mid 2009.

BRADKEN FOUNDRY

The Hon. A. BRESSINGTON (15:14): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the expansion of the Bradken foundry.

Leave granted.

The Hon. A. BRESSINGTON: On 14 October 2008 I asked a question in this place of the minister in relation to the proposed expansion of the Bradken foundry. In essence, the question concerned what was at the time a rumour that Bradken was considering not proceeding with the expansion as per the time frame previously agreed to. In response, the minister reserved his answer, promising to return with detail.

While this has not yet occurred, Bradken on the other hand has since confirmed the rumour with a standard message on 21 January. Bradken CEO Mr Brian Hodges stated that the expansion has been 'indefinitely delayed'. However, Mr Hodges gave the guarantee that the environmental works required to meet the emissions standards agreed to with the Environment Protection Authority would still proceed. A spokesperson for the EPA reiterated this commitment, stating that if Bradken failed to comply it would be liable to a fine of $120,000.

As would be expected, the residents of Kilburn surrounding the Bradken site—some living just metres away—are alarmed at the news that Bradken is not proceeding with the expansion. These residents have long complained of the foundry's pollution and had pinned their hopes of improved air quality on the expansion.

While residents must take Mr Hodges at his word, another rumour has since spread that many of the environmental works promised are physically dependent upon the expansion, meaning that they can be undertaken only in conjunction with the expansion and that, in any event, it would be more economically feasible for Bradken to delay the environmental works and pay the fine rather than invest money in its present facility which, during prosperous times, does not meet output desires. My questions are:

1. Will the minister make clear to the council his current knowledge of Bradken's intentions regarding the approved expansion of its Kilburn foundry?

2. Does the minister believe that the prospect of a $120,000 fine is sufficient to act as a deterrent to Bradken given the overall value of the company and the cost of undertaking the environmental works?

3. Does the agreement reached with Bradken provide a tangible time frame upon which each promised environmental work is to be completed, or does the agreement solely set the completion date of 2012?

4. If there is no time frame, does this mean that Kilburn residents will have to wait until 2012 for the government to act, despite Bradken not having undertaken any of the environmental works up until that time?

5. Will the minister undertake to keep this chamber informed of any progress made on the environmental works at the Kilburn foundry in a timely manner?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:17): In relation to the latter question and some of the earlier questions about any potential fine, they are matters for my colleague the Minister for Environment, because it really would come under the Environment Protection Act. Clearly, if the honourable member wants an upgrade of those things and they are to happen under the current approval process, they are matters for my colleague in another place and I will refer those particular questions to him.

In relation to the major project that was approved for Bradken, I have no recent information other than what the honourable member has referred to which has been in the press in relation to where Bradken is going. However, I can inform her that under section 46 of the Development Act there is a time limit for which proposals apply, and if the company wishes to amend that it has to seek an extension. I believe it is a three year limit. So, the company has that length of time within which to proceed. If it does not, the approval it obtained relating to a major project expires. Already some time has passed, so the company would need to seek approval and then it would have to be reassessed.

The point I reiterate, which was made at the time that major project approval was given, is that the company, if it was not to proceed with the development, would be required to abide by the provisions of the current Environment Protection Act. Clearly, if the company is not to proceed with measures that would assist it in meeting those targets, it will be subject to other conditions imposed by the Environment Protection Authority. I will seek to obtain that information from my colleague in another place. However, certainly as far as major projects are concerned (which come under my jurisdiction), I would expect the company to proceed within that time frame—three years—otherwise it would have to come back to the government and either seek approval and provide reasons for any extension or, alternatively, if it wished to modify its proposal it would have to put up that case and, if necessary, if it was any modification, be subject to further public consultation on that. I hope that does not occur.

One can understand, in the current uncertain economic environment, why companies might defer expansion plans because of the uncertainty. However, one would hope that, as we emerge from this time, it would undertake that investment and, as a result, bring about the environmental benefits to which the people of the Kilburn area are entitled. Certainly, in making this a major project in the first instance, it was my hope that that would happen. Notwithstanding the fact that many of the local people were critical of my decision, the honourable member has reflected in her question that I think most residents now believe it is important that the company proceeds with that upgrading, because that is necessary to ultimately bring about a permanent solution to improved environmental issues, particularly in relation to air, water and the like, and also the improved amenity within the area.

I hope that this project proceeds, but I will certainly refer the relevant parts of the question to my colleague in another place and I will make inquiries of my department to ascertain whether it has any more recent information in relation to Bradken's intentions under the major project approvals.

BREASTSCREEN SA

The Hon. C.V. SCHAEFER (15:22): I seek leave to make an explanation before asking the Minister for the Status of Women and the minister representing the Minister for Health a question about BreastScreen SA.

Leave granted.

The Hon. C.V. SCHAEFER: It is well known that the health of rural women lags considerably behind that of their city-dwelling counterparts, largely because they do not have access to the same number of tests and screenings that are readily available to city women. The 2008-09 Department of Health budget allocated $2.5 million for the replacement of two country mobile units for breast screening. All of that money is to be expended this financial year.

It is estimated that 50,000 women in the target age group between 50 and 69 years are screened by mobile breast screening units. Given that we are now eight months into the financial year, can the minister inform the council whether those units have been replaced and whether they are being used at this moment and, if not, why not?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:23): I will refer the honourable member's question to the Minister for Health in another place and bring back a response.

CARBON POLLUTION REDUCTION SCHEME

The Hon. DAVID WINDERLICH (15:23): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Sustainability and Climate Change, a question about the impact of flaws in the federal government's planned Carbon Pollution Reduction Scheme on state, local government and household initiatives to reduce greenhouse gas emissions.

Leave granted.

The Hon. DAVID WINDERLICH: The flaws in the CPRS have been outlined by Richard Dennis of the Australia Institute in today's *Australian*. Mr Dennis argues that local government, state government and households are not included in the Carbon Pollution Reduction Scheme and,

therefore, any reductions in pollution that they achieve will just create or free up pollution permits that can be traded to polluters that are included.

This occurs because, under the Rudd CPRS, there is a low target of a 5 per cent reduction in emissions by 2020, and this is achieved through a system of tradeable pollution permits. A polluter can increase emissions as long as they are able to buy permits from another polluter that is reducing emissions. Therefore, any investment by state and local governments or households will simply subsidise polluters, because it will reduce emissions but, in doing so, free up permits for the polluters. My questions are:

1. What advice has the state government received about the impact of the Rudd CPRS scheme on state government efforts to reduce greenhouse emissions?

2. If the CPRS is introduced in its current flawed form, will the government's Greening of Government Offices initiative be a waste of time and money?

3. Will the installation of solar-powered streetlights by local government be a waste of time and money?

4. Will the solar panels on top of Parliament House be a waste of time and money?

5. Will plans to purchase 50 per cent of electricity requirements from renewable energy sources by 2014 and to make government operations carbon neutral by 2020 be a waste of time and money?

6. Will the 'Black Balloon' advertising program, which urges households to reduce their emissions, also be a waste of time and money?

7. Given the fact that the Rudd government's flawed system looks like it will gut the Rann government's greenhouse strategy, will the state government vigorously, vociferously and relentlessly lobby the federal government to amend its emissions trading scheme to ensure that the efforts of householders, state government and local government actually reduce emissions?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:26): The state government has already made submissions to the federal government in relation to the proposed carbon pollution reduction scheme. As I understand it, those discussions are ongoing. I read the article by the Australia Institute this morning; of course, that institute has a particular line to push. I also noted the comments made by Geoff Plummer from OneSteel in relation to this scheme. I guess we will hear a lot more about it before we come up with a final version of dealing with these climate change issues.

I will refer the specifics of the honourable member's questions to the Premier in another place, as the Minister for Sustainability and Climate Change, and bring back a reply.

RESIDENTIAL TENANCIES

The Hon. B.V. FINNIGAN (15:27): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about residential tenancies.

Leave granted.

The Hon. B.V. FINNIGAN: Landlords and tenants have an obligation to ensure that premises are kept in a similar condition to that which prevailed when the occupancy commenced. Will the minister inform the council what is being done to assist tenants and landlords in understanding their rights and responsibilities?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:28): In 2008, disputes over who was responsible for the repairs and maintenance of rental properties were the top reason for tenants and landlords requesting assistance from the Office of Consumer and Business Affairs. OCBA's tenancy branch assisted with 3,841 disputes between landlords and tenants in 2008, which is a 6 per cent increase in disputes handled in 2007.

Disputes relating to rental properties often arise when landlords and tenants are not familiar with their rights and responsibilities. If tenants are not quick to report matters that need attention, or if landlords drag their heels when attending to repairs, this can create tension. The most common area for rental disputes in 2008 related to the breaking of a lease. Tenants who want

to leave a property before the end of a fixed-term lease may not realise that they can be liable for advertising, re-letting fees and any loss of rent whilst the property is vacant. On the other hand, landlords need to understand that there are protections for tenants under the Residential Tenancies Act 1995, and tenants cannot be forced to move out early. I take this opportunity to remind landlords and tenants that rental arrangements and agreements can be varied in some circumstances, but both parties must agree to those changes.

Along with providing a disputes resolution service, OCBA received approximately 95,000 inquiries about rental matters from tenants, landlords and property agents.

The majority of issues were resolved with the advice provided, but invariably some matters required assistance from OCBA to conciliate disputes. In an effort to educate tenants, landlords and property agents about their rights and obligations, OCBA conducts seminars in metropolitan and regional areas. In addition, landlords and property managers are required by law to give an information booklet to their tenants at the commencement of their lease that outlines their rights and obligations. The information booklet looks at the rights and responsibilities of both parties to a rental agreement, and a lot of stress and misunderstanding can be minimised by simply taking the time to consider the information in that booklet carefully.

ANSWERS TO QUESTIONS

DOMICILIARY CARE

In reply to the **Hon. R.I. LUCAS** (8 May 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Ageing has provided the following information:

Changes to the domiciliary care schedule of fees were made by Domiciliary Care SA as part of an internal review of the fees system that was introduced in 2000. Extensive consultation was conducted with Domiciliary Care SA's Consumer Advisory Committee, consumer reference groups and a telephone survey. This was undertaken to gauge the potential impact of the proposed changes. Those clients consulted were accepting of the proposed changes. The changes will provide a more equitable fees system for clients and will also result in a reduction in administrative processes.

Prior to this review, clients who did not have private health insurance may not have been eligible for an 'expenditure waiver' and other clients that could afford to pay for private health insurance would have been eligible for an 'expenditure waiver'. This was viewed as inequitable and has now been changed. Private health insurance is no longer included in the list of items that can be claimed for an 'expenditure waiver'.

The removal of private health insurance as a claimable expense at the time affected 1,760 existing clients. These clients have been encouraged to reapply for a waiver of fees under the new criteria.

1,540 clients had been issued with waiver renewal forms up to 28 November 2008. 903 clients (60 per cent) had been approved with a financial ongoing waiver. 484 clients (30 per cent) had either not reapplied or were not approved a waiver. Each of these clients were contacted on an individual basis and outcomes included returning of equipment not being used, satisfaction with paying for services, taking up the direct debit option with Centrelink or purchasing their own equipment.

Service coordinators of the clients not qualifying for a waiver were informed in every case and, if circumstances were appropriate, a high risk waiver was approved. Thirteen high risk waivers have been approved (>1 per cent of total clients). 132 client files were closed, the clients either having passed away or having been placed in residential care (8 per cent). Thirteen clients are still being assisted with reapplying for a waiver, i.e., home visits.

89 waiver renewals were posted in early November for waivers expiring in December 2008 and January 2009. 30 clients have waivers expiring between February and May 2009—after this time all clients affected by the changes will have been reassessed.

An estimated increase in client contribution of $105,000 per annum is forecast.

MALTARRA ROAD, MUNNO PARA

In reply to the **Hon. T.J. STEPHENS** (19 June 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Housing has provided the following information:

In June 2008 a Housing SA representative personally visited the site and hand delivered letters to each tenant's letterbox which informed them of the type of work that was to be carried out.

The only complaint received about this work was received from a resident of Maltarra Road on 18 June 2008. As a result, the maintenance coordinator explained in further detail the reasons for the work and Housing SA's intentions.

Housing SA is increasing their focus on upgrading medium density sites which are to be retained.

This program aims to create housing that provides users with a sense of security and ownership. Achieving environments and homes that maximise safety and security is facilitated by a range of approaches that interplay to influence people's behaviour and attitudes towards one another, their own and other people's property and the immediate area in which they live.

These sites have been approved as part of the program and the work to be carried out on these sites includes upgrading of the public lighting, resurfacing of roadways and the installation of permitter fencing.

ADOPTION

In reply to the **Hon. R.D. LAWSON** (10 September 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Families and Communities has provided the following information:

Year	No of adoption orders granted—infants adopted by people on the prospective adoptive parents register
2007-08	36
2006-07	62
2005-06	72
2004-05	77
2003-04	79

HOUSING SA, SMOKE ALARMS

In reply to the **Hon. J.A. DARLEY** (30 October 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Housing has provided the following information:

When the legislation was introduced, Housing SA installed smoke alarms in all of its properties. These were a combination of replaceable battery powered alarms and hard wired smoke alarms. Under the current policy and Conditions of Tenancy, the tenant agrees to accept responsibility for the safe use of fixtures and/or fittings requiring batteries, including smoke alarms. This includes the responsibility to replace batteries.

However, tenants who are unable to do so, can telephone the Maintenance Centre to request assistance to have smoke alarm batteries replaced.

Housing SA has a smoke alarm replacement program as part of its annual Maintenance Programs. In 2007-08 nearly 3,000 smoke alarms were replaced in cottage flats at a cost of $0.37 million. The 2008-09 program will involve the replacement of smoke alarms in walk-up flats and attached houses, with an estimated expenditure of $0.5 million.

Housing SA has found that some tenants will remove batteries from battery powered alarms, either to use elsewhere, or to stop them beeping due to other causes, such as dust and cooking, which can trigger alarms. Given Housing SA's experience with the battery powered

alarms, this replacement program now specifies that the new smoke alarms must have a non-removable battery, so that tenants are unable to take the batteries out.

In respect to the property at Plympton Park, Housing SA has confirmed that this property does have a smoke alarm in accordance with the current legislation and, following the honourable member's question, Housing SA inspected the premises and can confirm that it has a smoke alarm and it is in good working order. The property has now been sold.

PRISON STAFFING

In reply to the **Hon. S.G. WADE** (12 November 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The honourable member has asked for information detailing the basis upon which the Department for Correctional Services Chief Executive advised the Murray Bridge community on 1 September 2008 that 75 per cent of staff would be willing to move.

I am advised that at no time has my Chief Executive Officer asserted that 75 per cent of staff would be willing to move to Murray Bridge.

Comment was only made in reference to the current residential addresses of the existing Mobilong Prison staff that 65 per cent now live in Murray Bridge and 95 per cent live in Murray Bridge or the surrounding areas, including the Adelaide Hills.

Based on this fact, it is anticipated that over time the majority of staff working in the new prisons will be living in the Murray Bridge area.

PORT AUGUSTA HOSPITAL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:30): I table a copy of a ministerial statement relating to Port Augusta Hospital made earlier today in another place by my colleague the Minister for Health.

VISITORS

The PRESIDENT (15:30): I draw to the attention of honourable members that in the chamber today we have a staff member with us from the Tongan parliament who has been in South Australia this week on a training and educational trip. Tonga, as most members would know, is South Australia's CPA twin, so I am sure all members will make welcome our friend from the Tongan parliament.

Honourable members: Hear, hear!

MATTERS OF INTEREST

RURAL WOMAN OF THE YEAR

The Hon. C.V. SCHAEFER (15:31): Today it was my pleasure to attend the 10th Rural Industries Research and Development Corporation (RIRDC) rural women's award. It is in fact the 14th such award in this state. The original awards for rural woman of the year were awarded by ABC Radio; however, RIRDC has taken on that sponsorship. The first time it took on that sponsorship in the year 2000, so this is the 10th anniversary of the Rural Woman of the Year Award.

I congratulate the winner, Susi Tegan, who lives in Furner in the South-East but who is the Managing Director of the Eyre Peninsula initiative known as Free Eyre. Susi I can relate to very closely, given that she lives some four hours to the south of Adelaide and then travels to Eyre Peninsula for much of her work. I congratulate her and the other two finalists, Ulli Spranz from Paris Creek Biodynamic Farms and Sharon Honner from Maitland on Yorke Peninsula.

The minister pointed out today that only 7 per cent of rural and agriculture business boards in Australia are represented by women; only 7 per cent of the boards are made up of women. For the first two recipients of this award, their major prize is to travel to Canberra and do the company directors course, so it certainly opens up opportunities for women.

The minister pointed out that 51 per cent of the population of rural South Australia is made up of women, so they are certainly lagging behind in their representation on agri-business boards.

It also gives a great deal of confidence to those people who pursue, if you like, extensions to their current work within their farms.

Part of the award to the winner is a $10,000 bursary to do a project related to rural South Australia, and I am particularly interested in Susi Tegan's proposed project. She intends to travel to Europe, the USA and Canada to look at self-development marketing opportunities for regional South Australia. She is Managing Director of Free Eyre, which is a farmer-driven group that identifies opportunities for new business on Eyre Peninsula.

It has as its base a new form of cooperative, whereby the proceeds from any new businesses as they are seed funded are divided between members of Free Eyre. As with most things, economics is also cyclical, and we are looking at a period of time within rural South Australia where many of us will have to consider reverting to a cooperative form of marketing, and it will have to be new and innovative and nothing like the old forms of cooperatives.

It is my personal and strong view that, while the old cooperatives gave people a sense of security, they tended to lull people into managerial laziness where they were willing to accept the lowest common denominator from the producers who were part of the cooperative. Free Eyre is quite different in that its entire board is made up of skills-based members rather than financial contributors to that cooperative system. It is in its infancy as a method of marketing on Eyre Peninsula, but it is a positive and forward thinking move. I hope that Suzi's research is able to be applied to industries across South Australia and I wish her well.

PRESIDENT BARACK OBAMA

The Hon. I.K. HUNTER (15:37): I rise today to enthusiastically congratulate the 44th President of the United States of America, Barack Obama, and to add my own hope to the President's own agenda of hope, that his demonstrated commitment to the gay and lesbian communities translates to real changes in the lives of gays and lesbians in the United States. When I stood at a function last November and saw the call on CNN that the then senator Obama was now President-elect Obama, I felt, as I imagine we all felt, that we were witnessing a pivotal moment in world history.

Of course, the inauguration of the first African-American president is so important for that country's black community, and for ethnically diverse communities around the world. This is, after all, a community that battled for civil rights within the past half century and against slavery 100 years before that, and for the first time in too long we saw a US president being elected on a message of hope, on the promise of a better, brighter future for the world. Instead of stooping to the mud slinging of old, President Obama stayed above the gutter politics of his opponents and ran a campaign that was, above everything else, optimistic about the future and optimistic about change and about bringing about better lives through change. I have great hope.

From the day President Obama was sworn in, the official White House website included a series of initiatives that will affect the LGBT community under the banner 'civil rights'. A quote from President Obama on the website says:

> While we have come a long way since the Stonewall riots in 1969, we still have a lot of work to do. Too often, the issue of the LGBT rights is exploited by those seeking to divide us. But at its core this issue is about who we are as Americans, it is about whether this nation is going to live up to its founding promise of equality by treating all its citizens with dignity and respect.

From there the site goes on to outline a number of initiatives that he will pursue as president.

Last year in this place I spoke of Matthew Shepard's death at the hands of Aaron McKinney and Russell Henderson—a crime obviously motivated by bigotry and hate. But, neither man was charged with a hate crime because neither Wyoming nor the United States currently have legislation to cover hate crimes motivated by sexual orientation. I also spoke of the fight to have such legislation enacted, with President Bush stating that he would never sign such a law into effect.

Riding on the promise of change, Obama has promised to pass the Matthew Shepard Act so that gay hate crimes are covered under federal legislation. This is a much needed change, especially when one considers the fact that hate crimes against those in the lesbian, gay, bisexual and transgender community rose by 24 per cent from 2006 to May 2008. Similar to debates we are now having in South Australia, federally the United States is looking to expand its Employment Non-Discrimination Act to encompass anti-discrimination provisions for sexual orientation—a move that President Obama supports.

Such a commitment follows from his days as an Illinois state senator, when Obama sponsored legislation that would ban employment discrimination based on sexual orientation. Whilst I am disappointed that President Obama has stated that he does not support gay marriage, I am indeed pleased that the White House website outlines his support for full civil unions and federal rights for LGBT couples, as well as his opposition to a constitutional ban on same-sex marriage. He has also stated his commitment to expanding adoption rights so that adoption is a viable form of family creation for all people, regardless of their sexual orientation.

One of the peculiarities of the US military has been the 'Don't ask, don't tell' policy, which President Obama has vowed to repeal. Just for a start, more than 300 language experts have been fired because of this ridiculous policy, more than 50 of them being fluent in Arabic. Sexual orientation is a bizarre barometer of ability to serve in the military, and I am not surprised that someone as logical as the United States' new President is working to get rid of the craziness that is 'Don't ask, don't tell'.

President Obama has shown himself to be a thoughtful, logical, intelligent man and these policies reflect that. He has already acted, and I refer, for example, to his lifting of the so-called 'global gag rule'—the nonsensical rule which banned any foreign aid funding from being distributed to any groups that promote or perform abortions, which is something I will expand on at a later date.

I join all those people from around the globe who have offered their congratulations to President Obama and who share his message of hope—hope that leads to change for a better world.

MURRAY RIVER, LOWER LAKES

The Hon. R.D. LAWSON (15:42): I want to speak about the Coorong and the Murray Lakes system, in particular of the effect of the current drought on those systems. Much has been said about proposals to remediate the situation in Lake Alexandrina and Lake Albert. The Premier, in January this year, made an announcement that letting seawater into the Lower Lakes would be an absolute last resort measure and that it was something that the state government does not want to do. The Premier said:

> We will be looking to delay any such decision for as long as possible to allow maximum potential for good winter and spring rains in 2009.

The Premier went on to say, as he often does, that the government would leave no stone unturned in investigating all possible solutions, etc. The difficulty with the Premier's statement is that, once again, the government is really relying upon hoping, as we all are, for additional rains in the forthcoming season. However, the problems with the Lower Lakes are far greater than any remediation to be effected by rain events. The lakes have been deteriorating for many years, as a result of decreased freshwater flows and increasing allocation of water for irrigation purposes upstream.

The Lower River Murray Drought Reference Group has been meeting recently to discuss some of the issues in relation to the lakes, including the problems with acid sulphate soils and suggested solutions and the solution of bio-remediation trials, etc., and the scientists are discussing these issues.

Notwithstanding the good work that body, whose chair is the former premier Dean Brown, is undertaking in community consultations, the fact is that we need to have more lasting solutions to the problems with the lakes. Notwithstanding the fact that not many people want to see seawater ingress into the lakes system, it ought to be recognised, in my view, that not all the adjoining parts of the lakes are of high ecological value, that some most certainly do have high values and need to be protected at all costs, and that a flexible solution to these problems must be devised. I was delighted to receive from Quentin Lovell, a boat mechanic and amateur ecologist in Victor Harbor, a very thoughtful proposed solution for the Coorong and Murray Lakes system. His system does involve what is virtually a two-lakes solution, with part being fresh and part being salt. He is principally concerned to ensure that the high ecology values—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The honourable member should not be using his telephone in the chamber. The honourable member needs to—

The Hon. R.P. Wortley: I wish you would be consistent. I've seen many—

The ACTING PRESIDENT: Order! The honourable member might like to use his telephone out of the chamber.

The Hon. R.D. LAWSON: —are appropriately protected by levy banks and fresh water ingress. Mr Lovell clearly understands the fact that the system in the lakes is very much wind driven, and that it has been deteriorating for many years. I would be happy to provide interested members with a copy of this solution.

I do hope the reference group consults not only those who may have properties alongside the lakes but also more widely within the community, to ensure that we have a solution that not only meets current exigencies but also provides a long-term future for those parts of the system that require protection.

MEALS ON WHEELS

The Hon. R.P. WORTLEY (15:46): I was pleased to learn recently that Renmark Meals on Wheels celebrated the serving of its 500,000th meal. This major milestone for the branch saw the organisation's half-millionth meal served by long-time volunteer Ruth Christie and Renmark Paringa council mayor Neil Martinson.

The milestone meal celebrates the significant service and friendship the organisation provides to many Riverland residents. Meals on Wheels is not just about the meals it provides for its recipients, because it also provides important friendly, social contact—for many, a highlight of their day. Renmark Meals on Wheels provides between 50 and 80 meals each day, a service it has been providing for the past 44 years.

Meals on Wheels assists over 5,000 South Australians, with 100 branches across the state, but its beginnings were much more humble. It was established by South Australian Doris Taylor who, due to a childhood accident, was totally disabled at the age of 16 and was forced to live the rest of her life confined to a wheelchair. By her 20s, when the country was experiencing severe depression, she began to lobby for better conditions for the aged, the housebound and the disabled, recognising that if these people were to be encouraged to remain living in their own homes community service to assist them was vital.

By 1953 Meals on Wheels was established, the concept of producing meals with volunteer support the first of its kind in Australia. To establish the organisation a donation of £5 was contributed by those assisted by the service. Port Adelaide was the site of the first kitchen, where 11 volunteers delivered meals to eight clients, and not long after that kitchens were established at Norwood, Hindmarsh and Woodville. The first president of the organisation was the late Don Dunstan MP, who served as president from 1954 to 1956. Similar organisations have evolved around Australia and overseas from the same vision of Doris Taylor.

Today, Meals on Wheels South Australia has over 10,000 volunteers, more than 5,000 clients and 100 branches, including 40 kitchens, around the state. Meals on Wheels was the first organisation of its kind to charge for a meal, a concept previously unheard of; however, the concept received much acceptance from its clients, who realised that volunteer support was one thing but the cost of making a meal was another. Today, around $6 provides a quality, nutritious meal—and that is quite cheap when you consider that 50 years ago £5 was worth considerably more. So, $6 to provide a quality three-course meal once a day is very good value.

I congratulate the Meals on Wheels volunteers who strive to keep the organisation running and provide clients with affordable nutritious meals and friendly contact so that they can continue to live at home, while emulating the values of the organisation: unity, development, opportunities, cooperation and responsibility. Without volunteer support, the success of Meals on Wheels would not have been possible. On behalf of this council, I thank those individuals who take the time to benefit their community.

Time expired.

ADELAIDE 36ERS

The Hon. R.I. LUCAS (15:50): I want to speak this afternoon about a great South Australian sporting institution, much loved by hundreds of thousands of South Australians over the years, the Adelaide 36ers, the men's basketball team. Many tens of thousands of people have enjoyed following the 36ers, at what was the powerhouse and is now the Distinctive Homes Dome, and particularly the greats of the Adelaide 36ers basketball team, including Green and Davis, and of course the much-loved Brett Maher, who possibly played his final game only this month.

In recent months, in particular, men's basketball nationally has been going through some significant problems, with teams in Sydney and a number of other places folding mid-season and having to be bailed out. As a result of that—and to cut a long story short—there has been a review and a national agreement to establish a new national body to run men's basketball in Australia. On Friday next week—just nine days away—all clubs in Australia that want to participate in this new national league have to submit their licences. There are some extraordinarily onerous requirements—and one can understand the reason for that is to try to prevent clubs folding mid-season—one of which is that there be a deposit of up to $1 million by each group seeking a licence.

South Australian members will be aware that in recent years Premier Rann and Treasurer Foley negotiated a deal in relation to men's basketball in South Australia. Among other things, it resolved financial problems and resulted in Mr Mal Hemmerling and his interests owning the 36ers and Mr Eddy Groves owning the Distinctive Homes Dome.

It has been known for some time in Adelaide and South Australia that Mr Hemmerling and Mr Groves have been looking for new and prospective owners for both the 36ers and the Distinctive Homes Dome. To date there have been no takers, although there has been speculation about particular interested groups.

The situation will be that on Friday week the current ownership, Mr Hemmerling and others—because there will be no-one else—will lodge, we hope, a bid for a licence for South Australia in order to enable the 36ers to continue. It is my understanding that, if Mr Hemmerling and the current interests lodge a bid, they will not be able to lodge a bid which conforms to the national requirements. If I am wrong—and I hope I am wrong and we see a conforming bid—in particular it requires agreement to lodge a deposit of $1 million.

