LEGISLATIVE COUNCIL

Wednesday 14 October 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:20): I bring up the 28th report of the committee.

Report received.

BUDGET AND FINANCE COMMITTEE

The Hon. R.I. LUCAS (14:20): I lay upon the table the report on the operations of the committee for 2008-09, together with minutes of evidence, from 16 March to 12 October 2009.

Report received and ordered to be published.

PAPERS

The following paper was laid on the table:

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

Director of Public Prosecutions—Report, 2008-09

COORONG

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) (14:21): I table a copy of a ministerial statement relating to restoring South-East water to the Coorong made earlier today in another place by my colleague the Hon. Jay Weatherill.

QUESTION TIME

DEPARTMENTAL TRAVEL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about travel for the staff of the Department of Planning and Local Government.

Leave granted.

The Hon. D.W. RIDGWAY: Members will be aware that I asked a range of questions—

The Hon. B.V. Finnigan interjecting:

The Hon. D.W. RIDGWAY: I beg your pardon, Mr Finnegan! Have you got something to say?

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Members will be aware that I asked a range of questions in July this year in relation to the minister's TOD tour of the United States and Europe where he travelled with minister Conlon and a number of departmental staff from both the Department of Planning and Local Government and the Department of Transport. In fact, I think there has been significant speculation about the minister's attendance in certain parts, particularly the Minister for Transport's attendance during that trip. I notice yesterday—

Members interjecting:

The Hon. D.W. RIDGWAY: Mr President, 15 conversations are going on here. Call them to order, please.

The PRESIDENT: The Hon. Mr Ridgway has the floor.

The Hon. D.W. RIDGWAY: I noted yesterday that, in the Auditor-General's Report, some $305,000 was spent on travel by the Department of Planning and Local Government. Who travelled

with the minister from the Department of Planning and Local Government and what was the cost of their travel on this trip?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): The Chief Executive Officer—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —of the Department of Planning and Local Government, Mr Ian Nightingale, did accompany me on that trip.

Members interjecting:

The PRESIDENT: Order! There is no need for everyone else to start bellowing.

The Hon. P. HOLLOWAY: I will start again. Mr Ian Nightingale, the Chief Executive Officer of the Department of Planning and Local Government, accompanied me on that trip. I believe that he was the only official from the department to attend. I will take on notice the question relating to the costs for that trip.

DON'T CROSS THE LINE CAMPAIGN

The Hon. S.G. WADE (14:25): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question relating to the Don't Cross the Line campaign.

Leave granted.

The Hon. S.G. WADE: On 11 September, the state government launched the Don't Cross the Line campaign to raise awareness of domestic violence in Australia and to transform attitudes towards relationship abuse. On 18 September, Men's Health Australia wrote to the Office for Women expressing concern at what it perceived as the selective use of statistics in relation to the Don't Cross the Line campaign, copied by many state and federal parliamentarians, including the minister and myself.

As I understand it, Men's Health Australia's concerns are essentially that the statistics used in the Don't Cross the Line website overstate the impact of domestic violence on women and understate the impact of domestic violence on men. The majority of domestic violence incidents involve violence against women, and a key social goal is for men to take full responsibility to address violence against women.

To this end, it is vital that the campaign impact is not undermined by debate as to whether the information that undergirds it is reliable. I therefore ask the minister: has the government responded to the concerns raised by Men's Health Australia and, if so, what was the response? Also, what action has the government taken to ensure that the information used in the campaign is both robust and effective?

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) (14:26): I thank the honourable member for his question and I indeed appreciate the opportunity to acknowledge the success of this fabulous campaign, Don't Cross the Line.

As members would know, I was delighted recently to launch a media antiviolence community awareness campaign in September this year. It included TV, radio and other print media that would be made available to the public. The initial response to that campaign has been extremely positive, I might add. I do not have the actual numbers in front of me, but the hit rate on the website has been very high. It is obvious that people are not just going onto the homepage; the hit profile shows that people are actually going into and accessing various information within the site. So, we are very pleased that it has been so successful.

I have reported before in this place that it is quite a confronting campaign, and we do not apologise for that. We are clearly trying to change people's attitudes towards violence and make them more aware of how unacceptable violence is.

As I have said, the major component of the campaign is a website, which is don'tcrosstheline.com.au. I invite people to get online and have a look for themselves. It provides a range of information on changes to rape and sexual assault laws. It also outlines information

around the proposed changes to domestic violence laws, as tabled in the other place at present. It also encourages those who may be experiencing relationship abuse or questioning their behaviour and actions to visit the website to seek help and get information that they might need to help them with their issues.

The main target audience is young men and women between the ages of 18 to 25. I am aware that Men's Health Australia has written to the Office for Women and has questioned the statistics outlined or referred to on the website. I have been advised that the Director of the Office for Women has, in fact, personally telephoned and had a long conversation with the author of that correspondence, talking to him about the source of the material and, I understand, has agreed to post that information to him. I think it is really important that we do not forget that the aim of the campaign is to educate young men and women about respectful relationships. That is the purpose of the campaign.

Obviously, the statistics on the website are an important part of the information base in raising awareness about levels of violence in the community, and it is not just about domestic violence but other violence as well. Those statistics have been provided by a variety of reputable sources, including the Australian Bureau of Statistics, the Australian Institute of Criminology, the commonwealth Department of Families, Housing, Community Services and Indigenous Affairs, and the South Australian Office of Crime Statistics and Research in the Attorney-General's Department. I understand that statistics have also been drawn from recent publications, such as the National Plan to Reduce Violence against Women and their Children.

I am sure that everyone in this place would accept that violence in the community is significantly under-reported; while we use a variety of sources to obtain information on this significant social issue, we know that many victims do not report their abuse. We also know that men are sometimes victims of domestic or partner violence (I have spoken about that in this place previously), and I suspect that that is also under-reported. However, women are predominantly the victims of domestic and sexual violence, and I doubt anyone here would refute that. In the broader community, men are likely to suffer greater levels of assault and violence from other men, often involving strangers and often involving violence in a public place, but the perpetrators of violence against women are frequently people known to the women, and the violence frequently occurs in a domestic situation.

This campaign is about violence that occurs in a personal relationship; it is not about broader community violence. The campaign is also about informing the community of recent changes to our rape and sexual assault legislation, and it talks about what is and is not okay in a close personal relationship. I acknowledge that there is research and data from a wide range of different sources and that there can be different interpretations of such data. However, I am advised that the data on the Don't Cross the Line website is sound.

The Don't Cross the Line campaign, through its website in particular, aims at informing both men and women in a range of relationships about the difference between abusive behaviour and respectful relationships. Ultimately, the campaign aims to reduce the incidence of rape, sexual assault and domestic and family violence in South Australia, and I am sure that is an outcome supported not only by every member in this place but by all South Australians. I believe that is where our attentions and our efforts should be focused.

DESALINATION PLANT

The Hon. R.I. LUCAS (14:34): I seek leave to make a brief explanation before asking the Leader of the Government and, for some aspects of the question, the minister representing the Minister for Water Security a question about the Adelaide desalination plant.

Leave granted.

The Hon. R.I. LUCAS: I recently met with a group of concerned small business people, representatives of the Water Industry Alliance and the Civil Contractors Federation, who raised a series of concerns with me in relation to the share and dollar value of contracts going to local South Australian businesses for some of the major infrastructure projects in this state, including a number related to transport projects but, in particular, the Adelaide desalination plant.

In relation to the Adelaide desal plant, the group informed me that minister Maywald had, at an ICNSA local industry forum, publicly stated that 70 per cent of the value of the Adelaide desal project could go to local South Australian businesses, and that this claim had been repeated by both the minister and the government representatives to industry people over a period of time.

However, this group informs me that at a recent meeting it was told by a representative of SA Water that it was not really going to be 70 per cent of the value of the contract but 70 per cent of the total number of contract packages that were to be let.

As these business people outlined to me, if for example a contract package for $10,000 for local security is to be given the same weighting as a $500 million construction contract, they had very serious concerns about the position as outlined to them by SA Water. They indicated that 70 per cent of the total number of contracts could be a minority of the total value of the contracts.

I was also given detail of one very successful South Australian company's dealings with bidding in the consortium, and I will try to outline its concerns as an example of the number of concerns other businesses had. Company representatives attended a debriefing session on 14 August and were told that they were one of two final companies to come through the procurement process for a particular contract, and that it was basically a 50/50 decision. Ultimately they were advised that the successful company was not a South Australian company but a Tasmanian-based company. They asked why they were not awarded the package and whether it was price. AdelaideAqua responded, 'No, the commercial attributes were very satisfactory.'

They asked whether it was experience, and AdelaideAqua responded, 'Of course not: you know we're aware of your company's background and that some of AdelaideAqua's staff has actually been involved with your company on other projects in the past.' The company then asked, 'If we meet the commercial and technical requirements, why were we not awarded the contract?' AdelaideAqua would not respond and replied that at the end of the day it could have gone either way and that they were only two men on a board of 11.

The company then goes on in correspondence with me to outline its very significant concerns about the local input policy, and whether it was operating as the government ministers and others had been indicating. There is a whole package of correspondence, which I do not have time to summarise in a question, but in amongst it was an email from this company to minister Holloway, as the Minister for Small Business, dated 12 August. The managing director of the company was urgently seeking a meeting with the Minister for Small Business, and similarly had been seeking a meeting with the Minister for Water Security on the issue. I quote in part:

> I again request a meeting so I can discuss my concerns with you and highlight the impacts this project is having on local small businesses. I would appreciate your earliest appointment. I am requesting to meet with you to discuss the tender process being adopted by the consortium AdelaideAqua and our concerns of the impact to local business. We have been heavily damaged by a tender system that contradicts itself, and we are now extremely frustrated.

My questions to the minister are:

1. Why has the Rann government so far refused to meet with SA businesses that want to raise their concerns that South Australian businesses are not getting the promised fair deal in terms of work on the Adelaide desal project? Will the minister, minister Maywald or some other minister now meet with the businesses to at least listen to their concerns?

2. Is it correct that the Rann government is now saying that only 70 per cent of the total number of contracts will be from local South Australian businesses rather than the original claim that 70 per cent of the total value of the project would go to local businesses?

3. Is there any contractual requirement on the successful consortium by the government in relation to the 70 per cent issue and, if not, why not?

4. Will the minister (I assume the Minister for Water Security) give an assurance that there is no conflict of interest in the position of the company Orecon, which acts for SA Water and is affiliated with the engineering services company acting for the consortium AdelaideAqua?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:40): I meet with companies all the time in relation to matters that come within my portfolio but, quite clearly, there is not much point in my meeting personally with companies in relation to a tender about which I have had no dealings or—

The Hon. B.V. Finnigan interjecting:

The Hon. P. HOLLOWAY: Well, indeed; I was going to come to that issue. As I have said, even today members will be debating issues about ICACs. In relation to tenderers and so on, there are certain protocols that need to be undertaken. In a tender process where there is more than one

tenderer, there will always be an unhappy tenderer, but whether or not they have justification is another matter. Clearly, the letting of tenders is at arm's length from the government and there are proper processes to be gone through. It would be totally inappropriate for a minister of the government to interfere or try to achieve an outcome towards one particular tenderer over another, and I think it is worth pointing that out.

As I have said, I meet all the time with businesses that raise concerns within my portfolio areas, where I have some jurisdiction and, indeed, some knowledge of the issues involved but, clearly, this is a matter for those responsible for the tenderer. I will certainly take up the matter with my colleague the Minister for Water Security. Obviously, she would have the information about what is happening in relation to the letting of contracts. However, in relation to desalination plants, that technology is something that does not exist within this state, let alone, I think, within this country. So, obviously, much of that equipment will inevitably be imported from overseas, where, of course—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, I am not claiming anything. I am not the minister for it, but I am just saying that it is common sense. I do know that, with things such as a desalination plant, where the technology is clearly not native to this country, that sort of equipment would have a high component of overseas content. However, I will refer the question to the minister in another place and bring back a reply.

EXCELLENCE IN MINING AND EXPLORATION CONFERENCE

The Hon. R.P. WORTLEY (14:43): My question is to the Minister for Mineral Resources Development. Is the minister aware that the Excellence in Mining and Exploration Conference was recently held in Sydney, and is he able to provide any advice on the winning entrants of the coveted industry awards announced at the conference?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:44): Yes, I am aware of the Excellence in Mining and Exploration Conference held in Sydney and, in particular, the national awards for excellence. I am delighted to inform honourable members that Dominion Mining Ltd was successful in winning this year's prestigious national award for Excellence in Production.

All of the staff at Dominion Mining Ltd should be congratulated for being awarded the 2009 Excellence in Production award. Dominion Mining is, indeed, a worthy recipient of the award, and it should be justifiably proud of its production record, especially when you consider the calibre of its fellow category nominees, that is, Newcrest, Cadia Valley, Norseman Gold, and Atlas Iron.

I commend Dominion Mining Ltd for its work on the Challenger gold mine in particular. This mine is an excellent example of how South Australia's resources sector continues to set world's best standards in mining. Challenger was the first major gold mine in 100 years to open in South Australia when it began production in 2002. Located about 740 kilometres north-west of Adelaide, this remote mine is a tribute to Dominion's persistence, planning and management. The Challenger gold mine is unique, because it is in an area that has no other nearby mining activity and no previous mining history.

The successful development of the mine has been possible only because Dominion held the belief that the region has significant economic potential. I also hasten to add that the South Australian government played a role in the establishment of the Challenger mine. Government drilling programs began in the north-west Gawler Craton in 1991 with the exploration sparking significant interest. Dominion began exploring in the craton in 1993, and the Challenger anomaly was found in 1995.

The Excellence in Production award was presented to Dominion Mining for discovering 560,283 ounces of gold from the start of production at the Challenger goldmine up to 30 June 2009. This output was produced at an average operating cost of $US357 per ounce. I think gold is now over the $US1,000 mark, or it is certainly close, so you can see that it has been a very profitable venture.

The Hon. D.G.E. Hood: It's $1,050.

The Hon. P. HOLLOWAY: It was $1,050 this morning, so it has been a very profitable venture. The annual National Mining Awards organised by Resourceful Events are a standout

function on the resource sector calendar, giving the industry time to reflect on and recognise the past year's achievements.

While Dominion's success has significance for South Australia, I should take this opportunity to acknowledge the other winners. In respect of Excellence in Frontier Exploration, the winner was Perseus Mining; for Excellence in New Technology, it was Rio Tinto; for Excellence in Discovery, it was Ivanhoe Mine's Merlin Project; for Excellence in Corporate Transacting, the winner was Origin Energy; for Excellence in Growth, it was Extract Resources; and for Excellence in Operations and Mine Management, it was Newcrest, Cadia Valley.

As this state continues to tap its mining potential, I hope that there will be other successes both at national and international level for our resource companies. The number of operating mines has increased from four to 11 in the 7½ years since this government came to office and introduced the plan for accelerating exploration. A further five to six mines are in the pipeline, including the Centrex Metals project at Wilgerup and Four Mile at Beverley.

With that growing list of prospects, I suspect South Australia's chances of sharing in the honours at the next Excellence in Mining and Exploration awards will improve as we increase our state's role as an important producer and exporter of minerals.

BURNSIDE CITY COUNCIL

The Hon. DAVID WINDERLICH (14:47): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Burnside council.

Leave granted.

The Hon. DAVID WINDERLICH: The minister informed the council yesterday that she has granted an extension of time to her investigator (Ken MacPherson) to complete his investigation of the Burnside council. This leaves the important question of the status of its CEO (Neil Jacobs) and questions around the decision-making process followed by council in relation to the sale of the Chelsea Cinema unresolved for another four months.

Concerns hinge on whether Mr Jacobs was reappointed by council on 23rd June, following his resignation on 12 June, or whether he has effectively been an acting CEO since 12 June and, therefore, has been occupying his position illegally since 12 September. Those concerns have been raised by Burnside councillors on the basis of legal advice and, as the minister informed the council on 22 September, by the investigator (Ken MacPherson) himself. The minister also informed the chamber that approximately a week before being asked a question, which she answered on 22 September, she had written to the Burnside council outlining the investigator's concerns.

In yesterday's *Eastern Courier* Messenger, Murray Willis, of the Foothills Water Company, stated that he no longer recognised the authority of Burnside CEO Neil Jacobs and would challenge any decision signed off by Neil Jacobs. This statement is based on legal advice and effectively turns speculation about the implications of Mr Neil Jacobs' appointment into reality.

It should be noted that the CEO's powers under various acts include: the power to destroy a dog; order a landowner to take action to remedy a fire risk; sell, lease or hire out property; take court action to recover bad debts; sell land to recover unpaid rates; and carry out roadwork to allow water to drain into an adjoining property.

The CEO is also the public officer of the Burnside DAP (Development Assessment Panel) and is responsible for certifying the release of development plan amendments for consultation. It should be noted that, under section 273 of the Local Government Act, once the minister receives a report from an investigator she has the power to make recommendations, direct or sack a council. My questions to the minister are:

1. What action has the council taken to reassure the minister that the appointment by council of Mr Neil Jacobs on 23 June is not in breach of the Local Government Act?

2. Has the minister sought Crown Law advice on council's response?

3. Does the minister accept that receipt of an interim report from the investigator would empower her, if she thought it necessary, to direct the council to terminate the employment of Mr Jacobs?

4. Will the minister undertake to request an interim report on the status of Mr Jacobs and the council's decision making process in relation to Chelsea Cinema to ensure that she has the power to direct the council, if that is deemed necessary?

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) (14:50): I thank the honourable member for his most important question. I have substantially put the answer to this question on the record previously. I have stated in this place that Mr MacPherson contacted the agency about some concerns that he had in relation to the CEO's contract of employment or his resignation and reappointment. Mr MacPherson, the investigator, asked that those concerns be passed on to the council.

The agency did pass on those concerns to the council, and since then I have been informed that the Burnside council has furnished legal advice to the agency that it believes that its process had been adequate. That advice or information contained in that obviously addresses matters within the terms of reference of the investigation, so that response has been promptly passed on to the investigator, Mr MacPherson, for further consideration. I need to make sure the record is quite clear: I did not pass on those concerns to mayor Greiner; it was the agency which emailed and phoned her about passing on the concerns of the investigator at that time.

I have every confidence in the investigator; he is an extremely well qualified man. He is the former auditor-general and former acting ombudsman. He is highly qualified and held in very high regard and is more than capable of conducting this inquiry thoroughly, and I am confident that he will do so. As I have already stated, I have full confidence in the investigator, and I am also confident that, if Mr MacPherson believes that there is any matter that he thinks I should act on prior to a report being furnished by him in relation to the findings of the investigation, I am sure he would do that immediately and, at least until this point in time, I have not received any such request. I believe the proper process is in place, and we should now wait until the outcome of that investigation.

BURNSIDE CITY COUNCIL

The Hon. R.D. LAWSON (14:53): As a supplementary question, did the concerns expressed by Mr MacPherson to the minister include questions about the issue of whether Mr Jacobs presently has the legal capacity to implement any decision which the council might make in relation to the sale of Chelsea Cinema?

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) (14:54): I cannot remember the details, and I do not have them in front of me. I am happy to clarify those details. From my recollection, they were concerns that he raised about the appropriateness of the process of the CEO's resignation and reappointment and whether that was indeed a proper process and what that would then mean to the status of the employment of that person. That was at least the general thrust, from my recollection, of the concerns that were raised and passed on by the agency to the City of Burnside.

BURNSIDE CITY COUNCIL

The Hon. DAVID WINDERLICH (14:55): Has the Office for State/Local Government Relations sought Crown Law advice on the council's response to the investigator's concerns?

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) (14:55): It is under investigation. At how many levels do we want this investigated? It is under investigation. Those matters are within the terms of reference of the investigation. We have a competent and well qualified investigator conducting the investigation with intense rigour and thoroughness, and the response of the council was forwarded to the investigator. I am confident that if the investigator had any further concerns that he believed needed to be addressed prior to the delivery of his report he would have let me know straight away, and I have not received any such request.

BURNSIDE CITY COUNCIL

The Hon. R.D. LAWSON (14:56): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question on the subject of the Burnside council investigation.

Leave granted.

The Hon. R.D. LAWSON: Yesterday, the minister announced that she had granted an extension of time to the investigator, Mr Ken MacPherson, to complete his investigations into activities of the Burnside city council and that the report is now expected to be received after the next state election. My questions to the minister are:

1. What was the original estimate of the likely cost of the inquiry which Mr MacPherson was commissioned to undertake?

2. In the light of the extension of time for delivery of the report, has the minister been provided with a fresh estimate of the likely cost of the inquiry, and what is that estimate?

3. Will the costs of this particular inquiry be paid by the state government, the council, or some other (and, if so, which) person?

In this connection I recall the fact that Mr MacPherson, when auditor-general, conducted the last inquiry under this section into the Port Adelaide council and the flower farm. He and his office produced a 440 page report many months after being so commissioned at a cost of several hundred thousand dollars more than the money that was said to have been lost by the flower farm.

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) (14:58): Indeed, the honourable member alludes to the thoroughness and competence of our investigator. He does not jump to conclusions. He, in fact, conducts a very thorough investigation, and collects and analyses the facts before making a judgment or any determination. We can see that that clearly gets under the skin of the opposition. It would rather a monkey court and to be able to point the finger and make allegations and insinuations all over the place. Well, that is not how we operate. We operate with due and thorough diligent process.

In relation to the funding of this inquiry, an estimate was made reasonably early in the piece and, given that the full scope of the inquiry was not known at the early stages, there was a decision to open the inquiry to public submissions. At that time we had no idea what the uptake and the demand from the public would be.