The reason I raise this matter this afternoon is: what role can we and the government play in order to ensure that the 36ers continue in South Australia? There are a number of things. I am not calling on the government to pay money directly to any private group in relation to this matter but, for example, there are current restrictions on the Distinctive Homes Dome in relation to the number of concerts and events that can be conducted there. The restrictions were put there originally by the Bannon government in the 1980s to protect the old Entertainment Centre. There are a number of things that the government could do to try to assist the continuation of the 36ers.

I am an avid follower of basketball and I confess my bias. The point I make is that there is some danger that the Adelaide 36ers might not be able to continue and lodge a complying bid in order to be part of the National Basketball League in Australia. Certainly, if that were to be the case, it would be a tragedy for tens of thousands, possibly hundreds of thousands, of South Australians who have loved not only the 36ers over the years but also men's basketball. So I wanted to flag that this afternoon as an issue. The Cairns community, for example, is trying to save its licence, and up to 100 people have donated $5,000 each to assist it in that. There are a number of initiatives that governments and communities, if they really wish to ensure the continuation of the Adelaide 36ers in South Australia, might be able to undertake to support this, I believe, worthy cause.

ADOPTION

The Hon. D.G.E. HOOD (15:55): Today I rise to bring to the chamber's attention our appalling regime for adopting children here in South Australia. I call on the minister to conduct an urgent inquiry into why adoption is not working in South Australia any more. I refer to some figures I was given at a recent Budget and Finance Committee meeting. In the financial year 1972-73, 467 children were adopted in this state. By 1982-83 that number had plummeted to just 78, and in the financial year 2006-07 that number had dropped again to only five individual adoptions granted on locally born children in this state.

Families SA has called it 'a significant and rapid decline in the rate of adoption of locally born children' over the past few decades, and it has blamed it on a range of factors, including the wider use of contraception and higher abortion rates, amongst other things. One other reason for the drop is, and again I quote from the response, 'significant changes to adoption legislation and practice'.

I suspect that bureaucracy and red tape get in the way far too much during the adoption process. In fact, one mother who applied to adopt a child was informed that her application would sit in a desk drawer for five years before anyone would look at it. She told me this only a few months back, and that was the reason she applied for an overseas adoption instead. In this state

we have far too few adoptions and far too many children placed in the impermanent world of foster care.

There are currently 1,791 children in our foster care system, with no assurance of permanency. Why cannot these children be candidates for adoption, or at least some of them? Adoption is a more secure and permanent environment for children than foster care, and higher adoption rates of newborn babies is also a far better alternative than high abortion rates. With declining fertility rates and an ageing population, it makes sense.

Indeed, New South Wales has recently proposed sweeping reform of its adoption system, including:

- simplifying eligibility to increase the focus on parenting capabilities;
- allowing women to apply for adoption while trying to have their own children through fertility programs; and
- making adoption more attractive to foster carers by allowing them to retain their foster carer allowances.

We also need to look to cut the red tape and simplify the process for putting up children for adoption, including the implementation of a so-called 'no questions asked' policy, which has worked well in other jurisdictions. There must be a better way than forcing prospective parents to scour overseas at great cost, delay and personal anguish to find a child so that they can start or continue their family. In September last year I wrote to Families SA asking four simple questions:

1. Why are there virtually no local adoptions currently?

2. What methods are used to screen prospective parents?

3. Are women considering an abortion required to be given the option to adopt, or are they provided with material from Families SA regarding the option of adoption to inform them?

4. Are parents in long-term foster carer situations presented with the option to adopt children in their care without losing their benefits where appropriate?

I am yet to be satisfied that Families SA takes these matters seriously and, after discussions with several stakeholders, an internal inquiry rather than a parliamentary inquiry was agreed as the best way to achieve action within the department.

This is a personal issue for me. I think members know that my wife was adopted. My father was also adopted. It concerns me that adoption is no longer a serious option for mothers or expectant mothers who cannot care for their children or expected child in the future. I will be contacting the minister and supplying him with my comments here and my concerns. I am requesting that he undertake a review at the earliest opportunity. This is a very important issue and it needs to be addressed as quickly as possible.

THE GREAT BOOMERANG

The Hon. J.A. DARLEY (15:59): Today I rise to speak about a plan which has the potential not only to secure water for our state and reduce unemployment but which could also turn the centre of Australia into a fertile, habitable plain. We have the situation now where parts of northern New South Wales and Queensland are experiencing severe floods, yet we in South Australia are experiencing one of the worst droughts on record and the Murray-Darling Basin system is in crisis.

In 1941, Ion L. Idriess outlined a scheme in his book entitled *The Great Boomerang*. The idea proposes that water be channelled into the Georgina and Diamantina rivers and Cooper Creek through central Queensland into Lake Eyre. The theory is that if Lake Eyre is constantly flooded with water it will create a vast wetland, which would evaporate and create rainfall and therefore change the climate of the area. This would affect the entire area in central Australia, especially where New South Wales, South Australia, Queensland and the Northern Territory meet.

The area I have just described was once a vast inland sea many thousands of years ago, and the Idriess vision is to introduce water into the heart of Australia again. More importantly for South Australia, such a plan should create rainfall over the Murray-Darling Basin and, therefore, stimulate flow down the Murray River.

In addition to this plan of flooding Lake Eyre, Idriess briefly outlined the potential to divert the Paroo and Warrego rivers in southern Queensland and the Clarence River in northern New South Wales into the Murray-Darling Basin. The Clarence River proposal involved either pumping the water over the Great Dividing Range at a low point of about 1,000 feet altitude or tunnelling about 20 kilometres through the range in order to deliver the water to the Murray-Darling Basin. The surplus water from the Clarence River was estimated to be three times the volume of Sydney Harbour.

A similar idea, which involved diverting water from North Queensland rivers into central Queensland, known as the Bradfield scheme, received great attention from a former Queensland premier, Sir Joh Bjelke-Petersen. The Bradfield scheme was developed by Dr John Bradfield, who is best known as the designer of the Sydney Harbour Bridge and who was also involved in a range of engineering works including the Cataract Dam near Sydney and the Burrinjuck Dam, which formed part of the Murrumbidgee irrigation area.

Bradfield presented his scheme to the Queensland government in 1938. However, it was not until the Bjelke-Petersen government came into power that the scheme received attention. A number of reports examining the feasibility of the scheme were commissioned, including the Cameron McNamara report of 1984, which revised the Bradfield scheme to integrate modern technology and new information. The Queensland government secured $5 million of federal government funding to proceed with the revised scheme. However, this funding was withdrawn by the newly elected Hawke government and the scheme subsequently never came to pass. By way of comparison, no political party of either persuasion has seen fit to investigate the feasibility of the Idriess idea.

The Great Boomerang also outlined the potential for hydro-electricity generated by waterfalls in Queensland and the kinetic energy caused by the flow of the river system to be utilised. Idriess wrote *The Great Boomerang* in 1941, when Australia was faced with problems similar to those we face today. The country was drought stricken, in desperate need of water and facing high levels of unemployment at the end of the war, with 600,000 returning servicemen and 300,000 munitions factory workers requiring employment. He highlighted the fact that, in addition to preventing drought and erosion and providing cheaper electricity, this also had the potential to establish a population in a currently uninhabitable area of the country. In addition, such a large-scale infrastructure project would create employment opportunities for thousands.

If Idriess thought it was feasible to build this project in the 1940s, with the limited technology available, I imagine that the plan would be much more effective should it be implemented today, with improved technology. Idriess stated:

> The idea of *The Great Boomerang* may be, and probably will be, laughed at. But all should realise that we must do something with our surplus water. The interior of all Australia is crying out for it—and we allow this sea of fresh water to run to waste along our coasts every year. And I believe that if those who first study the cost think of the ultimate benefit to the nation then the cost will not stand in the way.

Time expired.

MEMBER, NEW

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:06): I move:

> That this council welcomes the Hon. David Winderlich as a member.

I have pleasure in moving this motion to enable the Hon. Mr Winderlich to make his first speech in this parliament.

Honourable members: Hear, hear!

The PRESIDENT: I remind honourable members that it is the Hon. Mr Winderlich's first speech and ask that he be shown the courtesy that is always shown to those making their first speech.

The Hon. DAVID WINDERLICH (16:07): Thank you, Mr President. I thank you for the warm and friendly welcome I have received from you, Mr President, from other members and from the staff since arriving.

I am not here today because I ever had any sort of long-term plan. I am here because at different times various people have pushed me forward or quickly stepped back when there was a call for volunteers, leaving me stranded. One thing led to another, and this is where it has ended

up. I would like to thank some of those people. I thank my predecessor, Sandra Kanck, for her support and advice. I thank all the friends and colleagues who came to witness the election by the Joint Assembly yesterday. I especially thank the people from the Copper Coast who came, and I thank the people from Barmera for all their good wishes.

I particularly thank my wife and children for their support, their refreshing perspective on politics and the constant reality checks they provide me with. One of my daughters pricked up her ears yesterday when she heard 'Mr President' and asked whether Barack Obama was going to be here—confusion brought on, no doubt, by the uncanny physical similarities between our respective presidents! Another of my daughters has dedicated herself to identifying any signs that I am becoming a wanker and ruthlessly stamping out such tendencies.

As a number of you have already told me, being an MP is a great privilege. You get a good wage to do work you passionately believe in (maybe that is one of the perks of being in a minor party), and it is an endlessly fascinating occupation. You can go from a meeting with the AIDS Council to a meeting with the oyster council or from drinks at the RSL to sharing organic grapes at a Friends of the Earth forum—and you can do all that in the same day. Every so often you find yourself in a room where 'every heart is shining with goodwill', as it says in *Keating! The Musical*, and where the trust and common purpose are so strong that it is electric. Those moments are wonderful, and I had another one of those yesterday.

I will speak very briefly about some of my priorities for the year; one of them has to be the Murray, which I think has to be a priority for any South Australian. We can save it, and we must save it. To state the obvious, without the river there will be no irrigation, no secondary industry along the river and very little tourism. However, the federal government seems to have given up on the Murray and the Darling, and I think the contrast is shown by the differences in the reaction to the global financial crisis, to which tens of billions of dollars were unlocked very quickly compared with the snail's pace of change in response to the death of the Lower Lakes and the various challenges the Murray faces.

The people in the regions in places like the Lower Lakes and Barmera have been magnificent. They have fought very hard for their sections of the river, but the votes are in the city. We must bring the fight to the city, and that is one of the things I will try to do. I will try to help make the Murray a key issue in the next state and federal elections.

A sense of community is very important to me. We heard yesterday in the condolence motions about the bushfires how important that is. It works at much more mundane levels, too, such as whether people are secure in letting their children walk to school or whether a demented grandmother is returned when she wanders. A cohesive community forms an ongoing and informal neighbourhood watch.

It is all too easy to be dazzled by the big end of town. It is all too easy to be seduced by the pleasures of being in the VIP tent at the Clipsal, as opposed to some community hall in a small country town; to take the side of developers over that of communities; to build super schools instead of paying teachers; and to run scare campaigns on crime which cause people to retreat behind security doors and gated communities when they should be on the front veranda sharing a beer and saying hello to passing joggers, people walking their dogs and the passing parade of life.

Communities thrive on hope and trust: they shrivel when they are under a constant barrage of fear and suspicion, so it seems as though in many ways we do not value the grassroots any more. I will do my best to put that back on the agenda.

Accountability has been a critical issue; it has been a critical issue for the Democrats, and it is a very critical issue to ordinary people. Their sense of fair play is offended when they see a lack of accountability. Some councils and some bureaucracies become arrogant and out of touch. We have talked a lot in here and we have heard a lot over the past year about the District Council of the Copper Coast, and another department that is mentioned in this chamber a fair bit is the Department of Water, Land and Biodiversity Conservation, which ignored local knowledge on the Lower Lakes, the Upper South-East drains and Lake Bonney.

Time and again the locals have been proved right and the bureaucracy has been proved wrong, but it does not listen. It seems as though some of these bodies feel that they do not have to explain themselves. I will do what I can to ensure that local communities can force such councils, such bureaucracies and ministers to account for their decisions.

There is a lot more that I could say, but I have a whole year to bend your ears, so I will not take much longer. In the 2006 state election I wrote a limerick every day for *crikey.* I have been asked by a number of people to provide one today. Some of these are very biting and sardonic and some are corny. As befits the occasion, this one is a bit corny. It goes like this:

You can shout at the TV at night

Or climb into the sandpit and fight

But when all's said and done

And the mud has been flung

You're not lost if you still see the light.

This, of course, describes the tension between changing the system and being changed by it. One of my children found a much more down-to-earth way of describing this tension. I have been christened 'MOP' (member of parliament). When I got home last night I found a card, and it read:

Dad, you are a MOP, and MOPS are used to clean up messes. But just because you are a MOP it doesn't mean you have to be smelly.

Thank you for listening; I look forward to working with you.

Motion carried.

REGULATING GOVERNMENT PUBLICITY BILL

The Hon. R.L. BROKENSHIRE (16:14): Obtained leave and introduced a bill for an act to regulate government publicity; and for other purposes. Read a first time.

The Hon. R.L. BROKENSHIRE (16:15): I move:

That this bill be now read a second time.

The history of the use of government advertising for political gains is an interesting one and I will retrace it for members shortly, as it brings forth some fascinating and, frankly, embarrassing backflips by our political leaders. I will summarise the history in a simple way by referring to my maiden speech in this place last September. The reason oppositions of either colour say one thing about reining in taxpayer funding of party-political advertising before an election, but oppose it if they win government, mainly involves power and control.

Parties wish to gain power and control and, when they get into government, they conveniently forget their promises, especially when it comes to political advertising. From the outset I am not making that accusation against the present state opposition because on my understanding it has not gone so far as to make promises to regulate government advertising. The opposition, like Family First and other members, has been critical of ads featuring in particular the Premier promoting various things, but it has stopped short of proposing reform. So here I propose this reform to my colleagues and to the opposition.

I am aware that the Hon. Mark Parnell has proposed some reform with his motion today, which I know has some merit, but, with respect to him, I believe that the bill I introduce today is far more comprehensive and represents what is now several years of research preceding my time in this place. Since I have been in this chamber I have been keen to pursue this matter. It represents several years of Family First Party deliberation and research on this important issue for the protection of taxpayer funds.

A key figure in regulating government advertising must be the auditor-general. The Hon. Mark Parnell's proposed select committee, I understand, does not involve the Auditor-General, at least on the face of it. Yet research papers Family First has collected on this issue show that frequently it has been auditors-general throughout Australia who have been critical of taxpayer-funded advertisements used for political purposes and who have called for regulation of government advertising. Auditors-general have also observed a spike in government advertising approaching elections, which again suggests there is more to this advertising than simply informing the public about important matters of public health and safety.

For some examples, I indicate that the New South Wales and Victorian Auditors-General in the 1990s issued reports on this trend, and it is important to put this on the public record. It is fair to say, looking at our own research and that of academics and others, that the phenomenon of what I will now refer to in shorthand as political advertising is relatively recent. I add that Family First does not consider that government job advertisements, tenders or public notices can be classed as

political advertising: they are important pieces of public information. I have used the example of three fruit and five veg, and I commend the government and the health department for promoting that type of advertising. There is a raft of advertising, such as full page advertisements in newspapers, that are not about jobs or tenders, however, but are about a political party and its desire for re-election.

Family First research shows that since the 1970s governments have used advertising campaigns for social marketing to improve citizen health and safety, and examples of this include anti-smoking and AIDS awareness campaigns through to modern-day examples like the former federal government's campaigns against domestic violence and amphetamine use. These were, in the 1970s and 1980s, generally accepted with bipartisan support as a legitimate and important use of taxpayers' money. That is why I am not singling out this particular government.

Starting in the late 1980s, and from the 1990s onwards, governments of either persuasion began increasingly to get a taste for using government advertising for political ends. I will begin with a sobering starting point: the 1987-89 period in Queensland where the Fitzgerald inquiry occurred, in a state without a Legislative Council. Whilst that report was about police corruption, the inquiry revealed widespread corruption and abuse of power on the part of the Bjelke-Petersen government in Queensland. The inquiry recommended, among other things, that guidelines be developed for government media units and press secretaries. So, too, the WA Inc. royal commission included recommendations that government publicity be placed under greater scrutiny. There have, since back in the 1980s, been big question marks about the appropriate use of taxpayers' money in the field of government advertising.

In 1993, to put it on the public record, the Keating government's $3 million advertising campaign on Medicare hospital entitlements was spent largely in the last month of the 1993 election campaign. The Keating government's Working Nation advertisements of 1995, promoting his government's employment policies during high unemployment, were criticised at the time as political advertising. They also went on as a government to spend $9 million in three months prior to the 1996 election campaign, which was a bulge in government advertising in those days.

It accelerated from there and in the midst of that, in 1995, the then opposition leader, one John Winston Howard, complained that there was a lack of regulation of government advertising and that the guidelines for Australian government information activities were too weak. I could go on here about what the Auditor-General said about that with respect to the federal Liberal opposition in terms of what it promised if elected and what it would want the Auditor-General to do, but I will try to be as quick as possible with what I think is important legislation and explain what happened. In 1998, the Howard government wanted to let the electorate know that a Howard government would introduce a goods and services tax, and that is when it all started to accelerate, which is always the case, irrespective of the colour of the government. What did the Howard government do? It embarked upon a $14 million advertising campaign, even though no legislation was before the parliament. So, there was no legislation at all before the parliament, but the Howard government decided just before it was re-elected that it would spend $14 million pumping up the proposition.

I am told that advertising consultants reported weekly to relevant ministers on the outcomes of focus groups. Allegedly, when the acceptance rate in these groups reached 50 per cent, the prime minister called a general election. So, in that instance, I am advised that prime minister Howard spent $14 million of taxpayers' money to basically test his proposition, even though there was no relevant legislation before the parliament. He put more and more money into the campaign and, when his research showed that the advertising was working and that more than 50 per cent of the focus groups accepted the proposition of a GST, he called a general election, which he went on to win.

My suggestion is that, if a government wants to conduct such a campaign, it should pay for it from Liberal or Labor fundraising; it should not be funded by the taxpayers. One expert claims that the federal auditor-general approved the campaign, but all state auditor-generals saw it as a retrograde step in the use of public moneys. Although it is anecdotal at best, I have referred to the Howard GST campaign for the sake of completeness.

Another trend that illustrates the politicisation of government advertising is the shifting of media units from the administrative department of governments into the Premier and Cabinet or Prime Minister and Cabinet parts of the executive. Also, to illustrate my earlier point about the increase in advertising before an election, the best example of this comes from Audit Report No. 12 of the Australian National Audit Office, which was released after the audit of the Howard GST

campaign. It was a report requested by the then leader of the Labor opposition in the Senate. The audit stated:

> There are no commonwealth guidelines or protocols on information and advertising campaign...covering matters such as distinguishing between government and non-party political advertisements, the distribution of unsolicited material and conduct of campaigns in the lead up of an election...It is not a matter that officials can duly decide themselves. History shows that it is not uncommon for government advertising to increase in the period immediately preceding an election.

The last time the federal government was not the top advertising purchaser in Australia was 1999. So, for the past nine years, the top advertising purchaser has been the Australian government. Apparently, for almost every year since 1999 the Australian government has been the top advertising purchaser nationwide.

In 2000, a former Democrat senator, Andrew Murray, introduced a Charter of Political Honesty Bill, which dealt with government advertising campaigns, amongst other things. My bill, at least in respect of the oversight committee, includes the same three member structure as senator Murray proposed in his bill. I believe his bill was similar in its aims in relation to government advertising. I welcome the Hon. David Winderlich to the parliament. I wish him the best, and I will thank him for his kind words in relation to this bill.

I will now take members back to North Terrace when, on the cold day of 3 June 2001, the former Independent No Pokies MLC, Nick Xenophon (now Senator Nick Xenophon), stood shoulder to shoulder in solidarity with one Mr Mike Rann, the then leader of the opposition. I will read a lot of the media release into *Hansard* because it is important to put it on the public record for my colleagues to consider during the debate and before they vote on this bill. To use a phrase of Senator Xenophon's, 'I am going to try to help our leaders to do what they said they would do.' The press release, which is entitled 'Mike Rann backs advertising controls move', states:

> Labor will back a bill by independent no pokies MP Nick Xenophon to protect South Australian taxpayers from paying for blatantly political government advertising.
>
> Labor Leader, Mike Rann, said today that the Auditor-General, Ken MacPherson, reported serious concerns about the use of public money for party political advertising in a report to Parliament before the last State election—but the...[Liberal] Government failed to act.
>
> Mr Rann said that Labor caucus last week voted to give in principle support to Mr Xenophon's Bill, which the No Pokies MP plans to introduce in the Upper House on Wednesday. And he pledged an immediate review of all State Government Advertising and promotional spending if Labor wins the next election.

Mr Rann then said:

> The Olsen Liberal Government has been spending millions of dollars a year on glossy brochures, television productions, commercials, newspaper inserts and other promotions—and many of the campaigns appear to overstep the line.
>
> The Xenophon Bill is based largely on Federal legislation proposed by national Labor Leader Kim Beazley and seeks to make it an offence for a Government minister to authorise the use of taxpayers' money to fund advertising and promotional campaigns where the effect is to give an advantage to a political party, rather than to inform the public about government services or initiatives.

The now Premier said at the end of the release:

> Labor believes in different priorities—I'm quite happy to take a knife to the spin doctors if it frees up more money for real doctors to cut the hospital waiting lists.

Hansard also shows that, on 19 June 2001, the Premier said:

> When we see a politician on a taxpayer funded ad, it is just a cheap way of doing the party ads.

When the now Premier's statements of June 2001 were put in front of me, I had to pinch myself and work out whether I was in a twilight zone. Everything seemed topsy-turvy. Here was the leader of the Labor Party taking a 'knife to the spin doctors'. Was the Premier under the influence of a bizarre winter equinox, a lack of sunshine perhaps? I am more than happy to help the Premier deliver on his long promised reforms to political advertising.

Early in 2001, the Premier, who we know likes to appear in advertisements saying that the government is fixing the Murray, criticised the then Liberal government when he said:

> ....need to get on with the job of rehabilitation and it should begin by diverting the advertising budget directly to the River Murray cleanup.

In his media release the Premier referred to some reforms by the now former Labor leader Kim Beazley. Mr Beazley moved his government advertising bill in 2000. Of course, this bill was not

supported by the then government, and history now tells us—and this is an incredible figure—that in the four months before the 2001 election the Howard government spent approximately $78 million on government advertising.

On 27 June 2004, joining our conga line (if I may use the pun) was one Mark Latham, who on that date made an election policy announcement that his party, if elected, would legislate to require that government advertising be scrutinised by the Auditor-General to ensure its content was non-partisan. In 2005 the Howard government embarked on a new advertising campaign, this time concerning its industrial relations policies, again—and for the second time—before any legislation had even been put to parliament. At this time advertisements were also running that were funded by other groups critical of those policies.

The Labor opposition and the ACTU felt so aggrieved by this advertising that they took the case to the High Court, the case of Combet v The Commonwealth, arguing that this was unauthorised use of taxpayers' money. Perhaps against that background, during 2005 another ALP member, now a minister but then Mr Kelvin Thompson, moved a bill called the Government Advertising (Prohibiting Use of Taxpayers' Money on Party Political Advertising) Bill.

Just concluding on the Howard government (because my remaining comments are largely state-based), the information I have is that up until 2005—over a period of nine years under the Howard government—$1 billion was spent on government advertising, including an overall total of $200 million on GST advertising. During that government's time the ANAO in 1998 was ignored, as were three parliamentary reports, including the Political Honesty Report of 2002 and the Government Advertising and Accountability Report of 2005.

As I seek to conclude my remarks, I would like to go to the state issues that are specifically relevant to this bill. On 19 September 2005 the former member for Bright, the Hon. Wayne Matthew, asked the Premier, in question time, why the Labor government had not introduced its promised legislation to eliminate taxpayer funded party political advertisements. I invite honourable members to read the response made on behalf of the Premier by Treasurer Foley. At first glance it looks as if he is saying that his party was wrong to commit to political advertising reform, but I thought perhaps it was an admission of wrongdoing similar to the Treasurer's backflip last year on his past 'rack 'em, pack 'em and stack 'em' stance on prisons. I looked at the Treasurer's answer again and realised that perhaps he was just being cynical in saying that his party was wrong to criticise the former government, but then, and tellingly, the Treasurer (Hon. Kevin Foley) went on to say:

> For ultimate guidance on this issue, the Premier and I look to John Howard, who has felt it important that he promote the federal government's policy initiatives.

If I may be so bold as to paraphrase the Treasurer from September 2005: 'They're doing it, so we'll do it too.' Two wrongs will not make a right. On 26 September 2006 in this place the Leader of the Government made a similar argument in response to a question from the former Hon. Nick Xenophon MLC on the subject. I believe that this attitude of the government demonstrates why this reform needs to be driven from the crossbenches of the chamber, from a watchdog Legislative Council that has had enough of the politicising of this issue, which is close to the hearts of hard-working South Australian taxpayers.

I turn now, in my chronology, to a fine media release on this issue made in October 2005 by the Hon. Rob Lucas, who helps remind me of some of the political advertising we have seen under this government. It states:

- the government's report to taxpayers on its 'stunning' progress on its State Strategic Plan—citing for instance the new Adelaide Airport terminal—which had started before the Strategic Plan was released;
- the Premier telling all South Australians he had personally succeeded in winning the air warfare destroyer contract;
- the Premier telling South Australians how he was personally keeping South Australians safe with his law and order changes;
- the Premier telling South Australians there was a free bus to the airport to visit the new airport terminal opening.

I turn then, proudly, to the announcement of Family First Party policy made by my colleague the Hon. Dennis Hood in February 2006, stating that Family First would also rein in political advertising using taxpayer money, also citing the State Strategic Plan. I add that when the Hon. Dennis Hood came to office he began a research project on the best measures to regulate government

advertising and, whilst I am moving this bill today, it is in large part a result of the work that he and the Hon. Andrew Evans carried out on this important issue.

Also in 2006 (continuing my chronology), a former Liberal opposition leader in New South Wales, Peter Debnam, moved his Banning Political Advertising Bill two weeks prior to the state election. In moving the bill, Mr Debnam claimed that the New South Wales government had spent almost $1 billion in advertising in its 12 years (at that point) in office. Mr Debnam's bill, like so many others before it proposed by opposition members of red or blue variety, had the same aims as the Family First bill. I add that, as an independent watchdog party, Family First is unlike oppositions which have moved these bills in the past, because we want these laws to apply to whoever is in government—for the sake of saving valuable taxpayer money for schools, hospitals, education and police, etc. Just to highlight that it still goes on, the Rudd government has committed more than $1.5 million to media monitoring services in its first five months of office, despite castigating its predecessor for doing the same. *The Australian* recalls:

> Finance minister Lindsay Tanner in particular has in the past signalled media monitoring services were set for the axe as part of broader cuts aimed at saving taxpayers $209 million over four years. 'Under our Cleaning Up Government package, we'll reverse the trend that's become entrenched under John Howard,' he told the National Press Club late last year.

Mr Tanner was then not available for comment. So, did we or did we not get the cleaning up of government? Former shadow special minister of state Michael Ronaldson reported in July last year that all that occurred were guidelines requiring, essentially, that cabinet sign off on the campaigns. It seems that the former opposition leader cleaned up at the election and forgot to clean up government.

In order to illustrate why we need this bill I will give some examples of recent state government advertisements that demonstrate that we are likely to see more, not less, party political advertising funded by taxpayers before the election in March 2010: ads featuring the Premier encouraging people to get involved in bushfire prevention; full-page advertisements in regional newspapers trying to promote the ailing Country Health Care Plan; ads featuring the Premier, saying how he was saving the Murray River by using a desalination plant; ads featuring the Premier with Lance Armstrong, encouraging people to take part in the Tour Down Under; and, finally, advertisements earlier this month where the government sought to convince taxpayers that it was right about building the Marjorie Jackson-Nelson hospital.

In conclusion, reform is possible. Since 1989, New Zealand's auditor-general has had a list of acceptable practices in government advertising. The United Kingdom also has stringent political advertising guidelines. The Canadian government not long ago also moved reforms on political advertising. However, in Australia malaise continues because, as I said at the beginning of my explanation, the major parties, thus far—and I trust it might change with this bill—are in it for power and control and, once they get their hands on the ministerial cars and the state admin centre, they soon forget the altruistic statements they made in support of democracy and free and fair elections.

Family First has researched this matter extensively, and I appreciate the indulgence of my colleagues in respect of this long second reading explanation, but it is something on which we are strong. This bill is based on opinions on the public record of some most eminent Australians, including the Prime Minister, the Premier and a former prime minister, to name a few, and also several former opposition leaders.

Of course, we are seeking only to put into law what both the Liberal and Labor parties have said from the opposition benches of parliamentary chambers. Family First's bill requires that a government publicity committee be established, comprising the Auditor-General, the Ombudsman and an advertising expert appointed by the Auditor-General. The committee will produce guidelines based on directions given in schedule 1, and government publicity must comply with the guidelines. If members of the public believe that it does not, they will have the right to make a complaint to the committee to investigate it.

If the committee sees fit, it can seek an injunction against the government if it remains in breach of the guidelines, and any single advertising campaign exceeding $50,000 in value must secure prior authorisation from the government publicity committee. Finally, no appropriation for government publicity may be included in the budget until it has been pre-approved by the committee.

I conclude with this thought: it was said in relation to the recent $42 billion economic stimulus package by the Rudd government that one should never stand between taxpayers and a

handout. I might add that Senator Xenophon defied that logic, though he felt the heat of taxpayers' wrath for 12 hours or so. Just as the Senate defied that logic, I believe that we as a parliament can defy the trend of mealy-mouthed words about taxpayer-funded political advertising and pass this bill in order to prevent vital and increasingly scarce taxpayers' funds being used to promote the government of the day for re-election purposes. I commend the bill to the council.

Debate adjourned on motion of Hon. B.V. Finnigan.

TAXI INDUSTRY

The Hon. R.L. BROKENSHIRE (16:42): I move:

1. That a select committee of the Legislative Council be appointed to inquire into and report upon practices and opportunities for reform in the taxi industry in South Australia (including vehicles holding themselves out to be taxis, such as country taxis) and, in particular—

   (a) the commercial and advisory structure of the industry and potential for conflicts of interest thereto;

   (b) allegations of fraud and corruption in the industry;

   (c) commercial practices on the transfer and leasing of plates, including alleged incentive or collateral payments;

   (d) the adequacy of training given to drivers and resultant quality of tourism service and other standards of service;

   (e) causes and remedies for assaults upon drivers and assaults by drivers;

   (f) problems arising from the existing system of taxi classification;

   (g) the opportunities for introduction or expansion, and the estimated cost, of technology such as global positioning system (GPS) tracking of taxis, video-camera recording, electronic charging via Cabcharge, electronic disability identification tags and other possible technological reforms for the industry; and

   (h) any other relevant matter.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I have had a number of representations from the South Australian community, including the taxi industry—not taxi plate owners but certainly drivers and people at the coalface—saying it is time there was a thorough and proper select committee into the practices and procedures of the South Australian taxi industry. I understand that, if approved by my colleagues, this would be the first such select committee specifically inquiring into the workings, operations, management and procedures of the taxi industry.

I will give a profile of this industry to demonstrate the need to have a transparent, safe and effective taxi industry without the potential for corruption, nepotism or cronyism. I begin my profile with data from the Taxi Council website, which indicates that at 31 December 2006 (the latest data online) taxis that year carried, in total, 11.55 million passengers. There were 5,302 drivers. I am told that this is more like 6,000 to 7,000 drivers a couple of years later. There were only three booking companies at a ratio, therefore, of 385 taxis per booking company. I compare that ratio to 38 to one in both New South Wales and Victoria, 152.5 to one in Queensland and 262 to one in the ACT. The average price of a taxi licence was $221,400 and there were 1,156 taxis, worth roughly $256 million in capital value (over a quarter of a billion dollars).

I move beyond the Taxi Council data to further information that I have recently obtained. Taxi plates have grown in value in two years from $221,400 to about $350,000 each. With the figure at 1,150 taxis, that is 1,150 plates, hence the industry's capital value of $404.6 million. I am told that the value of taxi plates will increase again, up to as much as $460,000 in the next two years, so this industry is facing massive investment and expansion in the value of these plates. The turnover (gross income) per taxi is approximately $2,400 per week, so the industry has approximately $144.3 million in turnover per annum. After costs, a taxi might make $1,100 per week.

I am going into this detail because I want my honourable colleagues to know the reasons I believe it is so important that we have this select committee. We are talking large numbers here. After costs, a taxi might make $1,100 per week, which we note is the same amount as we recently publicised for a poker machine's income. So, a taxi makes about the same net income as a poker machine, on average. Taxis, therefore, as far as the plates go, are lucrative, and perhaps one of South Australia's fastest growing investments because they offer a better return on your investment than, for example, a house. You could not get $1,100 a week rent from a house worth $350,000, but you can from a taxi plate.

It should be remembered that taxis are a regulated public transport provider, just like buses. The industry was deregulated in the past so, when I talk soon about questions of assaults upon drivers, assaults by drivers, racial vilification, fraud, corruption, and the like, I would ask whether we would accept these practices on buses and, of course, we would not. There is no sound reason to accept that activity in relation to taxis, either.

The number of complaints that Family First has received regarding the taxi industry is already considerable, and I believe this will be a very busy select committee. Obviously, I do not want to pre-empt the evidence that the committee will receive, but honourable members can glean from the terms of reference the types of complaints that Family First—and, I am sure, other colleagues—have received from constituents.

The overwhelming view of those we have consulted with has been that the Premier's Taxi Council has been a failure. There has been plenty of talk from this government about the need for taxi industry reform but little or no delivery of results, and the select committee will have the capacity to investigate why the Premier's Taxi Council has been unable to deliver results. The most recent run on this matter coming from the government was a story on page 3 of *The Advertiser* of Friday 6 February, which I suspect arose because the government got wind that I was moving for a select committee soon. The article contains admissions from the industry that it has problems, so the way I see it is that some of the industry leadership realises there are problems and they have tried to cut it off at the pass by coming out and saying they are going to do something to help improve it.

The article claimed that complaints to the Department for Transport customer feedback line have risen 33 per cent over the past three years, from 1,009 in 2005-06 to 1,495 in 2007-08. However, the tone of the article suggests that it is the drivers who are the problem. We will be inviting drivers to give evidence to the committee on whether it is them or the inadequate training that they receive that is the cause of some of the problems in the industry. The article, I believe, contains an admission of industry failure to properly train its drivers, because the Taxi Council says it wants to introduce 'a system of assessment of taxi operators to ensure they have knowledge of the industry and its regulations'.

Whilst I am talking about public comments by the Taxi Council, I am told that last night on television the president of the Taxi Council, a person of some influence and reputation in the industry, blamed problems in the industry upon regulators. If this committee is approved by my colleagues, it would be good to get in the president of the Taxi Council to expand on that statement. The level of complaints and issues in the industry are simply unacceptable. I seek leave to have inserted in *Hansard* a table of media mentions of problems in the industry.

Leave granted.

Media Mentions	2006	2007	2008	Totals
Assaults on Passengers	6	24	5	35
Assaults on Drivers	2	8	15	25
Poor Service to Disabilities, Females, Lack of Local Knowledge	0	4	9	13
Poor Driving Skills	1	4	4	9
Poor Training Levels	4	3	4	11
Structure and Other related issues	8	25	7	40
Fraudulent behaviour	1	2	4	7
	22	70	48	140

The Hon. R.L. BROKENSHIRE: For the benefit of honourable members, the table indicates that, despite the Premier's Taxi Council doing its work and supposedly concluding its review in 2007, the level of assaults on passengers and drivers, poor service to the disabled and

women, lack of local knowledge, poor driving skills and training levels, fraud and structural issues continues to grow. It is not just media attention: a survey of a significant number of drivers by the Adelaide cab drivers association revealed that:

- 83 per cent of drivers believed standards had declined in the past five years;
- 92 per cent believed there were more drivers with poor driving skills than five years earlier;
- 89 per cent believed there were more drivers lacking location knowledge in Adelaide;
- 95 per cent thought a licence should be held for 12 months before getting a taxi licence (which relates to my bill that I am also introducing today);
- 79 per cent believed that complaints from passengers were increasing;
- 68 per cent believed the Taxi Council of South Australia does not fairly represent the industry in South Australia; and
- 71 per cent believed the Taxi Council was representing the interests of the radio companies and not the needs of the industry.

I turn to a survey by the influential Tourism and Transport Forum, known as the TTF, which represents 200 companies employing over 450,000 people. The TTF released a survey last year showing that over 66 per cent of chief executives were dissatisfied with the taxi industry nationwide, while 83 per cent of those surveyed said they supported industry reform to open up greater levels of competition.

My colleague the Hon. Dennis Hood is on record in this place, and elsewhere, fighting for justice for the blind whose guide dogs are refused entry to taxis. I observe that, in the article of 6 February to which I earlier referred, the Taxi Council said that it wanted to increase penalties for drivers who do not accept guide dogs.

We should pause for a moment. I believe that the responsibility for this clear problem in the industry rests with training and not with the drivers. It has been easy for government and industry chiefs to blame drivers, but one has to look at the quality of training that drivers receive. I am also aware of a case involving an industry internal review of a guide dog refusal case that suggested that a decision adverse to a driver had been made before the internal tribunal had sat to hear evidence on the matter. That is a matter where not only should recommendations be made but it also might ultimately be a matter for either the Anti-Corruption Branch or an ICAC, if we have one in the future.

With respect to the question of poor driving skills, I will introduce a bill which addresses that matter by ensuring that an open Australian driver's licence is held for one year before a person can drive a taxi. That could be of enormous assistance to the industry.

Assaults upon drivers can arise because of poor driving skills, and I have heard an unsatisfactorily high number of complaints from industry participants of drivers who do not know where Banksia Park is, or the Adelaide Festival Centre or the like. One can understand, but not approve of, why people might get angry with a driver in those circumstances. Some within the industry have tried to respond by calling upon the public to be understanding. However, why not use the money to better train drivers? The committee can look into that matter.

However, sadly, there is a racial vilification element with respect to the question of assaulting drivers. Many of the drivers who have been assaulted are immigrants who have come to this country to make a decent living. The committee would also be able to look into that issue.

The matter of alleged sexual assaults—sadly, largely upon women—by drivers needs a very serious investigation by this parliament. It is well and good for the Office for Women to encourage women to reclaim the night, but if young women are not safe in a taxi they will not want to go out into the night. The harrowing stories we have heard from a driver informant to the *Sunday Mail* about grossly drunk women getting into taxis in the early hours of the morning in Hindley Street and the like should strike horror into the hearts of parents of teenagers. Again, I believe that these problems can be dealt with by better training and cultural understanding.

In relation to country taxis, we have had a debacle of regulation in this state, and this matter has a history that needs close inspection. The Hon. Robert Lawson gave notice today of a disallowance motion that will allow a detailed debate on this issue. At this point, suffice to say that people who in good faith invested six digit sums in country taxis in various regional centres have

had that investment undermined by state and local government, and that deserves considerable select committee attention. No-one likes being ripped off but, when the government does it, not only is it wrong but it is also scandalous. These are allegations, of course, but I have heard enough of them to be convinced of the need for a select committee.

Further on the subject of country taxis, when the regulations currently being foisted upon the operators of country taxis were put to local councils, I am told that the overwhelming majority voted for an option different from that which the government has now imposed upon the country taxi industry. That also is a matter, should we be successful, that I will be asking the select committee to investigate. Why on earth seek input and then go against it? It is this kind of behaviour that Family First believes needs to be looked at, otherwise undemocratic and potentially corrupt behaviour can occur.

Access vouchers for the disabled and the elderly are, I am told, being rorted and abused. The saddest thing is that that means these vulnerable people in the community have less money available for taxi subsidies because unscrupulous drivers and hire car operators are lining their own pockets with subsidies. In the worst cases (and I have heard this a few times), vulnerable people have received demands to hand over multiple dockets to a driver so that he can rort the system. I have also heard a terrible story involving an elderly lady where the driver drove off after she got out of the cab. The driver knew that she had groceries in the back. Those groceries allegedly have never been returned and I understand that that lady, who is a pensioner, went hungry.

I could go on, but I urge honourable members to support the establishment of this select committee and carefully consider the evidence given to it. I assure members that those giving evidence will be very grateful if the council establishes this committee. This is an important industry. It is a flagship industry for tourism, it provides essential services and it needs to be conducted in an absolutely professional and ethical way. I commend the motion to establish a select committee inquiry into this matter to the council.

Debate adjourned on motion of Hon. B.V. Finnigan.

PASSENGER TRANSPORT (DRIVER ACCREDITATION) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (16:58): Obtained leave and introduced a bill for an act to amend the Passenger Transport Act 1994. Read a first time.

The Hon. R.L. BROKENSHIRE (16:59): I move:

That this bill be now read a second time.

I will proceed to explain the bill—and I will delight my colleagues by saying that this explanation is much shorter, and I thank them for their tolerance today. They are good colleagues. I am mindful that I have a number of bills on the *Notice Paper* so, as I said, I will be brief. Also, in my contribution on the select committee investigations into practices in the taxi industry, I have already touched upon the purpose of this bill.

In collecting evidence for the select committee, I have been given some appalling information. One informant told me that he caught a taxi from the airport and found out that the driver had been resident in Australia for three weeks. Another allegation I have received is that someone has made offers to new arrivals to Australia and that he knows people in the advisory and government structures who can get a driver's licence if they pay him the right bribes. Of course, this is information for the select committee, if it is approved by this chamber, and not for the bill. However, I point this out to show that there is something seriously wrong with the licence accreditation process at the moment.

Sadly, some people who come into Australia may have been used to corrupt activities in their country of origin and allegedly—and I say 'allegedly'—are willing to pay bribes to obtain a licence. Again, that is the select committee's business, but the simple antidote is to strengthen the licensing requirements as in this measure.

These are just illustrations of a host of drivers who are not only inadequately trained on where Banksia Park or the Entertainment Centre are but who also do not know South Australian or even Australian road rules because of the way they were quickly able to get a licence to drive a taxi. I believe that the Minister for Road Safety may also have an interest in this bill for the safety of South Australian motorists, and I acknowledge her commitment to road safety.

This bill simply requires taxi drivers to have one year's prior driving experience on an open Australian licence before they can obtain a taxi licence. Submissions I have received so far indicate unanimous support amongst drivers for this change. At this juncture, I say that the bill is not an attack upon the drivers themselves. I reinforce that this is definitely not an attack upon the drivers: it is a move to regulate an industry that is operating in a dangerous, potentially corrupt and toxic vacuum.

Surely, persons who are tasked with the safe passage of South Australians and tourists within the state, those who spend more time than the average person driving a motor vehicle, ought to have held an open Australian driver's licence for more than one year. This is not only a safety measure but also a measure for customer service, better delivery of passengers to their home and better tourism service.

For the record, I add that we would not be the first state to adopt this bill into legislation. Western Australia, which in recent years conducted a comprehensive review of its taxi industry under a former Western Australian Labor government, implemented this reform. I understand that two Labor governments in the eastern states are looking to make a similar change to deal with a growing problem in the industry nationwide.

I refer to a story in *The Advertiser* of 6 February 2009 in relation to a select committee into the taxi industry. In the article, the President of the Taxi Council, Mr Wally Sievers, is quoted as saying that 'drivers should hold a minimum 12-month unrestricted Australian driver's licence', so he supports the bill in principle. A recent driver survey by the Adelaide cab drivers association indicated that the majority of drivers also want this reform.

In summary, this measure has the support of the whole industry, and I look forward to the support of the government and the opposition for what the taxi industry wants and needs. I point honourable members and readers of *Hansard* to my motion to establish a select committee into this industry, as this bill and that motion go hand in hand. I urge honourable members to support the proposals.

Debate adjourned on motion of Hon. B.V. Finnigan.

FOREIGN AID

The Hon. J.M.A. LENSINK (17:04): I move:

That this council calls upon Australia's foreign minister, the Hon. Stephen Smith MP, to lift the ban on Australian foreign aid being spent on abortion services and counselling following the lifting of the 'global gag' by the President of the United States of America, Barack Obama, on 23 January 2009.

This issue originated in the United States with what has been labelled the 'Mexico city policy' or the 'global gag rule', which was an initiative of the Reagan administration, which was rescinded by the Clinton administration and reinstated by President Bush. Now that we have a Democrat in the White House, the policy has since been rescinded, and in that country it has certainly been a political football between the more conservative and the more liberal parties.

Essentially, the global gag prevents funding from USAID to non-government organisations that use non-USAID funds to engage in a wide range of activities, including providing advice, counselling or information regarding abortion or lobbying the federal government to legalise or make abortion available. In his statement on 23 January 2009, President Obama stated:

These excessively broad conditions on grants and assistance awards are unwarranted. Moreover, they have undermined efforts to promote safe and effective voluntary family planning programs in foreign nations…In addition, I direct the Secretary of State and the Administrator of USAID to take the following actions with respect to conditions in voluntary population planning assistance and USAID grants that were imposed pursuant to either the 2001 or 2003 memoranda and that are not required by the Foreign Assistance Act or any other law.

It is quite unfortunate that this issue has become a political football in the United States because it has much broader health implications than whether or not one supports abortion. Now that the ban has been lifted in the United States, Australia is the only country that continues to have that ban on NGO funding from AusAID. I think it is unfortunate because, under certain circumstances, abortion is legal in Australia, so I think that it is quite hypocritical. The CEO of the Australian Reproductive Health Alliance, Jane Singleton, stated:

We in Australia should not deny the rights we have to women in the developing world where those rights are within the law.

To clarify what this motion is about, where abortion is legal in countries receive foreign aid, those government organisations should not be prevented from receiving funds.

I would like to elaborate on some of the other health issues that arise out of this. The statistics are that, globally, half a million women die every year from pregnancy and related complications, and those children whose mothers have died are three to 10 times more likely to die within two years than those who have both parents alive. Girls in particular suffer because they are forced to drop out of school to look after younger siblings when their mother dies.

There is obviously the issue that has often been raised in the abortion debate in Australia about people reverting to unsafe abortions. Worldwide they cause some 13 per cent of all maternal deaths, and many of these are within our own region. For instance, in Papua New Guinea maternal death rates have increased by more than 56 per cent in the past few years, which is of quite some concern; and a woman dies every minute in childbirth or from pregnancy complications.

The federal government could lift this gag without needing to revert to parliament. I note that the federal caucus debated this issue in August last year, and the results of that have not been made public. The federal minister has continued to sit on the issue.

Another area of health which has been impacted because NGOs have been denied funding is in relation to preventing HIV/AIDS. There is some information here from Africa which is incredibly alarming. Banning aid to these NGOs for some ideological position about whether or not one supports abortions is impacting on the health of the children of a number of these women, who unfortunately may die in childbirth, and it also has some impact in the very alarming number of people who are contracting AIDS in Africa.

I note that the Hon. Ian Hunter was quicker on his feet yesterday than I was in moving a similar motion. Vickie Chapman has moved this motion in the House of Assembly; her Assembly colleague Steph Key spoke to this on 3 February; and the Greens Senator, Sarah Hanson-Young, and former Democrat senator, Natasha Stott Despoja, have all spoken in favour of Australia lifting the gag.

There is a group based in Canberra which is the Parliamentary Group for Population and Development and which is a multi-partisan organisation of which a number of us are members, and that was chaired by Liberal backbencher Mal Washer, who has stated that Australia now looks out of date and stupid. I think we all ought to support this motion in favour of maternal and infant health around the world so they can have comparable access to the standards of health care that we take for granted in Australia. I commend the motion to the council.

Debate adjourned on motion of Hon. B.V. Finnigan.

CONSUMER CREDIT (SOUTH AUSTRALIA) (PAY DAY LENDING) AMENDMENT BILL

The Hon. D.G.E. HOOD (17:12): Obtained leave and introduced a bill for an act to amend the Consumer Credit (South Australia) Act 1995. Read a first time.

The Hon. D.G.E. HOOD (17:13): I move:

That this bill be now read a second time.

Today I introduce a Family First bill to rein in the predatory lending practices that are hurting families that are the most vulnerable in our community. At the current count there are approximately 20 different short-term lending organisations operating in South Australia levying charges on clients resulting in effective interest rates ranging from 350 per cent up to 1,900 per cent per annum. Struggling families are forced to roll over 30 day loans from these organisations an average of eight to 10 times because they simply cannot repay them in full.

This bill will curb the practices of payday and other short-term lenders in the state. Victoria, New South Wales and the ACT already cap the interest rates of their lenders at 48 per cent, although some lenders use extra fees and charges to break this cap artificially. The Family First bill will cap interest rates in South Australia at the 48 per cent level but also, importantly, limit other fees and charges so that this cap cannot be exceeded and so that South Australian families have the highest level of protection within Australia.

A draft version of my bill has gone to a wide range of stakeholders, and I have met with the General Manager of Cash Converters as well as other institutions for their input. Frankly, I was taken aback by the depth of emotion against predatory lending from welfare groups and other consumer groups helping the disadvantaged in our community. Let me read the reply I received from Ms Margaret Davies from the Salvation Army Community Support Service regarding a draft version of this bill that I sent to her. After noting that she welcomes the Family First move to put predatory lenders onto the political agenda, she states:

These services appear to be accessed by the vulnerable members of our society who are marginalised and excluded from main stream credit providers. In my experience, our clients access pay day lenders during times of desperation to pay off existing debts. Their anxieties around the urgency of the debt means they do not fully research the product they are being offered.

She goes on to state:

In my opinion, once a client enters into a contract with a pay day lender, it is extremely hard to discharge the loan.

Captain Brad Watson of the Salvation Army, who regularly counsels people dealing with the consequences of payday lenders, writes as follows:

We are first-hand witnesses of the cruelty of struggling families trapped into insecure loans with up to 900 per cent per annum interest charged. Reports from around the state suggest that some operators charge 1,300% per annum. Short-term lending is seen by many financially illiterate and otherwise struggling families as a quick means of escaping financial crises. Unfortunately, a cyclical trap is created that is very hard to break. While the Salvation Army offers interest-free loans in the Marion area to help people break this cycle, we would also like to see the underlying issue of exorbitant and unconscionable interest charges addressed.

Jeremy Brown, the director of Marion Life Community Services and state chair of the Emergency Relief Services, was also kind enough to reply to my request for comment, as follows:

Many of our clients have been caught in a trap by payday lenders with interest rates, fees and charges all very high. There seems to be a loophole in that limiting interest rates alone does not prevent very high fees and charges attached to the contract. We are aware of bikies and other groups involved in criminal activity that have entered the payday loans business.

Clearly we as a legislature have an obligation to fix this broken system that preys upon the most vulnerable. Before I go further I will take a step back and highlight the comments made by the former minister for consumer affairs, the member for Wright, in her media release of 21 October 2007, entitled 'Days are numbered for payday lending rogues'. It was acting upon recommendation 4 of the Economic and Finance Committee inquiry into the provision of consumer credit, which concluded that month. She also foreshadowed measures during estimates on 21 October 2006. The release states:

The state government this week decided to develop legislation designed to crack down on unscrupulous operators in the payday lending industry. Minister for Consumer Affairs...said the intention of the new laws was to provide a range of protections for vulnerable people seeking short-term credit, including improving a maximum interest rate cap that encompasses fees and charges.

Family First wholeheartedly endorses that approach by the minister, but unfortunately nothing has happened. That promise was made on 21 October 2007, but where is the promised legislation to crack down on these payday lenders and impose a maximum interest rate, as promised in the press release? The government made a commitment to introduce similar legislation to the bill I am introducing today, but we still have not seen it many months later, indeed well over a year later. It confuses me more that, just a month after the minister's commitment on 20 November 2007, the member for Mawson presented a petition to the House of Assembly that read:

...Signed by 4,562 residents of South Australia requesting the house to urge the government to abandon the proposal to cap interest rates, inclusive of fees and charges, so South Australians can continue to have a choice in the marketplace for financial solutions.

So, on the one hand we have the minister proposing reform and, on the other hand, one of the government's own backbenchers openly campaigned against it through a petition. I am surprised that the media did not pick up on it, but in any event the promised initiative has not appeared.

I am grateful that the opposition has introduced legislation supportive of interest rate caps in the past. On 15 November 2006, the member for Flinders introduced a bill providing for a 48 per cent cap, which unfortunately did not pass. Payday lenders are currently operating in a legal no man's land. These loans do not come under the consumer credit code, the banking code so called, because the loans are for less than 62 days. They tend to be loans for four weeks or thereabouts. They often do not charge interest but, instead, high fees and charges in many cases, which is why a bill that caps not just interest rates but also fees and charges is vital. There is no specific interest rate applied to the amount loaned, but the fees and charges are so high that they represent very high effective interest rates.

There is no need to prove in many cases that you can repay the loan in order to get a loan, so in many ways these loans sound like the US sub-prime crisis on a smaller scale all over again. The only way one can pay back the loan is by direct debit in many cases, but there are often

default expenses and bank charges because people do not have the money to make the repayment in the first place, so a cycle of debt takes place.

In short, these types of loans hurt families and the most vulnerable in our community, which is why Family First introduces these protections today. I have been encouraged by the comments made by the member, albeit over a year ago, and equally by the member for Flinders of the opposition. It seems that both sides of parliament have similar views on this, yet somehow we have not been able to get anything done. This bill will be agreed to by both sides as it is in line with what both sides have said, and for that reason I trust that it will gain support from both sides of this chamber and ultimately the parliament.

Debate adjourned on motion of Hon. B.V. Finnigan.

TREVORROW, MR B.

The Hon. M. PARNELL (17:21): I move:

1. That the Legislative Council notes that—

(a) On 1 August 2007, the late Mr Bruce Trevorrow became the first member of the stolen generation to successfully sue the state for compensation as a result of his removal from his family as a baby;

(b) Mr Trevorrow was awarded and paid compensation of $775,000, including interest;

(c) the state government has launched an appeal against the judgment;

(d) the state government has undertaken not to seek recovery of any of the compensation payment or interest as a consequence of the appeal; and

(e) in relation to legal costs, the state government has expressly reserved its right to seek recovery of legal costs on both the original action and the appeal against the widow and estate of the late Bruce Trevorrow.

2. The Legislative Council calls on the Attorney-General and the Premier to direct that the lawyers representing South Australia provide the court and the respondent with an undertaking that, regardless of the outcome of the appeal, it will not seek to recover any legal costs from the widow or the estate of the late Bruce Trevorrow.

Last week was the first anniversary of Sorry Day but, because of the tragic events in Victoria and the parliamentary drama involving the $42 billion stimulus package, this important anniversary was all but lost in the media. That is a real shame because it is important for us to keep the momentum going on the road to reconciliation.

I do not think any of us could forget the emotion of the formal apology delivered by the Prime Minister in parliament. Millions watched it on television and I, along with other members, watched it on the big screen set up in Elder Park and it was an important national moment. As the first anniversary approached a week or so ago, it was by sheer chance that a friend of mine rang and asked whether I knew about the latest developments in the Trevorrow case. I did not, because the most recent judgment in that case was handed down on Christmas Eve and the only reporting it received was a very small item in *The Australian* on Boxing Day. So, it was, very much by circumstance, buried in the holiday media.

What I did know was that Bruce Trevorrow was the first member of the stolen generation to successfully sue the state government for wrongful removal from his family as a baby. I knew that he was awarded some $500,000 plus interest by the Supreme Court of South Australia, and I also knew the state government had appealed against that decision. In fact, the South Australian government appeal was only a fortnight after the Prime Minister's apology. So, the timing was pretty awful.

At that time, which was a year ago, I urged the government not to appeal but instead put in place a mechanism for compensation for the stolen generation outside the court system. The Greens said that we needed to have a process that did not involve members of the stolen generation having to run the gamut of the court system, with all of the costs and the stress that that process entails. We wanted the government to set up a special compensation tribunal, and I made that same call way back in 2007, when the original Trevorrow decision was handed down.

The decision to appeal against the Trevorrow judgment, whilst it was condemned by many, was softened a little by the announcement that the state would not seek to recover the compensation paid to Mr Trevorrow. Numerous assurances were given to this effect by the Crown Solicitor, representing the state. Also, the Attorney-General said in a radio interview, which was broadcast on 29 February 2008, that the government was 'letting Mr Trevorrow keep that money. That was our pledge'. Later he said, 'Mr Trevorrow's payout is his to keep.'