Early estimates were that the likely costs were around $250,000 to conduct the inquiry. Clearly, extending the inquiry until February will significantly affect those costings. I have asked the agency to prepare a cost estimate given the new scoping that has recently been provided to me by the investigator. The investigator has indicated that he anticipates that a report will be handed down in February.

BURNSIDE CITY COUNCIL

The Hon. R.D. LAWSON (15:00): As a supplementary question arising from the answer, is it the fact then, minister, that you approved the extension of the inquiry before you had any estimate of the likely cost of that extension?

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) (15:00): Yes; in terms of costing, the honourable member is absolutely right. The full scoping of this exercise is only being done now, as I have indicated. Initially, we did not have a full understanding of the uptake, particularly of the public part of that inquiry; and I do not think that one person in this chamber would believe that, given the circumstances of this case, it was not a proper and sound thing to do, that is, to open up the investigation to the public so that ordinary members of the public could have the opportunity to deliver evidence to the investigator.

Unfortunately, that costs money. It does extend the length of the inquiry and it costs money. It is most important that this investigation be done thoroughly, and we will pay what it costs. The investigator has outlined a much better indication of the scope. That now needs to be costed in detail, and my agency is doing that at present.

BURNSIDE CITY COUNCIL

The Hon. R.D. LAWSON (15:02): As a further supplementary question, can we take it from the minister's answer that, in fact, the state government will be bearing the cost of this investigation rather than any other person?

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) (15:02): The state government will be exploring all options. We explore all options. We would not like to close any doors at this point.

DRIVER'S LICENCE RENEWAL

The Hon. I.K. HUNTER (15:02): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about online driver's licence renewals.

Leave granted.

The Hon. I.K. HUNTER: Service SA provides a face-to-face driver's licence renewal service for its network in metropolitan and regional customer service centres in Australia Post locations. This is how I have always renewed my licence. However, I understand that this service, too, is moving into the digital age. Will the minister advise how South Australians are now able to renew their driver's licence online rather attend a customer service centre?

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) (15:03): As members may be aware, since 28 September 2009 South Australians have been able to renew their driver's licence online. This can be done through the Department for Transport, Energy and Infrastructure's EzyReg website administered by Service SA, where increasing numbers of people are already registering their vehicles and boats, I am pleased to say. This enhanced capability complements the extensive and growing network of locations where driver's licence renewals can take place, as well as through Service SA's 20 metropolitan and regional customer service centres.

The public can renew their licence at 72 Australia Post outlets. While the network of locations is extensive and growing, it is not open 24 hours, seven days a week. The introduction of the online service gives South Australians the flexibility of renewing their driver's licence at a time and location that suits them, for example, at home, their local library or any outlet that provides internet access. Motorists will need to attend authorised locations to have their licence photograph taken every 10 years, but if they choose to renew their licence more frequently they no longer have to attend a service centre in person. With 276,000 licence renewals each year, online renewals will make the government more efficient as well as produce time savings for customers.

The new renewal options will be sent, via an information notice, to drivers whose licences are due to expire. We note that, whilst licences can currently be renewed for up to 10 years, 65 per cent of South Australians choose to renew for five years or less, with 35 per cent renewing one year at a time. So, obviously the option for renewing online will be a great convenience for people who renew their licence frequently.

With the new licence renewal option within the online environment, EzyReg, in lieu of having a new licence photo taken, the client's stored image and signature will be used in the manufacture of a new licence or permit, provided that the photo image is not more than 10 years old at expiry. The ability to renew a driver's licence online is expected to shift the demand from that face-to-face customer desk service to an online environment. Migration of service uptake to online services will reduce not only the cost of delivery but also the pressure on queue waiting times in terms of the face-to-face service arrangement. Service SA continues to try to encourage services to the electronic online and self-service channel to ensure increased efficiency and, obviously, to monitor the cost of services.

This move by the government to offer driver's licence renewals online brings South Australia in line with most other states and territories. This government remains committed to improving and extending the services offered to the public of South Australia by providing easier access for services across the state.

DRIVER'S LICENCE RENEWAL

The Hon. I.K. HUNTER (15:07): Will the minister assure the council that this online service is, in fact, easier for those of us who are not technology proficient, or will I need to find myself a 13 year old to navigate the page?

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) (15:07): I can assure the member that it is a very simple and user-friendly system, with very straightforward cues. I am sure that even the Hon. Ian Hunter would be able to manage it himself.

VISITORS

The PRESIDENT: I am sure members are very happy to see the Hon. Ian Gilfillan in the gallery, looking very fit.

Honourable members: Hear, hear!

QUESTION TIME

RESIDENTIAL DEVELOPMENT

The Hon. D.G.E. HOOD (15:08): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding land release for residential development.

Leave granted.

The Hon. D.G.E. HOOD: I was concerned to note Australian Bureau of Statistics data released on 25 August this year showing that, whilst South Australia's population continues to increase, the number of residential dwellings approved for construction fell by some 10.2 per cent. The ABS report entitled 'SA stats of August 2009' shows that the state's population is steadily increasing and noted an increase of some 18,500 people, or 1.2 per cent last year, to just over 1.6 million people. However, approvals for new residential dwellings actually fell by 10.2 per cent, to 12,013 in the 12 months to 31 June this year.

What is now the Land Management Corporation was first formed in 1973 and was originally called the South Australian Land Commission. Its primary aim, according to the Land Commission Act 1973, was the provision of land to those members of the community who do not have large financial resources. The Land Commission Act further made it clear that the commission 'shall not conduct its business with a view to making a profit'.

In 1981 those motives were deleted from the legislation as the Land Commission was reconstituted with a new directive to be more focused on profit rather than supplying needed land to South Australian families. As a result, land supply is now reduced and prices are substantially higher. My questions to the minister are:

1. Is he satisfied that sufficient land is being released so that South Australian families can enjoy affordable housing?

2. Will the minister consider changing the Land Management Corporation charter so that the requirement on it to make a profit is removed, thus lowering the cost of land released and therefore the cost of housing?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:10): The latter matter, the Land Management Corporation charter, is really one for my colleague the Minister for Infrastructure, because that body reports to him. However, as I have pointed out in this place on a number of occasions, the LMC is only one source of land supply.

When I first became Minister for Urban Development and Planning 4½ years ago, the figures were, I think, something like 70 per cent of land within the urban growth boundaries, and large parcels of land were in the hands of the LMC. Now, because the LMC has been releasing land, the proportion of land it owns within the urban growth boundary—before the 30-year plan—is significantly less. Clearly, the LMC has been releasing land onto the market at a faster rate than private holdings.

I have indicated in this chamber on a number of occasions that one of the problems we face with an urban growth boundary is that not everyone who owns land within that boundary is concerned with putting it onto the market. Where that land is privately held (and a large proportion of it is) the owners may wish to hang onto it. The very fact that it is within an urban growth boundary, of course, creates value for that land relative to land outside the boundary. So, there is a reverse incentive for people to sit on it and let the land value appreciate. That is one of the dilemmas that we face in relation to land supply, and it is one of the reasons why the Planning and Development Review recommended that we increase the amount of land within the urban growth boundary to 25 years, of which 15 years should be zoned ready.

The dilemma at the moment is that with a lot of the land, even some of the land that has been within the urban growth boundaries now for a decade or more—or has been earmarked for future development for some time (because the urban growth boundary itself was established, I think, in 2001)—there is a reluctance on the part of some local governments to rezone it. One of the issues this government faces at the moment is ensuring that there is sufficient land supply.

We have discussed the 30-year plan targets at length in this parliament, and I am sure that on a number of occasions members have heard me say that at the end of that 30-year period we would like to see at least 70 per cent or more of the growth as infill or brownfield development, rather than new greenfield development. Achieving that objective will be a very difficult task, and it is the main challenge facing the government.

However, that will come about through projects such as the former Clipsal site at Bowden, which demonstrates (as has happened in other parts of Australia and overseas) the sort of high quality developments that could achieve a much greater density but also be very attractive for people to live in. People enjoy living in a community that is walkable, where they can have close access to everything, and clearly we have to turn around attitudes towards that.

In the meantime, we have to deal with the land release problem, even if we achieve that very ambitious goal. The only other city achieving those sorts of figures would be Sydney, which has, I think, 80 per cent of its development within its current boundary. There is obviously a much lower proportion of greenfield in Sydney, because of the particular issues in that city; after all, it has spread out so far that there is much more incentive to go up. However, in other parts of Australia our 70 per cent target would be regarded as extremely ambitious. We will do everything we can to achieve that goal, but in the meantime we have to do everything we can to make land available.

The honourable member is correct in pointing out the difficulties in getting more zoned land available within the community. The supply is tighter than I would like. The solution is not so much just with the Land Management Corporation. My colleague, Carmel Zollo, has informed me that the charter has been changed in relation to profit, but the LMC is only one part of that. One of the problems we face is that a number of councils are reluctant to rezone land for all sorts of reasons, including shortage of planning staff, fees, infrastructure costs, and so on. So, there are a whole lot of reasons, legitimate and otherwise, why they may resist the rezoning of land, but from where I sit as Minister for Urban Development and Planning that is as big an issue as LMC releases.

Over the years that I have been minister, the LMC has released significant amounts of land on to the market. The problem in some cases is getting councils to rezone them. If necessary the government has the option of doing this by ministerial zoning. One only has to look at the dilemmas one faces presently in relation to Gawler East. In situations like that we would rather negotiate outcomes with councils and try to deal with their issues and assist them in negotiating solutions to the infrastructure issues they face.

Mount Barker is another example of an area that has grown fairly rapidly in recent years where these issues need to be resolved. We are trying to work with the council to ensure we get the land supply to increase but, given the population growth referred to by the honourable member, the 18,600 or 1.2 per cent last year, which puts us exactly on track to achieve the 30-year objective, clearly we have to ensure a viable supply of land to accommodate that growth. However, we also need to ensure that the redevelopment of our inner city areas works, particularly along transport corridors, and achieves the density necessary to achieve that future growth.

GLENSIDE HOSPITAL REDEVELOPMENT

The Hon. J.M.A. LENSINK (15:17): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Glenside DPA.

Leave granted.

The Hon. J.M.A. LENSINK: In relation to the Glenside campus redevelopment, a community reference group was appointed in February 2008. The Department of Health website advised at the time:

> The reference group is a contact point for the community to raise issues, ideas and concerns, which can then be shared with the Health Department during the planning process. It will help the department prepare documents for developers who want to bid for the tenders so they know what open space, building height, buffer zone and environmental requirements, amongst others, must be included in their design proposals.

I understand that that reference group comprised some 13 members. When did the minister receive that report and, now that the Glenside DPA has unfortunately passed its last hurdle, will he agree to publish the report?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:19): That is clearly a matter for the Minister for Health if that was done as part of that early consultation.

The Hon. J.M.A. Lensink: Can you get it?

The Hon. P. HOLLOWAY: It may well be one of the documents referred on to DPAC as part of its consideration. I will look to see where copies of that reference group's report have gone, but I would have thought that if it was a submission to the development policy advisory committee it is probably on the web, unless there is such a large number that they cannot all been put on there. I will look in a moment to see whether it is on there but, if it was done at an earlier stage as a submission to DPAC, it would have been available on the web: I will check it out. If it was done earlier as part of the consultation process by the Department of Health, it would be the recipient of the document. I will refer it to the Minister for Mental Health to see whether it is available.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. CARMEL ZOLLO (15:20): My question is to the Minister for Urban Development and Planning. Will the minister please provide details of the decision to approve the Encounter Bay retail and residential development near Victor Harbor and indicate how this decision is consistent with the objectives of the 30-Year Plan for Greater Adelaide?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:21): I can inform honourable members that provisional development approval has been granted to the Makris Corporation for its $250 million Encounter Bay residential and shopping centre project near Victor Harbor. The provisional authorisation has been granted to the proponents under the Development Act's major development assessment process, the most stringent development assessment process available under the state development laws.

The original application was lodged in September 2007 with the Development Assessment Commission, which judged that a public environmental report (also known as a targeted EIS) was required. That PER was then prepared by the proponent and put out for public consultation. The targeted EIS addressed the need for the proposed development, including the South Coast region's medium to long-term retailing needs, and described how the proposal related to the community of Victor Harbor and its surrounding areas.

At the end of the nine week consultation period, 33 public submissions were lodged with the Department of Planning and Local Government, including eight from government agencies and one from the district council of Victor Harbor. The proposal was then amended to address many of the concerns raised in the submissions. This approval allows the construction of an integrated shopping centre and residential complex on the corner of Waitpinga and Tugwell roads.

I anticipate that construction will begin some time next year, with substantial completion of the complex by the end of 2012. The shopping complex incorporates retail outlets, a supermarket, discount store, medical centre, bulky goods retailer, internal mall and food court. The residential component comprises 166 allotments, complemented by appropriate landscaping and recreational areas. This project will create up to 650 new jobs, excluding construction, and will cater for increased demand for retail floor space along the South Coast. This project is expected to generate about $350 million a year for the regional economy in the next decade.

Rather than compete with main street shops in Victor Harbor, the complex provides local residents with an alternative to driving into Adelaide to access major department stores and specialty stores. Located on the ring route, the complex should also service the growing townships of Port Elliot, Middleton and Goolwa. Victor Harbor has been one of the fastest-growing councils in

the state during the past decade, with a 3 per cent average yearly growth rate. The 30-Year Plan for Greater Adelaide forecasts that pace of growth will continue, increasing demand for accommodation and services.

It is interesting that the sea change report predicts population growth of 150,000 for that region and the 30-year plan, which I know has been criticised by some as having overblown estimates, talks about more like 22,000, I think, for the entire Fleurieu region. So, although they were expecting significant growth there, it was not quite as much as that sea change growth.

The residential component of this significant project will provide a supply of new housing to meet the expected increase in demand for those people seeking that sea change lifestyle in Victor Harbor. The Encounter Bay village project also provides a range of affordable housing opportunities for the South Coast, making available more alternatives for retired couples, as well as young families and first home buyers, than can be met by the existing housing stock in Victor Harbor.

The 17 reserve matters and 29 conditions attached to the approval ensure that the project addresses the concerns raised during the two years of vigorous assessment and public consultation. I am confident that this project will add to the vitality of the Encounter Bay and Victor Harbor area and further enhance the tourism and lifestyle appeal of the South Coast.

The state government's draft plan for Greater Adelaide projects that population on Fleurieu Peninsula will grow by 22,000 during the next 30 years, with a large proportion of these people looking to live on the coast.

Planning for the needs of the future is very important, and this project goes some of the way towards delivering on the targets for jobs and housing within the region set down in the 30-year plan.

I am delighted that a developer has had the foresight and imagination to invest in this growth area of South Australia. There are those opposed to any form of development who are concerned that the semi-rural appeal of Victor Harbor will be diminished by these sorts of projects, but the fact is that people are already moving into this area, creating new demand for housing and retail opportunities that cannot be met by the current services available in Victor Harbor.

It would be unwise to turn a blind eye to this inevitable growth. The prudent course is to acknowledge this trend and to begin planning to meet the demands of this growing community. Providing a central retail and commercial hub for the South Coast is part of the realisation that the southern Fleurieu Peninsula is a key growth area of this state and will continue to be so well into the future.

ANSWERS TO QUESTIONS

WATER, LAND AND BIODIVERSITY CONSERVATION DEPARTMENT

In reply to the **Hon. DAVID WINDERLICH** (30 April 2009).

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): The Minister for Environment and Conservation has provided the following information:

Due to the drought, there has been a general decline in groundwater levels in the South-East.

Data taken from groundwater monitoring wells across the Bald Hill Flat indicates that water tables on the agricultural section of the flat remained close to the surface during three of the driest years (2006-08) on record and are very slowly trending up, while bore levels on the western extremity were found to be stable or in decline.

Data also reveals that the level of the water table in any particular location is quite variable and dependent on rainfall events and features of the landscape. This means that even in those areas where the water tables are generally declining, the salinity in the ground can be brought to the surface and degrade the land.

The Upper South East (USE) Program Board commissioned an independent review to report on the risks and benefits to environmental values of the West Avenue watercourse and Bald Hill flat associated with hydrological manipulation and drainage.

To complement the scientific assessment, an independent review of community perspectives of the Bald Hill Drain and REFLOWS project was also undertaken by the Ehrenberg-Bass Institute (EBI) of Marketing Research, affiliated with the University of South Australia.

CORRECTIONAL SERVICES

In reply to the **Hon. A. BRESSINGTON** (2 June 2009).

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): The Minister for Correctional Services is advised:

1. No corrections staff have the authority to disclose the visiting arrangements of a Parliamentarian except:

- to other staff or management who may be involved in the arrangements; or
- to staff of the Minister's Office who, under normal protocol, should be aware of any Parliamentarian visiting a prison or a particular prisoner.

2. This occurrence has been investigated by the General Manager of the Port Lincoln Prison.

Unfortunately his investigations failed to reveal the identity of the person who might have leaked the information.

Notwithstanding, all staff have been warned that if the offender is identified, he/she will be prosecuted. Depending on the type of information provided, penalties may apply under the Public Sector Management Act 1995, which encompasses the Department's Code of Conduct or the confidentiality clause of the Correctional Services Act 1982.

Under the Public Sector Management Act 1995 and Departmental Code of Conduct, penalties include reprimanding the employee; ordering that the leave entitlement of the employee be reduced by a specified amount; suspending the employee from duty for a specified period with or without remuneration; ordering that the salary of the employee be reduced by a specified amount for a determined period; transferring the employee to some other position at a lower remuneration level; referring the matter to the Governor; or terminating the employee's employment in the Public Service.

RESIDENTIAL TENANCIES

In reply to the **Hon. J.M.A. LENSINK** (14 July 2009).

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): I am advised that:

During the 2008-09 financial year, over 15,000 applications for an order of the Residential Tenancies Tribunal were lodged with the Residential Tenancies Tribunal Registry. Of those applications, approximately:

- 8,900 were lodged by agents (on behalf of landlords);
- 1,900 were lodged by landlords;
- 1,950 were lodged by tenants; and
- 2,250 were lodged by other interested persons or where actions were brought under the Retirement Villages Act 1987 or the Residential Parks Act 2007.

MATTERS OF INTEREST

BUSHFIRES

The Hon. R.P. WORTLEY (15:26): South Australia faces, potentially, the worst bushfire season on record. I rise today to speak not only of the tragedy that unfolded in Victoria earlier this year but also that which struck our state nearly 27 years ago.

We live in the driest inhabited state and on the driest continent in the world and we face these perils every year. However, this year we will face them with a set of clear guidelines on how to protect life and property.

As everyone is well aware, the extreme conditions surrounding the 2009 Black Saturday bushfires saw devastation on an unprecedented scale. Tragically, 173 people were killed and it was described as the worst national disaster in Australia's history. That tragic day reminded all of us of the power that a firestorm can wield and how vulnerable we are in its fury. This is the reality that is, unfortunately, all too familiar to the people of this state.

At this time I would like to take a moment to remember the 75 people (28 of whom were South Australians) who tragically lost their lives in the worst natural disaster ever seen in this state, the 1983 Ash Wednesday bushfires. I will give a brief account of the intensity of the fires on 16 February 1983 that tore through the Yarrabee Road/Greenhill Road area of the Adelaide Hills. In that area on that day five people, including one child, sadly perished.

Within the space of about 15 minutes, at least four fire fronts crossed Greenhill Road, the worst being described by one witness as a sheet or a fireball. That one front was a fireball big enough to engulf 10 houses on the eastern side of Yarrabee Road. An observer on the roof of the old Queen Victoria Hospital said that the Adelaide Hills were literally exploding.

One can only imagine the intense heat and lack of oxygen, the darkness, the terrifying and deafening roar of the fire. For those lucky enough to have survived such an ordeal, the psychological impact undoubtedly remains forever. Our state and, indeed, our country has a history of deadly bushfires, and far too many lives have already been lost in these events.

The magnitude of the devastation that unfolded in Victoria on 7 February 2009 again ruthlessly brought this fact into perspective. In response, the review that was already being undertaken by the Australian Fire and Emergency Services Authority Council entitled 'Bushfires and community safety position', which incorporated the 'stay and defend or go' policy was brought sharply into focus. An alternative policy of 'Prepare. Act. Survive' was finally chosen as it was agreed that the former policy (often reduced to simply 'stay or go') misrepresented the factors and the dangers that the community needed to take into account when faced with bushfire risk.

Clearly, the safety of the community is paramount when addressing the issues surrounding bushfires in this country. The new national framework acknowledges this and has, therefore, incorporated detailed descriptors and messaging to ensure that the community is as best informed as possible. Additionally, there has also been a revision of the fire danger rating scale, bringing with it more detail on fire behaviour and impact potential, as well as instructions to the community.

Lastly, I cannot speak on such matters without taking the time to acknowledge the incredible work and dedication of the South Australian Country Fire Service. I take the opportunity to congratulate the 7,947 members of the CFS who will be receiving the new CFS Service Medal in the coming months. I also join the Hon. Michael Wright, Minister for Emergency Services in another place, and the CFS chief officer, Euan Ferguson, in saying that it is an absolute pleasure to be able to officially recognise the valuable contribution these volunteers have made to this state over many years.

Time expired.

POLITICAL CONDUCT

The Hon. R.I. LUCAS (15:30): The past two weeks in South Australian politics have been dominated by the events surrounding Premier Mike Rann and his alleged assault two weeks ago. My experience with these types of issues in the past is that generally it is not the issue itself that causes the most grief: it is the way the politician responds to and handles the issue that ends up causing the most grief.