Sadly, Mr Trevorrow passed away last year, but the appeal against the judgment is being maintained now against his widow. What I did not know until last week—and that is why I have raised this matter now—is that the state of South Australia has steadfastly refused to rule out the possibility of chasing Mr Trevorrow's widow for legal costs in relation to the original decision and this latest appeal. On 12 November 2008, the Crown Solicitor wrote to the solicitors representing Mr Trevorrow's widow saying:

> I am instructed to advise you that the state reserves its right to recover from the estate any costs awarded as a consequence of the outcome of the appeal.

Lawyers for Mr Trevorrow's widow argued that the appeal should be permanently stayed; in other words, permanently postponed so as to give effect to the government's commitment not to seek recovery of the compensation. The court declined to do that, but the court was clearly concerned that Mr Trevorrow's widow was being put in an invidious position. His Honour Justice White said:

> It can be seen that the state has expressly reserved the right to recover from the estate any costs which it may be awarded as a consequence of the outcome of the appeal. Those costs may include (depending on the outcome of the appeal) some or all of the costs of the appeal and some or all of the costs of the trial.

There is no doubt that those costs will be substantial. My understanding is that the first trial went for around a month or so; an appeal is likely to go for a lengthy period as well. On Christmas Eve last year, as I said, the court handed down its decision on whether the case should continue. After deciding that the case could continue, His Honour Justice White said in his conclusion:

> The circumstances of the trial at first instance, and the content of the notice of appeal, indicate that the hearing and determination of the appeal will be a substantial matter. The task of this court will be made much more difficult if it does not have the benefit of submissions from counsel for the respondent [Mr Trevorrow's widow], as well as from counsel for the state. One can readily understand the reluctance of the present respondent to commit the estate's resources to the defence of the appeal if the effect will be to diminish substantially the estate's assets. In these circumstances, I refer for the consideration of the state the approach mentioned by Gleeson...Chief Justice [and Justices] Gummow and Heydon in [the High Court case] CSR Ltd v Eddy...

His Honour went on to quote from that judgment, as follows:

> It is common in this court in cases where the resolution of a point is desirable from the point of view of a large and recurrent litigant, whether corporate (for example, an insurance company) or governmental (for example, the Commissioner of Taxation or the Australian Competition and Consumer Commission), but the other party to the litigation is not a recurrent litigant and is not well-positioned to meet adverse costs orders on the point being tested, for the grant of special leave to be made conditional on appellants paying the other side's costs in any event and on appellants not seeking to disturb costs orders in the courts below which were favourable to the other side.

This is about as broad a judicial hint as it is possible to make. What His Honour Justice White is effectively saying to the state government is: you should have a serious think about whether justice is being served by your refusal to rule out chasing Mr Trevorrow's widow for legal costs. They are my words, but that is effectively what His Honour was getting at.

In my estimation, it is quite likely that the combined legal costs of the parties would be many times the value of the original compensation. That means that the award of damages could effectively be wiped out, with huge legal bills remaining to be paid by Mr Trevorrow's widow. I think it would be a heartless government indeed that went down that track.

The solution to this problem is very simple: the Attorney-General or the Premier need to instruct the lawyers representing the state of South Australia in this appeal not to pursue legal costs against the Trevorrow family on the appeal. I am comforted by some of the public comments made by the shadow state attorney-general in this matter. On the ABC's *PM* program on Tuesday 16 December, which I think was the day on which arguments were heard in the Supreme Court on this question of costs, Isobel Redmond, the shadow minister, said:

> I'm puzzled and saddened as to the idea that the government is thinking of taking action in a case where the costs could well outweigh the amount of compensation that was involved in the first place.

In that interview she also said:

> But if the case results in a cost finding against the claimants, then I expect that there'd be resistance to every claim forcing every claimant to go onto a court case and the fear of the costs and therefore the lack of getting their compensation.

In the same interview in that program the chief executive of the Aboriginal Legal Rights Movement, Mr Neil Gillespie, said:

Well, I'm very disappointed that the state is even continuing its appeal against the landmark decision for Bruce Trevorrow. To be so penny-pinching that it's going to pursue costs, or it may pursue costs, is nothing short of appalling.

I think that if the government does not resile from its current position it may well show the community that the apology that was given this time last year, and that we so strongly supported, was not much more than a hollow piece of theatre. I think the apology was worth more than that, and I think those of us who engaged in that debate strongly believe that. We need to ensure that the injustices of the past are not perpetuated into the future. I commend this motion to honourable members.

Debate adjourned on motion of Hon. B.V. Finnigan.

GOVERNMENT ADVERTISING

The Hon. M. PARNELL (17:32): I move:

1. That a select committee of the Legislative Council be established to inquire into and report on taxpayer-funded government advertising campaigns with specific reference to:

(a) the establishment of guidelines dealing with the appropriate use of South Australian government advertising;

(b) the cost of government advertising;

(c) a process for dealing with complaints about government advertising from the general public; and

(d) any other matters that the committee considers relevant.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

This motion calls for a select committee to be established into government advertising. The recent taxpayer-funded television advertisements about the proposed Marjorie Jackson-Nelson hospital—which, as of today, we need to call something else; the son of the Royal Adelaide Hospital perhaps—clearly crossed the line between legitimate government advertising and blatant party political advertising. It is not the first time this has happened, but I want to put in place measures to ensure that it will be the last time.

In my view the government has lost its moral compass when it comes to the appropriate use of public funds for advertising. This view was reinforced in recent times by a number of comments from government ministers. In fact, as recently as yesterday in question time in the House of Assembly the Premier seemed to be somewhat surprised that *The Advertiser* newspaper would be critical of government advertising, given how much *The Advertiser* stood to gain from one of its biggest clients—the government. That says to me that the government has lost the plot, because there are some principles that are bigger than just making a buck.

Similarly, in response to growing public criticism of the hospital ads, health minister John Hill said, 'I think it's odd that, if I say something, it's political, but if somebody else says something it's not.' Well, with respect to the health minister, I do not think he gets it. It is not about whether or not ministers or politicians say something, whether political or not; it is about the appropriateness of using taxpayers' money on a debate that is purely party political. Minister Hill does not feature in the Marj ads, but the purpose of the ads was to get across the message to the public that a new hospital was a better idea than trying to renovate the existing hospital.

We all know that the real message behind those ads was to attack the position that the opposition has taken on the issue. The ads followed very closely on the observations of a number of political commentators that the next election would be a referendum on the Marj. There was no possible public interest in these ads other than the government debunking the position of its primary opponents. The Marj ad would have been quite appropriate as a Labor Party-funded ad, whether now or later during the election campaign, but it is not an appropriate taxpayer-funded ad at any time.

That raises the question as to where the boundaries lie between appropriate and inappropriate government advertising, and the purpose of my proposed select committee is to help

draw those lines. However, to give members an idea of the thinking behind this motion let us think about some appropriate forms of advertising. I refer, for example, to an advertisement that tells people about a new service that is relevant to them; maybe there is a rebate on offer or a service that people can access; or perhaps there is a new program that people need to know about. Of course, that message needs to get out to the community, and government-funded ads are the way to do it.

The Hon. T.J. Stephens interjecting:

The Hon. M. PARNELL: My colleague mentions a range of other factors, including changes to transport rules. He has read my notes, because that is my second point. If the law is changed, people need to know what the law is—for example, changes to traffic laws would be an appropriate use of government-funded advertising. A third appropriate use would be ads that encourage behaviour change—for example, there were advertisements on television, and I think on radio as well, encouraging young mothers to continue breast-feeding for as long as they can. There is strong public interest and health benefits behind that sort of behaviour change, so that is an appropriate use of government-funded advertising. A fourth example is that we often need constant reminding of our obligations, so advertisements that remind us not to bring fruit across from other states into fruit fly-free South Australia are, I believe, an appropriate use of government ads as well.

Let us look at what might be an inappropriate advertisement. Any ad that is blatantly political or any ad whose sole purpose is to make us feel good about our government is an inappropriate use of taxpayers' funds and, similarly, any ad designed to distinguish the government's position from that of their opponent. For example, ads that simply promote the government's vision or promote the budget are inappropriate. Mind you, if they are promoting a service the budget establishes, that is okay, but simply promoting the budget, saying, 'We've just handed down a great budget,' I do not think is appropriate. Examples such as the Marj hospital are inappropriate. A number of approaches can be adopted to try to redress this problem.

Members interjecting:

The PRESIDENT: Order!

The Hon. M. PARNELL: There are suggestions that a legislative approach is appropriate and there are other jurisdictions where an administrative approach is more appropriate. I will use a couple of examples from different jurisdictions. The federal government has gone down the administrative path. The Rudd government has unveiled what the media described as 'tough new advertising guidelines to stop it wasting millions of taxpayers' dollars boasting about its achievements'. That was the description that was applied in the media. In New South Wales the government has an advertising guidelines standard that is set administratively. It is prepared by the Department of Commerce in the New South Wales government. It is a publicly available document and it is on their website. Other states have gone down the same path, as well.

In South Australia, whatever standards do apply are hidden or simply ignored. The issue has been raised in this state in the past over many years. The Auditor-General raised it in the 1996-97 annual report. There is an entire section of that report on public expenditure by government under the subheading, 'Advertising: general principles'. The Auditor-General sets out what he thinks might be an appropriate test for different government advertising campaigns.

The member for Mitchell in another place introduced a bill about a year ago—the Government Advertising (Objectivity, Fairness and Accountability) Bill 2008. That bill set out, as a schedule, the principles and guidelines that were to be followed in government advertising. Whether we go down the legislative path or the administrative path, the product at the end of the day needs to be a set of guidelines which are binding, either legally or morally, and which make it difficult or embarrassing for the government to misuse public funds.

That is why I have gone down the path of proposing a select committee of this council. It seems clear to me that naming and shaming does not work and that we need to go to the next level. I want to achieve a positive outcome, not just make a statement. A legislative approach may pass this chamber but it is unlikely to pass in the other house, whereas a multi-party committee of this council has an excellent chance of coming up with some guidelines that are generally accepted on all sides of politics.

Effectively, what we are doing as an upper house, if we establish this committee, is to play the watchdog role we were elected to do. We are providing guidance to the executive as to an

appropriate way in which to behave. I do not think that without that guidance we can trust them not to continue to misuse government funds, particularly in the lead-up to the next election.

What I am proposing is what I am calling a short, sharp and shiny select committee. I do not want a select committee that will go on forever. In fact, I am proposing a committee that will complete its work by the end of the winter break. I do not expect it will need to meet many times. Of course, the attitude of the government will play a key role in keeping the select committee moving so that it can complete its work in a short time.

I say that it should be short, sharp and shiny for three main reasons. First, it is not that hard. Other jurisdictions have thought about it and put in place measures. There is no shortage of guidelines and lists of appropriate uses of government funding for advertising; and I went through some of the criteria earlier. Secondly, because work has been done elsewhere, we do not necessarily need to replicate it: we just need to collect it, analyse it and decide which model we want to adopt. Thirdly, it is important that we resolve this issue before all political parties start to crank up their election advertising. It seems to me that if the government is getting away—as it is at present—with the sorts of ads we saw around the last budget—ads such as that for the Marj—then imagine what sorts of ads we will be seeing in September, October, November and December—later this year—when the election is looming.

I have discussed this matter briefly with the Deputy Leader of the Opposition (Ms Vickie Chapman) in the other place. I got the impression that she is generally supportive, and she has said so in the media. I now want to talk to the Liberal Party about the terms of reference.

I do not think it is appropriate for us to expand the terms of reference that I have set out in such a way that we lose sight of the actual objective of this inquiry. I do not want this select committee to be an inquiry into the merits or otherwise of building a new hospital. If members want to have that debate, then they should bring a proposal specifically around that, but I would not want to see this inquiry go down that path.

Finally, in urging members to support this motion, consistent with my wanting it to be short, sharp and shiny, I want to bring this matter to a head soon. I give notice that I would like us to vote on this motion on 25 March—not the next Wednesday of sitting but, rather, the Wednesday after that. It gives us a month to think about it and I believe that, if we are serious about doing it quickly, we need to vote on the motion and decide it quickly. I commend the motion to the council.

Debate adjourned on motion of Hon. I.K. Hunter.

ELECTRICITY (ELECTRICITY SUPPLY INDUSTRY PLANNING COUNCIL) AMENDMENT BILL

The Hon. M. PARNELL (17:45): Obtained leave and introduced a bill for an act to amend the Electricity Act 1996. Read a first time.

The Hon. M. PARNELL (17:46): I move:

That this bill be now read a second time.

It is not very long ago that we were going through an incredible heatwave in Adelaide, and South Australia generally. One of the consequences of that heatwave was load shedding. That means that residences and businesses in certain suburbs found that, with no notice, their electricity was cut off as a way of reducing the overall pressure on the electricity system. Members will recall that there was considerable public consternation and debate, and people wanted to know how it was that their suburb or town was selected for load shedding, why it was that they were not notified, how the list of suburbs to be cut off was developed, and various other questions that go to explaining to people what happened and why.

In that process we had a number of political positions taken in relation to the lists and the question of whether the lists should be made public. The Premier, for example, on 4 February was reported in *The Advertiser* saying that he wanted the list of suburbs targeted for load shedding to be made public, and he made that call many times—on ABC Radio and FIVEaa as well. The next question that arose was: who is it who develops the lists, what sort of people are on that body and how do they go about making their decisions? That brings us to the South Australian Electricity Supply Industry Planning Council, the acronym for which is ESIPC.

The Electricity Supply Industry Planning Council is created under the Electricity Act 1996, and this body has a number of functions. However, I will just refer to the first three of those, and they are set out in section 6E of the act, as follows:

- to develop overall electricity load forecasts in consultation with participants in the electricity supply industry and report the forecasts to the minister and the commission;
- to review and report to the minister and the commission on the performance of the South Australian power system;
- to advise the minister and the commission on matters relating to the future capacity and reliability of the South Australian power system.

So, clearly, it is within its bailiwick to be thinking about the ability of our electricity system to cope with the demands that are placed on it.

So, who are the people who make up this council? What are their qualifications and experiences, and what do they bring to this important task that they have? The planning council is governed by a board of directors, and the board consists of five members. Those five members have certain qualifications. Section 6G(3) of the Electricity Act provides:

> The members must be persons who have, in the Governor's opinion, appropriate qualifications or expertise in relation to one or more of the following:
>
> (a) power system planning, design, development or operation;
>
> (b) electricity markets;
>
> (c) financial management.

Subsection (4) goes on to provide:

> Two of the members must be persons who are, in the opinion of the Governor, independent of the holders of licences authorising the generation of electricity or the operation of transmission or distribution networks.

However, at the end of the day, the membership of the board that runs the Electricity Supply Industry Planning Council are people involved in the electricity industry, and people might say that that is most appropriate. But there is a gap, and I think there is a serious lack of expertise in terms of the statutory qualifications. I make no comment on the office holders: they are not people whom I know, but it seems to me they share in common the fact that they are effectively industry people.

I see that there are two areas of expertise missing. The first is someone to advocate for the rights of consumers and, secondly, some expertise on the flip side of the supply coin, that is, demand management. I would also add a third one, that is, someone with knowledge of the supply side from the renewable energy sector. It seems to me we have a very one-sided planning council. There are no representatives of consumers, no-one whose chief focus is managing the demand rather than trying to augment the supply, and no-one from the new and emerging renewable energy sector.

My bill effectively seeks to plug that gap. I am proposing that the five-member board be expanded to six and that the collective qualifications the members need to have should include a person who has appropriate knowledge of and experience in advocating for or promoting the interests of electricity consumers, and also that at least one member of that new six-member board must have appropriate qualifications or experience in relation to either or both energy demand management and the renewable energy industry.

I have moved in this place previously for these types of expertise to be included in energy boards when we have discussed the national electricity law and also the national gas law. The main reason why it was rejected by both government and opposition was that they were designed to be national pieces of legislation where it was inappropriate for one state to try to mess with the arrangement that had been agreed to by ministers.

I did not accept that. But such an argument cannot apply here because this is our body. It is set up in South Australia under a South Australian act of parliament. We can have on it whatever areas of expertise and qualifications we want. So, it is a very modest reform but as to the link between my reform and what the Premier was asking for—which was for the list of the suburbs to be subject to load shedding to be made public—I can bet you that, if there was a consumer representative on the planning council, the issue of publicising the list would have had more of an airing than apparently it had under the current regime. If the Premier thinks that members of the public need to be kept more in the loop, what better way of doing it than to make sure that there is a consumer advocate on this important electricity planning council? So, it is a very modest measure, and I urge all members to support it.

Debate adjourned on motion of Hon. R.P. Wortley.

[Sitting suspended from 17:55 to 19:47]

WILLUNGA BASIN PROTECTION BILL

The Hon. R.L. BROKENSHIRE (19:48): Obtained leave and introduced a bill for an act to provide special planning and development procedures to protect the amenity of the Willunga Basin; to make related amendments to the Development Act 1993; and for other purposes. Read a first time.

The Hon. R.L. BROKENSHIRE (19:49): I move:

That this bill be now read a second time.

I table a concept map, which I have produced for honourable members to keep in their files to assist them in their understanding of this bill. This map indicates only the draft perimeter of the Willunga Basin. To assist people who are not familiar with the area, I will explain, conceptually, the perimeters.

The basin's perimeter follows the coastline from just above the mouth of the Onkaparinga River at Port Noarlunga down to Sellicks, then up the hill's face to the ridge of the hills, along the picturesque hill's ridge line, across the Onkaparinga River valley to the top of the Onkaparinga River Recreation Reserve. It then takes in the northern boundary, which forms the northern perimeter of the basin in order to encapsulate the entire catchment area of the Onkaparinga River estuary system.

The Willunga Basin therefore includes the country townships of McLaren Vale, McLaren Flat, Willunga and Aldinga, as well as the peri-urban or, arguably, suburban areas of Port Noarlunga and Sellicks Beach, the increased suburbanisation of Aldinga Beach, Maslin Beach and the encompassing area of Seaford, Seaford Meadows and surrounding areas.

The purpose of this bill will be plain to members who read it. I know that a number of members will be aware of the subject matter of this bill from media coverage on Family First's move to work with the community and, hopefully, the parliament to protect the Willunga Basin. Our fundamental concern is to protect a beautiful and unique iconic area of horticulture and agriculture and an area of immense environmental biodiversity, a tourist attraction and quality of living.

Family First wishes to protect the basin from urban sprawl and blanket density living for the benefit of families not only within but also outside of the basin who enjoy it as a holiday or weekend destination. I place on the record some relevance with respect to how former premier Don Dunstan described this area on many occasions, when he said that Fleurieu Peninsula would, could and should be the holiday playground of Adelaide and visitors from interstate and overseas. At the time, as a local resident, I could not quite understand all that Don Dunstan was highlighting to the community, because my focus, as a farmer, was primarily on agriculture.

However, it has become quite clear now that he could see that there were important differences with the Willunga Basin as the strict gateway to the Fleurieu Peninsula. Of course, as time has now shown with that and his vision for Monarto as a satellite city, whether or not people agree with that vision now being so close to Adelaide, the fact was that that former premier could clearly see that there needed to be a redistribution of populated areas. That is why he chose Monarto, with the importance of some of the unique areas and the closer-in South Australian icons when it came to tourism and so on.

I put that into this debate because it is important in the whole picture of what I am about to present to my colleagues in the chamber. I indicate at this point my personal interests in this bill. I disclose and advise colleagues that I do not own land within the basin as such, though I have property interests in the basin; however, we do have a family farm at Mount Compass, which is slightly south of the basin and, given what I just said about former premier Dunstan, clearly, what happens in the Willunga Basin has an impact on the greater Fleurieu. I just wanted to make that clear, because my interests are in the Willunga Basin, not in personal interests.

I very much doubt whether the consultative committee will choose to go beyond the concept that I have indicated in my hand-out to members and include Mount Compass, Myponga and those other areas because, if this bill is to be passed by both houses, the bottom line is that the consultative committee will be able to address the current problems for the ongoing future of the Willunga Basin. I will talk more about that in a while.

My interest, therefore, is actually a passion that is held by thousands of local people—and not only local people. I can tell you that they include people throughout South Australia, particularly Adelaide people, who love to come down to the Fleurieu to one of the most world renowned red wine producing regions, the McLaren Vale wine region, and who like to experience the fantastic, pristine beaches and sunsets, the Mediterranean climate and the opportunity to have an investment property that they can come down to after a hard week in Adelaide. Of course, it goes on from there with benefits for interstate visitors. You regularly see cars with New South Wales and particularly Victorian numberplates moving through the area.

There is an increased growth in overseas visitors and a further focus and opportunity to market not only the Willunga Basin but also South Australia as a whole through film activities, of which I have always been supportive. I commend the fact that Scott Hicks, who has property in the region, has been so focused on trying to develop film opportunities and is currently working with the government on a film production that is partly a result of the great opportunities which we already have in that region and which need to be preserved and enhanced for the right reasons for the future.

I have a passion for preserving farming land, the environmental biodiversity, the tourism attractions and all the other things which are mentioned in the terms of reference in this bill and which make the Willunga Basin the great region we all know it to be. When I talk about farming, through my grandmother I have a long history and background in cereal and mixed farming in the Aldinga area. Fortunately, some of the longstanding families are still there farming today, so it is not too late to preserve and protect this region.

While I acknowledge that we need to look at opportunities for further urban expansion and sprawl, in conjunction with urban infill, there are certain areas that should be completely prohibited from further concrete slab formation. When I have come over the Willunga Hill from my farm to head into the Willunga Basin over the past two or three years, as we have seen the culmination of 10 years of economic growth in this state—and hopefully we will see more of that in the future, sooner rather than later for our best interests—what has concerned me is the sun reflecting off thousands of iron and tiled roofs that have appeared within just a couple of years on some of the richest and fertile alluvial soil you could imagine anywhere.

At the same time as we have been seeing this, we have been reading about the fact that around the world it has gone from one in 10 people starving to one in six people starving. We have also seen report after report that shows that more and more food is being imported from overseas into Australia, including South Australia, and that is of concern for national food security but also for the balance of payments with respect to export opportunity, when you consider that Australian and especially South Australian farmers and food producers are second to none when it comes to world standard and the ability to produce quality food.

The recycled water project has now been in the Willunga Basin for some time, and I am proud of working with the community down there to assist and develop that under the Brown government. The fact is that, as this government has further supported the growth of recycled water through investment into the Christies Beach treatment plant, we can see where there is now even more opportunity to enhance our existing viticulture without it being a monopoly agricultural sector and to get into diverse and intensive food producing opportunities similar to those which have happened out at Virginia.

In fact, the Willunga Basin is unique. Because of its location and proximity to the sea and the Hills face zone which I have already described, it is effectively a frost-free area. The soil types are so consistent and strong in their capacity to produce food that they add to the continuity and consistency of our viticulture, and that is one of the reasons why we have such success there and also in olive and intensive fruit and vegetable production.

We see the Willunga markets as an example of that. I suggest to my colleagues that they go down there any Saturday morning and they will see more and more farmers there, as well as more and more visitors and locals coming there to purchase produce. That is just the start of what can be an explosion in exciting food opportunities for our state. We have a situation in the Willunga Basin and McLaren Vale that is very similar to the Napa and Sonoma Valleys in California with regard to distance, topography and opportunity, and we must for future generations protect that opportunity.

Once you put a concrete slab over your best fertile land, you have said goodbye forever to the opportunity for it to be a food producing region. You have said goodbye forever to the

opportunity for convention tourism, in which South Australia rates in the top five in the world, which is why the Convention Centre is so successful. They need packages close to Adelaide and, with boutique wineries and 'meet your winemaker' opportunities, the McLaren Vale wine region is the closest wine region to a city of one million people, and with such convention and tourism opportunities it needs to be protected.

I have talked about the beaches and the environment. With regreening of the range projects and a real focus on revegetation, there is an opportunity with this bill to support the creation of sustainable revegetation projects along creeks and in other areas of hinterland right through to the coast, so that you can restore a lot of the biodiversity that has been lost over the years when our ancestors cleared too much in ignorance of the balance or without realising it at the time. It is not too late for the Willunga Basin to be preserved, planned and managed in the long term.

It is important to indicate from the outset that Family First is not reinventing the wheel with a terribly radical proposition to the parliament. In our own nation, in Western Australia the Swan Valley, similarly located close to that state's major metropolitan area, was protected by what is now the Swan Valley Planning Act. Interestingly, it was protected through the power of the people, because the only way those people were going to support the government then was if it and the opposition at that time gave a commitment to bring in a bill to protect the iconic benefits of the Swan Valley.

When I was looking at recycled water projects in the Napa and Sonoma Valleys back in 1997 or 1998, as we were developing such a project with the private sector for the Willunga Basin, it struck me that they had seen the wisdom and necessity in California to protect those valleys and to encourage and enhance the work of the Robert Mondavis of this world (and I include Robert Mondavi's cousin) who were out there creating magnificent economic and tourism opportunities for those people who wanted to visit San Francisco. They put planning in place which, 25 years on, still allowed, in a city the size of San Francisco (much larger than Adelaide but with a similar travelling distance and potential urban sprawl threat) to be protected, thereby ensuring that they would not see urban sprawl destroy something so important, not only for current but also future generations.

It would have been easy for them at that time to have just said, 'Let's open this up into hobby farming', because they were struggling to overcome aphid problems that were destroying their vineyards, but they were determined to work through that and protect their region at the same time. So, it has been done overseas. You would not get concrete slabs being put on prime land close to major cities in Italy or France, and at the moment there is a strong argument to go against the general thrust of development in this region.

There are several variations with this bill, largely to satisfy both Family First and the broad cross-section of the community down there with whom I have been working, so that the area will be protected and enhanced. When I talk about protection, the bill does not say that there will be no development at all, as that would be a nonsense. But it says that there will be zones and protection areas of iconic, environmental and economic importance and, most importantly, it states that in this case, because of what I have highlighted, it would be planned and developed with local input.

I understand the importance in many areas for the minister and the government to have a pro-development approach. I am not silly and naive when it comes to that matter, but I say to the minister, who has a significant and difficult responsibility with planning, to the government and to all my colleagues, that there must be a time when you say, 'Enough is enough' and that certain areas must be protected. The Willunga Basin Consultative Committee is consulted not only on the zoning but also on the perimeter of the basin.

I will touch briefly on the heritage significance of places such as Port Willunga and Port Noarlunga as shipping ports. Today Port Willunga and other regions down there are being noted; specifically Port Noarlunga is ranked as one of the coolest places—meaning a good place to visit and develop tourism opportunities—in the world. I understand that, in the ranking of cool places throughout the world, Port Willunga was the only place in Australia that got the rating recently. Let us not underestimate the history, benefits and value of that in creating jobs. Because Port Adelaide, Outer Harbor and the infrastructure have been there since foundation, there is a natural tendency for things to develop more in the north, and I acknowledge that. However, residential housing will encroach further and further to the south without the required infrastructure in place—and, let's face it, it will, unfortunately, become more and more difficult in the next few years to

provide the infrastructure required. It will be a few years before the economy cranks up to the desired level.

If members do not support this bill, further expansion will be undertaken by the Land Management Corporation and private sector developers. They will continue to put concrete slabs on this prime land without there being adequate infrastructure and job opportunities. By protecting this region and having a focus on all aspects of the region, we could create jobs and protect the jobs that are there and enhance opportunities without creating a suburban ghetto, which is always a potential threat in the development of extensive subdivisions.

I turn briefly to the recent issues arising from climate change. With a drying River Murray and the lack of rainfall, it is even more crucial to protect and enhance the food bearing capacity of productive agricultural and horticultural land. As I have said, this is one of the few regions that is drought proofed. Why? Because there is recycled water there. Every day, 150,000 people are putting water into the Christies Beach treatment plant. There is the capacity to harvest 100 per cent of the water from that treatment plant and turn the balance of the Willunga Basin prime cultural zones into an incredibly intensive and exciting green food bowl. It has not happened yet; I understand that it is sitting at somewhere between 60 and 70 per cent.

Also, there are the issues of films and tourism, which I touched on earlier. For example, the Aldinga Arts Eco Village, which is a really exciting facility. It is a concept that has allowed a mixed range of age groups in South Australia to come together to further enhance and develop arts opportunities. I put on the public record that a personal friend of mine, David Dryden, who is a world renowned artist living in Strathalbyn, has done a lot of painting down that way. He has been able to promote South Australia. A lot of artwork in boardrooms across the world comes from Fleurieu Peninsula and the Willunga Basin. So, there are so many benefits in this region.

I ask my parliamentary colleagues in the opposition and the government, as well as my crossbench colleagues and friends, to have a really close look at this bill. I say to them right now that there will be enormous pressure to oppose this bill. Where do members think that that pressure will ultimately come from? I have been in parliament and politics long enough to know, so I can tell members where the pressure will come from. It will come from Treasury. Treasury is going to say to the Treasurer, 'Don't have a bar of Brokenshire's bill, that Family First bill; it is off the planet. We can't afford to have that. We need returns right now to provide the services.' I know that Treasury needs it for services.

After that, the Treasurer will discuss it with his colleagues in cabinet. He will say, 'Well, the bottom line is that this is madness. If we support this bill—if we let this get through the parliament—that will hit my bottom line.' The truth is that the Treasurer would be right in saying that: it will hurt the bottom line of the budget to an extent in the next couple of years, and I acknowledge that fact. However, in acknowledging that fact, I say that this is the right time for this legislation to be supported and passed.

In that regard, I make the following two key points. The first point is that there has been an economic slow down. So, projections for the population of this state to increase by half a million people, as well as economic growth, will slow down. So, we have a chance to take some oxygen, sit back and look at the longer term future.

The second point is about the longer term future. We can sell ourselves short to get through the next year or two, but we will do it at our peril. We as members of parliament will fail our children and our grandchildren if we continue to destroy our opportunities for growth in our food production, our economy and the iconic opportunities I have already highlighted. This is one of the few areas in the state that should be protected by special legislation; there are others, but this is a particularly special area.

The Swan Valley legislation, which I referred to earlier, was introduced in 1995, which is not that long ago. That legislation has come to be embraced and applauded by both major parties in that state as a good move. I understand that both a Labor government and a Liberal government in that state have supported the Swan Valley Act as a good move to conserve the critical areas of food production, tourism and the environment. For that reason, I hold out hope that this bill will be seen as a bill, first and foremost, about the protection of the Willunga Basin.

I want to reinforce that the significant difference between the Swan Valley Planning Act and this bill is the lack of a map setting out zones. It is vitally important that the consultative committee determine the zoning in this instance. For the benefit of honourable members and the eventual committee, I set out a couple of the concepts I envisage.

First, as in the case of Swan Valley, I believe the townships of McLaren Vale, McLaren Flat, Aldinga, Willunga and Port Willunga should be set aside as country townships of some kind to ensure orderly development rather than suburban-style density development around those towns. By all means, these towns can grow, some to a greater extent than others. However, if the committee shares my view, I believe it should set the parameters for potential growth.

Secondly, I believe the committee ought to set aside considerable areas for environmental protection and biodiversity conservation. The committee has a greater knowledge about those issues, which is why the bill is drafted this way. Having said that, the committee will have to consider representation from the primary producers, such as wine grape growers and fruit and vegetable growers, whose property sits alongside that land.

I just place on record that if you drive through McLaren Vale and look opposite the McLaren Vale Hotel you will see, still enshrined on the façade of the building opposite, 'McLaren Vale Fruit Packers'. It was a very rich, vibrant and diverse fruit-growing area and it can be again through the circumstances presented. So there are opportunities there to expand those industries, and I hope honourable members begin to see the high level strategic dialogue that will develop when this committee is formed.

Lastly, on the conceptual front, I accept that there will be areas within the basin where urban sprawl has already occurred and cannot be wound back. There may also be existing development approvals or land purchases by private individuals—and I do not include the Land Management Corporation in that definition—that the committee will have to have regard to in considering where existing suburban development zones start and finish. I want to be clear that in my view, and from my consultation on this bill, people in the basin are unanimous that it needs to be contained and that there should be a preference for urban infill in those areas already part of the sprawl.

I am confident the committee knows exactly what I mean by those comments, which I make more for the assistance of honourable members who are wondering about how the zoning might work conceptually. I am talking about places like Seaford Rise, where residential developments are already well and truly under way. Of course, the committee will not be able to bulldoze over them, but one significant intent of this bill is to constrain such activity to where it is already happening or approved, and to have very little more of this activity without future committee approval.

Part of the motivation for the bill is the ever flexible and vague urban growth boundary. For instance, the answer to my question of the Leader of the Government on 3 February this year did not, frankly, fill me with confidence that, internally, everyone in this government is on the same page regarding whether or not development will occur at Bowering Hill (an important buffer zone just north of Aldinga Beach). I invite honourable members and readers of *Hansard* to look at the explanation I gave to that question and at the answer I received to see the double messages that government members are sending. This is not having a go at the Minister for Urban Development and Planning; as I have said before, he does his best within the constraints of government and developers as well as everything else that he has to consider. However, it does say to me that at the moment there is no guarantee in law about Bowering Hill, or for the protection of any other part of the Willunga Basin. This bill, if passed by the parliament, brings in that guarantee.

I believe it will assist voters in the basin to know exactly what are the government's intentions for the basin, as well as the opposition's intentions. Look at Finniss, at Heysen, at Mawson, at Kaurna, even at Bright, and certainly Reynell. I place on the public record that people in those seats love what is a significant gateway to the Fleurieu Peninsula—and I do not say that lightly. Even those who live at Reynella remember what happened; we all remember when prime lambs were grazing along the fence opposite the Wheatsheaf Hotel at Morphett Vale, and it was not all that long ago. We remember when the Booths were on Flaxmill Road with a wine transport business and a vibrant vineyard and cropping program. There are still people like the Sheriffs there.

Southern people are proud of them, and they tell me that they want to see what the Liberal and Labor Parties will do to protect the area in question and ensure that we do not see the housing development sprawl that has occurred over those years—and I am talking about only 30 to 40 years. It is not a long time. A lot of people will be looking at this bill and at what the government and opposition do with respect to it. I know that some will say, 'If we come into government, or while we are in government, it won't be a problem at all. We wouldn't do that, we won't expand this.' Well, I have been there and seen all that before; at the end of the day Treasury reigns supreme and it is

only election to election. This is more important than that. I conclude by saying that my questions to any critics of this bill are threefold:

- Are you telling me that this basin is not under threat from urban sprawl?
- Are you telling me that this basin does not deserve special protection under law?
- Are you telling me that the groups represented by the committee are not the best persons to determine the future direction of the basin?

If something like that is your problem, then move an amendment. I do not have all the answers but I have done my best to put the framework into this bill.

I also want to head off a likely challenge to this bill in that one might argue that the existing Onkaparinga council development plan already protects the basin. Well, contact a number of the councillors (I know them well) and see if they think it does; ask them if they think they can continue to provide services for further expansion when they are struggling, as good and committed councillors, to provide what they can to an already massive community. It is the largest council area in the state. In answer to that, first, it may be that other council areas will be included in the basin by the committee—although I doubt it very much. Secondly, its development plan is subject to the whims of the government of the day.

I will reinforce that; this bill empowers the consultative committee to determine a plan for the Willunga Basin that has far greater force in law than a development plan. That is a significant change in strengthening the protection that might otherwise be provided by a development plan. I know it goes against the ideology of the government—and probably of the opposition, although I have not seen its policies on planning so I do not yet know. I hope that it brings them out soon so that I can debate them. We need to see some policies so that we can see what the government and opposition are offering.

Frankly, I would not bother with this bill if those committee powers did not need to be there. In other words, my view is that the Onkaparinga council development plan, however good it might be, does not have the force in law that this bill provides. I believe it is necessary for the protection of a vital primary-producing, environmental, tourism and iconic asset for South Australia that is also the gateway to the holiday playground. A former premier, the late Don Dunstan, talked about the benefits of this region, and the present Premier has acknowledged how much he sought his wisdom and vision.

I indicate that in my view this bill ticks all the boxes on positive family impact. The bill continues the opportunity of a diversity of opportunities for families in the types of places they can live within 60 kilometres of the CBD. It supports primary production in a valuable primary production zone—which obviously supports jobs. It creates an opportunity for a preserved leisure location for families within and outside the basin for the enjoyment of our children's children. The bill also enables the local community to preserve its environment and heritage in order to educate future generations on where they come from and how to live responsibly on the land.

I thank my colleagues for listening to this debate tonight. I also wish to record my appreciation to those with whom I consulted in relation to the preparation of this bill and to parliamentary counsel for their professionalism and the care taken in the drafting of what to me is landmark legislation; and even for parliamentary counsel it was different from what they are asked to do on a day-to-day basis. I urge members to support the bill.

Debate adjourned on motion of Hon. R.P. Wortley.

SELECT COMMITTEE ON PROPOSED SALE AND REDEVELOPMENT OF THE GLENSIDE HOSPITAL SITE

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

That the report of the select committee be noted.

(Continued from 4 February 2009. Page 1184.)

The Hon. J.M.A. LENSINK (20:24): I support the motion for the report to be noted. This is the second report that has been published, there having been an interim report. The committee took evidence from some expert witnesses who said that they thought it would be a great opportunity to provide an education hub specialising in mental health, where the critical mass of different disciplines and services would be located on one site. We did receive a reply from the minister—a polite no—which was disappointing.

I do not propose to speak about all the detail in the content of the report, which was done by the committee chairperson (Hon. Mr Dawkins) some weeks ago. He covered all those areas very well, particularly the recommendations which were made by the majority of the committee—the Hons John Dawkins and Sandra Kanck and me. I note, not surprisingly, there was a dissenting statement.

We all found it to be a productive committee and, despite the fact there were difficult and perhaps contested matters with which we dealt, I commend the government members who were members of this committee—in spite of the fact they put in a dissenting report with which I strongly disagree. They conducted themselves in a manner which is appropriate and which people expect as a standard for this parliament. I was a member of another committee inquiring into a similar matter and it was quite different in that it was highly politicised, and I think some of the witnesses were badgered with questions which must have been designed by the then minister's staff.

I thank the secretary of the committee, Guy Dickson, and the research officer, Geraldine Sladden, who conducted themselves in a professional manner. The committee put together a report of the right size. Sometimes it is easy to get stuck into all the detail and people do not end up reading the report, but I think this document has been well prepared. I also commend Sandra Kanck for her participation. This is an area in which she has an ongoing and deep interest. She played a very constructive role, particularly in relation to some of the recommendations and findings.

While it is available, people would need to go hunting for some of the evidence, and I think some of the evidence we received is worth putting on the parliamentary record in order to make it more accessible in *Hansard*. I divide the witnesses who provided evidence into three categories. First, in terms of planning issues, I cite the local council—the City of Burnside—and the National Trust; secondly, the government—officials from the Department of Health and the chair of the Social Inclusion Board, Monsignor Cappo; and, finally, people for whom these issues are close to their heart, that is, the Public Advocate, mental health professionals, consumers and their family members.

The committee received quite a number of letters. Committees receive the usual form letters, but it is worth noting that not just 200 or 500, or even 1,000, form letters were signed but, rather, 1,500 form letters were received from local residents, health professionals who had worked there previously and people who had family members there; and I would like to read the letter into *Hansard*. It states:

> Proposed sale and development of the Glenside Hospital site.
>
> We strongly object to this proposal because:-
>
> 1. The effect of the proposed sale of 42 per cent of the site and its impact on the amenity and enjoyment of open space for patients and the public, biodiversity, conservation and significant trees.
>
> 2. Loss of open space will prevent any expansion of the hospital dictated by future needs as the population increases.
>
> 3. The effect of the proposed sale of precincts 3, 4 and 5 as identified in the state government's concept master plan and the resulting traffic problems at entry and exit points this plan will create.
>
> 4. The proposed sale of publicly owned land in precinct 4 under a special arrangement to a commercial organisation as a preferred purchaser.
>
> 5. The state government is prepared to spend $42 million on film studio infrastructure but will only fund the hospital by selling 42 per cent of the land.

As I said, a number of other letters were received also in which people detailed their own experiences and why they believe the site should be retained purely for mental health purposes, and so forth.

To return to those three different areas, the first being planning, Burnside council provided evidence and a couple of written submissions and, from what they said, it appeared they were pretty angry. In response to term of reference (a) they said:

> Models of care have yet to be announced. The community and council are unable to provide informed comment. The community has expressed concern at proposed drug and alcohol services, and associated security issues. The security concerns of neighbours appear to have been trivialised and overlooked. New services are proposed in a predominantly residential area. It is legitimate and appropriate to consider the impacts on the existing community.

In part, I think that refers to the fact that their own zoning for that area does not include provision for any commercial development on the site.

In relation to term of reference (b), they state that the sale of a large proportion of the site will adversely impact existing open space, biodiversity, conservation and significant trees. This is quite a lengthy submission which obviously I will not read: it is 11 pages. They were highly critical of the consultation process—and I think just about all stakeholders have been highly critical of the way in which the government has gone about this.

They also were concerned about heritage aspects of the site—and we heard about the issue of the shed which the minister at the time dismissed in parliament this year and which they state should have been included on the state heritage register—and they expressed concerns for some of the other buildings that similarly may be bulldozed in favour of this plan. The National Trust representatives did not really mince their words. They provided evidence as well, and I will quote from their written submission in which they stated:

> The best practice approach to a site of Glenside's significance is to prepare a well researched master plan for the whole site. This must, firstly, document the key qualities of the place which need to be sustained and then identify appropriate new uses for redundant buildings and suitable sites and forms for new buildings which will not compromise the heritage significance of the place as a whole. Unfortunately, the current Glenside campus concept master plan is a poorly conceived, ad hoc planning document which does not represent best practice principles in managing and developing an historic place.

Overleaf it says:

> The methodology is deeply flawed. A proper master plan is needed which treats the site as a whole and respects and recaptures some of the spirit of the original landscape plan.

I turn to the government witnesses from the health department and Monsignor Cappo. The health officials, I have to say, did not really provide us with a whole lot of information that we did not know. They came in a few times, and they gave us a site visit as well. Apart from swapping around a few of the precincts, they would not provide us with any information about negotiations with the potential commercial developers, and it really was a case of Sir Humphrey coming to hide the government's plans from the committee. I think in some instances they treated us somewhat contemptuously and did not accept the fact that the community had general concerns.

Monsignor Cappo, who has been cited as part of the reason the Glenside plan has turned out the way it has, unfortunately has been prepared to accept some of the blame for this proposal, and I think he diminishes his office by just falling into line when there is clearly so much opposition to so many aspects, not of the way that this has been promulgated but the way in which the end result will unfold.

A number of professional groups came to speak. John Brayley, who was the director of mental health services and is now the Public Advocate, brought with him to give evidence a couple of consumers, and we were incredibly grateful for the genuine and heartfelt evidence that they provided. They gave us great insight into their experiences as consumers.

The Hon. J.S.L. Dawkins: Not everybody would be prepared to do that.

The Hon. J.M.A. LENSINK: Yes, I agree. Their names are Meryl McDougall and Anna Ruediger. Ms McDougall stated:

> I have seen the diagram and looked at it and in some ways I feel that it is almost backwards. It should be a question of: what facilities do we need? Therefore, what sorts of buildings do we need to put the facilities and services in? How much space will that use up? Now let us decide what will happen to the rest of the land, rather than saying we will chop up the land into this bit and that bit, and that bit is being allocated to the hospital.

The Royal Australian and New Zealand College of Psychiatrists provided a very comprehensive piece of written evidence and also gave verbal evidence, and I state on the record that I was disappointed that the CEO of the health department deliberately tried to misrepresent their position in evidence by saying that the college supported it. I would like to read into the record some of their comments. Their covering letter states:

> The Glenside Hospital site is an important and extremely valuable resource for all South Australians. It is a resource that should not be squandered for short-term gain without real consideration of the state's current and future mental health needs. The college stands in a unique position to comment on the proposal. We believe it imperative that our views—together with those of other health care providers and health care consumers—inform any future development.

They have expressed considerable disappointment with the way in which consultation has taken place as well.

They provided evidence that there are some services at the moment which, if anything, need to be expanded, which is what drove some of the recommendations in the report. They are specifically that the Mother and Baby Unit at Helen Mayo House should have at least eight in-patient beds as a minimum and also that the current forensic mental health services are inadequate, let alone what will happen during that period when Glenside is no longer providing forensic services and before the new facilities are built. They state that before any land sale proceeds the exact model of hospital buildings must be designed to general satisfaction.

They also refer to the Stepping Up report. They said that it is 'oft cited as the evidence and support for such a sale, together with the need for the government to "reduce the stigma"'. They have pulled out specific aspects of the report (which I will not read in the interests of saving time) that are used as justification. They said:

> The government argues throughout the Master Plan that the development reduces the stigma attached to mental illness, that the reduction of stigma is the proposed sale and the redevelopment's primary purpose, and the sale and redevelopment is consequently in accordance with the primary purpose outlined by the Social Inclusion Board in the Stepping Up report. We submit with respect that these statements draw a rather long bow.

They do not believe that the number of beds is enough and that the new hospital will not meet benchmarks, particularly if one considers the State Strategic Plan's population target of 2 million people. They are particularly concerned about the chronic treatment resistant population of people. They say they have concerns that that group is not in the master plan, 'pushing them into mainstream hospital environments which are already inadequately resourced to deal with the general health needs of the population, let alone able to cope with those with severe and unrelenting mental illness'. The letter further stated:

> There are serious questions about the effectiveness of alternative community services for those existing consumers forced into the community, and those new, young chronic patients who are in fact in need of extended care. The extended care function previously provided at the Glenside Hospital which involved slow stream rehabilitation has no parallel in the proposed model of care. Many clinicians are concerned about the lack of this function in the new stepped model of care.

These are very important things to observe because the government is, I suppose, still in the process of designing models of care, but it is ignoring particular client groups that have specific needs. The easiest thing would be for the government to ask the experts what is needed but, sadly, that has not been happening. On page 12, where they were wrapping up a few issues, they stated:

> The College does not wish to be cynical. That said, the sale of such a large portion of land to retail, residential and commercial land remains of serious concern and is poorly disguised by the Government as a way in which mental health service provision can be improved. It is a loss of resource plain and simple.

In their final comments, under 'Future Consultation', they stated:

> The College has significant concerns about the lack of formal and specific consultation which has taken place with it, other mental health stakeholders, and the community at large. We accept that communications [and this is where they have been misrepresented by the health department CEO] with individual fellows may have been interpreted as formal consultation inadvertently. Representatives of the College were involved in early consultation with the Social Inclusion Board along with large groups of other stakeholders. Other Fellows did not take part in meetings undertaken in the build up to the Stepping Up report.
>
> That said, the Glenside redevelopment was presented in September 2007 as a finished product despite there being no clear history of consultation on the specific development. To suggest the redevelopment is completely supported by the Stepping Up report and therefore no further consultation is required is somewhat dismissive to all parties who hold an interest in this development—not least of whom the South Australian community to whom this land rightly belongs.
>
> It is widely viewed that the sale of land will continue irrespective of valid community concern, and future input should be directed only to the design of the hospital. If this is the case, and the government has no regard for input on that issue, it is both an extraordinarily careless and insulting attitude to all South Australians who rightly deserve a say in how the assets are managed.

That is fairly damning language from a very important professional group which ought to be front and centre of the debate on this issue. The Australian Psychological Society also expressed a lot of concern about this proposal. It said in its submission:

> It is the Australian Psychological Society's (South Australian Branch) position that there appear to be too many factors producing difficulties in the Glenside Redevelopment for a reasonable outcome. It may be that the consultation and resultant change processes are flawed.

It also stated:

> ...many of the initial ideas and principles of the Stepping Up report are worthy, but that consequent attempts at implementation and adaptation to significant feedback have been and are inadequate.

They are not my words: I am just quoting the words of the professional association. I think that, unfortunately, a couple of the stakeholder groups that gave evidence are probably hamstrung by the fact that their funding is completely dependent on government, so we did not get a very independent voice on that. I would like to finish with a letter from a group of people who said, as follows:

> We are a concerned group of relatives of patients with chronic mental illness who currently live in Karingai Ward at Glenside.

There are some 10 signatures. They are very concerned about the care of their loved ones. The letter continues:

> Many of our relatives are under Guardianship Board Treatment Orders which attests to the need for a very high level of care, supervision and treatment in a professionally monitored environment. It is clear that any lesser level of care and monitoring would place our relatives at risk, both medically and psychiatrically, of potentially fatal consequences.
>
> In the months since the announcement of the proposed redevelopment of the Glenside site we have constantly sought information in regards to the future care of our relatives. We have heard nothing about the proposed future accommodation and have not received any assurance that new facilities (at this or any other site) will provide the same level of professional care that our relatives currently receive.
>
> Karingai Ward is currently designed as a rehabilitation ward, a place from which patients can be in theory moved back into the community. Karingai has in fact been operating for many years as a closed ward, reflecting the intractable nature of the illness of the people involved, and the significant difficulty in providing effective rehabilitation.
>
> Our relatives have been in Glenside for many years and, as previously stated, suffer from chronic psychiatric and physical disabilities. The needs of these patients and the long-term nature of their illness have not changed and they remain unsuitable for rehabilitation as the word is generally known. We believe that the term 'rehabilitation ward' is a misnomer in this case, and as a result our relatives may be placed in similarly named and therefore similarly unsuitable facilities as a result of the development.
>
> We seek assurance that any development of the Glenside site will not disadvantage our relatives or detract from the level of professional psychiatric care they receive and quality of life they experience.
>
> We are appalled at the lack of communication from the Minister for Mental Health and Substance Abuse, Gail Gago, who has effectively ignored our request for information about the future of our family members.
>
> No satisfactory response to inquiries made by us to the Glenside Campus have been received and the staff and Director of Nursing repeatedly say that they have no specific information about the long-term future of our relatives.

I would like to finish on that note; I think it probably says it all. There are a lot of people who have a stake in this and who have been treated with absolute contempt. This plan is potentially a disaster for mental health services in the state. We agree that we need a new and improved service, but not at the expense of what has been taking place. We certainly do not believe that we need a film hub for the indulgence of the Premier to be placed in here at the expense of mental health services. I commend the motion to the council.

Debate adjourned on motion of Hon. I. Hunter.

WORKERS REHABILITATION AND COMPENSATION (CHANGES TO SCHEME REVIEW PROVISIONS) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (20:47): Obtained leave and introduced a bill for an act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. R.L. BROKENSHIRE (20:48): I move:

> That this bill be now read a second time.

I am moving this bill because one aspect of WorkCover that is debated a lot is that of redemption. I believe that it is paramount that we have a redeeming amendment for the legislation that was passed last year. I will keep my remarks as brief as possible, because I have already had great tolerance from my colleagues on a busy day. However, I do need to put the preliminary debate on the public record, and I will speak further as the debate continues.

I believe that the changes made in July 2008 to the Workers Rehabilitation and Compensation Act were mean-spirited, uncalled for and unnecessary. I am proud to move these amendments on behalf of Family First, hopefully with the support of colleagues in this chamber, as the amendments roll back the worst of those unnecessary changes which, frankly speaking, hurt families.

It is significant to note that none of the crossbench members supported the bill when it went through this parliament in July 2008. In other words, all the crossbench members opposed these draconian amendments to workers' and families' rights, and I think it is important that that is reinforced.

I regret that I was not in a privileged position to be here to be involved in that debate, because I was sworn in immediately after the debate and the legislation passed after the August parliamentary break last year. In my maiden speech, Mr President—and I am sure you will agree—I stated that the problems with WorkCover were never the legislation itself, but other areas: gross mismanagement of the WorkCover Corporation, a failure to focus on rehab and getting workers back into the workforce, failing to have proper case management, and failing to be prudent in the way that the whole corporation was managed from the minister through to the WorkCover Corporation almost in its entirety.

There was a massive ballooning out of debt over about a six year period, and then we saw workers, frankly, kicked in the guts in an effort to fix the problems with an unfunded liability. However, there was little or no focus on the corporation, the management structures, case management, and so on. My colleague the Hon. Dennis Hood outlined these management failings at length in his contribution opposing the bill.

WorkCover management, in my opinion, walked scot-free from that mismanagement. Few people on the board were changed. Ads were placed by the then chairman, Mr Bruce Carter, appealing to people to support the government's bill. I found it amazing, frankly, that Mr Carter would go to that extreme and then walk away afterwards, leaving a mess for families and injured workers, but he obviously chose to work closely with the government. I would have thought that a man with his capacity would go through the whole corporation with a fine-toothed comb rather than place an expensive ad that worked against employees.

The bottom line is that it was the workers who got whacked for WorkCover's mismanagement. A considerable proportion of savings estimated by the actuarial report was attributable to the medical panels, whilst comparatively little was attributable to the cuts to the workers' weekly payments at 13 and 26 weeks. It is interesting now that many of those workers are unfortunately starting to see reductions in their salaries if they have not been able to resume work. Family First is seeking to rectify other measures with this bill.

Clearly, the greatest inroads into the unfunded liability were going to be achieved by establishing the medical panels, so we will not be disturbing the medical panels. We acknowledge that there were some good things in the bill and that the medical panels make sense, so I do not seek to amend the section regarding medical panels. The feedback I have received from consultation has been all positive about the panels, with only some criticism from the legal profession about whether they will be deciding questions that are not purely medical. We will have to monitor the precedents developing out of the panels to see whether or not that is actually the case.

However, a comparatively small amount was going to be gained by the mean-spirited cutbacks to weekly payments, so in this amendment Family First is reinstating the original 100 per cent weekly payments and getting rid of the step-downs. Our amendments also strengthen the requirements in considering decisions about weekly payments upon rehabilitation and return to work, as the government is saying so much about it in its current television and radio advertisements. In fact, I received some material only this week when I received my bill from WorkCover with more propaganda purporting to support how well the government has done in the previous legislation, which I hope partly to overturn this year.

Likewise, no good case was made for the self-insurance industry to be cut out of redemptions, which they were using judiciously and tellingly on the question of the proper management of worker injury. They had no unfunded liability blow-out like that of the WorkCover Corporation. I find it fascinating that the self-insurance industry has been so prudent in its management, and I have to say that over a number of years I cannot recall hearing many complaints at all about workers compensation from self-insured workers, as against the massive amount with the WorkCover Corporation.

In a similar vein, the self-insurers were aggrieved, and I think rightly so, about the way the exit fee situation was handled by the government. I believe it is anti-competitive and frankly just a desperate final grab by the government from anyone who wants to leave WorkCover and move to self-insurance. I would love to see some more work done on how inequitable and unfair it is. It is

just a straight-out grab for cash: 'If you want to leave the WorkCover monopoly and go to self-insurance we'll flog you so hard financially that we'll make it difficult for you to leave.'

We also propose in this bill that there be better consultation with relevant industry sectors if levies are to be increased. That is something that I believe Business SA ought to support. At present there are smoke and mirrors as to why levies are increased. If the government is increasing levies for purely financial reasons then it should say so. If, on the other hand, levies are increasing because of poor workplace safety practices in a given industry, like the taxi industry for instance, the corporation has to be open and transparent about these increases. If there has been a spike in claims history for a particular industry, that needs to be on the table and open for consultation with the industry.

As I wrap up my contribution, Mr President, I observe that you are in a different position from that of some of your colleagues, because unlike them you will not be in a position to vote on this bill. I know you will have considerable sympathy for the roll-back of the step-downs, and I know you have a lot of rapport with workers, but I respect your position. I will be looking to colleagues on both sides of the chamber as well as our cross bench colleagues for their support in assisting in the reinstating of workers' rights and, in particular, the main focus of this bill: the roll-back of the mean-spirited step-downs.

I want to flag to all colleagues, and particularly my cross bench colleagues, that I am open to amendments to this bill if they can be soundly argued as reinstating workers' rights without negatively affecting the unfunded liability. This bill is an opportunity for redemption, as I said at the start of my second reading contribution, not only for the major parties but also for this parliament, as a parliament for the people and not one that is dictated to by big business.

Whilst I have nothing but respect generally with what big business does, I believe that in this instance it had too big an ear with both the major parties, and I do not quite understand why it had such a big ear with both the major parties when this will not fix the problem for big business. In fact, I would suggest that the unfunded liability is still accelerating, even though this legislation has been in force. If I am wrong, I ask the minister to table as soon as possible what the unfunded liability is, but my advice is that it is still heading north at the moment, and that starts to say to me that there is a major problem with this legislation.