There is no doubt that the Premier, the Deputy Premier Kevin Foley and Labor spin doctors have not handled this issue well and have created even more problems for the Premier. Whenever difficult questions have been asked, the Premier's position has been that he is unable to comment on the issue because it is before the courts. However, the hypocrisy of the Premier's position is clear when he, the Attorney-General and others comment publicly on many other cases before the courts. These include current cases involving the gang of 49 members and the legal claim against United Water.

The Premier cannot be allowed to get away with just picking and choosing on the basis of political convenience when he believes in this principle. Either the Premier believes in this principle and applies it to all cases and not just those that are politically convenient, or he is exposed as a political hypocrite. The Premier has also on his public statements on this issue sought to imply that some of his current problems have been brought about by some form of Liberal dirty tricks campaign. Liberal leader Isobel Redmond has already rejected publicly these allegations.

However, I can now indicate that a number of members of the Liberal Party have had copies of the letters and these allegations for almost four years, and this issue has not been aired in the media during all that time. It is clear that the problems and questions confronting the Premier can be addressed or answered only by the Premier himself. Until he does, there will continue to be significant media and community interest in this issue.

The Premier continues to raise the issue of dirty tricks while studiously avoiding the activities of the Rann Labor Party's 'dirty tricks unit' over a long period of time. Today, due to time limitations I will refer only to some of its recent activities relating to me, but I will be happy to speak at greater length on another occasion.

In the past month or so, quite an elaborate website has been constructed as a device to make a series of untrue and defamatory allegations about me, such as corruption, fraud, fraudulent misappropriation of travel allowances and condoning domestic violence against women. This website was conveniently forwarded to members of parliament, journalists and a number of other significant commentators. Some of the other claims on this website mirror almost exactly claims made against me by Attorney-General Atkinson and Minister for Correctional Services Tom Koutsantonis in the House of Assembly.

Secondly, a former member of the Rann cabinet recently met with a Liberal colleague of mine to indicate that, unless I backed off in my recent attacks on Rann ministers, they had a dirt file on all my activities over the years which they would release. This MP outlined that, amongst other things, it included a history of my alcohol problem—which I must admit would be a source of great amusement to my colleagues—and a list of all the pubs and clubs I have frequented over the years, together with a record of my psychiatric problems!

Finally, one night this week a journalist called me at home saying he had been given certain information about me, and he wanted to know whether it was true that my wife had left me. After quietly consulting my wife while we were eating dinner, I was able to say no to the question. Given these other recent events, it is quite clear where this information had come from.

I have a simple message to the Premier and his fellow travellers in the Labor Party. We will not be intimidated by this sort of dirty tricks campaign and will continue, as always, to hold him to account for the broken promises, waste, mismanagement and arrogance of his Labor government.

Time expired.

AUSTRALIA DONNA WEBSITE

The Hon. CARMEL ZOLLO (15:35): As a then newly elected MP 10 years ago, I had the opportunity to launch the Australia Donna website (a site for women of Italian origin) and to acknowledge some seed funding from the South Australian government. It was a great pleasure for me recently, on the 10th anniversary of the establishment of the website, to celebrate its success. The site has been inspired by Dr Daniela Costa, who was elected by the Italian community in Australia in 1998 to the Council General of Italians Abroad, with a commitment to raise within the council issues related to women of Italian origin in Australia.

I acknowledge the founding members of Australia Donna, as follows: Daniela Costa, Marinella Caruso, Caterina Andreacchio, Paola Niscioli, Serafina Maiorano and Cathy Di Giacomi. The aim of the website was to create a virtual network—an open space for women of Italian origin to share information, to recount their life experiences and aspirations, and their striving to shape their identities living between two cultures.

Over the 10 years, Australia Donna has gone from strength to strength, with more and more women posting their stories—stories to exchange information, experiences and, more importantly, knowledge. The site welcomes short stories and news on conferences and other events. The site is bilingual, which is of assistance to those of the first generation—elderly Italo-Australian women who have so much to tell of their experiences and heritage. The website can also be used to profile someone we know who may not be able to do so themselves.

The working group sought ideas and contributions from a wide range of women and their networks and established partnership with mainstream organisations such as Women's Health Statewide, the Cancer Council and Breast Screen SA. The website has been for many first generation Italian women a catalyst to explore through the internet new paths to connect with people and places thought to be forever left behind.

Over the past 10 years, women of different generations have been part of the Australia Donna team and have volunteered their time with commitment and enthusiasm in spite of the well-known difficulties of balancing a family and work. The 23 editions of the website are a testimony to this commitment. The editions feature original articles and a wide range of themes such as preventative health, mental health, ageing, experiences of women as carers, work and life balance, participation and representation, and history of migration.

The highlights are undoubtedly the 150 life stories and biographies of women who have contributed in many different ways to shape the Italo-Australian life. These are the women's original stories as they wish them to be read, with no editing. The Digital Stories project is the most recent project of Australia Donna and was launched on 14 September. It is a collection of stories by women living in the Norwood, Payneham and St Peters council area. The project was initiated by Teresa Crea in collaboration with Australia Donna and under the auspices of the council.

The Australia Donna website provides a rich narrative of the journey across tradition and innovation of women from four generations. It represents a powerful testimony to their cultural identities and of their collective consciousness to be part of a rich cultural and social tapestry. It is great to see women from all backgrounds post their stories and to see more and more young women join the website.

I take this opportunity to acknowledge and thank all those who have brought Australia Donna on the road to success. I thank the current group of committee members: Vincenza Ferraro, Giuliana Otmarich, Marylisa Beltrame, Renata Bertozzi, Rosina Russo, Nadia Niscioli, Flavia Coassin and Daniela Costa. In particular, I am indebted to Dr Daniela Costa for providing me with information on the activities of the website for this contribution, and for her commitment to so many good causes on behalf of the Italo-Australian community. The member for Norwood, Vini Ciccarello MP, also took part in the evening's celebrations, but regrettably the member for Hartley, Grace Portolesi MP, was unable to be present and sent her very best wishes.

ADELAIDE PLAINS SPORTING COMMUNITY

The Hon. J.S.L. DAWKINS (15:40): I rise today to highlight the sporting community of the Adelaide Plains, and particularly those who participate and administer the traditional winter codes. I would like to make a special reference to the centenary of the Adelaide Plains Football League, which was celebrated this season. That body first commenced in 1909 as the Adelaide Plains Football Association. While my involvement is significantly less than that, I did first play a game of football in that league in 1971 at Hoyleton Oval, which has long since gone from the football venues. However, I have continued an interest and an involvement with that league as a patron and trophy donor over a long period of time.

The Adelaide Plains Football League also has a very strong relationship with the Adelaide Plains Netball Association. Games are played at the same venues every week, and the clubs in those two organisations are Balaklava, Hamley Bridge, Hummocks Watchman Eagles, Mallala, United (which is based around Long Plains and surrounding communities), Two Wells and Virginia. These two organisations are significant examples of the strong role of sport in country communities and in the development of the leaders of those communities.

It was fitting that on 19 September the 2009 grand finals for both competitions were played at the Long Plains Recreation Ground. The significance of that ground is that probably in days gone by many ovals around Australia would have been situated out in the middle of nowhere on the junction of some unsealed roads, and Long Plains is just that—with a very small amount of bitumen in the little township, but all the roads leading to that oval are unsealed. It is a unique but very Australian venue.

More than 5,000 people attended that venue on the day, and there was an excellent atmosphere. Congratulations to Mallala for winning its second A Grade Premiership in three years and to the Two Wells A1 netballers for their third flag in succession. My congratulations to all other winning sides in both sports. A special booklet detailing the history of community sport on the Adelaide Plains—and winter sport, I should say—was distributed at the joint medal count function at Two Wells a week earlier.

I particularly want to congratulate all those people involved in both bodies, particularly Mr Brad Busch, the President, and Heather Curnow, the Secretary of the Adelaide Plains Football League, as well as Yolanda Cannizzaro, the President and Tanya Kent, the Secretary of the Adelaide Plains Netball Association. Certainly in regard to the football league they are backed up by the Vice-President, Mr Rocco Musolino, and the directors, Andy Seccafien, Des O'Halloran, Colin Jenner and Greg Tucker.

For the Adelaide Plains Netball Association, Josie McArdle, Jenni Hosking, Judi Frost, Kelly Buckby and Heather Curnow provide particular back-up to that organisation. The medal count this year to which I referred earlier was a great example of the professional way in which these organisations are run. As I say, it was a joint event. The two guest speakers on the night were Essendon coaching legend Kevin Sheedy and international netballer Jenny Borlase who, of course, has an Eyre Peninsula background and who spoke in great detail about her experiences coming from a country community to go on and represent her country.

Time expired.

CORRECTIONAL SERVICES DEPARTMENT

The Hon. R.L. BROKENSHIRE (15:45): I rise to place some facts on the *Hansard*. It is unusual for me to do this but I have been working with constituents and some others for some time and I have serious concerns about human resource management and how consideration of staff harassment and bullying and the general support of a good work ethos has deteriorated within the Department for Correctional Services. I trust that, from what I have to say now, the minister responsible will actually take a first-hand look at this and not merely rely upon briefing notes sent over from the CEO or executive members of the Department for Correctional Services.

I fear that, if this sort of alleged behaviour continues to grow in the DCS area—I am particularly talking about those officers who work in the most difficult areas, and that is the mainstream prison system—and is not addressed, we will see horrendous consequences for the safety and wellbeing of the officers and the good management of the prison system.

I raise these issues after having met and having detailed discussions and looking at correspondence from Mr Neil Franklin—who advised my office that he was happy to have his name put on the public record—and also Mr Alan Radford. These people are experienced, longstanding officers of the department. The evidence I have indicates that there is clearly specific harassment and bullying of a number of employees within the department. There are also issues around the temporary probation period, the appointment of officers and issues around permanent employment.

It appears to me that, without any doubt, there are some members of the staff of DCS who have support and an ear to the hierarchy of the department, but the department, and the hierarchy, in particular, is not listening to or looking after the best interests of the rank and file and tends to support a small but vocal group who have a very big say in what happens on a day-to-day basis in the work environment.

I was minister for correctional services for several years. It is a difficult area to manage, but we must first and foremost have executive management looking closely at the wellbeing, the equity and the fairness of human resource management right across the spectrum of the department. I believe this is not happening at the moment. It is a time bomb ticking away that could have a horrendous impact on looking after the most difficult area of law and order, mainly the area of incarceration in correctional services.

I also think that the minister, as a new minister, should have a close look at some of the appointments that have occurred at executive level. Allegations have been put to me that there is a nice cosy relationship coming forward—almost nepotism, I would suggest—where the executive is specifically building people around it who have come from other states. I do not have a problem with that, but if that comes at a cost to those people who have been working for the South Australian Department for Correctional Services for many years—when they do not even get a chance to put a foot in the door—I think the minister has to look at what is happening with some of those appointments.

I have to say that we did make some inroads into this when we looked at the Public Sector Reform Bill, because we were going to see a lot of these new employees in correctional services and some longstanding employees being shifted from places like Yatala to Mobilong with no consideration for their families and no offers of support whatsoever. It was a pretty appalling attitude if they did not take the direction of the executive.

I encourage the executive to look closely at this issue, too. I know that it will not be happy with the fact that I have raised this. I have quite a lot more that I can and will say in the parliament, if required, but I am putting the department, the minister and, most importantly, the executive, on notice: if they do not have a very close look at issues on which I have specific evidence—about harassment and bullying—we will have to raise this further within the parliamentary arena. They need to get on top of this right now. They need to look at fairness and equity. The staff member in charge of human resource management needs to understand that we have to be considerate to all of the people we work for, manage and support.

Human resource management is always important in any organisation but, particularly with the difficulties around correctional services, everybody must be given a fair go, and that is not happening at the moment.

Time expired.

FREE-RANGE EGGS

The Hon. I.K. HUNTER (15:50): I rise today to speak about free-range eggs, and I congratulate Woolworths on its recent announcement that it will decrease the number of cage-laid eggs it stocks while increasing the range of free-range eggs available on its shelves. I should note that Coles supermarkets have also undertaken this course of action.

Those of you who know me know that I am not a food radical, but I believe that we can and should treat all animals—even those whose fate it is to end up on our dinner tables—with dignity and respect. To me, caged eggs are an inhumane and cruel farming practice, and I believe that public pressure and consumer preference will see this practice become more and more unacceptable.

Three types of eggs are currently available to consumers: cage laid, barn laid, and free-range. Cage birds are housed continuously in cages in sheds, with 550 square centimetres the minimum allowed for each bird. That is about the size of an A4 sheet of paper per chicken for life. These chooks never see the outside world; they are born inside and they die inside. They do not know the feeling of sunlight on their feathers or the feeling of a dust bath. It is a pitiful existence. Barn birds have a slightly better life. They, too, are not allowed outside, but they are free to roam within the shed. The minimum space they are allowed is 14 birds per square metre.

At present there are no legislative requirements for the proper definition of free-range eggs, but industry bodies have created their own standards. The Egg Corporation's definition has the chooks housed in a shed with access to an outdoor range—although one can question how free that access actually is. There are 14 birds per square metre allowed indoors and 1,500 birds per hectare permitted outdoors; however, with this definition of free-range, and with both cage and barn birds, beak trimming is permitted, as is forced moulting, which is achieved by withholding food and water from the bird for up to 24 hours.

In contrast, the definition of free-range used by producers who are linked with the Free Range Egg and Poultry Association of Australia permits neither beak trimming nor forced moulting. Under these guidelines, birds are given unrestricted access to a free-range run during daylight hours and are cooped at night to keep them from predators. Only seven birds per square metre are permitted indoors, with a maximum of 750 birds per hectare allowed outside.

A life cooped up in a cage from birth to death is no life at all, and one in a barn is not a whole lot better. These birds face a miserable existence, used as living, breathing, feeling, egg-laying machines. I stopped buying cage-laid and barn-laid eggs many years ago, and I am pleased that consumer demand for free-range eggs is increasing, forcing producers to look to more humane ways to produce their eggs and leading to an increase in free-range eggs being available in our stores. However, I believe it is time we looked to some sort of proper regulations so that consumers can be confident that when they choose free-range eggs they are actually getting what they pay for, and so that we can ensure that all free-range chickens enjoy a happy and healthy life.

I also think it is time we looked at phasing out the practice of battery egg farming, although I will accept better labelling of free-range eggs as a starting measure. I am just as keen about consumer protection as I am about animal protection; consumers have the right to get what they are paying for. Without going into specifics—because I understand that they are in dispute—there are concerns that not all eggs labelled free-range are actually free-range. I understand that more free-range eggs are sold in the state than are actually produced.

As a side issue, many producers use ambiguous terminology on their packaging so that shoppers looking to make ethical choices are duped into buying caged eggs. This practice is reprehensible. Introducing regulated and transparent labelling in South Australia would greatly benefit this state's consumers, and there are slow steps being taken around the world. New Zealand does not have labelling practices legislated, but the big egg producers have voluntarily introduced a labelling scheme that allows consumers to know the practices involved in the production of the eggs, and the European Union has had mandatory labelling of eggs to distinguish the farming practices used since January 2004, with the terms 'free-range eggs' and 'barn eggs' defined in legislation.

Animals are voiceless, and it is important that we rise to speak on their behalf. Consumers are voting with their wallets, telling us that current egg farming practices in Australia need to become more humane. The egg industry has been put on notice to clean up its act, not by government but by the buying public, their consumers. We are sending a very clear message to egg producers about what we want, and it will be the smart egg producers responding to consumer demand who will reap the rewards.

Time expired.

SAFE CLIMATE BILL

The Hon. M. PARNELL (15:55): I take the opportunity today to tell the council about the Greens' Safe Climate Bill, launched by Senator Christine Milne this week. It is a suite of 12 bills and represents the most comprehensive legislative response to climate change yet seen in Australia. The need for us to introduce these bills is the complete failure of the legislative and policy process at the federal level. In fact, only yesterday Professor Ross Garnaut was slamming the quality of the debate over an emissions trading scheme. According to the AAP report of yesterday, Professor Ross Garnaut, author of the federal government's climate change review, said rancorous debate on an emissions trading scheme is one of Australia's worst cases of policy-making on a major issue. He is quoted as saying:

> I think this whole process of policy making over the ETS has been one of the worst examples of policy making we have seen on major issues in Australia.

I note, too, that this week on crikey.com on Monday the lead story of this internet journal is under the heading 'Greens—the most economically rational party on emissions trading'. Canberra correspondent Bernard Keane said:

> This morning the Greens launched a raft of amendments to improve the government's CPRS bill. They involve higher targets—25 to 40 per cent greenhouse gas emissions reduction by 2020; an industry compensation scheme based on that proposed in the Garnaut Review, which involves compensating trade-exposed industries for the difference between their competitiveness under the scheme versus business as usual; a mechanism for tallying voluntary action and reducing emissions targets accordingly, and a far more rigorous process for imported carbon credits.

The recognition of voluntary action is particularly important in the South Australian context because we know that under the federal government's current scheme there is nothing that we can do in South Australia that will make one jot of difference to greenhouse gas emissions under the current CPRS arrangement.

The Greens' Safe Climate Bill is the first legislative attempt to transform Australia as swiftly as possible into a flourishing carbon neutral powerhouse. Where the Rudd government's carbon pollution reduction scheme locks in failure on the climate crisis by sidelining the science and sandbagging old polluters at the expense of the sunrise industries, the Greens' Safe Climate Bill gives us a real chance of success by aiming for the goal that we know we need to achieve and then setting out how to get there.

Our goal is not simply to reduce carbon emissions: the true goal that we must aim for is to pass on to our children and our children's children the safe climate that has nurtured us and made human civilisation possible. For many this might seem out of reach, but as humans we are capable of amazing things when we set our minds to it. Setting a safe climate target would inspire the community and unleash a wave of creativity, of innovative job creation that is right now champing at the bit, as well as improving our quality of life and reconnecting our communities.

The Safe Climate Bill, unlike the CPRS, will deliver a massive transformation in the Australian economy—a transformation that will require the creation of hundreds of thousands of new jobs. Some industries will inevitably be replaced, as thousands of industries such as photo film and horse power have throughout history. Part of the job of government is to make that transition

as painless as possible and not pretend that it will not have to happen and work to delay the inevitable. Smart governments position their nations ahead of the curve.

The Safe Climate Bill puts equity at the heart of climate action, investing in upgrading homes of low income Australians for energy efficiency, rolling out transport alternatives in disadvantaged areas, retraining workers in polluting industries for the clean jobs of the future and funding climate adaptation and emission cuts in developing countries. The Safe Climate Bill is a collection of 12 linked bills based around the pillars of renewable energy, energy efficiency, clean transport and forest protection, and are supported by a real carbon pricing scheme.

The bill as a whole, and each of its constituent elements, are intended as exposure drafts for public comment and debate. Some of the bills have already been introduced into the Senate and others are in exposure draft form and still others in the consultation phases. I urge all members to log on to the Greens website, look at the Safe Climate Bill and, if so minded, steal all the ideas, pretend they are your own, but let us see them legislated in this country.

NATURAL RESOURCES COMMITTEE: ANNUAL REPORT

The Hon. R.P. WORTLEY (16:00): I move:

That the 32nd report of the committee, annual report 2008-09, be noted.

This is the 32nd report of the Natural Resources Committee for what has been another very busy year for the committee. Over the course of the reporting period, the committee undertook a number of interesting inquiries. I am pleased to present to the parliament the annual report of the Natural Resources Committee for the period July 2008 to June 2009.

Very briefly, I will outline some of the activities undertaken by the committee during this reporting period. The Natural Resources Committee has undertaken its statutory responsibilities, as defined in the Natural Resources Management Act 2004, considering five NRM plans and levies for 2008-09, plus a further four for the preceding 2007-08 year for various NRM boards around the state.

The committee undertook an inquiry into the Murray-Darling Basin, tabling the following two reports: Water Resource Management in the Murray-Darling Basin, Volume 1: The Fellowship of the River; and Water Resource Management in the Murray-Darling Basin—Critical Water Allocations in South Australia. Two further reports are anticipated to complete this inquiry.

Other reports tabled in the financial year included Upper South-East Dryland Salinity and Flood Management Act 2002 Report: To drain or not to drain, that is the question; and Deep Creek Revisited: A search for straight answers. In addition, the committee has undertaken a tour of the Adelaide and Mount Lofty Ranges Natural Resources Management region and was represented at the national conference of public works and environment committees in Sydney.

I thank all those who gave their time to assist the committee with this inquiry. I also commend the members of the committee, the Hon. John Rau MP (Presiding Member), the Hon. Graham Gunn MP, the Hon. Sandra Kanck (former member), the Hon. Stephanie Key MP, the Hon. Caroline Schaefer MLC, the Hon. Lea Stevens MP, and the Hon. David Winderlich MLC, for their contribution and support. All members have worked cooperatively throughout the year. Finally, I thank the staff of the committee for their very valuable and professional assistance.

Debate adjourned on motion of Hon. C.V. Schaefer.

NATURAL RESOURCES COMMITTEE: ARID LANDS NATURAL RESOURCES MANAGEMENT BOARD

The Hon. R.P. WORTLEY (16:03): I move:

That the 33rd report of the committee, on South Australian Arid Lands Natural Resources Management Board Levy Proposal 2009-10, be noted.

One of the Natural Resources Committee's statutory obligations is to consider and make recommendations on any levy proposed by a natural resources management board where the increase exceeds the annual CPI rise.

The South Australian Arid Lands Natural Resources Management Board 2009-10 levy proposal was staggering in its audacity. The proposed levy increase, discussed with members when board representatives presented to the Natural Resources Committee in April 2009, was the highest this committee has come across. The proposal was for a whopping 900 per cent increase

on the previous year's levy, with most of this to be worn by a single water user, Prominent Hill Mine operated by Oz Minerals, which would go from paying $100,000 to $1 million.

The committee understands that the board needs to raise funds to support very worthwhile projects, including the Great Artesian Basin Sustainability Initiative, which involves capping bores and piping and monitoring water use in the Great Artesian Basin. However, in the committee's opinion, such a large levy increase targeted to a single big water user is as indefensible as it is inequitable.

After meeting with the committee in April 2009 and receiving members' feedback, especially regarding the above CPI levy increase, the board modified its position, proposing instead a 550 per cent increase in its draft NRM plan submitted to the minister.

Members were pleased to note that, after consultation, the minister further reduced the proposed levy for a 200 per cent increase. Members heard that the proposed 200 per cent increase figure was an agreed position arrived at after meetings between DWLBC, PIRSA, SAAL, the Arid Lands NRM Board, SACOME and Oz Minerals on 26 June 2009.

The committee did not wish to amend an agreed position so it has determined not to object to this levy. However, if this 200 per cent had not been agreed to, there is a strong possibility that the committee would have recommended an amendment similar to those it had suggested to other boards seeking above CPI increases.

The South Australian Arid Lands Board has argued that it needs the money to fund its works, including a contribution to the Great Artesian Basin which, since the late 1800s, has suffered greatly as a result of over-exploitation, free-flowing bores and widespread wastage of water.

In South Australia, the effects of over-exploitation have included pressure and flow reductions in mound springs, many of which, prior to over-extraction of GAB water, supported unique biota and wildlife and remain of tremendous scientific and anthropological importance in this arid zone.

No-one, least of all this committee, would argue that the board does not need significant funds (as it claims) in order to undertake its important works. However, there is a serious inequity when one large water user is being charged the bulk of the levy while another large water user, and numerous other landholders, essentially go unlevied.

While Prominent Hill gold miners are large users of water, Roxby Downs will use even more without paying a cent under the terms of the Roxby Downs Indenture Act 1982. Those terms were negotiated back in 1982, but committee members have heard that there will be an opportunity to renegotiate them as part of a review of the indenture act to accommodate the proposed Roxby Downs expansion. The committee members think that it is important that this opportunity to create a more level playing field should be taken in order to ensure that the burden of these NRM levies is more evenly spread.

In addition, members heard that pastoralists, who have been among the greatest beneficiaries of water supplies from the Great Artesian Basin, are still exempt from paying for water under the stock and domestic use exclusion of the NRM Act. Pastoralists at present pay only a very small division 1 land-based levy according to the previous dingo control levy. This apparent inequity also needs to be considered and rectified by the NRM board in the coming years to improve fairness.

I wish to thank all those who gave their time to assist the committee with this statutory obligation. Mr Christopher Reed (Presiding Member) and Mr John Gavin (General Manager), both from the SA Arid Lands Natural Resources Management Board, appeared and gave evidence to the committee at Parliament House on 30 April 2009. The committee received and considered three written submissions relating to this levy proposal; two were from the South Australian Chamber of Mines and Energy (SACOME) and one was from Oz Minerals, the operator of the Prominent Hill mine.

I also commend the members of the committee—Mr John Rau MP (Chairman) and the Hons Graham Gunn MP; Steph Key MP; Caroline Schaefer MLC; Lea Stevens MP and David Winderlich MLC—for their contribution. All members of the committee worked cooperatively throughout. Finally, I would like to thank the committee staff for their patience and very professional assistance. I commend the report to the council.

Debate adjourned on motion of Hon. C.V. Schaefer.

PARLIAMENTARY REMUNERATION (BASIC SALARY DETERMINATIONS) AMENDMENT BILL

The Hon. M. PARNELL (16:09): Obtained leave and introduced a bill for an act to amend the Parliamentary Remuneration Act 1990. Read a first time.

The Hon. M. PARNELL (16:10): I move:

That this bill be now read a second time.

This is a subject that is close to the heart of all members of parliament, and no doubt there is always some trepidation when a member rises to amend the parliamentary remuneration legislation, but my amendment is very straightforward and simple, and I am confident that it will attract widespread support from the council.

For some time it has been very convenient for members of parliament not to have to vote ourselves pay rises. That is why South Australia and all the other jurisdictions have come to arrangements to take the decisions about member of parliament salaries away from the members themselves and to give them to some other body, most commonly a remuneration tribunal, and that is an approach that I support. The current situation in South Australia is that the base salary of members of parliament is $2,000 less than that of federal members of parliament. The regime that exists is that, when federal members of parliament get a pay rise, so do we. Other entitlements for state members of parliament are set by the South Australian remuneration tribunal.

I believe that this system is unfair, and it is unfair because we get a pay rise automatically, and we get that pay rise without asking for it. It is unfair because other workers have to fight tooth and nail to get pay justice. Our teachers, for example, have to rally and protest for over a year, and they still have not achieved justice in terms of pay. Health workers also have had to take industrial action to get decent pay, yet when members of parliament get a pay rise it is very convenient for us to simply throw our hands in the air and say it has nothing to do with us: it just turned up in our pay packet.

What this bill does is that, very simply, it provides an opportunity for members of parliament to collectively choose, if the circumstances require it, not to accept a pay rise. What the bill does is, first, to break the linkage between state and federal member of parliament salaries and, secondly, it puts our own South Australian remuneration tribunal in charge of setting MP salaries, but it also requires that, before a pay rise comes into effect, it has to be put into regulation by government.

That first step would give the government a chance to decide not to give us all a pay rise by not passing the regulation, but let us assume that the government accepted the remuneration tribunal's recommendation and proclaimed a regulation. What that means is that members of parliament would have the opportunity, if they chose, to disallow that regulation. They might not, and in most cases they probably would not, but it seems to me that, when our economy is in a difficult situation, when we find people exercising wage restraint in other areas of the economy and we see people losing their jobs and unemployment on the rise, it may well not be the best time for members of parliament to be getting a pay rise. So it gives us the opportunity, if we choose to take it, to disallow the regulations that enshrine the pay rise.

That is a very simple arrangement, which does not do any particular harm to the current arrangement, because it still involves the setting of MPs' salaries by an independent remuneration tribunal. All it does is give us the opportunity to say to our constituents that, if economic times are tough, we can choose not to accept that pay rise. I commend the bill to the council.

Debate adjourned on motion of Hon. D.W. Ridgway.

CORPORATE SPONSORSHIP

The Hon. M. PARNELL (16:15): I move:

That this council notes with concern the influence of corporate sponsorship on public education.

I have put this motion to the council today because I believe there is a disturbing trend emerging that has significant implications for the integrity of public education in South Australia. That trend is for the state education system to look to the corporate world to provide funding for education. The example I will talk about today is that of Raytheon Australia.

Raytheon Australia is a company that most people have never heard of, yet it is one of the biggest multinational global armaments manufacturers in the world. Its relationship with the South Australian education system is that this company is now partnering Aberfoyle Park High School in relation to its Ignite program, which is a program for gifted and talented students. The program was summed up very neatly in the local *Hills and Valley Messenger* at the end of last year as follows:

> Aberfoyle Park High School is partnering with one of Australia's biggest defence companies to help students prepare for careers in engineering and science.
>
> Raytheon Australia will give the school $450,000 over three years to buy state-of-the-art computers as part of a strategy to overcome a projected shortage of 25,000 engineers by 2011.
>
> Staff from the Canberra-based defence company, Australia's third largest, will visit the school to educate its 250 gifted program students about science and engineering careers.
>
> They will also mentor teachers on how to prepare students for the industry.

It goes on to say:

> By the end of 2011, all year eight to 10 students in the program will be given a laptop computer.

The company itself in its own publications describing this partnership arrangement with Aberfoyle Park High School basically agrees with that summary. It regards it as a charitable act and something that has no particular pay-off for the company, it would say, but is really about giving kids access to computers to ignite their passion for maths and science.

The company in its own material and on its own website might emphasise the altruistic nature of this arrangement: however, other reports show that the company is particularly aimed at recruiting the brightest and best of our maths and science students to work for it, and to work particularly in the defence industry. It has been described in industry publications as follows:

> The bestowment is part of the Raytheon Australia's commitment to cultivating a new generation of scientists and engineers to undertake complex defence projects, such as the Sea 4000 air warfare destroyers.

So, here is the company, in one of our schools, promoting careers in the manufacture of armaments to our brightest and best young students.

The school has embraced the partnership at one level, with hundreds of free computers to be given to its students—it might not be hundreds but might be dozens—and one could say, 'Why wouldn't it?' The Aberfoyle Park High School newsletter of June this year sets out that the school was successful in getting a Premier's industry award which enabled one of the assistant principals to spend 10 days working with Raytheon Australia at its premises; and the Premier's award also provided for some time out of the classroom for teachers to help prepare materials that relate to the partnership agreement with this company. Apparently, this work, this partnership, this placement of an assistant principal in the company, will be showcased at the Premier's Industry Awards presentation day in December.

At first blush, people might think there is nothing wrong with any of this. Here we have a company—a very large company, with a large presence in Australia and a large presence in South Australia—that creates jobs and wealth, so why should we do anything other than embrace it? Let us look at what this company is, who it is and what it does.

First, members need to know that Raytheon is the world's largest producer of guided missiles. When you run through a list of some of its products most of them are almost household names. Its missiles include the Maverick, the Sparrow, the Sidewinder, the Tomahawk, the Hawk, the Patriot and the Sea Sparrow. All of these weapons have featured in news reports over the past decade or two in relation to most of the world's conflicts.

Basically, this company makes missiles; the missiles are used in conflicts. The most recent conflict that members would be aware of would be the Israeli offensive in Gaza, and also the offensive in 2006 in Lebanon. In fact, it was that 2006 offensive in Lebanon that did encourage one local community effectively to rise up against Raytheon to express its displeasure at that company's operations. The community that I am talking about is the community of Derry in the northern part of Ireland.

A case was resolved only last year and it was referred to as the Raytheon 9. Acting on information that Raytheon missiles were actively assisting in Israel's invasion of Lebanon in 2006, and also that those missiles were being built in the Derry factory of Raytheon, nine activists forced their way into Raytheon's offices on 9 August 2006. They destroyed the computers, documents and

the mainframe of the office, and they proceeded to occupy the factory for eight hours prior to their arrest.

I say at this stage that I do not condone that type of action in any circumstances. The Greens' policy is very much based on one of non-violence, so I am not telling this story to say that these people need to be applauded: I am simply recording it as a matter of fact that that is what they did. Then, of course, they went to trial and they were charged with criminal damage and affray. According to the local newspaper in Derry, the *Derry Journal*, of 11 June 2008 the people who had readily admitted entering the Raytheon factory, demolishing their computers and causing a large amount of damage were all acquitted. The newspaper reports:

> There were jubilant scenes in a Belfast court today as six Derry anti-war protesters were unanimously acquitted of destroying property belonging to multinational arms company Raytheon. As the Crown Court jury of four men and seven women were led from court 14 at the Laganside complex, the six men and their supporters who had packed the public gallery clapped and cheered in appreciation of the not guilty verdicts.

The article goes on:

> Speaking outside the court, Colm Bryce declared that their actions had been 'completely vindicated' and that the verdicts were 'very welcome to ourselves and our families'. He said he wanted to dedicate the not guilty verdicts to the bereaved families in Qana in the Lebanon who had been bombed by Israeli forces using missiles made by Raytheon.

My recollection is that these were bunker buster bombs, one of which busted the cellar and killed many dozen Lebanese children and others. Mr Bryce said:

> We feel vindicated in taking the action that we did.

Mr Bryce further said:

> The jury have accepted we were reasonable in our belief that the Israeli defence forces were guilty of war crimes in Lebanon in the summer of 2006. The action we took was intended to have and did have the effect of hampering or delaying the commission of war crimes.

The article continues:

> He also called on politicians and the citizens of Derry 'to say in unequivocal terms that Raytheon is not welcome in our city'. 'We have not denied or apologised for what we did', he added. 'Personally speaking, and I believe I speak for all of us, it was the best thing I have ever done in my life', declared Mr McCann. Over the course of the last four weeks, the jury had heard that, following repeated bombings of Lebanese property in which numerous civilians died, the group of anti-war protesters forced their way into the Raytheon plant in Derry and caused significant damage to its server and computers. The six all claimed their reason for doing so was to protect the lives and property of people in the Lebanon from being attacked by Israeli forces who bought their weapons, weaponry systems and missiles from Raytheon.

It is very sobering when you have this information to realise that this is the company that has been welcomed with open arms into a South Australian high school, and a company whose money we are happy to take to provide for computers and other educational resources for our students. The irony as well, I guess, is that it is computers being provided but in the town of Derry computers were the target of those particular activities. As I say, I do not tell that story to vindicate their actions: I tell the story to indicate the strength of their feeling—very much similar to the so-called ploughshares movement, where people have taken on themselves to destroy military equipment and turn them back into ploughshares, which is, I guess, the reverse of what normally happens.

In terms of what approach we should take as a state to offers from companies such as this, my position is fairly clear. I do not think we should be taking sponsorship from companies such as Raytheon. Clearly, there is a line to be drawn and different people will draw it differently. I can remember as a chairperson in my local primary school council having a big debate about whether we could have the logo on soccer shirts of a company with which one of the soccer dads was connected. The company was prepared to buy the soccer shirts if we would have the logo on the shirt.

However, it was a state primary school and, in the end, the community decided that they did not want corporate logos on school kids' soccer tops. I think we should also bear in mind that this argument about corporate sponsorship in schools is not new. In fact, as long ago as 1993, the education union had a policy position on the appropriate level of engagement between corporations and our education, and I will just read a couple of sentences from the AEU's policy on corporate sponsorship. The first thing it says is:

> The AEU vehemently expresses opposition to the whole concept of corporate sponsorship of education systems, schools or curricular and opposes any attempts to increase the external funding component of education beyond traditional community fundraising.

It further states:

> Present moves [and this is present, back in 1993] towards sponsorship compromise the professional integrity of teachers and divert them away from classroom teaching and into marketing and promotional activities which advantage business and allow the government's dubious cost-cutting agenda. These come at the expense of equitable quality education.

As we have seen, there are teachers who have basically, as a result of sponsorship, been spending time inside the offices of the armaments manufacturer.

The final aspect that I want to quote from the AEU's corporate sponsorship policy is as follows:

> No sponsorship under any circumstances should be accepted from corporations involved in the ownership of armaments factories, sale or manufacture of armaments or environmentally damaging products.

It is clearly at odds with the government's intention for South Australia's future economic development to be driven by the defence industry. If we are going to have that industry in South Australia, I say we need to draw a very clear line between that sector's business activities and the role of our public education authorities to determine curriculum and the role of our state government to properly fund that education.

I think the Raytheon deal with the Aberfoyle Park High School is a bad deal. I am not saying that kids getting computers is bad, but I think it sends entirely the wrong message to not just the community but young people, that this particular company is somehow noble and benevolent and should be applauded for its generosity. I think the opposite is the case.

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

EVIDENCE (PROPENSITY EVIDENCE) AMENDMENT BILL

The Hon. D.G.E. HOOD (16:32): Obtained leave and introduced a bill for an act to amend the Evidence Act 1929. Read a first time.

The Hon. D.G.E. HOOD (16:32): I move:

That this bill be now read a second time.

Some time ago, I was approached by the family of a tragic murder victim, Shirree Turner. Members may remember the tragic tale of Shirree Turner. Her family asked me to introduce a bill in parliament regarding the use of propensity evidence in criminal trials. In fact, the father of Shirree Turner, Mr Ken Turner, is in the gallery today, and he has written a couple of books, one of which I have here. I would be happy to lend it to anyone who is interested. I commend those books to members.

Shirree Turner was tragically stabbed to death at an Oaklands Park reserve in 1993. A person by the name of Frank Mecuri was charged with the offence. At the time he was charged, Mecuri was actually serving a prison sentence in Victoria for the stabbing and attempted rape of another woman in very similar circumstances to Shirree's murder.

However, under the current South Australian propensity laws and, indeed, laws at that time as well, this evidence and the fact that he had been convicted on 48 prior occasions for other offences, including violent crimes with very similar facts, could not be used in his murder trial at all. Without the evidence of the prior offending, Frank Mecuri was acquitted of Shirree Turner's murder by a Supreme Court jury in 1998. After being acquitted, he went on to kill another woman, Rosemary Deagan, before committing suicide himself. It is a tremendously sad and frustrating case.

Mr Turner tells me that, about half way through the criminal trial, he became aware that the defendant had been in gaol for raping and stabbing another woman in Melbourne. Mr Turner was bewildered as to why they were never allowed to use this as evidence against Mecuri, and he was told that, if this information was leaked about the accused, it could actually result in a mistrial.

As a consequence, he and everybody else, including the witnesses, had to remain silent about Mr Mecuri's history, although they knew it well. How can a jury give a fair and honest verdict without having all the facts before it with respect to the accused?

Following the trial, I am told that a juror spoke to Mr Turner about the acquittal of Mecuri. The juror explained that he was living under extreme stress knowing that Mecuri went on to murder again. Mr Turner strongly believes that, if a bill along the lines of this similar fact evidence bill that I

am introducing today was available in Shirree's case, the jury would likely have returned a guilty verdict and that his next victim would still be alive today.

Indeed, it was reported by Nigel Hunt in an article in the *Sunday Mail* in December 2007 as follows:

The man acquitted of the stabbing murder of Adelaide woman Shirree Turner has killed himself after murdering his partner. Career criminal Frank Mecuri shot himself in the head after shooting dead former de facto Rosemary Deagan in Melbourne last Saturday...

Ms Deagan had taken out a restraining order against Mecuri, 36, but he had been stalking her and finally ambushed her in her home. The murder-suicide, almost a decade after Mecuri's Supreme Court murder trial in Adelaide, has left Shirree Turner's father Ken 'shell shocked'.

'It brought me back to the time I had a phone call from the police when Shirree died' he said. 'It was a very, very similar feeling and I can't explain it in words. I'm absolutely devastated he has taken another woman's life needlessly and violently'.

Following the trial in Shirree's murder, one witness sent the following letter to the Attorney-General:

I am writing to you to urge you to look at changing the laws regarding similar fact evidence or propensity law.

In particular I am writing about the Shirree Turner case. I was a witness in the case against Frank Mecuri and was not allowed to say what sort of person he was, or what sort of crimes he had already committed. I was actually told that if I said anything bad about Frank's character or about the kinds of crimes he had committed previously, I would be in contempt of court and possibly gaoled myself.

I understand that everyone needs to have a fair trial when they go to court accused of a crime, especially if it is a serious crime. However the kinds of crimes that Frank had committed and was actually in gaol for at the time of his trial, were almost identical to the circumstances of Shirree's death, yet the jury was not allowed to hear of it. Why? I would understand this if the only previous crimes he had committed were robbing banks, stealing cars etc., but a lot of his crimes involved brutalising, attempted rape and murder/attempted murder of young women, like Shirree Turner.

I realise that there was not a lot of forensic evidence in this case, but there was absolutely enough evidence for the Magistrate system to go forward and try the case. I also realise that a lot of the witnesses in the case were hostile...I was one of the witnesses and was probably not as helpful as I could have been, or wanted to be. (I could give you reasons for this but I'm not making excuses for myself—at the end of the day, I am alive and able to live my life while Shirree and others do not have that luxury). I am far from being a saint, both then and now, but I wanted to do the right thing then and I certainly want to do the right thing now.

I still don't understand why the facts about Frank could not be brought up in the court to try to get some sort of justice for Shirree's family. To start with the case was not going to be based on much in the way of forensic evidence, I would have assumed that Frank's…traits and attitudes to women would at least have been mentioned in passing [at some stage]. Why was Shirree's name dragged through the dirt, but Frank was made out to be the most wonderful man in the world? Why was Shirree's family subjected to all of this, having to listen to what a hero and boon to humanity that Frank was made out to be, while Shirree's every bad decision was held up to scrutiny? How is that justice?

I would say that by now you would know that Frank has killed yet another woman who has children, family and friends left to mourn her and ask why did this have to happen. This monster has a huge history of this sort of thing—why was he not in jail? It is obvious that Frank was not a nice man, was not a functioning member of society and had learnt nothing from his mistakes and from the many chances given, yet was free to happily skip through his life causing distress to all who were unfortunate enough to come into contact with him.

I was unfortunate enough to know Frank Mercuri personally as he was a part of the group of friends that I hung around with at the time. I can tell you personally about the hatred he radiated towards women, almost like a force-field and I can tell you personally that he was far from a nice person. It is not just me waging a hate campaign against Frank, as much as I detested him. Not one of the other girls in our group could tolerate him either.

The letter goes on to say:

We never discussed this until after the Shirree Turner case and it was amazing that all of us had exactly the same bad feelings about Frank, as though we could feel the evil that he put out, I'm sure you will think that that is just me being melodramatic, but you honestly had to know Frank from a female perspective to understand it. He palpably radiated hatred towards women. And I can only put it into inadequate words by saying that he seemed like he could break a baby's arm and smile while he did it.

Please, please, please rethink the way the law works in cases like this, where similar crimes have been committed by a person on trial for the same sort of crime. If the jury that tried Frank had maybe just one of these facts about him, Rosemary Deagan and perhaps others we don't know about could be alive today. Thank you for your time.

That is the end of the letter.

To the Attorney-General's credit, when Ken and Lesley Turner published a book about their experiences, entitled *The Power of Forgiveness*, which I have here, he attended, and spoke some kind and understanding words. He also acknowledged that the system needed improvement.