I also know for a fact—and I have had some documentation back on this—that redemptions have been accelerating like you would not believe, and for some injured workers it is unbelievable how quickly counter offers have occurred. Others are ostracised and they get nothing; they are blacklisted, but some at the moment are getting large amounts of money. I cannot remember in the 15 years that I have been in the parliament such an easy access to redemption, yet I understand that even with that they are still seeing an increase.

The core root of the problem is getting to the 1 per cent of the people who were rorters, which was available in the previous legislation; scrapping the board, because it failed; and starting again there, wiping it out and starting again. The bottom line is that the board failed, because in a six or seven year period it let an almost fully funded liability head into a $1 billion-plus liability, so just changing the deckchairs was not appropriate there.

Getting into the solo case manager, particularly having a look at how that case manager was appointed in the first place and all the other things that should be done with some attention to detail to look after the injured workers, get them back to work as soon as possible and be pro-active and preventive in the way they deal with workplace safety—they are the sorts of things that will make a real difference.

It may seem strange that I am moving these amendments, but I genuinely and sincerely have always been disappointed about what happened last year. I said in my maiden speech—and I put it on the record again—that, as an employer, I do not like the amount of money I am charged every month by way of an account from WorkCover. It has been going up, which I question. Having said that, I, like most employers in this state, hope and pray that your workers do not get injured, but you want them looked after if they are injured.

I refer to one classic example, as it can easily happen: the police officer going out to a domestic violence situation and being confronted with a knife coming at them—horrific circumstances, often trying to protect the wife and children. They receive lacerations and broken bones, and also some short-term mental injury. If that has happened in the past three to six-month period, and they have not been able to get back to work, their families are suffering with a loss of money and that is an outrage. The partners, spouses and children said, 'See you dad; see you

mum; see you tonight', as we all hear. But they come back injured. It is not their fault and now the whole family is suffering, and this is a chance to turn this around.

The government may have hoped that it could do over the workers and that the electorate will have forgotten about it by March 2010 when the election comes around, but I do not believe the public, the core support base for the Labor Party, or the unions have forgotten about this, and I know they will not. The executive of the government, not the rank and file MPs, are to blame. I know that some of those MPs did not like this at all. They said, 'What are you doing here—this is not Labor Party stuff; we're about protecting workers' rights?' I am not condemning the rank and file Labor Party MPs—

The Hon. S.G. Wade interjecting:

The Hon. R.L. BROKENSHIRE: Because they don't have a choice. They get chucked out of the party if they cross the floor. It is not them I am on about but the senior executive people in the Labor government who have done the most fundamental basic disservice to the people who have voted for them year in, year out, election in, election out, and stood by them through everything.

The Hon. R.I. Lucas: Name them.

The Hon. R.L. BROKENSHIRE: There are plenty of them—look at the polls. Name the executive? It is the cabinet of three that we all know about, and a few others who drive the cabinet of three. The bottom line is that this is an opportunity for members of parliament, who want to be re-elected in 2010, to support these amendments. It will get the Labor government back in or it will give us a new Liberal government if either of the major parties support the cross benches on this. It will either get them into government or make them lose government. A lot of stories will come out. Once all the accelerated redemption is finished and lawyers start to get into this, they will have a field day. There are a couple of clauses the powerbrokers forgot to get right. I will not disclose them right now but will keep it in confidence. Watch six or nine months before the election, when clever lawyers get into this—they will expose the government for unfairly attacking the workers' rights.

This bill reopens the WorkCover debate and provides an opportunity for the major parties to support it for the best interests of the workers of South Australia. In closing, I thank those who have consulted with me on this bill. There have been a lot, and in the short time I have been back in parliament I cannot believe how much representation we have had—positive and pro-active. It was not just that they acknowledged that some things should not happen with WorkCover, as they are responsible South Australians and some are industry sector representatives and have seen me a few times, but they are extremely disappointed and are saying to me—and I am sure to other MPs—'Please change these mistakes; this is not fair on far too many families'.

I also thank parliamentary counsel for the diligence and care taken with this important bill. I have further information for the benefit of the council but will put it on the record later, in the interests of allowing government business to proceed and members getting home at a reasonable time. I ask all members to look closely at these amendments and seek their support.

Debate adjourned on motion of Hon. R.P. Wortley.

FAIR TRADING (TELEMARKETING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 February 2009. Page 1276.)

The Hon. R.P. WORTLEY (21:07): The Fair Trading Act 1987 is a primary piece of legislation that protects consumers in South Australia from deceptive, misleading or otherwise unconscionable commercial conduct. The amendments comprised in the bill before us will update the Fair Trading Act so as to reflect changes in the way goods and services are marketed and transactions entered into. They address the increasing sophistication of telemarketing operations in the 21st century, given the advent of electronic databases, the burgeoning of call centres and related innovations. Essentially, they extend the ambit of existing door-to-door sales provisions to regulate aspects of this quite pervasive telemarketing activity.

Telemarketing is a fact of life. We have all experienced the call when sitting down to dinner, or when we are settling in to watch the *7.30 Report* after a long day at the legislative coalface. Of course, many legitimate companies, organisations and charities validly solicit consumers by telephone offering genuine services and products and the opportunity to contribute to worthy causes. Unfortunately, some are less genuine.

Most members of our community are equipped with the skills that enable them to manage these interactions, but some consumers are at risk. Some consumers are not aware of their rights or have limited life skills; some do not speak English as a first language, and some are still at school, perhaps working part time, and are entering into contracts for the first time; for example, for mobile phones or ring tones, and some are elderly, perhaps alone, and susceptible to those who would exploit them through unscrupulous and unconscionable practices.

It is beyond dispute that fraudulent telemarketers, of whom regrettably there are quite a few, understand human nature only too well. Who among us has not been susceptible to such phrases, in any number of environments, as, 'You've been selected to hear this offer,' or 'You'll receive a valuable free bonus if you purchase our product now,' or 'Act now before you miss out'? Or what about, 'You've won a free holiday or prize,' or 'You can't afford to miss out on this offer'?

This government is determined to protect people who, for whatever reason, are vulnerable to these importunings. The bill will protect consumers against the high-pressure techniques sometimes employed by salespeople who contact consumers by telephone. It is the government's aim to increase protection for consumers in circumstances where there is an inherent lack of opportunity to compare similar products or services. This bill sets out the requirements to be met by telemarketers when oral contracts are settled over the phone. At that time, consumers must be advised of the following:

- that, starting on and including the day on which the consumer receives a written contract summary, a 10-day cooling-off period applies;
- the amount of the total consideration to be paid or provided or, if the total bill is still to be calculated, the mechanism by which the total bill will be calculated;
- detailed particulars of work to be carried out, including particulars required by the regulations; and
- any other particulars.

Once the contract has been made orally and those matters disclosed, a written summary must be provided to the consumer, setting out the following:

- the date on which the contract was entered into orally;
- the amount of the total consideration to be paid or provided or, if the total bill is still to be calculated, the mechanism by which the total bill will be calculated; and
- detailed particulars of work to be carried out, including particulars required by the regulations.

As a further safeguard, the amendments provide that the contractual terms must be printed or typewritten, although insertions and amendments may be handwritten, and the details of the supplier (if the dealer is not the supplier) specified. The contract summary must show at the top and bottom of the document a conspicuous statement that the contract is subject to a 10-day cooling-off period.

Included in the package must be a printed or typewritten notice in the prescribed terms explaining the consumer's right to rescind and a printed or typewritten notice, as prescribed, to be used in the event of rescission. All handwriting in these documents must be readily legible (save, of course, for a signature or initial) to avoid ambiguity or error.

In effect, the bill provides that a cooling-off period will apply in circumstances where, as the result of unsolicited contact by a telemarketer, a person enters a contract to purchase goods or services. The cooling-off period will allow consumers to reflect on the transaction when the heat of the moment has passed. The other measures I have outlined provide additional protections in circumstances where undue pressure may have been exerted.

This bill complements legislation already passed in New South Wales and Victoria and the commonwealth's 'Do not call' provisions. So, it augments the safeguards already in place within our Fair Trading Act. I commend the bill to the house.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (21:12): I understand that no other honourable member wishes to speak on this bill. By way of concluding

remarks, I thank those members who contributed to the second reading debate, and I thank them for their support for this bill.

This bill provides for a cooling-off period on contracts for goods and services that result from a trader making unsolicited contact with the consumer by telephone. It extends the current operations in relation to the door-to-door provisions in the Fair Trading Act to also regulate telemarketing activity in the same sort of manner. This provision already exists in both New South Wales and Victoria. It is an inordinately sensible bill, and I look forward to it being dealt with expeditiously through the committee stage.

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

CRIMINAL INVESTIGATION (COVERT OPERATIONS) BILL

Adjourned debate on second reading.

(Continued from 3 February 2009. Page 1219.)

The Hon. S.G. WADE (21:15): I rise to indicate opposition support for this bill. The bill formalises arrangements for covert operations conducted by law-enforcement agencies and is, I understand, the product of the joint working group established by the Standing Committee of Attorneys-General.

The opposition recognises the value of covert operations in addressing crime in our state, particularly organised crime, whether it be in relation to a specific crime or for more general intelligence-gathering purposes. The opposition also recognises the serious risk that law enforcement officers take on when they engage in covert operations, a risk not only to the officers themselves but also to the family and friends of such officers. On behalf of the opposition I pay tribute to these men and women and to the service they render the people of this state, as well as the contribution they make to the peace and order of this community. I am informed that South Australia Police does not have any difficulty in obtaining volunteers willing to undertake covert operations, and I believe that fact reflects highly on the force.

We need to honour the service of these men and women by putting in place laws that protect their rights and identities, and the first and foremost purpose of this bill is to formalise arrangements relating to covert operations. Currently, the provisions for the conduct of covert operations are enshrined in the Criminal Law (Covert Operations) Act 1995. These provisions have been sufficient for covert operations in South Australia, and I understand that they have worked very well, with approximately 15 to 20 covert operations being conducted on annual basis.

However, organised crime does not respect jurisdictional boundaries and there are many situations where law enforcement officers may be required to go interstate during the course of a covert operation. When operations are conducted across jurisdictional boundaries some uncertainty has arisen, particularly in the following areas: first, the legality and legal liability relating to the operations; secondly, acts committed during such operations; and, thirdly, evidence obtained through such operations. It was this uncertainty that led to the establishment of a joint working group to address the issues. The outcome of the work of the group is legislation in each state establishing generally consistent provisions, with legal recognition of covert operations operating across jurisdictional boundaries.

The bill before us does not substantially change the way in which covert operations are conducted; its primary effect is to enable operations to cross jurisdictional boundaries without impediment from concerns as to the legality of the operation. The opposition supports this bill as it believes it is essential that our police and other law enforcement officers are protected and permitted to continue appropriate covert operations, including those which require them to travel beyond South Australia. They should be able to do so with confidence that they will not be prosecuted or put in danger merely for doing their duty.

The second purpose of the bill follows as a necessity in relation to covert operations, because in the course of covert operations it is often necessary for an officer to assume a new identity. This could be to prevent the officer being identified as an officer of the law or it could be in order to protect the officer or the officer's family from any retribution which may follow the officer's involvement in an organised gang. If an officer infiltrates a criminal organisation to gain intelligence, that officer could be placing himself or herself in serious danger. Violent retribution is a hallmark of organised criminal gangs.

Not only is the officer engaged in the operation at risk, but anyone associated with them—friends, family or associates—may also be at risk. Criminal gangs have a history of harming individuals, either directly or by inflicting harm on persons close to individuals. In order to maximise the protection of our law enforcement officers and their associates we need to enable officers to assume identities so that they can conduct their operations with some safety. However, establishing such an entity can be quite complex; it is not merely the act of taking on another name. The ability of organised criminal gangs to access information and obtain backgrounds on individuals, including through government agencies, means that in many cases an officer engaged in covert operations under an assumed identity will need false documents to support that assumed identity—for example, a driver's licence, birth certificate or passport.

South Australia does not currently have any provisions allowing the creation and use of false legal documents, leaving uncertainty as to the legal consequences of the person using the documents and uncertainty as to the legality of any evidence obtained through the use of false documents. It is therefore considered prudent to create legislative provisions for the creation and use of assumed identities to provide proper legal support for covert operations. However, in allowing the creation and use of false documents we, as a community, need to be careful to make sure that such documents are not too easily available and are used only when necessary.

In the opposition's view, the bill before us creates an appropriate system to control the creation, issue and use of false documents for the purposes of covert operations. The system requires that false documentation can be made available only on request from the Commissioner of Police, and any such application must provide details as to why such documents are necessary, the purpose of the documents, and the nature of the documents required. The use of an assumed identity can remain in force for a maximum period of three months, although it can be renewed for further periods of three months each. We understand this provision is due to the serious nature of officially sanctioned false identities, and is intended to force law enforcement agencies to regularly review any use of assumed identities.

An assumed identity must also be used only in accordance with the authorisation made, thus minimising the potential for assumed identities to be misused. While the opposition acknowledges that we must be careful in the creation of such identities, we are also mindful of the grave danger in which officers of the law place themselves when they engage in covert operations and believe the regime for assumed identities is appropriate. We consider that the bill has struck an appropriate balance.

To place oneself in such danger in order to uphold the law is a significant risk which our police and other enforcement officers take on. Whilst we must be vigilant to prevent abuse, we must also provide our police with the tools they need. This brings me to the final purpose of the bill, which is perhaps its most controversial element—the protection of the identity of witnesses using assumed identities. The necessity of protecting the identity of a witness using an assumed identity is obvious: if the identity is revealed, the witness or the witness' family is vulnerable to retribution from organised criminal gangs. There would be little point giving a person an assumed identity during an operation only to reveal their true identity during the court proceedings.

However, this consideration must be balanced with the basic longstanding right under English common law of the accused to have a fair trial. As part of a fair trial it is a common practice to question and determine the reliability of a witness, yet if a witness's true identity is not known it may be impossible to determine factors which may prove that that witness is unreliable.

This bill, therefore, presents us with the task of finding the correct balance between protecting the identity of the witness and ensuring that the accused is given a fair trial. The bill before us attempts to achieve this balance by establishing a process whereby any information deemed relevant to determine the credibility and reliability of a witness must be presented to the court and the defence in the form of a certificate, thus providing relevant information while protecting the true identity of the witness.

I understand that there are some concerns, particularly from the Law Society of South Australia, in relation to these provisions and that the information provided may not be as sufficient or as comprehensive as is necessary. It is possible that the certificate presented to the court may inadvertently omit facts which could be relevant to the credibility of the witness.

The opposition at this stage considers that the provisions of the bill, as suggested by the joint working group of the Standing Committee of Attorneys-General, are appropriate in striking a balance between maintaining the right of an accused to a fair trial and protecting the identity of a

witness who is under an assumed identity. In this context we are mindful of the provisions of the act for a court to require a witness's identity to be revealed where the court considers that doing so could call the witness's credibility into question and it is in the interests of justice to provide a safeguard to ensure that the protection of a witness's identity does not override an accused's right to a fair trial.

Equally, these provisions protect the identity of a witness by providing that, where a court orders that the witness's identity be revealed, the prosecution can withdraw the witness rather than reveal the witness's identity. We are of the view that this strikes a reasonable balance between the rights of the accused and the safety of the witness.

As I said at the outset, the opposition recognises the valuable contribution and, indeed, the sacrifice made by many law enforcement agency officers engaged in covert operations. We owe a great debt to their courage in tackling organised and other crime, and we recognise the importance of providing these officers with the protection and security of the law to ensure that they, and those they care about, are not targets of retribution or intimidation. On behalf of the opposition, I indicate our support for this bill.

The Hon. R.L. BROKENSHIRE (21:28): I rise on behalf of Family First to support the second reading of this bill. I have never apologised, and never will apologise, for the fact that I personally am a great supporter of the work of SAPOL. As a former minister I was incredibly privileged to learn a lot about the inner workings of SAPOL. I was fortunate enough to have the experience in that portfolio to get a unique insight into SAPOL's work, and for that reason I am happy to support this bill.

Covert operations are often the most dangerous operations, but also some of the most important operations. I commend the government for moving these amendments, because we must look at supporting and protecting police as they go about this most difficult part of police work.

I support the assumed identities reforms. These are welcome changes to clear up the common legal uncertainty of undercover operations where, arguably, officers are committing offences in order to detect other offending. The provisions need to be watertight, not only to fend off legal challenges from defence lawyers but also to ensure that there is no room for corrupt or other inappropriate behaviour.

With respect to the cross-border element and, indeed, on the other fronts of this bill, I ask whether South Australia—and I do not expect the minister to give a response tonight, but I will put it on the record so the minister and his staff can look at it and answer it during the committee stage—is first, last or somewhere in between in legislating states moving these amendments. In the second reading explanation, I get the impression that South Australia may be the first.

Be that as it may, it is important to remove legal ambiguities with false identities used to investigate cross-border crime. More often than not these days, we are advised of situations where there are problems across borders. Recently, it was brought to my attention that, due to different pseudoephedrine laws in South Australia and Victoria, pseudoephedrine smuggling from Victoria into South Australia is rife. Likewise, we know that, historically, South Australia has been the cannabis capital. Time and again, people have put cannabis into the eastern states and brought back heroin and other heavy illicit drugs. It is important that there be cross-border strengthening of opportunities for covert operations, referrals to police and good working relationships between police.

In relation to witness protection or informers' immunity, I agree with the government about the need to protect identity by legislative provision rather than relying on the common law, as we do at present. For instance, I am aware of cases of drug stings where a false name, such as Mr Y, was used in the case to protect the police witness—and that is actually very effective. A good false name can be used again to build credibility within criminal networks in order to achieve more arrests, because criminal networks do get savvy very quickly—and incredibly so—on how to flush out informants.

I agree with the government that it is important to provide these sorts of provisions in order to encourage more officers to engage in undercover operations. That is paramount. It is a difficult and dangerous part of policing, and the parliament and the government need to ensure that we protect and support police officers during this work at every opportunity.

I look forward to seeing informative reports from the Commissioner on the use of the witness protection certificates. I can recall that in some areas the reports to parliament for specific

legislative provisions, such as a statute-required report to parliament on suppression orders, is sometimes so ridiculously brief as to be uninformative to parliament, which raises the question whether legislation in practice is meeting parliament's intention. The Hon. Ann Bressington raised some concerning matters and made a good case for an independent commission against corruption. I do not think we need to retrace the debate on an ICAC because I suspect there will be ample time to do so in the near future, with both houses now having bills either introduced or notice of introduction given.

I think that the powers in this bill ought to assist police in their role of not only dealing with corruption and organised crime. I share the Hon. Ann Bressington's concern about potentially rubber-stamping corrupt conduct. That is a concern. On the face of the second reading, one would think we are only talking about rubber-stamping the issuing of supporting documentation for false identity. However—and this is of concern—the wording of clause 5 is quite wide. It is a retrospective provision, and that is something I hope all colleagues have seen, because all of us are always concerned when retrospectivity comes into any legislation. Under that provision, a past authorised participant in undercover operations will now effectively have a rubber stamp of legal immunity upon his or her conduct.

I looked at this carefully and, at first, I thought clause 5 related only to the supporting documentation for a falsified name. However, this bill repeals the previous act and, thus, it is a global clause for all past, present and future approvals of undercover activities—and I think the parliament needs to be aware that that is how it is drafted, as we read it, and we have looked at it carefully. I therefore ask the minister to indicate to me the rationale for proposing that retrospective element, and I ask him to advise us of that during his summing up of the second reading debate.

If the minister would be so kind, could he speculate with us about what effect this might have upon an investigation that an independent commission against corruption would conduct in the future; or, if the minister prefers, perhaps he can look at it as a question about a future prosecution by the anti-corruption task force. If this provision retrospectively approves anything any undercover operative did in the past, does that eliminate the possibility of prosecuting that person for corruption? These are things we need to know about before we vote on the third reading.

I want to be clear upon that. I have said that I am not suggesting there is anything wrong. I have a proud record of strongly batting for and supporting police, but we need to be careful as legislators when we start to get into these sensitive areas. We want to keep our South Australian police force the best in the world. We do not want a situation such as that in New South Wales, or Queensland, for that matter, and, probably arguably now, even Victoria.

I support the second reading but I want to hear all the debate, particularly from the minister on behalf of the government, before the third reading. It seems to me that there is the potential with one swish of the brush to legitimise any potentially past corrupt conduct.

I also ask the minister handling this bill for the Minister for Police for some indication of the current number of approvals by senior police officers of undercover operations. I am happy to receive this in confidence, if that is appropriate, and I have a bit of experience of that with other members in the past when I was in that portfolio. I would be happy with confidentiality, but I still need to know the current number of approvals. If they do not want to tell the parliament, I would like to be briefed in confidence so I can feel comfortable about this.

It is often useful to have some idea, as legislators on behalf of the people of South Australia, of the frequency of use of legislation. If the figure was incredibly high or low, we might have reason to ask questions of the minister as to why that was so. For instance, if it was quite low, there might be a case in proposed clause 4 of this bill for only the Commissioner to have power to approve operations as a form of insulation against potential corruption—and I would feel pretty comfortable with that. I think we need to flesh that out. All members, or those who have concerns, could be briefed in confidence.

The final question I have is whether the existing powers have been used for stings in the prostitution industry. I am aware of the considerable problems officers have in infiltrating that industry. I had to go through the exercise of four bills before the parliament to try to get some sort of proper framework for policing. The bottom line was that nothing happened. After all the work and effort, we still have the same unworkable laws and police officers put into circumstances they should not have to be in.

I am aware of the considerable problems that officers have had in infiltrating that industry, and I believe the government should be looking at reforms in that respect. I am also aware of the

organised crime links that relate to prostitution. Almost without exception, the organised crime involved in prostitution in this state is amazing. It creates great wealth to the detriment of innocent young women, in particular.

It is something I am particularly interested in because, when a constituent tells me that a brothel is operating, I am very happy to report that to the police, as I did recently when alerted to a brothel operating, unbelievably, alongside a child-care centre in suburban Adelaide. I congratulate the police, who took the matter seriously and acted immediately. I had a phone call out of normal business hours for some more information, and I am pleased to say that SAPOL was successful in locating that and dealing with it appropriately. We do not need brothels alongside child-care centres in South Australia. If the existing covert operations powers are assisting in eliminating brothels, that is a good thing for families in South Australia.

In conclusion, I await answers from the minister on my questions when he concludes the second reading debate. With those comments, I congratulate the government for these amendments and I support the second reading.

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

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 February 2009. Page 1156.)

The Hon. I.K. HUNTER (21:36): I rise this evening to voice my support for this bill and to congratulate the Minister for the Status of Women on the privilege of introducing it to this chamber. It is self-evident that, as time passes, society's values and attitudes change and, as these values and attitudes progress, we must ensure that legislation reflects this progress. At this point in time, the equal opportunity legislation that we have in South Australia does not.

The Equal Opportunity Act, as it currently exists, is more than 20 years old. By any estimation, that is a long time not to have had any change in a piece of legislation such as this. In fact, we all know that, more than 14 years ago, the then Liberal government believed that enough time had elapsed to call for a review of the act. Almost a decade and a half later, those recommendations are yet to be acted on.

Whilst I am pleased that this legislation has now been introduced, I am sad that it has taken so long. Since this revised version of the legislation was first mooted, there have been a series of negotiations with the opposition about a format that both the government and opposition would find acceptable.

I felt that we were making real and significant headway in approaching this from a bipartisan standpoint, so I am a little disappointed that after these long and protracted negotiations to create a piece of legislation that could be supported by both of the major parties we are now coming to this debate knowing that the opposition has not yet got a party room view on this legislation and that it is mooting giving its members a conscience vote, at least on some clauses.

I am not sure of the logic behind this decision. I appreciate that conscience votes are given when legislation goes to areas of personal ethics and morality, but surely providing equality of treatment and freedom from discrimination should be a basic human right. To my mind, there is no moral quandary for such a proposition. Perhaps it is a matter of some people being more equal than others for some MPs.

I remind members that last year we saw a significant milestone—the 60th anniversary of the Universal Declaration of Human Rights—which I think we can all agree is an important document. When the United Nations Commission on Human Rights came together to formulate the declaration in the wake of the Second World War, those members came with wildly varied ideological backgrounds. One could argue that they were much more widely disparate than what we find in this place, with representatives from Australia, the US, France, China, Iran and the USSR amongst those involved in the drafting.

One of the basic principles that they could agree on was that all humans are entitled to non-discrimination. I urge members to keep that in mind as they come to making their decision about whether they will support this legislation.

This legislation is not aimed at putting hardships on people. It is not about making life more difficult for employers, business owners or educational facilities, but it is about making sure that all South Australians can fully participate in society without fear of prejudice.

Although the Minister for the Status of Women has already eloquently explained this bill, I will take this opportunity to look at the main points of this legislation again, because I understand that there is still some confusion in the minds of some members of this council.

The proposed changes in relation to discrimination on the ground of caring responsibilities has been refined in the Equal Opportunity (Miscellaneous) Amendment Bill to reflect the relationships covered in the commonwealth Sex Discrimination Act. This bill, however, extends further than the federal legislation in that it takes into consideration indirect discrimination and it protects carer relationships that fall under Aboriginal kinship rules.

The new bill proposes that the domestic partner status, as it is defined in other pieces of South Australian legislation, be included in the state's equal opportunity legislation. It is important that we make sure that there is conformity across acts in this state.

I am aware that there were concerns about religious appearance or dress in the previously proposed legislation and whether religious schools should be able to prohibit students from wearing dress or adornments from their religion if they wish to do so. For example, some Christian schools were concerned about Jewish students wearing the Star of David or female Muslim students wearing a hijab. This concern should be allayed with the provisions in the proposed new legislation, which will mean that schools can continue to prevent students from wearing religious adornments of religions other than the school's religion. Whilst I find such provisions objectionable, I understand that, as compromise often means, we have had to remove that provision from the bill.

So, there we have it: another example of some religious wanting to continue with a policy of discrimination. I understand that the member for Fisher in the other place has also, sensibly, proposed an amendment that a person be required to show his or her face for the purposes of reasonable identification, and that condition has been included in this bill.

Proposed new section 87(3) outlines that sexual harassment complaints can be brought against students who are 16 years or older. I believe that this is a reasonable compromise. In the 2006 bill a complaint could be raised against a student of 12 years or older. Opponents argued that a child of 12 did not have the capacity or maturity to be subjected to this legislation, and so the age was raised through negotiations with the Liberals. Surely, if we believe that young adults can be in control of a motor vehicle at the age of 16, they must then have the discernment to refrain from sexual harassment and, if they do not refrain, they should be expected to face the consequences. I believe that this is yet another very sensible component of the changes from the 2006 bill to the bill now before us.

In line with the 2006 bill, this bill proposes to reduce the scope of institutions that discriminate on the ground of sexuality to religious schools only. I feel that this provision is out of step with the values of the wider community, however. As the Minister for the Status of Women outlined, an argument can be made that those who accept public funding should comply with the standards set by the public by legislation, and religious schools do receive substantial funding from the public purse.

There is no reason why this exemption should be allowed, in my view—except for those grating voices of a vocal minority whose bigotry is well displayed by their discriminatory practices. They should be held up to public standards, or perhaps they should stop seeking public funding if they do not see fit to uphold these standards. However, as before, that has been excluded from the provisions of this bill. That is regrettable but, again, this is the result of the compromise at which we arrived.

However, I am pleased that the requirement for such exclusionary policies to be publicised is included. Not everyone who belongs to a religion accepts all precepts of that religion completely, and those who belong to a religion that, by and large, does not accept homosexuality do not always accept or support such discrimination. People in that situation should be aware of exactly what sort of religious education their children will receive should they decide to send them to such a religious institution so that they can choose to avoid bigotry in education.

When the 2006 equal opportunity bill was brought before the parliament I know there were some who were concerned about the proposed expansion of section 86 of the act. Such an extension would have made it unlawful to engage in a public act inciting hatred of a person or a

group of persons on a ground of discrimination to which the act applied. Those who have such fears can now rest easy. That provision also has been removed from the bill presently before us and, if it fits with their belief system to do so, they can continue to incite hatred against people based on gender, race or any other ground of discrimination covered by the act without fear of breaking the law.