After the acquittal of Frank Mercuri, Justice Mullighan, the presiding judge, out of concern invited Mr Turner to his chambers to meet with him. I understand that it is probably unusual for judges to invite victim's families to their chambers after a trial, but I think this demonstrates something of Justice Mullighan's compassion and humanity, of which those who have met him would be acutely aware. One of the major concerns talked about by Mr Turner and the judge during that meeting was that some of the evidence was only circumstantial, and there was a difficulty in securing a conviction without similar prior offending to paint a picture and explain the defendant's actions on the night. It seemed that, although the defendant could criticise the victim's character, nothing could be said against his character.

I note that, save for some issues raised in section 18(d) of the Evidence Act, South Australia is primarily reliant on common law to exclude evidence of propensity. Other states—including New South Wales under section 101 of its Evidence Act, and Tasmania under section 101 of its Evidence Act—as well as the commonwealth (again, in section 101 of the commonwealth Evidence Act) do have legislative provisions. The New South Wales provision (Tasmania's is very similar) reads:

> Tendency evidence about a defendant, or coincidence evidence about a defendant, that is adduced by the prosecution cannot be used against the defendant unless the probative value of the evidence substantially outweighs any prejudicial effect it may have on the defendant.

While on the face of it the New South Wales wording would appear to allow propensity evidence in cases where the probative value is high, I understand that propensity evidence is nevertheless rarely allowed in New South Wales, given the High Court judgment of Pfennig v The Queen (1995), volume 182 of the Commonwealth Law Reports at page 461, and other cases.

I have legal advice that one problem in the current law is the large number of sometimes conflicting common law propositions on the issue. The case law with respect to the propensity issue is sometimes contradictory, and various cases are difficult for trial judges to reconcile. On one case rule 'a strong degree of probative force' is required before such evidence can be adduced; on another rule, the evidence must have 'a really material bearing on the issues to be decided.' In another case it was decided that the evidence needed to be of 'such probative force in the instanced case that it would be an affront to common sense not to admit it,' or be so probative that there is no 'rational view of the evidence test that is inconsistent with the guilt of the accused.'

Given the wide array of differently phrased and often contradictory approaches to the issue of propensity, one commentary, the *Laws of Australia*, remarks that 'it is not possible at present to formulate a clear High Court position.' Family First is of the opinion that confusion regarding the actual law regarding propensity is resulting in a tendency by trial judges today to deny even reasonable attempts to allow propensity evidence in this state so as to avoid points of appeal.

So, what does this bill do? The substantive wording found in clause 4 provides:

> Propensity evidence relevant to facts in issue in proceedings relating to a major indictable offence is admissible if the court considers that in all the circumstances it is just to admit it despite any prejudicial effect it may have on the person charged with the offence.

There is nothing exceptionally controversial in the wording, and it is restricted to major indictable matters.

Section 398A of the Victorian Crimes Act 1958 uses almost identical wording, which permits a wider range of propensity evidence to be admissible than is otherwise the case under South Australian common-law rules. So, just to be clear, Victoria has very similar law and very similar wording and in fact goes much further than what I am proposing today.

The common law precedent discussed in the case of Pfennig prevents the admission of evidence where there is a reasonable view of the propensity evidence consistent with innocence. The wording used in Victoria and in clause 4(2) of this bill makes that reasonable view irrelevant to admissibility; therefore, disclosure will be made in cases where Pfennig would have prevented it. Subsection (3) allows the reasonable view on innocence to be factored in at the weight stage—that is, the jury gets the evidence and then assesses its weight depending on acceptance of the innocent view or explanation.

Instances where prior criminal records are fully admissible will remain rare. Subsection (1) will give a judge a wide discretion to admit evidence where 'in all the circumstances it is just to admit it.' The test moves towards favouring disclosure of the propensity evidence and leaving its weight to the jury. This will differ on a case by case basis but, in a matter where there are many similar prior convictions for violence of a particular sort against the same demographic with similar facts, then admission of such convictions and the facts will be more probable than under current law.

These provisions are discussed in more detail in R v Best, a 1998 case of the Supreme Court of Appeal of Victoria. This bill has been introduced as a result of a tragedy that has affected the Turner family and anyone who has come into contact with them. I believe it is their intention to see some good come from that tragedy. The Turner family were strong advocates of the double jeopardy bill that the Attorney-General introduced last year, and I thank them for requesting and supporting the introduction of this particular legislative proposal. I also wish them the very best as they continue to live through the tragedy that has no doubt impacted their life so devastatingly. For the sake of the Turner family and other families that face similar devastating situations like them, I ask that members give this bill serious consideration.

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

PUBLIC INTEREST LITIGATION

The Hon. R.L. BROKENSHIRE (16:46): I move:

That this council—

1. Calls upon the government to behave as a model litigant in public interest litigation, in particular, on the question of costs; and

2. Calls upon all litigants to bear in mind the public interest when a question of costs arises.

Public interest litigation is a developing trend in the western world and, although there are some decisions on the subject in the courts, there is not enough for community and other groups who might wish to run a public interest case. As the motion states, one area where we could do with some clarity from the legislature is on the question of costs.

The Supreme Court of South Australia has a wide jurisdiction to review any matter, including decisions by the government. The court can decline to review such decisions, but its doors are open at the consideration of a filing fee, I might add, to individuals and groups who wish to review those decisions. Family First does not support frivolous or vexatious public litigation cases. The government is elected to govern and it is not in the public interest for taxpayers' money to be bogged down in frivolous or vexatious cases that claim to be in the public interest. However, Family First does believe there are cases where a question is clearly in the public interest and in those cases you might have lawyers helping individuals or community groups pro bono—something lawyers do not talk about enough because they believe in the justice of the case at hand. In those circumstances, Family First is open minded on what sort of reform is necessary—perhaps the courts ought to be able to certify that on the question of costs it was a public interest case.

I am familiar with several cases pending or currently before South Australian courts that are clearly public interest cases. I do not want to jeopardise issues around them, so I will not go into all the specifics, but in the past some leading authorities on the issue include the landmark February 1998 High Court decision in the Oshlack v Richmond River Council case, which went some way towards resolving the question of how to deal with costs in public interest cases but left some uncertainty on the issue. The other was in May 1998 where High Court decisions given jointly on two cases were the South Australian West Forest Defence Foundation Incorporated and the Bridgetown Greenbushes Friends of the Forest Incorporated.

I will leave it to an appropriate time for colleagues of ours who have legal backgrounds, like the Hons Robert Lawson and Mark Parnell, to list other authorities if they feel so inclined, as I suspect the issue is of interest to them also. The court decisions on the subject can be swept aside by a government interested in setting the rules for public interest litigation, whether by an act or working with the courts to amend the Supreme Court rules to create clarity on the issue.

I know that some issues are sub judice, but it is relevant to refer to the case of the Cheltenham Park Residents Association (CPRA) against the government of South Australia, a case which the SAJC chose to join because the beneficial lucrative rezoning issues of Cheltenham were at stake. The court has made its decision now and the CPRA is on the public record saying it

will not appeal. So costs is the only live issue. The rule of sub judice serves to protect the deliberations of a court, which this debate has nothing to do with but, rather, concerns the conduct of litigants in public interest cases such as the Cheltenham case.

You, Mr President, can give leave for deliberation of this case. I have references to Erskine May which show that leave can be given to discuss a particular case when it relates to ministerial decisions. That matter has been resolved and lost by the CPRA, and now the only live issue is the question of costs. In the Cheltenham case the residents have, unfortunately, lost and I believe will not appeal. Their case was a brave and important one and through the court they have not only acted in the public interest in fighting for an important issue but have brought to the fore a question of the court's discretion when it comes to ministerial decisions, and helped to contribute to the legal precedent on the issue. Others might choose to fight that precedent or try to distinguish it but, ignoring the future for the moment, it is my firm view that neither party—the government or the SAJC—should seek an order for costs against the CPRA.

I know there are arguments in concluding that there is protection when you are incorporated, but there also have been cases where there have been legal battles with respect to these matters, even though there has been incorporation. I am dealing with a constituent, an individual, at the moment who has been severely jeopardised, as have a number of other constituents who have purchased housing from government. This person is certainly raising their case as a litigant for their own circumstances, but it is still a public interest case and, whatever the outcome in the court, I encourage the government of the day to ensure that it looks at the facts in light of a public interest case and not a vexatious or frivolous case.

In closing, this motion calls on the council to support the concept of fair play. My colleagues will want to think about this for a while, but I encourage them to contribute if they feel so inclined. As I have said, it is clear that we are not talking here about frivolous or vexatious cases. If people want to set their mind at ease about that issue, we could amend the motion but, ultimately, I believe it is a motion about fair play and the public interest, both of which I support and I trust the council will give consideration to supporting. I commend the motion to the council.

Debate adjourned on motion of Hon. M. Parnell.

SUBORDINATE LEGISLATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.D. LAWSON (16:54): Obtained leave and introduced a bill for an act to amend the Subordinate Legislation Act 1978. Read a first time.

The Hon. R.D. LAWSON (16:54): I move:

That this bill be now read a second time.

As members would be aware, the Subordinate Legislation Act provides that all regulations must be gazetted and then tabled in both houses of parliament within six sitting days after having been made. After those regulations are tabled, either house can, by simple resolution, disallow any regulation within 14 days after its tabling. These provisions have been around for a long time, and the Legislative Review Committee is charged with the responsibility for examining all regulations that come forward.

Prior to the Legislative Review Committee, the Joint Committee on Subordinate Legislation was established in this parliament and fulfilled its functions with distinction. However, there are a number of weaknesses in the current system for scrutiny of regulations. Before I address those weaknesses, I should mention that it is extremely important that parliament does have the capacity to scrutinise regulations and, where appropriate, to disallow them.

Many pieces of legislation allow the making of regulations by executive government and many regulations contain provisions that affect the life and liberty of citizens, regulate conduct, create offences and form an important part of the fabric of our laws. It is just as important that parliament scrutinise those regulations as is its power to debate, scrutinise, amend and maybe even refuse to pass legislation proposed either by the executive government or by any member.

The four weaknesses in the current system are as follows. First, if either house of parliament does disallow a regulation, the executive can make the same regulation, or a regulation in substantially the same terms, on the day following disallowance. There have been occasions in the past where this has occurred—and occurred not once but several times—and that is clearly a weakness in the current system. The process of making a regulation, then having it disallowed, then making another regulation, and then once again either house disallowing it creates great

uncertainty in the community. It is easy for us in this place to make laws and to change them, but we must always bear in mind that there are people out in the community who are obliged to comply with these laws and, if there is uncertainty about the existence of a provision, it does create cost and unnecessary uncertainty.

The second weakness of the current regime is that either house has power only to disallow the whole of a regulation. Of course, that means that the regulation, which might contain many provisions, might have only one small provision or part of a provision which is offensive, yet parliament does not have the capacity under the current legislation to disallow only the offensive part. Of course, a canny executive, knowing of the incapacity of parliament to disallow only the whole, can not only put into regulations provisions which will be popular and widely applauded and supported throughout the community but also add a little poison pill, knowing that it is not possible for parliament to extract the poison pill without repealing all those provisions which are electorally popular. So, the second weakness is that parliament does not have the capacity to disallow part of a regulation.

Yet another weakness is that either house of the parliament does not have power to amend regulations. Very often, it will be appropriate perhaps for a minor amendment to be made which would cure defects identified during the parliamentary process, and I believe it would be appropriate to grant to parliament that power.

Finally, we have a provision (section 10AA) in the Subordinate Legislation Act. It provides that regulations will commence four months after they are made but that early commencement can be allowed where the minister certifies that the early commencement is 'necessary and appropriate'. The premise for introducing that provision (which came, I think, in 1992, as a result of amendments proposed by Martyn Evans, the then Independent Labor member) was to overcome the difficulty that occurs when a regulation is made. It is tabled in parliament after a certain number of sitting days, and further time can expire whilst parliament has the capacity to disallow. This whole process might take three months. Mr Martyn Evans was of the view that, in order to remove the uncertainty that exists about whether or not a regulation will actually come into force or might be disallowed, it should not start until four months. So, accordingly, he moved this provision, section 10AA.

What has happened over the years is that almost every regulation that is made is certified by the relevant minister such that early commencement is necessary and appropriate. This has been happening under ministers of all persuasions. The Legislative Review Committee, in its annual reports, regularly complains of the fact that section 10AA is used almost invariably and that it really provides no protection at all.

Of course, the difficulty is that, once a regulation comes into force immediately, forms are changed, people make payments pursuant to a new regulation, they alter their business systems pursuant to the new regulation and then, a couple of months later, parliament is faced with the prospect of allowing or disallowing the regulation. The tendency is always to allow the regulation because to disallow it would create uncertainty and confusion in businesses.

So, section 10AA has not achieved the purpose which Mr Evans intended. These certificates, under section 10AA, are being misused. There are really two options about section 10AA: one is to repeal it altogether as an experiment which has failed; the second option is to amend the section to make it more effective. What is proposed in the bill that I am introducing today is that a minister is required not merely to certify that it is necessary and appropriate (which is a pretty low threshold) but to actually certify that there are exceptional circumstances which require early commencement. The exceptional circumstances must be stated in the report to the Legislative Review Committee. That will replace the current test of 'necessary and appropriate' which is all too easy to circumvent.

I return now to the solutions to the three defects that I first identified. The first is the present capacity of the executive to reintroduce regulations immediately after they are disallowed. In the commonwealth, Tasmanian and New South Wales parliaments there is legislation which provides that the government may not reintroduce a regulation to the same or substantially the same effect for a period of six months, except where the disallowing house resolves to approve reintroduction.

For the record, I refer to the Legislative Instruments Act 2003 of the commonwealth parliament, section 48; the Tasmanian Acts Interpretation Act, section 47(7); and the New South Wales Subordinate Legislation Act, section 8. Those solutions are sensible. They work in those states and they have not caused the subordinate legislation systems, either in the commonwealth

or in the particular states, to not operate satisfactorily. Accordingly, I am proposing a similar provision in South Australia.

The second problem of parliament not having the power to disallow part of a regulation is to give parliament exactly that power. That exists in the commonwealth arena in section 42 of the Legislative Instruments Act 2003, and also in section 42 of the Interpretation Act in Western Australia. I have given the chamber a wrong reference to the Interpretation Act of Western Australia—I will be coming to that in a moment. I should have said section 47(4) of the Tasmanian Acts Interpretation Act. In those states, parliament has the power to disallow part of the regulation, and that is what we should adopt here.

Thirdly, the problem is that neither house presently has the power to amend regulations. In Western Australia, under section 42 of the interpretation act of that state, parliament does have power to amend regulations which are disallowed wholly or in part and, accordingly, I am suggesting that that provision be adopted here. As I mentioned earlier, the final matter of section 10AA can be improved by changing the threshold test to exceptional circumstances. We have not altered our subordinate legislation system for many years. It is appropriate that we look elsewhere to see how systems work in a better way, and I believe that this bill will result in a better system. I look forward to members' contributions and to their support for this measure.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

The Hon. CARMEL ZOLLO (17:09): I move:

That the report of the committee, 2008-09, be noted.

The Hon. CARMEL ZOLLO: I indicate that my contribution will be short, as this report serves as a means of summarising the activities of the committee for the previous year. The Statutory Authorities Review Committee annual report for 2008-09 is the 14th annual report of the committee and my first as Presiding Member. As I have mentioned, it provides a summary of the committee's activities for the previous year.

Throughout the year the committee has met on 20 occasions and currently has four ongoing inquiries. During the year the committee tabled its final report and recommendations on the Independent Gambling Authority in April 2009, as well as receiving and hearing a great deal of evidence in relation to its ongoing inquiries. It also received a new referral from the Legislative Council for an inquiry into the Teachers Registration Board, and the committee has received a number of submissions.

The oral evidence received related to its inquiries into the Land Management Corporation, the WorkCover Corporation and the Office of the Public Trustee. The committee is due to table a report from the inquiry into the Land Management Corporation in the next sitting week. Whilst clearly not in the 2008-09 financial year, the committee anticipates the completion of the inquiries into the Office of the Public Trustee and the WorkCover Corporation, with reports to be tabled before the end of the calendar year.

In April this year the New Zealand parliament hosted the 10th Biennial Conference of the Australasian Council of Public Accounts Committees. The theme of this year's conference was 'Sharing lessons—seeking improved accountability—facing new challenges'. After a number of years as an associate member, the committee became a full member of ACPAC after its nomination in 2008. This year's conference was attended by me as the Presiding Member, the Hon. Terry Stephens and the committee secretary.

I am very pleased to have been appointed to the committee in April this year. I particularly acknowledge the former presiding member, the Hon. Bernard Finnigan, and I also thank other honourable members for their ongoing work as members of the committee, namely, the Hon. Ian Hunter, the Hon. Rob Lucas, the Hon. Terry Stephens and the Hon. Ann Bressington, and I look forward to working with them in the future.

At the end of 2008 the committee appointed Ms Lisa Baxter to take up the position of research officer, and Mr Gareth Hickery continues as our secretary. I thank the staff, including, of course, our administrative assistant, Ms Cynthia Gray, for their service throughout the year.

Debate adjourned on motion of Hon. T.J. Stephens.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. J.M. Gazzola:

That the report of the committee, 2008-09, be noted.

(Continued from 9 September 2009. Page 3102.)

The Hon. T.J. STEPHENS (17:13): I rise to commend the report to the council. I thank all members who participate in the Aboriginal Lands Parliamentary Standing Committee. We travel far and wide to take evidence and visit communities and have received many witnesses to come and tell us their stories, for which I am very appreciative. I am very fortunate since I have been a member of this committee with the quality of the secretaries to the committee we have had, and I take the opportunity to thank Ms Sarah Alpers for her passion and dedication to this committee. She was wonderful at driving the agenda and received support from all members from all parties. Since the time of this report, we have been fortunate enough to have Mr Terry Sparrow come on board, and he shares a similar passion and is extremely diligent in carrying out his duties, so as a committee we are very fortunate. With those few words I commend the report to the council.

The Hon. J.M. GAZZOLA (17:14): I thank the Hon. Mr Stephens for his contribution and again thank the staff of the committee past and present and commend the report to the council.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION

Adjourned debate on motion of Hon. R.D. Lawson:

That the regulations under the Workers Rehabilitation and Compensation Act 1986 concerning Claims and Registration—Discontinuance Fee, made on 26 March 2009 and laid on the table of this council on 7 April 2009, be disallowed.

(Continued from 17 June 2009. Page 2666.)

The Hon. R.D. LAWSON (17:15): On 17 June this year I sought leave to conclude my remarks on this motion which seeks the disallowance of regulations made under the Workers Rehabilitation and Compensation Act. The particular regulations concern the discontinuance fee that is to be payable by employers who leave the WorkCover system and seek to be registered as self-insurers under the act.

On that occasion I outlined to the council the hardship that these altogether extortionate discontinuance fees will cause to South Australian businesses and also to the fact that the regulation reflects a hostility on the part of the WorkCover Corporation and, I suggest, the government to those employers who seek self-insurer status. This hostility is altogether inexplicable because the performance of the self-insured employers in terms of return to work and length of disability is markedly better than that of the WorkCover Corporation itself. However, WorkCover has this hostility that is reflected in a measure designed to keep employers who would be very good self-insurers from gaining that status.

The hostility of the WorkCover Corporation to self-insurers can be illustrated by a couple of other points that have been drawn to my attention, although not strictly related to the question of the discontinuance fees. For example, the self-insurer annual levies payable to WorkCover have increased by 28 per cent, and a large part of that increase is based solely on an unreasonable demand that self-insurers pay 19 per cent of the costs of a project being conducted by WorkCover to replace its IT system, a project called Project Harry. Self-insurers do not use that system and will otherwise derive absolutely no benefit from the system, yet the increase in annual fees is requiring them to pay for it. As the Self Insurers of South Australia claim, this is nothing short of highway robbery.

Another example of the hostility of WorkCover to the self-insurers is the massive hike in the prescribed cost of applying for self-insurance. WorkCover is proposing to increase the components of the application fee structure by 100 per cent and, in the case of one of the components, 300 per cent. The effect is to roughly double the application fee. WorkCover has been asked by the Self Insurers of South Australia to justify the figure but it has failed to do so.

I also place on record some recent figures which show that the hostility of WorkCover to the self-insurers is misplaced. It has come to my attention that the latest figures show that the proportion of the total South Australian workers compensation liabilities carried by self-insurers has dropped to its lowest ever level, and the self-insurers now account for 19.6 per cent of total

liabilities, and the insured scheme carries 80.4 per cent of the insured liabilities. Given the fact that the self-insurers cover 36 per cent of the scheme by remuneration, that is clear evidence that self-insurers are performing better in terms both of injury prevention and return to work.

The fee contained in the regulations is highly complex, and I will not seek to take members through it, but members will have been provided with information that indicates its effect, and I seek contributions from members and their support for the passage of this disallowance motion, which would have the effect of restoring the status quo ante—namely, the old discontinuance fees, even though they themselves were high, will be restored. I seek the support of members for this disallowance motion.

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

COMMONWEALTH NATION BUILDING PROGRAM

Adjourned debate on motion of Hon. M. Parnell:

That the regulations under the Development Act 1993 concerning Commonwealth Nation Building Program, made on 26 February 2009 and laid on the table of this council on 3 March 2009, be disallowed.

(Continued from 13 May 2009. Page 2305.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:22): I rise on behalf of the opposition to speak to this motion. The Hon. Mr Parnell moved this disallowance motion some months ago, I think in response to some concerns of the community, although I think the concerns that have been raised have been found to be not as significant as perhaps the Hon. Mr Parnell first indicated.

COAG met on 5 February 2009, and the outcome of that meeting was the national partnership and agreement on the Nation Building and Jobs Plan. The role of the states under that plan is to ensure that design, application and assessment processes (for these projects) are fast-tracked with minimal red tape. Subsequently, the development approval process, previously requiring the input of several government and/or local government agencies, will be removed for projects funded by the Nation Building and Jobs Plan and will be managed through a recently established Office of Coordinator-General.

Some concerns were raised at that time because of the uncertainty with which this program was being rolled out. In order to maximise the benefits of this fund, the state government will have to meet strict deadlines, which would be unachievable under the usual planning system. It is interesting to note that we have undertaken significant planning reform under this government. The minister is often beating his chest about the reforms he has led, yet clearly the system still does not allow for a fast approval process.

Admittedly, some of these projects are quite large, but I have had evidence that, with respect to the Residential Code (which is for residential buildings), we have not seen the promised improvements by the government in processing times and times for decisions to be made by local planning authorities. I think that is something that we need to look at in the future. If we are streamlining development codes we need to make sure that not only are the obvious checks and balances in place but also that we get the outcomes that we were all hoping to get from it.

I was a little distracted, but I will get back to the regulations. Only the projects approved by South Australia's Coordinator-General, Rod Hook, for funding through the Nation Building and Jobs Plan are to be exempt from the planning rules consent. This arrangement is due to expire in December 2012. These regulations are consistent with those put in place in other jurisdictions and allow for a quick flow of federal resources for the good outcomes of South Australia. I think that, after the global financial crisis hit, around the world there was a view that a stimulus package of about 4 per cent of GDP was seen as a way forward.

Certainly at the time the opposition supported this particular building program. We saw it as an opportunity to get some investment into some of our schools, which sadly has been lacking, especially under this government over the past 7½ years. It is interesting to note that the Local Government Association agreed to a checklist, which I will read. This checklist is called the 'Nation Building Economic Stimulus Plan. Checklist Criteria for Building the Education Revolution Applications'. The document states:

Applications to South Australia's Coordinator-General for development proposals are required to complete this checklist so that the Coordinator-General is aware of any planning impacts arising from proposals.

Should an applicant meet all the checklist requirements, no further assessment is necessary by the Office of Coordinator-General. Failure to meet the checklist requirements means that applications will require further assessment and may be delayed.

Applicants are required to indicate compliance with the checklist by ticking the box adjacent to each criteria. If an applicant cannot meet the criteria requirement, supporting commentary will be required to explain why the criteria are not met.

There is then a range of checklists. 'Setback', for example, states:

- 6 metre setback from road or reserve frontage—unless:
  - There are existing school buildings forward of that setback, in which case the setback of the existing building should be applied.
  - The proposed building is six metres or more from the land reserved for widening on a road subject to the Metropolitan Adelaide Road Widening Plan, or DTEI has issued consent for building works under the Metropolitan Road Widening Act.
- Setback from boundaries (other than roads or reserves) as follows:
  - one metre for single-storey buildings (to a maximum wall height of four metres).
  - four metres for two-storey buildings (to a maximum wall height of eight metres).
  - six metres for buildings greater than two storeys (or above eight metres of wall height).
- Shade structures—no setback for road and reserve frontage, two metres for boundaries other than roads or reserves.

2. State Heritage

- The proposal [obviously a building] does not directly affect a State Heritage place or does not materially affect the context within which the State Heritage place is situated.

3. Local Heritage

- The proposal does not physically alter a local heritage place, or if alterations are proposed, the applicant certifies that specialist heritage advice has been sought and incorporated in the design of the building.
- The proposal is not located a minimum of five metres from a listed local heritage place, or if within five metres of a local heritage place, the applicant certifies that specialist heritage advice has been sought and considered in the design of the building.

4. Carparking

- The buildings do not result in a reduction in the amount of existing formalised carparking.
- The applicant has certified that demand for additional carparking has been considered and the amount of available parking is considered acceptable.

5. Access Points

- The proposal [for a new building] does not create a new access point to an existing road, or change the nature of movement through an existing access point, or:
- If the new access point is proposed, or the role of an existing access point is significantly changed:
  - the applicant has submitted a certification from an accredited road safety auditor that the access arrangements are acceptable from a traffic management and safety perspective, and
  - if access is proposed to a controlled-access road under the Highways Act 1926, DTEI has certified that the access point is acceptable.
  - The new access point is suitable in relation to street trees, street furniture and stormwater drainage installations.

6. Noise impacts

- Any building proposed to be used for sports, entertainment or music teaching will not be used after 9pm, or if used after 9pm the applicant has certified that acoustic advice has been sought and incorporated into the building design to achieve EPA noise policy requirements under the Environment Protection Act 1993.

7. Significant Trees

- New buildings do not require removal of a significant tree, or tree damaging activity and are not located beneath the canopy of an existing tree.

8. Electricity Infrastructure

- The applicant has certified that the building would not be contrary to the regulations prescribed for the purposes of section 86 under the Electricity Act 1996.

Members can see that the Local Government Association agreed to a significant checklist, and members can see that the comprehensive nature of that checklist provides, if you like, the checks and balances for the vast majority of the building education revolution buildings. As I said earlier, the opposition supported that program, and we relaxed when we saw that the LGA had accepted that particular checklist.

The focus of this program has been on education type developments. For government schools, which constitute the bulk of the projects being dealt with, developments under $4 million are already sent to the Development Assessment Commission.

In the July Environment, Resources and Development Committee meeting, the Hon. Mark Parnell implied that he believed that these regulations were the beginning of a move to eradicate many of our current development laws and that the planning system will basically end up as a free for all.

At that same meeting, the Coordinator-General, Mr Rod Hook, gave what I see as being some very compelling evidence that these regulations were not being abused. In essence, there is probably the potential for council and public consultation to be completely ignored under this arrangement, but Mr Hook provided several examples of how the government is actively working with councils and residents. There is always the case that laws allowing a significant amount of discretion can be abused. However, he said:

> I think in this case these regulations are being used with good intentions and have been very beneficial.

He recounted a couple of examples, such as a Colonel Light Gardens school wanting to remove a significant tree. The Coordinator-General encouraged the council to work with the school because of the heritage status of the area. Also, there were a few concerns at a Christian school in Verdun, so Mr Hook visited the school and the council and suggested a more appropriate position for the hall, which was to be positioned in a spot previously opposed by the council under the regular process. So, rather than giving exemptions, the school actually worked with the local council.

Another example which I know has been much debated in the community—even Matt and Dave on 891 have turned some attention to it—is Walford School, where it turned out that a neighbour's concerns could have been resolved quite easily with better communication between him and the school. It appears that the matter has finally been resolved, and the department facilitated the resolution. Clearly, that was one instance where I do not believe the school, the council and the community actually sat down and worked through the issues as well as they could have.

The National Building Program is aimed at creating jobs as soon as possible and reducing what could potentially be two to three month approval times down to a few days. I think that has been important. I am not sure whether the minister will respond to this disallowance motion. If he does not respond, I might put this as a question on notice. I will put the question and he may ponder whether he answers it at some stage.

I would be interested to know the number of projects that were to be initiated, in addition to particular deadlines that were put in place for projects to be started and then completed. I would be interested to know exactly how that time line is running because, certainly, there were some concerns in South Australia about whether we had the capacity in the construction industry to actually deliver all these projects in the time line laid out by the federal government. We are all a little cynical, as it appeared to be a time line that coincided with the timing of the federal election that may happen later in 2010.

A lot of polling booths are situated in schools, and it would be quite convenient to have a brand new hall with a plaque bearing the name of the education minister, the Deputy Prime Minister or the Prime Minister. I think there is a banner saying, This building is provided under the federal government's Building Education Revolution.

I would be interested to know just how many such projects there are in South Australia and how the time line is going in terms of whether the buildings have been started in the time frame about which the Premier, the Deputy Prime Minister and minister Conlon made some statements. There appears to be about $1 billion worth of activity being undertaken over a very tight time frame. I think it was a state initiative to implement this system. The opposition has a view that this is the sort of commonsense approach needed to try to facilitate this spending program. It is not often that

a federal government makes a decision to unlock such large amounts of money. The opposition certainly saw that it was an opportunity to create some stimulus and also get some lasting benefits for some schools in our communities.

There have been some issues involving little schools about to close or schools with a low number of students expecting to have large and expensive buildings constructed, which seems a little unnecessary. I am aware of a school in the South-East with a large classroom that had a divider put in. I think a local builder did it for about $30,000. They had another classroom with which they wanted to do the same thing and, under the Building Education Revolution, the quote was about $130,000. So, clearly, there are some issues with the value for the dollar being spent.

I think on the West Coast—I cannot recall the name of the town—the community wanted to build a school hall. The community was told that it could do it for something like a couple of hundred thousand dollars, but they were told they could not build it that way; they had to build it under the Building Education Revolution program, and I think the cost was something like $1.2 million or $1.3 million. That was the design they had to accept, whether they liked it or not.

So, while the opposition has supported the broad principle of the initiative, sadly, in all these cases, when you have a one-size-fits-all approach, there will be times when the federal taxpayers' money probably has not been spent as wisely as it could have been. I think that, several generations to come, people will be dealing with paying off the debt incurred with other aspects of the stimulus program, which will increase the federal debt significantly. Nevertheless, the opposition indicates that it does not support the Hon. Mark Parnell's move for the disallowance of these regulations.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:36): The Leader of the Opposition asked some questions about the program. I do not have that information with me, because it is not strictly within my portfolio. Obviously, the Coordinator-General, Mr Hook, from the Department for Transport, Energy and Infrastructure may have that. I will see whether I can get that information for the honourable member.

If one looks at one part of this program, obviously the largest capital injection is for school buildings. Of course, as the Leader of the Opposition pointed out, most of those public school buildings would have been on government land and would have been handled under section 49 of the Development Act and, therefore, through the Development Assessment Commission. Obviously, a lot of the money was going to private schools, and I suppose that is where this particular measure would have had the most impact, because those private school programs would more likely have been held up through local government consideration rather than the public school system.

The other part of the stimulus package related to housing. If one looks at housing on Aboriginal lands, I do not think a single public building has yet been built on government land in the Northern Territory; that is not the case in South Australia. Admittedly there are much more complex questions relating to ownership that apply in the case of Aboriginal lands, but I believe we were able to ensure the more timely spending of the stimulus package in this state. That is why I am pleased that the opposition will support the thrust of it; as the Leader of the Opposition said, as with any one-size-fits-all package there have been some problems, but I believe that the Coordinator-General, Rod Hook, and his team have treated this very sensitively.

Of course, this is subject to a sunset clause anyway and, from memory, the stimulus package program will be complete in 2012. However, I believe the evidence is that this program has been properly and sensitively handled by the office of the Coordinator-General. As the Leader of the Opposition said, if there are any problems they are more to do with the commonwealth guidelines being one-size-fits-all than they are problems in relation to the decision-making process here within the state.

In fairness to the commonwealth government, I guess if you are to get a lot of money out quickly for capital works then you will have to have a program that has one or two anomalies arising in it, but I think that, overall, the economic evidence shows that the stimulus package has been very good for the economy of this country, and for this state in particular. That is why this motion should be negatived so that the remainder of the program can be rolled out. In relation to the number of buildings that have been started, I will try to get that information for the leader.

The Hon. M. PARNELL (17:40): I thank the minister and the Hon. David Ridgway for their contributions. In relation to the contribution made by the opposition spokesperson on planning, I am

disappointed that he has not seen fit to support the motion. I must admit I scratch my head sometimes to understand the position of the Liberal Party; it is incredibly critical of the stimulus package one moment, yet happy to see measures in place that abandon all our planning laws when spending is involved.

The debate around the stimulus package has been controversial, but for the last little while it has focused on it being wound back, so it may well be that these regulations do not have much more work to do because there may not be big chunks of money to be distributed. However, members need to know that, with the sunset clause that has been referred to by the minister, these regulations will stay in place until 2012. That means that, if at any time between now and the end of 2012 the Coordinator-General determines that it is a commonwealth Nation Building Program project, none of our state planning laws apply; our significant tree laws do not apply; and the need to consult agencies such as the CFS does not apply.

The government has said, 'Sure, that's what the regulations say, that none of these planning laws apply, but trust us; we have Rod Hook in charge and we will make sure he does the right thing.' Now, I know that the Hon. David Ridgway pays careful attention to documents tabled in this place, and he would be aware that yesterday regulations were tabled that allow Rod Hook to delegate all his powers to deputies. So, whilst people may have confidence in Rod Hook—Mr Fix-It, as he is often described, for his considerable abilities to manage government projects (and I have no criticism of what he has done in relation to his job so far)—the point is that we have on our books of delegated legislation three more years of no planning laws applied—not relating to the merits of the project, but simply where the money comes from. If the money comes from the feds then our planning laws do not apply.

The fear that I had when I first moved this motion was that there would be abuse of this system. I will not cite any examples of abuse in South Australia but, just so that people do not think I am barking up the wrong tree when I move motions such as these, let us have a very brief look at what has happened interstate, because they have moved exactly the same provisions in Victoria and New South Wales. *The Australian* of 31 August this year referred to—

The Hon. B.V. Finnigan interjecting:

The Hon. M. PARNELL: I know that the Hon. Bernard Finnigan reads *The Australian*, and this would have been fairly high up. The headline is 'State planning action leaves neighbours with nightmare'. The article reads:

> A peak local government body has slammed the Victorian government for stripping planning powers from councils for school upgrades done under the commonwealth Building the Education Revolution program. The attack came as it emerged that New South Wales had also suspended council planning powers for BER projects, although New South Wales councils have accepted the move amid assurances from the government.

So, the same situation as here. The article continues:

> The Municipal Association of Victoria's comments follow revelations in *The Australian* that schools are using the planning bypass offered by the BER to construct projects rejected in earlier form by councils and the Victorian Civil and Administrative Appeals Tribunal.

In other words, schools in Victoria are revisiting failed development application projects that have been rejected by the local council, and rejected by Victoria's equivalent of our Environment, Resources and Development Court, the court that deals with planning matters. However, because the planning laws are suspended and because it is commonwealth money, they are being passed by bureaucrats in Victoria. That is at the expense of local communities. The two examples that *The Australian* highlighted were Alphington Grammar School and the King David School in Melbourne, which basically used a loophole created by the Victorian version of these regulations to get their projects approved when they had been rejected as being inconsistent with normal planning laws.

So, let members not think that the move to disallow these regulations was misguided. The fears that I had for South Australia have been well and truly found to be valid in Victoria. However, I have heard the debate, and I understand that the will of this council is that these regulations will not be disallowed, so I will not divide on the matter.

Motion negatived.

AQUACULTURE ACT

Order of the Day, Private Business, No. 33: Hon. C.V. Schaefer to move:

That the regulations under the Aquaculture Act 2001 concerning Environmental Monitoring and Reporting, made on 20 November 2008 and laid on the table of this council on 25 November 2008, be disallowed.

The Hon. C.V. SCHAEFER (17:46): I move:

That this Order of the Day be discharged.

Motion carried.

WILLUNGA BASIN PROTECTION BILL

Adjourned debate on second reading.

(Continued from 18 February 2009. Page 1324.)

The Hon. M. PARNELL (17:47): The Greens will support this legislation, not because it is necessarily the best model to achieve the ends desired but because we want to make sure that the government takes very seriously the desire in the community to make sure that key agricultural and tourist areas are protected from inappropriate development, in particular, inappropriate urban development. Like the Hon. Rob Brokenshire, I have attended a great many meetings focused around the government's 30-year plan and what is seen in the government's plan as the inevitable and desirable urban sprawl of Adelaide out into the rural hinterland. That is bad public policy and we should do what we can in this place to ensure that it does not happen.

The Willunga Basin is particularly important for a range of primary and tourism industries, and that means that it is a special case deserving of special protection. That is not to say that it is the only place that deserves this extra level of protection, but it is the place before us now. The bill proposes the establishment of a Willunga Basin protection committee that is tasked with the job of preparing a Willunga Basin plan. That plan will be a reasonably high level statutory document, will be tabled in both houses of parliament and will be tabled as well, I understand, before the Environment, Resources and Development Committee.

The question for us is whether our existing land use planning regime is adequate to protect all the values that need protecting in the Willunga Basin and elsewhere. The answer clearly is that the current system is lacking. We know that, when it comes to rezoning exercises, the system is a poor one. We know that residents have very few rights to engage in public participation in relation to land use planning changes.

Members may have attended on many occasions, as I have, the Development Policy Advisory Committee, and they would have seen what a flawed process it is. We get five minutes to put our case. There is no-one to ask questions of and no-one from the planning department to address any concerns. It is simply a panel that sits mute at the front whilst a line-up of people tell them what is wrong with the planning system. At the end of the day, when the Development Policy Advisory Committee reports to the minister, it is a secret report and we do not know how seriously our submissions were taken or whether or not we were listened to. That system is a faulty one.

We know that members of the public have no right to legally challenge a rezoning exercise. We have seen the residents of Cheltenham give it a go in the Supreme Court. The result, perhaps not unexpectedly, was that the bar was too high. They raised a great many important public interest issues, but they could not get there, mainly as a result of the inherent biases in the system that work against citizens being able to challenge these types of decisions. Until we get the mainstream planning system right and get decent community engagement in the planning policy arena, such as through development plan amendments, and until we get a decent opportunity for people to comment on and go to the umpire on individual development applications, we need some emergency measures to ensure that our key assets—agricultural, horticultural, viticultural and tourism assets—are protected, and the bill before us is one method of doing that, so the Greens will support the Willunga Basin Protection Bill.

The Hon. DAVID WINDERLICH (17:52): I also support this bill and commend it as an innovative attempt to patch over some flaws in our system that have been outlined by the Hon. Mark Parnell. The question to ask ourselves is whether this is a special area. The Hon. Robert Brokenshire has made the case and we already know that this is a special area for reasons of its biodiversity, its natural beauty, its heritage, its agricultural value, its tourism potential and its important role as part of our water catchments. Is it under threat? Most certainly—from urban sprawl and from the pressure to increase population and from the move from larger to smaller households and therefore more numerous households. Can we have confidence that it will be protected by the current planning system? No. Again, as outlined by the Hon. Mark Parnell, our planning system is weighted in favour of developers and fairly relentless and insensitive

development. So, we cannot have any confidence that our current planning system will protect this special area.

The bill is not a leap into the dark. It is based on similar initiatives in the Swan Valley in Western Australia and the Napa and Sonoma valleys in California. I am attracted to the idea of the consultative committee, which will work out the finer details of the Willunga Basin plan. I think that is a more democratic approach to planning than we currently see in South Australia.

All in all, I think it is an excellent initiative that is well worth being supported by this chamber. I know that it has extensive support in the community from that area—I have been receiving numerous emails. It has been described as one small emergency measure in the face of a failed planning system that can help protect a very important area.

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

FIRST HOME OWNER GRANT (SPECIAL ELIGIBLE TRANSACTIONS) AMENDMENT BILL

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

[Sitting suspended from 17:55 to 19:45]

INDEPENDENT COMMISSION AGAINST CORRUPTION BILL

In committee.

Clause 1.

The Hon. B.V. FINNIGAN: I have a general question about the proposal to have an ICAC. Can the mover advise the committee what he expects the annual cost to government of his proposed commission to be and what staff complement he expects it to have?

The Hon. R.L. BROKENSHIRE: If the government wanted to give me its department for about an hour, I reckon I could get pretty close to it within a few dollars. Can I say in responding to the honourable member that it is probably worthwhile refreshing members' memories of who is pushing for an ICAC at the moment: the former auditor-general, Ken MacPherson; Senator Nick Xenophon; the Law Society of South Australia; the South Australian Bar Association; the Australian Lawyers Alliance; the Local Government Association; the South Australian Police Association, I understand; and today, interestingly enough—by coincidence, of course—the Director of Public Prosecutions, Stephen Pallaras. In fact, in media today, the DPP said that it is slow in coming to this state but it will come.

One other group that wants this is the taxpayers of South Australia. In fact, the strongest support for an ICAC at the moment on polling is the South Australian public. In answer to the honourable member's question, the South Australian public, who are responsible for paying the tax base to this government and this parliament, strongly support an ICAC. I point out, too, that, when it comes to this particular model, it is not as complicated as some ICACs in other states. For example, the education role and some of the investigative roles are not as high for this ICAC, unlike in some other states, so it will be cheaper.

In ballpark figures, I acknowledge that it may cost $14 million or $15 million a year, but I ask: what cost is that to keep the state as squeaky clean as possible? In finalising my answer to the honourable member, I can suggest ways that you can easily find the $14 million. You can remove two ministers from cabinet—that will save about $5 million; and you can stop excessive spending on public-funded advertising to the tune of at least another $5 million or $6 million. With just a few efficiency dividends around the place, you could easily find the funding. The government seems to be able to find it for tramlines and other things—

The Hon. R.D. Lawson: And for a referendum.

The Hon. R.L. BROKENSHIRE: And for a referendum. I am sure the money is available. It is about priorities, and we will see whether or not the government has this as a priority.

The Hon. B.V. FINNIGAN: With respect to the Hon. Mr Brokenshire, he is proposing to effectively revolutionise the system of oversight of government, and others, in this state, and he is advising that he thinks it would cost $14 million or $15 million. He did not address the issue of how many staff he expects it would have. I ask him to address that and, also, how he arrives at the figure of $14 million or $15 million.

The Hon. R.L. BROKENSHIRE: The figure has been arrived at by looking at the costs in other states and comparing them with the framework of this bill. I put to the honourable member that in the years I have been in the parliament I have rarely had clear and definitive costings put to me when government bills are introduced. In fact, on the odd occasion when I have had a costing put forward we have seen absolute budget blowouts. The real costs by not having this is the risk of deterioration of the state's best interests in ensuring that we keep this state as squeaky clean as possible.

The Hon. B.V. FINNIGAN: Could the mover advise what states he looked at when he says he compared it with other states?