I am aware that many concerns have been raised with many MPs and voiced often by some so-called Christian groups. I have received about 100 emails from people belonging to these organisations. Personally, I am not a religious man but, as far as I understand the central tenets of the Christian faith, inciting hatred towards anyone is never an answer to the eternal question: what would Jesus do?

But apparently there are some who felt that their religious freedoms would be curbed by the existence of such a clause. So Family First can rest easy; their candidates can continue to urge the pulling down of mosques and their supporters can continue to urge the burning of lesbians at the stake. Let us just remind ourselves, perhaps, of some of the so-called freedom of speech that Family First want to defend in opposing this bill. First of all, let us reference the ABC's excellent religious affairs program *Compass* and its program of 2005 on Family First. In that program, the narrator tells us:

> The national spotlight fell on Family First finally when a Brisbane party volunteer made a comment at a pre-polling booth that lesbians like Ingrid Tall—

a Liberal Party candidate—

> should be burnt at the stake along with all the other witches.

Further into the program, the narrator tells us:

> Adding fuel to the media flames—

and what a prescient choice of words that was—

> were revelations that a religious tract issued by Family First candidate Danny Nalliah had implored Christians to pray to bring down 'Satan's strongholds' including bottle shops, brothels and Buddhist temples.

That was the ABC, but others have provided the direct quote from that leaflet:

> Ask the Lord to give you insight. Spot Satan's strongholds in the area you are living in (brothels, gambling places, bottle shops, mosques, temples—Freemasons/Buddhist/Hindu etc...witchcraft.

Yes, this Family First Senate candidate, Pastor Danny Nalliah, is the very same person that Family First raised in relation to opposing this bill because of a charge in Victoria against him and another pastor for vilification. The original judgment against Pastor Nalliah and Pastor Scott was overturned on appeal, to be sure, but even then this is what the appeal court found his colleague and co-accused Danny Scott had said (and I reference the Crikey website for this quote):

> Muslim people, when they come [to] some teaching, which they don't like people should know, they will tell the truth—

I think there was a slight error there; they go on to correct this, and I continue:

> They will not tell the truth. They will hide the truth. They will tell lies. And concerning money, I mean we think of money but Muslims pour money in evangelism and building mosques and so on. So they have a lot of money, which mostly comes from oil, and all of you know that it was mentioned during September 11 that 70% of drugs, which go to England, they are from...Afghanistan and other Islamic countries. So they make a lot of money from there also so that they can spread Islam and fulfil their desire.

The appeal court judge said:

> Pastor Scott did assert, incorrectly, that the population of Muslims in Australia is growing such as to double every seven years and said that 'so that is how they are growing, so because they have control over our Immigration Department and they bring all types of people'.

That is the sort of incoherent and inaccurate speech that Family First are desperate to protect in opposing this bill. Let us hear some more from Pastor Nalliah himself. On multiculturalism, he has said:

> Like a pressure cooker or bottle of soda water waiting to explode, the simmering racial war will reach its inevitable climax later, if not sooner...The multicultural melting pot has turned into a pressure cooker and it's now a case of assimilate or implode Australia.

Not one to hide his light under a bushel, Pastor Nalliah has written about himself:

Pastor Danny has travelled to many countries in Europe, Eastern Europe, Asia, Middle East, Africa, USA, Australia and has ministered to crowds of more than ten thousand people. He has seen thousands come into the Kingdom of God during these meetings and many blind, deaf, dump—

but I am sure he meant 'dumb'—

crippled people healed by the power of God. He also writes in his book of the dead girl who came back to life when he prayed for her in Jesus' name.

At the very least, one has to query his medical qualifications and just what exactly is his definition of 'dead'. Finally, I would like to quote from a media release from Catch the Fire Ministries (CTFM) headed 'Abortion laws to blame for bushfires'. It states:

CTFM leader Pastor Danny Nalliah said he would spearhead an effort to provide every assistance to devastated communities—

so far so good—

although he was not surprised by the bushfires due to a dream he had last October relating to consequences of the abortion laws passed in Victoria. He said these bushfires have come as a result of the incendiary abortion laws which decimate life in the womb. Besides providing material assistance, Catch the Fire ministries will commence a seven-day prayer and fasting campaign for the nation of Australia tomorrow, Wednesday 11th.

What sort of credulous boobies are they who follow this nutter? I am sorry that Family First members are not here. Pace, Mr Hood and Mr Brokenshire, that was an entirely rhetorical question. Most of us here do know only too well the answer to that question.

Family First has been vigorous in its defence of the 'two Dannys', as they affectionately called them, linking our EO bill in South Australia not quite accurately with the Victorian bill and its vilification provisions. I am sure that the Hon. Mr Hood and the Hon. Mr Brokenshire are now quite clear that this bill before us no longer contains such a provision, but it seems that many of their supporters do not and continue to send emails to MPs opposing this bill on some specious fear that it restricts freedom of speech. It will not.

These are the main points of the legislation as I see them. I think it is very important, long overdue legislation, and I urge all members to support it. Before I conclude, though, I would like to address an article that appeared in *The Advertiser* of 19 August 2008, authored by the Hon. Dennis Hood. The opinion piece was entitled 'Freedoms being eroded by political correctness', and referred to this bill as 'political correctness gone mad'. This seems to be a catchall phrase for anyone these days who wants to say absolutely anything with absolutely no responsibility and absolutely no regard whatsoever for the consequences.

The Hon. Mr Hood wrote that he was concerned that this bill would impinge on the right to freedom of speech. I am not sure how the honourable member now feels, having actually seen and been able to read the contents of this bill, rather than prophesising about what was going to be contained. I would say this to him, though: if he still holds such concerns, I, too, cherish the right to freedom of speech.

Perhaps one day it will be enshrined in a state or national bill of rights, and I would welcome the honourable member's assistance in lobbying for that issue, if he would like to. But I recognise that with rights come responsibilities. And the point of this legislation—the point of all legislation—is that even mature, sensible adults do not always act responsibly. If they did, we would not need to have this legislation, nor would we need to worry about people speeding, taking illicit drugs, or harming others. But we do.

For fear of being dismissed as merely a godless lefty, and thus having my opinions discounted by the fact, I turn to the words of South African Anglican Bishop Desmond Tutu, a Christian who is grossly offended by the idea of discrimination of any kind. He states:

Apartheid, crassly racist, sought to penalise people for something about which they could do nothing—their ethnicity, their skin colour. Most of the world agreed that that was unacceptable, that it was unjust. I joined the many who campaigned against injustice that the church tolerated in its ranks when women were not allowed to be ordained. They were being penalised for something about which they could do nothing, their gender. Mercifully, that is no longer the case in our province of the Anglican Communion, and how enriched we have been by this move.

I could not stand by while people were being penalised again for something about which they could do nothing—their sexual orientation. I am humbled and honoured to stand shoulder to shoulder with those who seek to end this egregious wrong inflicted on God's children.

As this irreproachable man of God is saying so eloquently, all people are created equal. There is no such thing as some people being more equal than others. And we cannot stand by and do nothing while discrimination is perpetrated in our community.

Ultimately, there are aspects of this bill that I personally think could have gone further, and there might be aspects that others believe go too far. That is what happens when negotiations occur and compromise is arrived at. In that spirit of negotiation I believe that the Equal Opportunity (Miscellaneous) Amendment Bill strikes the right balance between addressing the concerns that have been held about previous proposed changes to the Equal Opportunity Act and protecting South Australians from discrimination.

To my respected colleagues, let me say this: let us not rally our citizens with inflammatory calls to tear down the strongholds of Satan; let us move them with appeals to their better natures to bring down the walls of hatred and of bigotry and of discrimination that still surrounds too many hearts in our nation.

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

ARCHITECTURAL PRACTICE BILL

Adjourned debate on second reading.

(Continued from 17 February 2009. Page 1275.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (21:55): I understand that the members who wished to speak on this bill have already done so. I thank the Hon. Mr Ridgway and the Hon. Mr Parnell for their contributions and indications of support, and also other members who have not spoken but have indicated their support for this bill.

I will make a couple of comments in closing the debate. I have had a meeting with the Architects Board in the past few days, after they had a chance to examine the board in detail. The board raised a couple of issues with me which I have undertaken to investigate before the final passage of this bill. I have not got my response back on that yet but I will make sure that I have before this bill goes through the committee stage.

Essentially, there were two issues. First, it wanted an assurance that the members of the Architects Board and the registrar were exempt from liability incurred for their actions in good faith. My advice is that that is covered in other legislation, but I did undertake that I would check that out and, if necessary, make an amendment to the bill that would make that absolutely beyond doubt if, in fact, there was any doubt.

The other issue raised with me related to the functions of the board. The board believes that it should have an educative function. I certainly have no problem with that and, of course, there is nothing that would stop the board from having that function. Just because it is not specifically one of the functions does not mean that it cannot do it, but I did undertake to have a look to see whether the bill could be amended to ensure that it contains that provision. They are relatively minor matters that I believe do not in any way affect the operation of the board, but I did undertake to look at them. As soon as I get the response back we can proceed through the passage of this bill.

I also make some comments in relation to the Hon. Mark Parnell's contribution. He was supportive of the bill but he did raise the issue of energy efficiency and he made the point that we should improve the efficiency of our buildings from the current five-star rating to, I think the suggestion was, a seven-star rating. I do not disagree with the proposition that our current ratings for energy efficiency do not go far enough. There have been some lengthy discussions through the ministerial council on this. The next meeting will be held within the next few weeks in New South Wales.

New South Wales has a system of energy efficiency rating called BASIX, which is a somewhat more flexible scheme than the star rating used by other states. Some work has been done through the standing committees to see whether that scheme in New South Wales could be adapted to other states. I would expect that there would be some progress on that at the next ministerial meeting.

I certainly agree with the honourable member that architecture is important for the design of buildings if we are to achieve energy efficiency standards and, for that matter, water efficiency standards, which is also a matter that the government has put a lot of effort into, and I would hope

that we will be making some announcement on those matters fairly soon in conjunction with the federal government.

I agree in principle that we need to look at the operation of our energy rating schemes. Part of the problem that we have, of course, is that you can have a rating in a scheme but it does not necessarily follow that, if you have a high number of stars—in other words, a house that has been designed efficiently—the user of that house will necessarily operate it efficiently.

In my view, we still have a fair way to go to ensure that we do achieve practical energy efficiency, not just in the design of places but to ensure that the people who live in houses actually do reduce their energy output. That is a somewhat more detailed subject for another day and is only peripheral to the bill, but I thank the honourable member for his comments. I commend the bill to the council and, when we resume in committee, probably in the next sitting week, I should have some further information in relation to those issues raised by the board.

Bill read a second time.

ADMINISTRATION AND PROBATE (DISTRIBUTION ON INTESTACY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 February 2009. Page 1225.)

The Hon. R.D. LAWSON (22:02): I indicate that Liberal members will support the second reading and passage of this bill. The Administration and Probate Act 1919, as amended in 1975, provides that, in a case where a married person dies without having made a will, the estate of that person will pass to the person's spouse or domestic partner if that person does not have any children. However, if the person has both a spouse or domestic partner and children, the spouse receives the first $10,000 and one half of the balance of the estate, and the children receive the other half of the estate, that is, after the $10,000 is applied to the spouse or domestic partner. In other states the amount of $10,000 has been increased and $10,000 represents the lowest so-called statutory legacy in Australia.

In New South Wales and the ACT the figure is $200,000, in Queensland $150,000, the Northern Territory $120,000 (as mentioned in the minister's second reading explanation), and in Victoria the figure is $100,000. Both Western Australia and Tasmania have fixed the legacy at $50,000, although in those cases the spouse receives one third and the children two thirds of the balance. I note that the Tasmanian Law Reform Commission suggested that the figure of $50,000 in that state be increased.

The question is whether $100,000 is an appropriate amount. Clearly $10,000 is insufficient. If one takes the case of a person who dies, where the only property is a one half interest in a house that is held as tenants in common, the spouse, if there are not substantial other assets, could be left in considerable difficulty. We support increasing the figure to $100,000 as it is a reasonable balance. Less than $100,000 will, in today's terms, leave a spouse, who may well be left with young children, with inadequate resources.

One thing that I think ought to be mentioned and publicised is that these provisions apply only in relation to persons who die without having made a will. They indicate how important it is that people make a will to determine exactly how their estate is disposed of. In many cases, even with an intestacy, the matter is moot, because the major asset held is actually a property in joint tenancy, and the property will pass to the surviving joint tenant. But then the issue as to other assets the parties might have arises, frequently resulting in unhappiness and disputes.

So, the important lesson is—and the community ought be warned—that, if people wish their property to be disposed of in a particular manner, they should make a will to avoid all of these problems and to customise the distribution of their estate.

I note that the bill provides that the figure will be $100,000, or such other amount as is prescribed by regulation. The explanation being provided is that, if there are movements in the value of that amount, as inevitably happens over time with inflation, adjustments can be made without the necessity to bring back amendments to the legislation.

The Liberal Party ordinarily prefers that amounts of this kind be stipulated in legislation and that they come back to parliament for adjustment from time to time. However, we accept that it is a reasonable compromise to not simply provide for a CPI formula but to have a prescribed amount. I would ask the minister to indicate in his response one piece of information that I have not ascertained: that is, how many grants of letters of administration are made annually in South

Australia? As most members would know, when a person dies intestate with an estate to be administered, the court grants letters of administration. If the person dies with a will, the will itself is admitted to probate. So, my question is: over the past few years, how many grants of administration have there been? This information will enable members to understand a little more of the background as to why an amendment of this kind is appropriate. We support the second reading.

Debate adjourned on motion of Hon J. Gazzola.

PUBLIC SECTOR BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:09): I move:

That this bill be now read a second time.

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

Leave granted.

The Public Sector is the Government's means of acting. It is the main vehicle for designing and then implementing our agenda. It is an important asset, the value of which must be realised if we are to meet the challenges facing our community in the 21st century.

The public sector must deliver services the community needs, and in ways that make people's interaction with government as easy and consistent as possible. The public sector must be able to respond quickly to changes in communities' needs, and government's priorities. It must be able to tackle complex problems requiring multi agency and even multi jurisdictional solutions. The public sector must attract and retain talented staff and enable them to provide frank, impartial advice to government without fear or favour. The *Public Sector Bill 2008* allows all of these things to happen, modernising the institutions and processes of government.

The new Bill is designed to provide a new, modern, flexible employment framework for managing the public sector and will enable the government's strategic agenda to be more effectively pursued.

This is enabling legislation. It is not rigid, and as the employment framework for the public sector it permits public servants to respond to change.

The Bill will:

- encourage an innovative, high performing, customer focussed public sector with a strong sense of purpose and values
- establish the South Australian Executive Service with enhanced opportunities for training and development of leadership and management skills
- promote the public sector as an employer of first choice by increasing the breadth of employment and career opportunities within it
- provide for high quality working environments, strengthening flexible working arrangements
- maintain employment protections but streamline rights of review
- facilitate the development of positive workplace cultures.

The Bill contains a set of public sector principles which will be the foundation of the new Act. They reflect the aspirations and demands of the South Australian Government for the public sector. In particular they emphasise excellence, responsiveness, public focus, collaboration and employer of choice principles that attract people to a career in the public sector. Adopting a principle based approach is about allowing the public sector to more readily achieve outcomes, create freedoms, yet ensures maximum effectiveness, and allows creativity whilst maintaining certainty and confidence about the underlying reliability and prudent management of public resources.

The Bill requires chief executives to ensure that the principles are observed in the management and day-to-day operations of their agencies. Employee behaviour must accord with the principles. The Commissioner for Public Sector Employment will have oversight of the principles in so far as they relate to public sector employment and will reflect them in a Code of Conduct covering all public sector employees.

The Bill is designed to enhance collaboration between all public sector agencies and to ensure that they develop the best solutions possible in meeting their responsibilities and the government's priorities. The Premier is provided with a new capacity to give directions to public sector agencies to attain specified whole-of-government objectives and can direct that agencies collaborate with each other and share information. The priorities of the government are made clear for the whole public sector. The adoption of whole-of-government objectives by public sector agencies will benefit customers of public services and the community as a result of increased co-operation.

The Bill also addresses public sector governance, making provision for the Premier to give directions to public sector agencies relating to structural arrangements in the public sector and the formation of new entities. This new capacity will be used to raise the standard and consistency of governance across the public sector.

The Bill enhances the attractiveness of a career in the public sector. A key focus of the Bill is greater flexibility in deployment across the whole public sector. New provisions streamline transfer processes without compromising the notion of ongoing employment for non-executives and a career in the public sector. Attraction and retention of employees to the public sector is an important objective behind the legislation. The Bill enables the public sector to promote itself as an employer of first choice. The processes for recruitment are streamlined and conditions of engagement are simplified. The focus will be on appointing people to carry out duties at a remuneration level. The Bill creates wider opportunities, encourages acknowledgment of extra effort and enshrines the principles that attract people to a career in the public sector. These provisions enable the public sector to respond more quickly to the ever changing needs and priorities of the South Australian community.

Changes have been made to leave provisions to more closely reflect modern employment conditions. The provisions for flexible leave and working arrangements have been reorganised and are strengthened. Administration of sick leave has been made simpler. And the manner in which leave is calculated has been standardised so that all leave can accrue on the same basis.

The government is committed to a public sector that is modern, high performing and efficient in order to meet both the challenges of today and those of the future. Essential elements of public sector employment are both quality of service and the capacity to provide independent advice without fear or favour.

The government wants to build on the strong executive leadership within the public sector. The Bill therefore establishes the South Australian Executive Service for the development and recognition of executive employees across the public sector. The aim is to improve leadership and encourage a connected sense of vision and purpose. The Minister will approve a charter setting out rules governing membership, functions, mobility, competencies expected of members and other matters such as training and development applying to the South Australian Executive Service.

The government has made leadership one of the first priorities for the Public Sector Performance Commission with a focus on the South Australian Executive Service in facilitating performance and executive leadership. Another priority for the Public Sector Performance Commission will be lifting performance with a focus on performance management and development.

The government acknowledges that South Australian public servants already deliver high quality services in many areas, sometimes in challenging circumstances. The Bill reinforces the professionalism of the public sector by requiring all public sector agencies to have in place effective performance management and development systems. The aim is to promote and acknowledge outstanding performance, improve satisfactory performance, and bring unsatisfactory performance up to standard. Chief executives must drive performance management and development in their agencies and will be expected to acknowledge success and deal with performance issues early.

The Bill provides a legislative basis for the structure of the public service. As well as establishing traditional departments, the Bill allows for the establishment of a new type of public service organisation, an 'attached office'. This new capacity provides greater flexibility in administrative structures, allowing offices to be established quickly to deliver a specific function or outcome for a given period of time or ongoing. 'Attached offices' allow the creation of flexible administrative structures to respond to the emerging demands on a modern public service. The chief executive of an 'attached office' reports to a Minister on matters of policy and to the chief executive of a department on administrative matters.

Under the Bill, responsibilities relating to the appointment, transfer and termination of employees will be given to chief executives making them fully accountable for human resource management within their agency. Chief executives will be required to exercise these powers in accordance with the public sector principles, and the Commissioner for Public Sector Employment's determinations.

In driving chief executive accountability for management of their workforces, one of the major changes contemplated in the Bill is that the power to terminate employees is given to chief executives. Chief executives must have the capacity to take action particularly in respect of misconduct warranting termination; indeed it is the capacity to act rather than the need to exercise the power that may be the deterrent to misconduct. The powers to terminate are similar to those currently divided between the chief executive and the Governor under the *Public Sector Management Act 1995*. The Bill retains the existing *Public Sector Management Act 1995* power to terminate employment on the grounds that the employee is excess to requirements, however, there is no intention to interfere with the long-standing government policy of no forced redundancy.

Employees can take an action for unfair dismissal to the Industrial Relations Commission of South Australia. The provisions of the *Fair Work Act 1994* will then apply. The Industrial Relations Commission of South Australia may, in circumstances where it orders the re-employment of the employee, direct an agency to take alternative disciplinary action against an employee.

The review of employment decisions has been updated and modernised. The new arrangements set out in the Bill will increase effectiveness and transparency. Review is now a two-step process. An employee aggrieved by an employment decision may apply for an internal review by the agency of the decision. The internal review mechanisms will provide a speedy opportunity for chief executives to remedy poor decisions. Agencies will be required to undertake conciliation prior to, and potentially as part of, the internal review. The quick resolution, by the agency itself, of any grievance will be in the interests of the employee concerned, his or her colleagues, and the government.

The Industrial Relations Commission of South Australia will undertake reviews of disciplinary actions and decisions to reduce an employee's remuneration and any associated transfers. Reviews of all other employment decisions will be by a new body, the Public Sector Grievance Review Commission. It is a streamlined body convened by a single presiding commissioner. There is capacity for assistant commissioners who may sit

contemporaneously. Both review bodies will determine whether the decision, the subject of the review, is 'harsh, unjust or unreasonable'. This will ensure that employees' rights will be determined by reference to an objective, well-known standard.

The Industrial Relations Commission has the capacity to rescind a decision and substitute a new decision that will bind the chief executive and the employee. Both review bodies may remit a matter back to the agency for further consideration in accordance with any directions or recommendations. The benefits of these new arrangements will include improved clarity in rights of review and greater efficiency of review processes.

The Commissioner for Public Sector Employment's functions are designed to ensure observance of the public sector employment principles as they relate to employment matters. The Commissioner will issue the code of conduct and employment determinations plus provide guidelines relating to public sector employment matters. The Commissioner may provide advice or conduct reviews of public sector employment or industrial relations practices as required by the Premier or the Minister. The Premier or a public sector agency may also request the Commissioner investigate matters in connection with public sector employee conduct or discipline. The Commissioner will continue to report annually on the extent of observance of the public sector principles in so far as they relate to public sector employment and measures taken to ensure observance of the principles.

The Bill brings together the public service and the broader public sector as a more unified entity by extending the parts of the Bill that apply to the public sector. Parts that apply to the Public Sector include: public sector principles and the code of conduct, governance arrangements, whole-of-Government objectives, transfer of employees, performance management, and the South Australian Executive Service. Standardising these approaches will lead to more opportunities for employees, and enable the public sector to respond more effectively to changing needs.

The Bill enables the Commissioner's employment determinations to be applied to government agencies outside the public service and for public service employment conditions to be applied to the employees of such agencies. This will be achieved through regulations under the Bill, or changes to the specific legislation governing those agencies.

The aim of developing this new legislation is to provide a contemporary employment framework:

- to encourage an innovative, high performing, public sector with a strong sense of purpose and values;
- to maintain employment protections but streamline rights of review;
- to facilitate the development of a more positive workplace culture;
- to allow for an appropriate work life balance through flexible working arrangements; and
- to ultimately create a more efficient and effective public sector in terms of the service delivery to the South Australian community.

In summary, the new legislation is designed to enhance careers in the public sector, to reflect the move to a citizen centred approach to service provision, and the desire to operate as one government.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions for the purposes of the measure. New definitions are necessary in relation to—

- attached offices—a new type of administrative unit of the Public Service designed to provide a greater level of flexibility and accountability through a second tier of chief executives;
- the Industrial Relations Commission—is defined to mean the Industrial Relations Commission of South Australia under the *Fair Work Act 1994*. The measure confers jurisdiction on the Industrial Relations Commission to hear applications by public sector employees for relief under the unfair dismissal provisions of the *Fair Work Act 1994* (subject to that Act) and applications for review of disciplinary decisions and decisions to reduce an employee's remuneration level (see Part 7 Division 4 of the measure);
- the Public Sector Grievance Review Commission—a new body to review other employment decisions (see Schedule 2);
- the South Australian Executive Service (SAES)—a new arrangement for the development and recognition of executive employees.

The definition of public sector agency includes the chief executive of an administrative unit as it is the chief executive who will employ the staff of the unit and who should be subject to the obligations of a public sector agency.

Part 2—Objects of Act

4—Objects of Act

This clause sets out the objects of the measure, namely:

- to promote a high performing public sector that—
- focuses on the delivery of services to the public; and
- is responsive to Government priorities;
- to establish—
- general principles to guide public sector operations; and
- a code of conduct to enforce ethical behaviour and professional integrity in the public sector;
- to ensure the public sector is viewed as an employer of choice;
- to encourage public sector agencies and employees to apply a public sector-wide perspective in the performance of their functions;
- to make performance management and development a priority in the public sector;
- to ensure accountability in the public sector;
- to facilitate the integration of employment and management practices across the public sector;
- to promote uniformity and transparency in governance arrangements for the public sector;
- to provide the framework for the State's Public Service and the effective and fair employment and management of Public Service and other public sector employees.

Part 3—Public sector principles and practices

5—Public sector principles

This clause sets out the public sector principles as follows:

Public focus

The public sector is to—

- focus on the provision of services to the public;
- recognise the diversity of public needs and respond to changing needs;
- consult and involve the public, where appropriate, to improve services and outcomes on an ongoing basis.

Responsiveness

The public sector is to—

- implement the Government's policies in a timely manner and regardless of the political party forming Government;
- provide accurate, timely and comprehensive advice;
- align structures and systems to achieve major strategies while continuing to deliver core services.

Collaboration

The public sector is to—

- ensure there is ongoing collaboration between public sector agencies;
- focus on whole-of-Government, as well as agency—specific, services and outcomes.

Excellence

The public sector is to—

- provide services with a high level of efficiency and effectiveness;
- move resources rapidly in response to changing needs;
- devolve decision-making authority to the lowest appropriate level;
- manage resources effectively, prudently and in a fully accountable manner;
- maintain and enhance the value of public assets.

Employer of choice

Public sector agencies are to—

- treat public sector employees fairly, justly and reasonably;
- prevent unlawful discrimination against public sector employees or persons seeking employment in the public sector;
- ensure that public sector employees may give frank advice without fear of reprisal;
- encourage public sector employees to undertake professional development and to pursue opportunities throughout the public sector;
- set clear objectives for public sector employees and make them known;
- acknowledge employee successes and achievements and address under performance;
- ensure that public sector employees may join, or choose not to join, organisations that represent their interests;
- consult public sector employees and public sector representative organisations on matters that affect public sector employment.

Ethical behaviour and professional integrity

Public sector employees are to—

- be honest;
- promptly report and deal with improper conduct;
- avoid conflicts of interest, nepotism and patronage;
- treat the public and public sector employees with respect and courtesy;
- make decisions and provide advice fairly and without bias, caprice, favouritism or self interest;
- deal with agency information in accordance with law and agency requirements;
- avoid conduct that will reflect adversely on the public sector;
- accept responsibility for decisions and actions;
- submit to appropriate scrutiny.

Legal requirements

Public sector agencies are to—

- implement all legislative requirements relevant to the agencies;
- properly administer and keep under review legislation for which the agencies are responsible.

The approach in this clause replaces that taken in the provisions of the *Public Sector Management Act 1995* on aims and standards, personnel management standards and employee conduct standards (see sections 4 to 6). It improves on the more modern approach of the Victorian *Public Administration Act 2004* and the Commonwealth *Public Service Act 1999*.

6—Public sector code of conduct

All public sector employees are required to observe the public sector code of conduct (issued by the Commissioner for Public Sector Employment).

Section 6(ea) of the *Public Sector Management Act 1995* currently provides that public sector employees are expected to comply with such a code but this clause elevates the requirement and a breach of the code is made a specific ground for disciplinary action.

7—Public sector performance management and development

Public sector agencies are required to establish and administer effective performance management and development systems which must be directed towards advancement of the objects of this Act and observance of the public sector principles and code of conduct.

It is further required that performance management and development must be integrated with the agency's employment practices and inform its employment decisions relating to particular employees and that information about the performance management and development system must be made available to employees.

8—Flexible arrangements for transfer within public sector

The provisions in this clause are designed to simplify arrangements for the transfer of employees across the whole of the public sector.

Under subclause (1), the Premier may effect employee transfers between public sector agencies in order to reorganise public sector operations. The transfer is to be effected by notice in the Gazette. If the transfer is part of a restructuring of administrative units, the notice will be accompanied by a proclamation under Part 6 Division 2. However, the transfer is not limited to the Public Service—it may relate to any part of the public sector.

Such transfers are currently carried out in relation to the Public Service by the Governor by proclamation under section 7 of the *Public Sector Management Act 1995*.

Under subclause (3), a public sector agency may effect the transfer of an employee within the public sector with the agreement of other agencies affected, on conditions that maintain the substantive remuneration level (as defined) of the employee or on conditions that are agreed to by the employee.