The Hon. R.L. BROKENSHIRE: Of course, there are only two states that do not have an ICAC at the moment. One has made a public commitment to an ICAC and is in the process of formulating that, and then there is our state. So, when looking at other models, we looked at every other state that has an ICAC. I remind the honourable member that the Tasmanian Labor government is in the process of putting forward one at the moment with a much smaller global budget than this state government has, and a much smaller GST gold river flow than this state government has, yet it has seen the importance of an ICAC.

The Hon. B.V. FINNIGAN: I remind the honourable member that two states do not have an ICAC, and neither does the commonwealth, which had a Liberal government for 11 years and certainly did not see the need to introduce this initiative.

I am curious as to the answer he has just given in relation to having looked at all other states. There are three states that have bodies of this nature. New South Wales has the Independent Commission Against Corruption. From its annual report 2007-08 I can advise the committee that they had 116.1 equivalent full-time staff and the cost to government in 2007-08 was $17.595 million. Can I move to Queensland, which has the Crime and Misconduct Commission—

Members interjecting:

The CHAIRMAN: Order! I am very interested in what the Hon. Mr Finnigan has to say.

The Hon. B.V. FINNIGAN: Mr Chairman, if honourable members opposite think this is a joke, why do they not just vote against it and go home? Here they are saying we should introduce the biggest change ever and have an ICAC with hundreds of staff and costing millions of dollars chasing after government, local government, all public authorities and statutory officers, and they seem to think it is some sort of a laugh. I find it rather extraordinary.

Looking at Queensland, which has a population less than New South Wales, although bigger than ours, the Queensland government grant in 2007-08 was $36.688 million. The staff establishment as at 30 June 2008 was 317 and the actual staff was 305.3 in full-time equivalents. I turn then to Western Australia, which has the Corruption and Crime Commission. I think that members would agree that Western Australia is about our size in terms of population—

An honourable member interjecting:

The Hon. B.V. FINNIGAN: This is not a speech: this is a question to the mover. The mover indicated that he had looked at other states. I, too, have looked at other states, and I am asking him how he explains these figures in relation to the statement he made.

An honourable member interjecting:

The CHAIRMAN: Order!

The Hon. B.V. FINNIGAN: In the case of Western Australia—which has a population, economic base and system of government very similar to our own—the government appropriation to the Corruption and Crime Commission in 2008-09 was $25.55 million, and as at 30 June this year it had 159 full-time equivalent positions with an average staffing level in the reporting period (that is, the last financial year) of 161.2.

Given that the cheapest of those three ICACs or equivalents is New South Wales with $17.6 million and that Queensland is almost $36.7 million with over 300 staff and Western Australia is about $25.5 million and 161 staff, I wonder whether the honourable member could justify how he arrives at the figure of $14 million or $15 million.

The Hon. R.L. BROKENSHIRE: I justify it based on the fact that, as I said, this model is slimmer in some of its requirements than some of the other states. In response, I say to the honourable member that when the parliament was asked to vote on a SAFECOM bill we were not

given any information about how many staff would be employed, how much it would cost and what increase in staff they would promote and advertise. I would be confident that, if this bill got through and the government wanted a hand to look at specific costings and numbers of people who needed to be employed in an ICAC, there would be bipartisan support for a committee from this chamber to help the government in that regard.

The bottom line is that, yes, there will be a cost to this and, yes, there will be staff. If you want to make some further savings, you could reduce the spin doctor centre, because that just grows like a mushroom and so do their salaries. There are opportunities for saving money but, at the end of the day, I thought we were here to listen to the community; and the community and a lot of the expertise in the leadership ranks of the community are saying, 'We need an ICAC. The bill is here. You have got a $15 billion budget. You can find $14 million or $15 million approximately to fund this if you have the will.'

The Hon. R.D. LAWSON: I am surprised that the Hon. Bernard Finnigan would be arguing this case for the government because tonight he has firmly contradicted the Attorney-General on this important issue. The Hon. Mr Finnigan described this proposal as the 'biggest change yet'. On the other hand, the Attorney-General is saying that this represents no change at all because we already have—

The CHAIRMAN: Order! The Hon. Mr Hunter has a point of order.

The Hon. I.K. HUNTER: I fail to hear any question to the mover of the bill from the Hon. Mr Lawson. I would be very keen if he was to move to his question.

The CHAIRMAN: Order! The Hon. Mr Lawson would have a question.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Finnigan had to explain the costings of other states because the mover failed to do so.

The Hon. R.D. LAWSON: The honourable member did describe this proposal as the 'biggest change yet'. I think that the committee would want to hear from the Hon. Mr Finnigan in what way this is the biggest change yet, given that the Attorney-General says that it is no change at all because we already have these facilities in place—the Auditor-General, the Police Complaints Authority, etc. There is clearly a contradiction. I ask the honourable member to explain it in the context of the cost of this proposal.

The CHAIRMAN: Order! I will allow the Hon. Mr Finnigan to do so because it seems that the mover does not have those figures.

The Hon. I.K. HUNTER: I would like to ask a question of the mover, Mr Brokenshire. How can the mover of this bill be so confident that the ICAC he proposes would not devolve into nothing more than a police witch-hunt?

The Hon. R.L. BROKENSHIRE: As we move through the bill, clause by clause, there are some specific answers there, but the bill has checks and balances to ensure that it will not become a police witch-hunt. I am confident of that within the bill and, in fact, in the debate that I have listened to in the media with the Attorney-General, whilst he has advocated on behalf of the government that it did not see the need for an ICAC, he has never indicated that he thought that it would formalise an opportunity for the police to have a witch-hunt.

The Hon. I.K. HUNTER: I ask again of the mover: can he be strictly confident that perhaps the ICAC he proposes would not go off investigating a former Liberal government minister who, for example, employed public servants on his staff on 30-day contracts—I think only 30 days out from election—to go out canvassing, electioneering and doorknocking for the minister? Is he confident that that situation would not be pursued as a witch-hunt?

The Hon. R.L. BROKENSHIRE: Yes, I am as confident of that as I am that it would not involve the situation with the Treasurer's staff during the federal election with the candidate for Boothby.

The Hon. B.V. FINNIGAN: I begin by drawing the attention of honourable members in the chamber to the fact that I am not the mover of this bill. It is not my proposition. I am being asked, as a legislator of the state, to vote for this bill to put in place a new structure (presumably at great expense) and I am asking questions of the mover as to what he thinks that will cost and how he arrived at that figure.

For some reason, the members of the opposition automatically assume that members of the government are not entitled to ask questions of private members moving bills. Every time that I have asked questions of a private member moving a piece of legislation, there is this extraordinary outrage from members of the opposition as if, because I am a member of the government, I am not entitled as a member of this chamber to question the person who is moving legislation on the legislation he is proposing.

I am at a loss to understand why they are getting so hot under the collar. What I have asked are questions in relation to the proposition before us. Again, it is simply not good enough to say, 'Well, you are the government; you sort it out.' That is hardly the approach that is taken. When the government comes forward with legislation of course it analyses what the cost impact is going to be. I do not think anyone expects that the government just passes legislation and, afterwards, says, 'I wonder how we will pay for that?' It does have to be paid for and there are decisions to be made about the budget.

There are priority decisions to be made and anyone proposing to initiate a large expenditure of public money, in my view, must explain how they are going to fund it. Where are they going to get the money? To use these sort of flip responses such as, 'We are going to stop government acts' and these little offhand comments such as, 'We can stop this; we can stop that and we could turn this leaflet from colour to black and white and that will save a few dollars'—that is a very unsatisfactory way of trying to debate the question. The reality is that you need to identify what the proposal—

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

The Hon. B.V. FINNIGAN: I am asking the honourable mover to indicate what the proposal would cost and where the funds would come from. What programs would he cut? What schools would he close? What hospitals beds would he shut down? What taxes would he raise? How does he propose to pay for this?

The Hon. R.L. BROKENSHIRE: As I said, as best we are in a position to cost it, we estimate it will be about $14 million. It is a smaller model than the New South Wales model which the honourable member himself has indicated is a $17 million model. If I can just put to the honourable member that in the Department of the Premier and Cabinet (which has grown like a mushroom in the past eight years) a 1 per cent efficiency dividend there, a cut in public taxpayer-funded political advertising, and a reduction in the spin doctor media unit will more than pay for this.

Frankly, as far as I am concerned, the community needs this more than they need 64 spin doctors in the Premier's office and the burgeoning Public Service that the Department of the Premier and Cabinet has. A little bit of slimming and trimming there will easily pay for this.

The Hon. I.K. HUNTER: In my contribution to this clause 1 debate, I am interested in teasing out the scope of the body that is proposed by the mover of this bill. I am grateful for his previous answer. I will quote very briefly from a historical news report entitled 'Former SA minister accuses police of witch-hunt'. It states:

> Former South Australian emergency services minister, Mr Robert Brokenshire, has described a police investigation into his use of public servants as a political witch-hunt.

I am grateful for his confidence that such a body that he is proposing would have a look at those sorts of issues with alacrity. Perhaps the mover of the bill could assure us, in terms of the cost of the organisation—and he just gave us some examples of how it might be funded. Can he give us some advice on whether, in fact, a minister could divert $170,000 in sponsorship money connected with the rescue helicopter sponsored by the Adelaide Bank? Would that be an appropriate avenue of funding an ICAC and taking money away from the current spending? Perhaps he would like to comment on that.

The Hon. R.L. BROKENSHIRE: I will comment on both of those. First and foremost, I have much more confidence in the police not going after witch-hunts than I have in governments going after political witch-hunts in marginal seats. It is a totally different situation between political witch-hunts and so-called allegations of police witch-hunts. With respect to an allegation of $170,000 being appropriated in one manner, the history is there, and I know the facts and figures on that, just the same as I also know that the government of the day was happy to throw $300,000 or $400,000 at a situation like that just to try to make it difficult in a marginal seat. This is not about political marginal seat difficulties: this is about an independent commission against corruption.

The Hon. R.D. LAWSON: I have a question of the Hon. Mr Finnigan, given the comments that—

The CHAIRMAN: It is not the Hon. Mr Finnigan's bill.

The Hon. R.D. LAWSON: This is the committee stage of the bill, and I am entitled to make comments and ask questions.

The CHAIRMAN: The Hon. Mr Finnigan is within his rights not to give you an answer, I suppose.

The Hon. R.D. LAWSON: He would be wise not to, but I will pose the question.

Members interjecting:

The CHAIRMAN: I suppose the Hon. Mr Finnigan is the only one answering the question.

The Hon. R.D. LAWSON: As the Hon. Mr Brokenshire mentioned, today the Director of Public Prosecutions tabled his annual report, which contains the following comment, which I think should be before the committee at this juncture in the debate on this bill.

The Hon. R.I. Lucas: Is this the bloke who's Elliot Ness?

The Hon. R.D. LAWSON: Yes; this is the Elliot Ness, appointed by the Rann government—

The Hon. R.I. Lucas: To take on the baddies?

The Hon. R.D. LAWSON: Yes, to take on the baddies, but subsequently undermined by the government. He said:

> An anticorruption authority with full law enforcement powers of both the public and private sector is the best tool yet devised to educate the community on issues relating to corruption, to effectively minimise the incidence of corruption by taking proactive preventative measures and to prosecute through a prosecuting office, like the Office of the DPP, those who engage in corrupt practices. It is slow in coming to this state but it will come.

I wonder whether the Hon. Mr Finnigan, as, apparently, one of the government's spokespersons on this bill at the committee stage, would comment on whether he agrees with the observations that the Director of Public Prosecutions made today.

The Hon. B.V. FINNIGAN: It is interesting that the Hon. Mr Lawson should mention education as part of the role of the commission. The honourable mover did indicate that this ICAC proposal would be cheaper because it would not have to deal with education. Of course, clause 7 is all about the proposed ICAC playing a big role in education advice relating to the avoidance of corruption, but we will get to that when we discuss clause 7. As I said at the outset, I am not the mover of this bill and, while I am happy to see that the Hon. Mr Lawson has great confidence in me, last time I checked I was not the first law officer of the state.

The Hon. P. HOLLOWAY: I could not help but notice with interest the question asked—and it was a question rather than a statement; it should have been a statement—by the Hon. Robert Lawson quoting the Director of Public Prosecutions. If I heard correctly, I believe he talked about the private sector as well. Given that the DPP suggests the ICAC should be looking at not just the public sector, which I guess we will cover when we come to the object of the act in clause 3, and given that it is the private sector, perhaps Mr Lawson could tell us whether he believes that that should also be under the purview of the private sector.

The Hon. R.I. Lucas: You tell us what you want.

The Hon. P. HOLLOWAY: It is not my bill. Mr. Lawson is asking the question, and he was the one endorsing the Director of Public Prosecution's view that it should include the private sector as well. I am just asking whether that is his view. Since he believes that the Director of Public Prosecutions should be believed, does he agree with the Director of Public Prosecution's view?

The Hon. R.D. LAWSON: My position on this bill is with my Liberal colleagues. We support the bill proposed by the Hon. Mr Brokenshire. It is, in fact, largely in the same terms as that proposed by the Liberal Party and introduced earlier in the House of Assembly, but the government there is disinclined to debate it. I support this bill, which is actually directed at public sector corruption.

The CHAIRMAN: So you disagree with the DPP.

The Hon. R.D. LAWSON: No, I—

The Hon. B.V. Finnigan: So you are moving amendments to take the private sector out?

The Hon. R.D. LAWSON: No, but I invite you to if you agree with the Director of Public Prosecutions. Our position is that this bill covers public sector corruption entirely appropriately. We are not called upon today to decide on the DPP's views on a special body to examine private sector corruption—perhaps one day we will be. But we have been arguing consistently for months that it is appropriate to have a public sector corruption commission of the type which has been established successfully in other jurisdictions.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. P. HOLLOWAY: Under the objects of the act as they are proposed again, this specifically refers to the integrity and accountability of the public administration. We have just seen in the past week that the independent commissioner in Western Australia has made publicly what I think would be interpreted as some implied criticisms of the newly elected Western Australian Liberal government, which is seeking to change the focus of its independent commission on corruption away from the public sector, it would appear, if the press reports are correct, towards organised crime—in other words, the private sector.

Given that, clearly, changes appear to be proposed in Western Australia, and given the criticisms of the independent commission in Queensland and its new focus, my questions to the mover really are: why would we specifically limit the objectives of this act to the public sector and, given what has happened in Western Australia, does the mover of the bill believe that a future Liberal government here—if an organisation like this were established—would simply move to shift its focus away from the public sector (in other words, government) towards the private sector as well?

The Hon. R.D. LAWSON: Whilst we are on clause 3 of the bill, I remind the minister that, where this commission is given power to investigate, expose and prevent corruption involving or affecting public authorities and public officers, it clearly has the capacity to examine private sector corruption, because very often, as we know, not only in this state but elsewhere, there is interaction between the private sector and the public sector, and very often corruption in the public sector is as a result of activities of persons in both the public and the private sector.

The Hon. R.I. Lucas: Developer donations.

The Hon. R.D. LAWSON: Yes, developer donations.

The Hon. R.I. Lucas: Developer donations would be something that you would be familiar with.

The Hon. P. HOLLOWAY: Why is Premier Barnett changing the focus then? The question is: has the Western Australian commission been unsuccessful? The question is: why is the Western Australian Liberal government changing the focus of its independent commission?

The Hon. R.I. Lucas: Go and ask them.

The Hon. P. HOLLOWAY: Well, if the bill is being put forward, I would suggest one reason is that the thing has not really worked. It has cost an arm and a leg and has not really come up with the sort of—

An honourable member interjecting:

The Hon. P. HOLLOWAY: That was a long time ago. The question is: what has it done in recent days to justify 30 or 40 years of woe?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am glad to have that interjection because it really shows why the Liberal Party wants this. It wants it as a political tool rather than genuinely dealing with any issues. Bearing in mind that their Liberal colleagues in Western Australia have seen the need to change that, I ask Liberal Party members opposite whether they agree with Premier Barnett's change in emphasis of this committee and, if so, why?

The Hon. R.I. Lucas: You are a bit flustered there, Paul, a bit flustered.

The Hon. P. HOLLOWAY: No, not at all. I think you cannot answer the question, Robert; I think that is the real issue.

The CHAIRMAN: Order!

Clause passed.

Clause 4 passed.

Clause 5.

The Hon. B.V. FINNIGAN: Clause 5 deals with the meaning of corruption, and subclause (2)(a)(iii) identifies or defines 'corrupt conduct' as 'conduct of a public officer or former public officer that constitutes or involves a breach of public trust'. Can the honourable mover indicate what he understands is meant by the words 'breach of public trust'?

The Hon. R.L. BROKENSHIRE: My understanding of 'breach of trust' is that it is a concept well defined by the courts, and we have seen it, for instance, in the context of sexual offences with doctors, teachers, parents and caregivers. There is little ambiguity of what a breach of trust is.

The Hon. I.K. HUNTER: On that matter of the definition of 'breach of public trust' can I perhaps put it a little more concretely for the mover of the bill. For example, would a situation where a minister publicly receiving money by way of sponsorship for a stated purpose that had been the subject of a government advertisement in the knowledge that the money was already committed to be used for another different purpose—in his electorate, I might add—be a breach of public trust?

The Hon. R.L. BROKENSHIRE: Indeed, there would be plenty of examples of where the question could be put to ministers, but in the example put by the Hon. Mr Hunter the answer is, no, it would not be, and if you have a look at the specifics behind it you will see clearly why.

The Hon. I.K. HUNTER: So, just to make it clear, a situation where a minister diverted money from the public purse that was to be used for a particular purpose to meet the ongoing payments of an ambulance station in his electorate would not be a breach of public trust under his definition?

The Hon. R.L. BROKENSHIRE: I am very happy to answer that, and I do not want to hold the committee up for too long tonight but, for the public record, the fact of the matter is that it was all done through the department. I do not know about this Labor government's ministers, but I know that when I was a minister I did not negotiate in terms of whether the cheque was paid into one section of a department or direct to an agency, because I was not dealing with the cheques. So, I hope that this government is not directly dealing with the cheques, although one would wonder sometimes whether or not they were.

At this point in time I also put on the public record that the constituents of Mawson still to this day are shaking their head at the fact that for nearly three years this government was prepared to leave the lives of the tourists and the people of that community at risk for political base point-scoring and, to this day, they condemn this government for the political game it has played.

The CHAIRMAN: I think the Hon. Mr Hunter is still seeking an answer to the original question.

The Hon. I.K. HUNTER: I do not have a satisfactory answer to my question, so let me be more explicit. On 6 August 2001, a formal ceremony for handing over the sponsorship cheque was held at the Adelaide Airport attended by the then minister (the Hon. Mr Brokenshire), the managing director of the Adelaide Bank and others. The managing director of the Adelaide Bank was the person handing over the sponsorship cheque. It was not known to him at that time that the money he was handing over for one purpose (the rescue helicopter) had been authorised on the previous day to be handed over to the Ambulance Service to pay for ongoing recurrent funding which the minister did not provide out of his own budget. Would that be a breach of public trust? Yes or no?

The Hon. R.L. BROKENSHIRE: No.

Members interjecting:

The CHAIRMAN: Order! I think the ICAC would work out whether that was yes or no.

The Hon. B.V. FINNIGAN: If I may come back to the question of the definition of breach of public trust, the honourable member—

Members interjecting:

The CHAIRMAN: Order!

The Hon. B.V. FINNIGAN: The honourable mover of this bill seems to indicate that—

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order, the Hon. Mr Lucas! If you do not have anything to contribute to the bank, you might want to go up to your office.

The Hon. B.V. FINNIGAN: If I could return to this question of the definition of breach of public trust, the honourable mover has indicated that he would not see misappropriation of funds as a breach of public trust but I think he indicated doctors, teachers and others and that it was well understood what a breach of public trust was. Most teachers are employees of the state. Is monitoring the activities of teachers and doctors the sort of role that the honourable mover anticipates will be the role of his commission?

The Hon. R.L. BROKENSHIRE: To put on the public record, what the honourable member said just then I did not say whatsoever; I want that corrected for the public record. I am very happy, if my colleagues are happy, for government members to play a game and stand up here and attack me for the next three to five hours. I am very happy for that to occur; I had a good sleep last night. But at the end of the day, there will be a vote on the importance of this bill and we will play the games that they want, but I tell you that there are plenty of games we can attack them back on if that is what they want.

The Hon. B.V. FINNIGAN: I can assure the honourable member that I am not playing any games: I am asking questions about legislation that is before this committee. Honourable ministers are constantly asked questions in the committee stage of bills about government bills, so I do not see why it should be considered incongruous that government members may elect to do that on a private member's bill. I am still wondering what the honourable mover anticipates is going to be understood as a breach of public trust. Does that mean that a public servant took a long lunch? Does it mean that they took a bag full of cash? What sort of thing does he understand is meant by that term?

The Hon. R.L. BROKENSHIRE: Like me, the Hon. Bernie Finnigan is not a lawyer. He may like to ask the Attorney-General, the Hon. Michael Atkinson, what he sees as the legal definition of a breach of public trust. The advice given to us when we analysed this was, and I repeat: a breach of trust is a concept that is very well defined by courts throughout Australia and internationally and, as I said, it has been used in the context of sexual offences with doctors. If you want an example, if a patient goes in to see the doctor and the doctor rapes that patient, that is well and truly a breach of public trust.

The Hon. B.V. FINNIGAN: That has not quite addressed the question. Does that mean he thinks that the activities of doctors and teachers are indeed to be the focus of the commission? I would point out that, in the example that he has used, the person would have committed a criminal offence and, if there were sufficient evidence, I am almost certain that the Director of Public Prosecutions would prosecute a charge relating to an offence under the Criminal Law (Consolidation) Act.