This is a broader and more flexible approach than in the current Act. Under section 44 of the *Public Sector Management Act 1995* an employee may be assigned from a position in 1 administrative unit to a position in another administrative unit by the Commissioner for Public Employment in consultation with the chief executives. Section 68 of the *Public Sector Management Act 1995* provides the mechanism for transfer between the Public Service and public sector agencies outside the Public Service. The new clause empowers chief executives to act directly and applies across the public sector.

Subclause (5) provides that the regulations may prescribe rules relating to movement of employees between public sector agencies. This provides a mechanism for providing for employees' rights of return following temporary transfers or temporary appointments.

Subclause (6) is a machinery provision making it clear that a transfer of an employee under the Part does not constitute a breach of the person's contract of employment or termination of the person's employment, or affect the continuity of the person's employment for any purpose.

9—Agencies to pursue whole-of-Government objectives

The Premier is given power to direct public sector agencies to endeavour to attain specified whole-of-Government objectives. The directions may contemplate particular requirements relating to the sharing of information and collaboration. This expands the power in section 15 of the *Public Sector Management Act 1995* which is limited to the Public Service. A direction will not be binding to the extent (if any) to which it would impede or affect the performance of a quasi-judicial or statutorily independent function of a public sector agency.

10—Uniform and transparent governance arrangements

The Premier may give directions to guide agencies, in preparing proposals and making decisions, on the question of whether a Government activity should be assigned to a Public Service body or some other form of public sector agency. The Premier may also give directions to otherwise deal with matters relating to structural arrangements in the public sector and the formation of new entities.

Any directions given by the Premier and any information relating to the various structural arrangements in the public sector and the formation of new entities must be published in the Gazette and on a website determined by the Premier.

The requirement is new. It is designed to ensure transparency.

11—Agencies to report annually

Public sector agencies are required to present annual reports. The requirement is the same as that currently set out in section 6A of the *Public Sector Management Act 1995*.

Furthermore, the regulations may specify information to be contained in the report. The power of the Premier to issue directions about information to be contained in annual reports, currently set out in the regulations, is elevated to the Act.

Part 4—Commissioner for Public Sector Employment

12—Office of Commissioner

The title of the Commissioner is to be changed from Commissioner for Public Employment to Commissioner for Public Sector Employment.

This clause effectively substitutes sections 20 and 21 of the *Public Sector Management Act 1995*.

The role and function of a Deputy Commissioner has been abolished (see section 19 of the *Public Sector Management Act 1995*). However, if no person is appointed or the Commissioner is absent or unable to discharge official duties, the Minister may assign a public sector employee to act as the Commissioner.

13—Functions of Commissioner

The Commissioner has the function of advancing the objects of the measure, and promoting observance of the public sector principles, in so far as they relate to public sector employment and for that purpose is to—

- issue the public sector code of conduct (see section 14); and
- issue public sector employment determinations (see section 15); and
- monitor and report to the Minister on observance of the public sector principles, code of conduct and employment determinations; and
- issue guidelines relating to public sector employment matters; and
- provide advice on public sector employment matters at the request of public sector agencies; and

- provide advice on and conduct reviews of public sector employment or industrial relations matters as required by the Premier or the Minister; and
- investigate or assist in the investigation of matters in connection with public sector employee conduct or discipline as required by the Premier or at the request of a public sector agency.

The Commissioner has any other functions assigned to the Commissioner under the measure or by the Minister.

14—Public sector code of conduct

The requirement to issue a code of conduct is elevated from a general function (see section 6(ea) of the *Public Sector Management Act 1995*) to a special provision and the obligation to review the code spelt out. A breach of a provision of the code that is expressed to be a disciplinary provision is a ground for discipline, termination or reduction of an employee's remuneration. The regulations may preserve employee rights relating to the disclosure of information and the making of public comment and impose other limitations on the contents of the code (compare regulation 15 of the *Public Sector Management Regulations 1995*).

15—Public sector employment determinations

Under this clause, the Commissioner has the power to make determinations relating to employment in the Public Service and public sector employment outside the Public Service that is declared by another Act or the regulations to be employment to which the clause applies.

These binding determinations may determine—

- classification structures in accordance with which remuneration levels must be fixed for employees; and
- conditions of employment other than remuneration; and
- processes that must be followed in fixing remuneration levels and other employment conditions; and
- allowances payable to employees and the circumstances in which they are payable; and
- charges payable by employees in respect of accommodation, services, goods or other benefits provided to them in connection with their employment; and
- any other matter of a class prescribed by the regulations.

16—Extent to which Commissioner is subject to Ministerial direction

The Commissioner is subject to Ministerial direction, except that no direction may be given to the Commissioner requiring that material be included in, or excluded from, a report that is to be laid before Parliament.

This provision is similar to section 23 of the *Public Sector Management Act 1995*, with adjustments resulting from the changing role of the Commissioner.

17—Investigative powers

The investigative powers set out in this clause differ from those set out in the *Public Sector Management Act 1995* as the Commissioner is no longer to have powers to investigate matters of his or her own volition, rather investigations are limited to those that are required by the Premier or a public sector agency (clause 13).

18—Power to require statistical information

The Commissioner may, by notice in writing, require public sector agencies to provide statistical reports to the Commissioner relating to public sector employment matters at intervals specified by the Commissioner.

19—Delegation by Commissioner

This clause effectively substitutes section 26 of the *Public Sector Management Act 1995* but includes power to delegate functions or powers given to the Commissioner under any other Act.

20—Annual report of Commissioner

This clause effectively substitutes section 28 of the *Public Sector Management Act 1995*, with adjustments resulting from the changing role of the Commissioner.

Part 5—South Australian Executive Service

21—Purpose of SAES

This clause sets out the purpose of the South Australian Executive Service.

SAES is established to provide the public sector with high performing leaders who have a shared sense of purpose and direction and who together will actively engage the public sector in the pursuit of the objects of the measure and the public sector principles.

22—SAES Charter

The Minister is required to approve a SAES charter and keep it under review.

The charter is to specify or elaborate on:

- rules governing membership of SAES;
- functions of SAES;
- rules and arrangements to facilitate mobility within the public sector of SAES members;
- employment contracts and performance management and development systems for SAES members;
- competencies expected of SAES members;
- any other matter affecting SAES.

Part 6—Public service

Division 1—Composition of Public Service

23—Public Service administrative units

As under the current Act, the Public Service is to consist of administrative units. The new measure provides that administrative units may take the form of departments or attached offices. A department is essentially the same as a current administrative unit. An attached office is assigned a title and attached to a department or departments. An attached office has a chief executive who employs the staff of the office.

This structure is designed to provide flexibility in relation to portfolio structures and relationships between units within a portfolio. It may also be appropriate for semi-autonomous offices that rely on a department for personnel and financial management support. It does not replace the current arrangements for offices or sections within departments.

24—Public Service employees

All persons employed by or on behalf of the Crown are to be employed in the Public Service, subject to the exceptions set out in subclause (2).

Note in particular that an employee who is remunerated at hourly, daily, weekly or piece-work rates of payment is excluded from the Public Service unless expressly engaged by writing as a casual employee in the Public Service.

This provision equates to section 8 and Schedule 1 of the *Public Sector Management Act 1995*.

Division 2—Administrative units

25—Establishment of departments

26—Establishment of attached offices

As under the current Act, the Public Service structure is to be imposed by proclamations. This provides an evidentiary mechanism and a clear public record.

Administrative units may be established, abolished or renamed.

27—Minister responsible for administrative unit

This clause introduces a new concept of a proclamation linking an administrative unit to a particular Minister and is necessary because the measure involves a person being responsible to a unit's Minister for the performance of certain obligations. This will be particularly important where a unit administers an Act committed to a particular Minister, but is located in a portfolio under another Minister.

Division 3—Chief executives

28—Administrative units to have chief executives

Each administrative unit (ie department or attached office) is to have a chief executive.

29—Chief executive may employ persons for administrative unit

The chief executive may employ staff for the purposes of the unit and those persons become employees in the administrative unit unless excluded from the Public Service under clause 24.

30—General duties of chief executive

The chief executive of a department is responsible to the Premier and the department's Minister for—

- making an effective contribution to the attainment of the whole-of-Government objectives that are communicated in writing by the Premier or the department's Minister and relate to the functions or operations of the department; and
- the attainment of the performance objectives set from time to time by the Premier and the department's Minister under the contract relating to the chief executive's employment; and
- the effective management of the department and the general conduct of its employees.

The chief executive of an office that is an attached office to a department or departments is responsible—

to the Premier and the office's Minister for—

- making an effective contribution to the attainment of the whole-of-Government objectives that are communicated in writing by the Premier or the office's Minister and relate to the functions or operations of the office; and
- the attainment of the performance objectives set from time to time by the Premier and that Minister under the contract relating to the chief executive's employment; and
- to the chief executive of the department, or the chief executives of the departments, for—
- any specific matters relating to the attainment of whole-of-Government objectives; and
- the effective management of the office and the general conduct of its employees.

31—Duties with respect to objects of Act and public sector principles and code of conduct

The chief executive of an administrative unit is to ensure, as far as practicable, that the objects of the measure are advanced and the public sector principles and code of conduct are observed in the management and day-to-day operations of the unit.

32—Protection of independence in certain matters

The chief executive of an administrative unit is not subject to direction in respect of—

- the performance of a quasi-judicial or statutorily independent function of the chief executive; or
- the making of an employment decision relating to a particular person.

33—Employment or assignment of persons as chief executives

The Premier is to engage chief executives. Currently, section 9 of the *Public Sector Management Act 1995* provides for these appointments to be made by the Governor.

The clause provides a mechanism for acting appointments which is similar to the current arrangements except that the person appointed may be from any part of the public sector, not just the Public Service.

34—Conditions of chief executive's employment

The employment of a chief executive is to continue to be subject to a contract with a maximum term of 5 years.

35—Transfer of chief executives

This is a new clause empowering the Premier to transfer a chief executive to other duties in the public sector, whether or not as chief executive of another administrative unit, on conditions that maintain the remuneration of the chief executive.

36—Resignation of chief executive

This clause provides the same arrangements for resignation as set out in section 12 of the *Public Sector Management Act 1995*.

37—Termination of chief executive's employment

This clause provides for termination of a chief executive's employment by the Premier (rather than the Governor)—

- on the ground that the chief executive has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
- on any ground on which the employment of an employee of a public sector agency may be terminated;
- without specifying any grounds (in which case improved arrangements for termination payments are set out).

38—Delegation by chief executive

This clause provides for delegation by a chief executive and is to the same effect as section 17 of the *Public Sector Management Act 1995*.

39—Provision for statutory office holder to have powers etc of chief executive

This clause equates to section 13 of the *Public Sector Management Act 1995* and enables a Minister to declare that a statutory office holder is to have the powers of a chief executive of an administrative unit.

Part 7—Public sector employment

Note—

This Part replaces Parts 7 and 8 of the *Public Sector Management Act 1995*, other than the provisions relating to chief executives already dealt with in Part 6.

Division 1—Application of Part

40—Public Service and declared public sector employment

Greater emphasis is placed on achieving uniform employment arrangements across the public sector. This clause provides that while Part 7 applies to the Public Service, it can be extended by another Act or by the regulations to other public sector employment, subject to exclusions and modifications.

This resembles section 71 of the current Act which allows a proclamation to be made applying Public Service provisions of the current Act to other public sector employment.

Division 2—Executives

41—Conditions of executive's employment

The employment of an executive is to continue to be a matter for a contract with a maximum term of 5 years. However, under this measure, subject to clause 3(3) of Schedule 2 (Transitional provisions), there is no right to a fall-back position in the event that an executive is not re-appointed or is terminated with notice.

42—Resignation of executives

This clause sets out an executive's right to resign with notice. The period of notice required has been shortened compared to that required by section 34(2)(f) of the *Public Sector Management Act 1995* in recognition of the executive's role as a SAES member.

43—Termination of executive's employment by notice

The provision for termination without grounds is similar to that in section 36 of the *Public Sector Management Act 1995* except that the period of notice that must be given to the executive employee has been extended from at least 3 to at least 4 months in recognition of the executive's role as a SAES member.

Division 3—General employment processes and conditions

Note—

The measure endeavours to simplify the provisions dealing with employment processes.

In particular, in order to promote flexibility in Public Service arrangements, the concept of positions in administrative units is abandoned (compare section 31 of the *Public Sector Management Act 1995*). Instead employees are assigned duties and may be assigned to different duties by the chief executive of the administrative unit.

The administrative processes for dealing with employees are streamlined through provisions that focus on the actions of termination, reduction of remuneration and disciplinary action rather than on the grounds for taking such action and the required administrative steps. A number of Divisions within Part 8 of the *Public Sector Management Act 1995* (Division 4—Excess employees, Division 5—Mental or physical incapacity, Division 6—Unsatisfactory performance, Division 8—Conduct and discipline) have been collapsed down and substituted by clauses 52 to 56.

he provisions for transfer of employees to other duties within an agency, to a different agency or outside the Public Service are scattered in the *Public Sector Management Act 1995*. In this measure they are brought together in clause 8 and the scheme simplified.

44—Engagement of employees

This clause sets out the 3 possible forms of engagement of a person as an employee: ongoing, term or casual employment. It also sets out the rules about maximum periods of employment as a term employee. The clause effectively substitutes section 40 of the *Public Sector Management Act 1995*.

The only circumstances in which a person may be engaged as a term employee are set out in clause 44:

- for the duration of a project not exceeding 5 years and the engagement may be extended (including beyond a total of 5 years) but not so that the term extends beyond the duration of the project;
- for performing duties in the absence of another employee or while selection processes are conducted and the engagement may be extended but not so that the term extends beyond the absence of the employee or the completion of the selection processes;
- for up to 5 years in prescribed circumstances;
- for up to 2 years for duties otherwise of a temporary nature.

The concept of contractual employment (see section 40 of the *Public Sector Management Act 1995*) is not retained and has been subsumed by the concept of term employment (see definition of term employee in clause 3(1)).

45—Merit-based selection processes

Selection processes conducted on the basis of merit in accordance with the regulations are required for engagement of an employee, and promotion of an employee, of a public sector agency and changing the basis on which a person is engaged as an employee of a public sector agency to engagement as an ongoing employee, with the exception of those categories of engagement and promotion specified by the clause, namely, reclassification or engagement of casual employees or engagement of employees under employment opportunity programs or in prescribed circumstances.

Exceptions to the requirement for competitive or merit-based selection processes are dealt with differently under the *Public Sector Management Act 1995*. Section 39(2) provides a general exemption for appointment to a temporary or casual position and contemplates other exemptions by determination of the Commissioner. Section 44(3) deals with temporary promotions.

46—Assignment of duties

This clause provides for determination of the duties of employees and the places of employment by the relevant public sector agency.

The clause removes the rules in section 44 of the *Public Sector Management Act 1995* that currently govern assignments. Transfers of employees within the Public Service by the Commissioner that took place under the section are dealt with by clause 8, with the transfer being a matter for the chief executives concerned. The process of assignment to a higher remuneration level is no longer set out in the section relating to assignment of duties but is instead dealt with in clause 45 (Merit-based selection processes). Assignment to a lower remuneration level is dealt with in clause 52 (Reduction in remuneration level).

47—Probation

This clause effectively substitutes section 41 of the *Public Sector Management Act 1995*. Subclause (2) enables a public sector agency to determine a period of probation that is less than 12 months. Subclause (4) provides a more flexible arrangement, enabling confirmation of employment after at least half of the period of probation has been served.

48—Remuneration

This clause effectively substitutes section 45 of the *Public Sector Management Act 1995* with modifications necessary because of the current references to positions.

49—Additional duties allowance

This clause effectively substitutes section 46 of the *Public Sector Management Act 1995*. It leaves the matter of an allowance to the discretion of the agency, removing the arbitrary limit imposed by the current section.

50—Hours of duty and leave

This clause effectively substitutes section 49 of the *Public Sector Management Act 1995*. Relevant details are set out in Schedule 1.

51—Resignation (other than executives)

This clause effectively substitutes section 53 of the *Public Sector Management Act 1995*. It continues to require 14 days written notice of resignation.

52—Reduction in remuneration level

This clause determines the grounds on which a public sector agency may reduce the remuneration level of an employee without the employee's consent, as follows:

- the employee is excess to the requirements of the agency at the higher remuneration level; or
- the employee's physical or mental incapacity to perform duties or satisfactorily at the higher remuneration level; or
- the employee's unsatisfactory performance of duties at the higher remuneration level; or
- the employee's misconduct; or
- the employee's lack of an essential qualification for performing duties at the higher remuneration level.

The agency must first endeavour to find suitable alternative employment on conditions that maintain the employee's current substantive remuneration level if the proposed reduction is a result of the employee being an excess employee or the employee's mental or physical incapacity. The requirement relates to employment in the public sector to which the Part applies and not just the Public Service as under the current Act.

Under the *Public Sector Management Act 1995* the obligation to endeavour to find suitable alternative employment relates only to employment in the Public Service and is dealt with in the separate divisions dealing with different grounds.

Subclause (3) sets out income maintenance rights for excess employees and equates to section 50(4) of the *Public Sector Management Act 1995*.

Subclause (4) specifically contemplates—

- an agency reducing an employee's remuneration level to a remuneration level from a classification structure including a structure not applicable to that agency; and
- an agency reducing an employee's remuneration level as a preliminary step to assigning or transferring the employee to other duties in the agency or elsewhere in the public sector.

53—Termination

A public sector agency is empowered to terminate the employment of an employee on the following grounds:

- the employee is excess to the requirements of the agency;
- the employee's physical or mental incapacity to perform his or her duties satisfactorily;
- the employee's unsatisfactory performance of his or her duties;
- the employee's misconduct;
- the employee's lack of an essential qualification for performing his or her duties.

The grounds set out above may also lead to a decision by the public sector agency to reduce the remuneration level of the employee (see clause 52).

As with reduction in remuneration, the agency must first endeavour to find suitable alternative employment on conditions that maintain the employee's current substantive remuneration level if the proposed termination is a result of the employee being an excess employee or the employee's mental or physical incapacity.

54—Disciplinary action

If a public sector agency is satisfied that an employee is guilty of misconduct, the agency may—

- reprimand the employee;
- suspend the employee from duty without remuneration or accrual of leave rights for a specified period.

This power is in addition to the power to reduce an employee's remuneration under clause 52 and to terminate the employee's employment under clause 53.

In conjunction with disciplinary action, a public sector employee may be transferred or assigned to different duties or a different place.

55—Power to require medical examination

This clause effectively substitutes section 51 of the *Public Sector Management Act 1995* and provides for the obtaining of medical reports about an employee if it appears to a public sector agency that the employee's unsatisfactory performance is caused by physical or mental incapacity.

56—Power to suspend from duty

A public sector agency is given power to suspend an employee of the agency from duty pending the completion of any investigation, process or proceedings in respect of alleged misconduct by the employee if the agency decides that it is in the public or agency's interest to do so. Suspension can be without remuneration in certain circumstances.

Division 4—Review of employment decisions

Note—

The measure is designed to provide streamlined rights of review and a greater level of consistency. It contains significant differences to the *Public Sector Management Act 1995*.

Subdivision 1—Review of dismissal

57—Application of unfair dismissal provisions of Fair Work Act

An employee to whom Part 7 applies and who has been dismissed by a public sector agency may apply to the Industrial Relations Commission for relief under Chapter 3 Part 6 of the *Fair Work Act 1994* (subject to that Act). This clause contemplates that the employee may take an action for unfair dismissal under the ordinary provisions of the *Fair Work Act 1994* (subject to that Act). The approach means that public sector employees are placed in a similar position to private sector employees. Exclusions that apply under that Act (for example, in relation to non-award employees who earn more than a specified salary) will apply to public sector employees covered by Part 7.

This clause provides the Industrial Relations Commission with additional powers if an application for relief for unfair dismissal is upheld. If the Commission orders that the applicant be re-employed but is satisfied, on the application of the public sector agency, that it is appropriate that the agency take action to deal with misconduct of the employee, the Industrial Relations Commission may make an order that the agency take specified action to deal with the misconduct.

Subdivision 2—Review of employment decisions (other than dismissal)

58—Right of review

This clause provides an employee with a right to have an employment decision (not extending to a dismissal, a decision to select a person who is not a public sector employee as a consequence of selection processes conducted on the basis of merit or other circumstances prescribed by the regulations) reviewed.

59—Conciliation

This clause sets out a requirement for a public sector agency to endeavour to resolve an employee's grievance by conciliation (regardless of the fact that an employee may apply for a review of its decision).

60—Internal review

An employee aggrieved by an employment decision of a public sector agency directly affecting the employee may apply for an internal review of the decision by the public sector agency. It is contemplated that the regulations will contain details about the process.

61—External review

This clause sets out the right of an employee who is aggrieved by an employment decision of a public sector agency directly affecting the employee to apply to the appropriate review body for a review of the decision.

The Industrial Relations Commission is to hear reviews of decisions to take disciplinary action, to reduce an employee's remuneration level and associated transfers or reassignments.

The Public Sector Grievance Review Commission is to hear all other reviews.

Before the matter can be taken to external review, the employee must have applied for an internal review pursuant to clause 60 and the review completed or not commenced as required by the regulations. Exceptions can be spelt out in the regulations.

The review body may decline to conduct a review—

- if the application for review is frivolous or vexatious; or
- if the applicant for review has made a complaint under the *Equal Opportunity Act 1984* in respect of the decision; or
- in circumstances prescribed by the regulations.

On a review, the appropriate review body must determine whether, on the balance of probabilities, the decision is harsh, unjust or unreasonable. The review body has the power to—

- affirm the decision;
- in the case of a prescribed decision, rescind the decision and substitute a decision that the review body considers appropriate;
- remit matters to the agency for consideration or further consideration in accordance with any directions or recommendations of the review body.

The parties to a review are not to be legally represented unless the review body considers that either party would be at a significant disadvantage in the absence of legal representation.

The regulations may exclude this right of review.

The different avenues of appeal that are triggered in the *Public Sector Management Act 1995* by section 43 (Promotion appeals), section 61 (Disciplinary appeals) and section 64 (Grievance appeals) are effectively substituted by the processes set out in this clause. The Industrial Relations Commission and Public Sector Grievance Review Commission are to undertake the roles currently performed by the Disciplinary Appeals Tribunal and the Grievance Appeals Tribunal.

62—Special provision for review of selection processes

A review of a decision to select an employee as a consequence of selection processes conducted on the basis of merit must be limited to considering whether the processes should be recommenced from the beginning or some later stage on a number of grounds specified by the clause.

This clause substantially reflects section 43 of the *Public Sector Management Act 1995*.

63—Application of Fair Work Act 1994

This clause enables the application of the *Fair Work Act 1994* to be modified by the regulations.

Part 8—Miscellaneous

64—Employment opportunity programs

This clause is similar to section 67 of the *Public Sector Management Act 1995* and ensures that employment opportunity programs can be offered without breaching the provisions of the Act.

65—Re-engagement of employee who resigns to contest election

This clause substitutes section 54 of the *Public Sector Management Act 1995* and is extended to public sector employment generally.

66—Multiple appointments etc

This clause effectively substitutes section 70A of the *Public Sector Management Act 1995*.

67—Payment of remuneration on death

This clause effectively substitutes section 48 of the *Public Sector Management Act 1995*, but leaves the matter to the agency rather than the Commissioner.

68—Reduction in remuneration arising from refusal or failure to carry out duties

Subclause (1) provides that if an employee of a public sector agency is absent from his or her duties without lawful authority, the agency may direct that the employee not be paid salary for the period of the absence.

Subclauses (2) and (3) effectively substitute section 47 of the *Public Sector Management Act 1995*.

69—Action where overpayment or liability to Crown

This clause provides for recovery of amounts overpaid or in satisfaction of liabilities and effectively substitutes section 62 of the *Public Sector Management Act 1995*.

70—Employment of Ministerial staff

This clause effectively substitutes section 69 of the *Public Sector Management Act 1995*.

71—Appointment of other special staff

This clause enables a Minister to engage (outside the Public Service)—

- a person as a member of the staff of a Member of Parliament; or
- a person in employment of a class prescribed by the regulations.

This will simplify the current processes.

72—Operation of Fair Work Act 1994

This clause effectively substitutes section 72 of the *Public Sector Management Act 1995*.

73—Immunity relating to official powers or functions

This clause effectively substitutes section 74 of the *Public Sector Management Act 1995*. It applies the immunity to a public sector employee, a public official (as defined), a person to whom a function or power of a public sector agency, public sector employee or public official is delegated in accordance with an Act and a person who is, in accordance with an Act, assisting a public sector employee or public official in the enforcement of the Act.

74—Delegation by Minister

This clause is new. It provides the Minister with the power to delegate a power or function of the Minister under the measure.

75—Temporary exercise of statutory powers

This clause effectively substitutes section 75 of the *Public Sector Management Act 1995*.

76—Designation of positions

This clause is new. It deals with the need to identify a person performing specified duties in a position with a specified title. The need for this provision is most obviously highlighted by the requirement to make a legal delegation under an Act to a person who can be identified by a specific position with a specific title. It is not a provision that is intended to be used for the wholesale creation of positions across the public sector. The clause attempts to make this clear with the use of the words 'but is not required to'.

77—Obsolete references

This clause effectively substitutes section 76 of the *Public Sector Management Act 1995*.

78—Evidentiary provision

This clause effectively substitutes section 77 of the *Public Sector Management Act 1995*.

79—Service of notices

This clause effectively substitutes section 79 of the *Public Sector Management Act 1995*.

80—Regulations

This clause provides general regulation making power.

Schedule 1—Leave and working arrangements

Schedule 1 is similar to Schedule 2 of the *Public Sector Management Act 1995* but contains some improvements.

Part 1 gives the Commissioner power to make determinations relating to a range of flexible leave and working arrangements. The Commissioner may make determinations about leave (with or without pay) for reasons that include study leave, parental leave and family carer's leave, for example. The Commissioner may determine voluntary flexible working arrangements for employees that include part-time employment, flexible working hours, purchased leave and compressed working weeks. This substitutes and broadens existing categories of leave that are currently dealt with by the clause dealing with special leave under Part 5 of Schedule 2 of the *Public Sector Management Act 1995*.

Part 5 provides that sick leave is to accrue per month of service, rather than per year as currently provided in the *Public Sector Management Act 1995*. This brings the accrual of sick leave into line with the accrual of recreation leave and will simplify the administration of leave.

Part 6 provides for the continuation of the accrual of long service leave in calendar days for each completed year of effective service but empowers the Commissioner to make a determination to enable the accrual of long service leave in working hours for each completed month of effective service.

Schedule 2—Public Sector Grievance Review Commission

This Schedule establishes the Commission. The Commission is to consist of a presiding commissioner appointed by the Governor and assistant commissioners appointed by the Governor. The Commission will be constituted of the presiding commissioner or, at the direction of the presiding commissioner, an assistant commissioner. The Commission is given power to require public sector employees or former public sector employees to appear before it and to produce records or objects.

Schedule 3—Repeal and transitional provisions

This Schedule repeals the *Public Sector Management Act 1995* and contains transitional arrangements for the implementation of the measure.

Clause 3 of the Schedule sets out transitional provisions that apply to the various categories of executive employment that exist under the *Public Sector Management Act 1995*.

The categories of executive employment that the transitional provisions in clause 3apply to can be characterised as follows:

- employees who were not, immediately before the commencement of the clause, subject to a contract under the *Public Sector Management Act 1995*;
- employees who were, immediately before the commencement of the clause, subject to a contract under the *Public Sector Management Act 1995* and the employee was, if not reappointed, entitled to some other appointment in the Public Service on an ongoing basis;
- employees who were, immediately before the commencement of the clause, subject to a contract under the *Public Sector Management Act 1995* and the employee was, if not reappointed, entitled to some other appointment in the Public Service on a contractual basis;
- employees who were, immediately before the commencement of the clause, subject to a contract under the *Public Sector Management Act 1995* and the employee was not, if not reappointed, entitled to some other appointment in the Public Service.

In each case, current rights are preserved (if a contract is involved it is preserved for the duration of the contract and if a 'fall-back' entitlement exists, that entitlement can be exercised if the executive is not offered a further contract).

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

At 22:10 the council adjourned until Thursday 19 February 2009 at 14:15.