The Hon. I.K. HUNTER: This discussion has actually been quite useful to me in firming up my view about an ICAC. I move on from the issue of ministers and members of the government and come to an area of concern with respect to members of this chamber. In terms of the definition of 'breach of public trust', would it be, in the mover's opinion, the case that a group of people in the electorate in an organisation perhaps such as Survivors of State Care, who believed that they had an agreement with an honourable member such as the Hon. Mr Brokenshire, who perhaps believed they could trust the Hon. Mr Brokenshire's word and who then believed that that trust had been breached, would have grounds to go to an ICAC to investigate their views about a breach of public trust?

The Hon. R.L. BROKENSHIRE: I am intrigued by the questions from the members but the answer would be no, on the basis that, when a member puts up a bill, the member can only put up a bill and then the democracy of the parliament makes a decision on whether they want to support that bill or amendment, so that gets back to the decisions of the parliament.

The Hon. I.K. HUNTER: So, again, when it comes to the Hon. Mr Brokenshire breaching public trust, ICAC will not investigate him but any of us might be fair game.

Clause passed.

Clause 6.

The Hon. P. HOLLOWAY: This clause provides that the commission is to consist of the commissioner and assistant commissioners. We saw some publicity earlier in relation to members of the Liberal Party that they had apparently been out touting for commissioners to try to find people who could fit the bill, pre-empting of course not only the passage of this bill but also the next election. I thought it was rather intriguing that they should already be out looking for particular candidates, and some publicity was given by the Leader of the Opposition, although I am not sure whether she was the Leader of the Opposition at the time.

I just wonder whether the honourable member moving the bill has also been out looking for suitable candidates or who he would suggest and what the qualifications might be. I think we understand what members opposite believe what the criteria might be, but I would be interested to hear whether the mover agrees with the criteria of members opposite.

The Hon. R.L. BROKENSHIRE: I have not been out looking for commissioners or assistant commissioners. My response here is that common sense will dictate that you do need assistant commissioners when formalising an ICAC. The ICAC need not take up the opportunity for assistant commissioners if it feels that it does not need them, but the provision is there so that, if an assistant commissioner is needed, that is well and good.

In answering the question of this honourable minister, who is one of the ministers that I see as being more honourable than some ministers in this government, I see that he is being pushed aside which is a pity because I think he should remain if they win government but, if he is pushed aside, maybe he may have the capacity to do that job.

Clause passed.

Clause 7.

The Hon. B.V. FINNIGAN: The honourable mover indicated early on in his contribution that our ICAC would cost less than other states because it would not have an education function. I draw members' attention to subclause (1) and paragraphs (e) to (l), which indicate that the roles of the commissioner will include examining laws, instructing, advising and assisting authorities on ways in which corruption may be eliminated; educating, advising and disseminating information; enlisting and fostering public support; and developing, arranging, supervising, participating in or conducting educational or advisory programs, as may be required by resolution of either chamber of parliament. Will the honourable mover advise what proportion of the ICAC's work he would anticipate would be taken up with these functions, given that he earlier indicated that it was not to be part of its function at all?

The Hon. R.L. BROKENSHIRE: I do not believe I indicated it would not be its role at all but, to clarify what I believe I said, I will put it on the public record. The educative and investigative roles are not as intense and expansive as they are with some of the other bills. If the honourable member would like to look at my second reading contribution on this, I put quite a bit of time into costings and comparisons based on other state models, including what he read out from annual reports of other ICACs and including what the opposition put on the public record in another place. I invite him to go back and look at that, as quite a bit was done there. Time and again, with bill after bill that comes through this place, we do not know the regulations, the costings or the staff numbers, and neither does the government when it puts forward bills.

The Hon. R.D. LAWSON: The Hon. Bernie Finnigan is suggesting that the Hon. Mr Brokenshire has been downplaying the educative role of the commission. I do not understand that to be his position at all. From the Liberal opposition's point of view, we believe the educative role of an anti-corruption commission, especially in South Australia and especially with this government, frankly, is a very important one and one which will occupy a good deal of the attention of the anti-corruption commission. I do not understand the Hon. Mr Brokenshire to be saying that it is not an important function, but we regard it as one of the significant elements and functions of this commission.

The Hon. B.V. FINNIGAN: Again, the honourable member has indicated that he looked at other states' costings, which strikes me as rather odd when you have $17.5 million, $36.5 million and $25.5 million, and somehow out of that you get $14 million or $15 million. The record will show that the mover did indicate in his contribution on clause 1 that one of the reasons he expected that this ICAC proposal would be cheaper than other states was that it would not have as great a role in

education, advice and assistance as other such bodies, yet it is clearly contemplated by the functions of the commission in this clause. Again, will he indicate how extensive a role he would anticipate the commission playing?

The Hon. R.L. BROKENSHIRE: If I did not put my words exactly (although I believe that I did), I say again to the honourable member what I intended to say, clearly and slowly: the educative and investigative roles in this model are not as intense or expansive as some of the other models, because we have tried as much as we can within our capacity to make this as streamlined an ICAC as possible. If the government does not believe there should be any cost, effort and input into education, it can simply move and debate an amendment in the other place whereby it removes the opportunity for education with respect to the ICAC, but as a member of this chamber I strongly warn the government against removing it, because there needs to be an educative role, and it is set out in all the points. If the honourable member wants to read them, it is there.

The final point I would make on this is that I find it interesting that the government is criticising issues around education and finetuning expenses with respect to education, when it can buy $500,000, $600,000, $700,000 or $800,000 worth of advertising, which it then says is important to educate the community about the bad state of the River Murray. The government is talking with a forked tongue.

The Hon. B.V. FINNIGAN: I am not sure how the River Murray crept into the discussion. I indicate to the mover and to the committee that I said no such thing as has been suggested by the mover. I asked him, in the light of the comments he made in the clause 1 debate, what proportion of the work of the commission he anticipated would be the educative function. At no time did I make any reflections on the proposed educative function of the commission, its merit or otherwise.

The Hon. I.K. HUNTER: Clause 7—Functions of Commission, paragraph (l) provides:

To develop, arrange, supervise, participate in or conduct educational or advisory programs as may be required by resolution of either house of parliament.

Like the Hon. Mr Finnigan, I think I also heard the mover say that his anticipation of a possible budget for such a body would be limited because he did not expect the educative or advisory role to be as extensive as elsewhere. Given paragraph (l), I ask the mover: how can he be so certain that the budget he anticipates being reasonable for such a body could not be blown out by resolution of either house of parliament?

We have seen this house of parliament, for example, put up select committees one after the other with no concern about the cost to the budget of this chamber. What if this house of parliament decided to set up advisory or educational programs and told the ICAC to go about its business and run these programs? How is he not concerned—

The Hon. B.V. Finnigan interjecting:

The Hon. I.K. HUNTER: Exactly right—every doctor in the state. How is he not concerned that paragraph (l) leaves a wide open avenue for a budgetary blow-out in his proposed ICAC?

The Hon. R.L. BROKENSHIRE: Paragraph (l) provides:

To develop, arrange, supervise, participate in or conduct educational or advisory programs—

and this is the key factor—

as may be required by resolution of either house of parliament.

The honourable member has a place in this chamber—he is one of the 22 in this place—and he would have the opportunity to have input into that resolution. So, he would have some control as a member.

The Hon. P. HOLLOWAY: I think it is a serious question. The functions—

An honourable member interjecting:

The Hon. P. HOLLOWAY: No, it is additional to the others because a whole lot of serious matters have been raised. Clause 7(1)(b) also permits the commission to investigate matters referred by the Police Complaints Authority. Some models of ICACs were put forward, in fact, by the opposition, when it was suggesting that certain police functions would be absorbed into this new body. That is why I would be interested to hear the comments of the honourable member, who would be more familiar than probably most other members of this chamber with the Police Complaints Authority. Does the honourable member envisage that that authority would continue in

its current form, or would the existence of an ICAC change in any way the role of the Police Complaints Authority or, for that matter, any other elements of the police force?

The Hon. R.L. BROKENSHIRE: I thank the minister for his good and relevant question. I would expect and envisage, in the way this is framed, that the Police Complaints Authority and also the IIB would remain in place, but they would have an opportunity for integration and recommendation to the ICAC (as provided in clause 7(1)(b)) 'to investigate any matter referred to the commission by either house of parliament or by the Police Complaints Authority'. From memory, the reason that parliamentary counsel, after discussion, had it drafted that way was because sometimes there are issues where the Police Complaints Authority may want to proceed with a recommendation through that process.

Clause passed.

Clause 8.

The Hon. B.V. FINNIGAN: I notice that this clause is about cooperation with other persons and agencies, and talks about cooperation with various police forces. I believe there are quite a number of police officers employed by other such bodies interstate; for example, of the approved establishment of 317 staff with the Crime and Misconduct Commission in Queensland (again drawing honourable member's attention to the annual report of 2007/08) there are 84 who are police officers. So I ask the mover of the motion to explain how he anticipates the secondment of police to the ICAC to work. Who would pay for those positions, the Commissioner of Police or the commission, or is it an added expense to be taken into account? How does he expect the police to make up for the shortfall of potentially up to 84, but even, say, 30 or 40 police officers being taken off their current roles to work for the ICAC?

The Hon. R.L. BROKENSHIRE: I expect it would work in the same way as police secondments have worked under successive governments. An example of where it has worked really well is with Michael O'Connell, who is now the Commissioner for Victims' Rights. He was a police officer who was seconded. Financial arrangements are made within the justice department for that. If secondments ultimately take place for some time, I expect that there would be a pick up of those officers through a rearrangement of budgets within agencies and departments, as is the case whenever there is a secondment.

The Hon. B.V. FINNIGAN: I think the honourable member is indicating that there may be a further unanticipated cost in his bill. Mr O'Connell is indeed an excellent commissioner, but talking about one person is a bit different to talking about potentially dozens of police officers being taken out their current active duties.

Clause 8(3)(a) also provides that in carrying out functions other than an investigation the commission may work in cooperation with management consultants. That strikes me as a little odd. Given what we are talking about here and what has been touted as the reason for an ICAC—that it will be independent and a watchdog, able to monitor the activities of government, the police force, and other bodies—how is that consistent with hiring an external management consultant. For what duties does the honourable member anticipate the consultants would be hired?

The Hon. R.L. BROKENSHIRE: To further answer the Hon. Mr Finnigan's question about secondment, I point out that there are police officers seconded to lots of different departments. If he went to the Aboriginal Pitjantjatjara lands he would find police officers still seconded, but actually working for the Natural Resources Management Board. That is something that happens on an ongoing basis with police and other departments, and there are processes for that. In answer to this question, clause 8(3)(a) provides:

> In carrying out functions other than investigation, the Commission—
>
> (a) should, unless of the opinion that it is not appropriate to do so, work in cooperation with such of the following bodies as may be relevant:
>
> (i) the Auditor-General;
>
> (ii) the Ombudsman;
>
> (iii) educational institutions;
>
> (iv) management consultants; and
>
> (b) may work in cooperation with such other persons and bodies as the Commission thinks appropriate.

So, it is saying if it is appropriate and working in cooperation with respect to matters. There are a lot of management consultants who are employed by government to do work and at times those management consultants may be in a situation where the commission wants to work with them.

The Hon. B.V. FINNIGAN: I am not sure that the honourable member's answer in relation to this is satisfactory. Obviously, it would be a decision of the commission to employ these management consultants, and I do not think I indicated that such consultants would be working on an investigation. I know that is in the clause, but the Hon. Mr Lucas works himself into a positive lather whenever the government engages a consultant to do anything. He starts getting very worked up about the sum of $40,000 or $50,000 being spent on a consultant to do something—'Who appointed them?' and 'Who do they know?' and 'Who are they related to?' and 'Have they ever met John Quirke?'

We get the whole bizarre panoply of accusations and innuendo from members of the opposition, yet here they are supporting a bill that will allow the independent commission against corruption, the great watchdog watching over us all, to hire management consultants. I would ask the honourable mover again: for what purpose would he see such consultants being engaged?

The Hon. R.L. BROKENSHIRE: My answer again is that, as I understand the drafting of this bill, it is to 'work in cooperation with such of the following bodies as may be relevant'. The fact is that, in drafting a bill and bringing it forward, one has to look at options that may occur in the workings or the management of the intent of the bill, and that is why it is in there. It is no different from many things that are put in other bills. That is what parliamentary counsel and others advising with respect to the drafting of these bills do: they try to put in all the options, because you have to have options available in case they are needed.

The Hon. B.V. FINNIGAN: I think that is a pretty extraordinary answer: 'Why is it in the bill? Because parliamentary counsel told me.' I am not doubting of course the wisdom and ability of parliamentary counsel, who do a fine job, but I have asked the honourable mover twice what would these management consultants be doing and he has not provided a response.

The Hon. R.L. BROKENSHIRE: I think I have provided a more than adequate answer compared to what I often get from ministers in this place.

Clause passed.

Clause 9.

The Hon. B.V. FINNIGAN: Clause 9 provides for appointment of commissioners and assistant commissioners by the Governor and outlines what role they will play. Clause 9(1) states:

> The Governor may appoint—
>
> (a) the Commissioner; and
>
> (b) assistant commissioners with the concurrence of the Commissioner.

The Governor would appoint the commissioner on the advice of the executive (and I acknowledge that there are other procedures in relation to parliamentary committees) and the Governor would then appoint the commissioner on the advice of the government, but with respect to assistant commissioners it states that it must be with the concurrence of the commissioner. I would like the honourable member to consider this scenario. The executive advises the Governor to appoint someone as an assistant commissioner who is not covered by the parliamentary committee. The commissioner disagrees: it is not with his concurrence. In that instance who will prevail: the Governor or the commissioner?

The Hon. R.L. BROKENSHIRE: I will first of all read the rest of that clause. It provides:

> (1) The Governor may appoint—
>
> (a) the Commissioner; and
>
> (b) assistant commissioners with the concurrence of the Commissioner.
>
> (2) The Commission will, for the purposes of performing its functions and exercising its powers, be constituted of the Commissioner or, at the discretion of the Commissioner, an assistant commissioner.
>
> (3) The Commissioner and assistant commissioners may perform functions and exercise powers contemporaneously.

The situation here, as I see it, is the same as we have now with SAPOL, where with the new Police Act the executive appoints the police commissioner and the deputy commissioner but the commissioner then appoints all the assistant commissioners.

The Hon. B.V. FINNIGAN: As I indicated, this clause states:

The Governor may appoint—

(a) the Commissioner; and

(b) assistant commissioners with the concurrence of the Commissioner.

If the Governor, on advice of the government (the executive), proposes to appoint someone as an assistant commissioner, but the commissioner says, 'No, I do not agree, that is not with my concurrence,' what happens? Who prevails? Is the appointment by the Governor invalid?

The Hon. R.L. BROKENSHIRE: If the honourable member has concerns about the wording and drafting, I invite him, during the committee stage, either to file an amendment, which I am sure the committee would be prepared to look at, or if this bill happens to pass the chamber tonight, he will have an opportunity to amend it in the other house, if he is not happy with it.

The Hon. B.V. FINNIGAN: I do not think it is a satisfactory response to say in answer to a question about how a clause will operate, how you will resolve a potential constitutional crisis, 'If you don't like it, amend it.' I again ask the honourable mover whether he could indicate what happens if the Governor, advised by the executive, and the commissioner have a different view about the appointment of an assistant commissioner.

Clause passed.

Clause 10.

The Hon. R.D. LAWSON: I move:

Page 12, lines 9 to 11 [Clause 10(1)(c)]—Delete paragraph (c)

This clause provides that a person is not eligible for appointment as commissioner or assistant commissioner unless that person is eligible for appointment to certain courts in Australia or is a former judge of one of those courts, and they can be South Australian courts, federal courts or courts of other states. Our proposal certainly agrees with that. The honourable member has followed the Liberal Party's proposals in that regard. However, the honourable member goes further and extends the range of eligible commissioners to those who have held equivalent positions in other states.

We have reservations about that proposal, principally because we are not currently aware of what the situation will be in the future with commissions in other states. The laws of other states can change and it is possible that other jurisdictions might allow lesser qualified persons to occupy the important positions of commissioner and assistant commissioner. We believe that it is entirely appropriate either to have those who are eligible for appointment as judges in any jurisdiction in Australia or who have been former judges for those important functions. We believe that by going outside that range and including anyone who might have been appointed to any commission anywhere is going too far.

Accordingly, the amendment is that paragraph (c) be deleted. I invite the honourable member to accept the amendment. I think that would be appropriate, because he would still have a sufficient range of persons to hold these offices.

The Hon. P. HOLLOWAY: Why does the Hon. Robert Lawson want to preclude someone who has three years' experience? I would have thought three years' experience in a position would make one eligible. It is either paragraph (a), (b) or (c). Clearly, by deleting paragraph (c) the Hon. Robert Lawson believes a person who holds, or has held, a position equivalent to that of a commissioner or assistant commissioner in a similar body for at least three years should not be eligible. Instead, you have to be eligible to be appointed as a judge of the High Court. Isn't that just typical legal profession exclusivity in operation again?

The Hon. R.D. LAWSON: No. The point of principle is that there is already a wide enough pool of talent in paragraphs (a) and (b), and one does not know in advance the level of qualifications that might be permitted in other jurisdictions. In some small jurisdiction, for example, they might appoint a police constable as an assistant commissioner, even though he might have served for three years. We do not believe that is an appropriate level of standard for inclusion in this. This is an extremely important position in the government hierarchy. The commissioner and

assistant commissioners must be people of the highest integrity and experience. It is for that reason that we do not believe that opening the field in the manner suggested by the honourable member is appropriate.

The Hon. P. HOLLOWAY: I make the point that, just as we thought about this bill, it is going to be a lawyer's paradise only, and heaven help anyone else who gets a look in.

Amendment carried; clause as amended passed.

Clause 11.

The Hon. B.V. FINNIGAN: Clause 11, terms and conditions of appointments, provides:

(1) The Commissioner and each assistant commissioner—

and, to correct the Hon. Mr Lawson, it is not the assistant commissioner: there is no limit in the bill to the number of them that there could be—

> will be appointed for a term not exceeding seven years and on conditions determined by the Governor.
>
> (2) A person appointed to be the Commissioner or an assistant commissioner is, at the end of a term of appointment, eligible for reappointment but a person cannot hold office as the Commissioner or an assistant commissioner for consecutive terms that exceed seven years in total.

I am not quite sure whether that means there is no minimum term. Could a person be appointed a commissioner for six months or 12 months, or whatever the Governor may decide?

The Hon. R.L. BROKENSHIRE: I did not quite hear all that. I apologise.

The Hon. B.V. Finnigan: Is there a minimum term?

The Hon. R.L. BROKENSHIRE: That will be up to the Governor after recommendations from the cabinet.

The Hon. I.K. HUNTER: If I understood Mr Brokenshire correctly, if there is no minimum term set and consecutive appointments are permitted as long as they do not exceed seven years in total, is there a provision that stops a government making consecutive appointments of, say, six months' duration, in which case any commissioner would be somewhat in the thrall of the executive, I would imagine. What does he say to that?

The Hon. R.L. BROKENSHIRE: It provides that 'the commissioner and each assistant commissioner will be appointed for a term not exceeding seven years and on conditions determined by the Governor'. That is no different from when issues occur around other independent executive positions. You can appoint for one year, five years or seven years. Most of the time, appointments, as I understand them, in these roles, are for four to seven years.

The Hon. I.K. HUNTER: Again, the mover relies on convention or other areas of government policy, but there is nowhere in this bill that prevents a government's holding a commissioner to some sort of political pressure by rolling short-term appointments. Given the ICAC and the nature of the organisation that he is purporting to set up, surely, the honourable member has thought about the independence of the commissioner and how that needs to be secured in this regard.

The Hon. R.L. BROKENSHIRE: The parliament also has some processes in this bill, but if the honourable member wants to move a specific amendment to clause 11(1) during this debate, or in the other house if this bill gets passed, I invite him to do so. I would love to have some positive contribution from the government rather than it simply saying, 'No ICAC. We don't need it,' and being absolutely negative on every clause of this bill. I would love to have it move some amendments and show some positive input.

Members interjecting:

The CHAIRMAN: Order!

The Hon. I.K. HUNTER: The honourable member says that he would like to have some positive input from the government, but I would like to have a bill that was actually well thought out. I invite the honourable member to go back to my question. If there is nothing in this bill that prevents a government holding a commissioner to political ransom, what is there that will give us any confidence that the commissioner will be independent?

The Hon. R.L. BROKENSHIRE: If he wants to go through the bill, the honourable member will see that there are checks and balances and steps and processes right through it that ensure that the appointment is a proper, kosher appointment. If one goes through the whole bill, as we have been, one will see that there are steps and processes right through it. The fact is that the honourable member is again forgetting that the South Australian public want to have this ICAC. He is not listening to the public. I challenge any government to try rolling six month appointments. Would the public accept that? Would the parliament accept that? Would the media accept that?

The honourable member is advocating some sort of a political process with six month appointments. If his government wants to try that on and this bill gets through, bring it on and let us see what the parliament, the media and the public have to say. I encourage the honourable member to try that trick.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Hunter was only seeking an answer to the guarantees that the draft bill provides for the commissioner.

The Hon. I.K. HUNTER: As is the wont of Family First, of course I was drawing on extreme examples. You could drive a bulldozer through this legislation. This is, in fact, a half-baked clause. The honourable member has not given it any thought. If he is serious, the position of the commissioner must be independent—it must be independent of the executive, the government and the parliament. Of course, a government will not be appointing a commissioner for six month rolling appointments, but what about 12 months, 24 months or, indeed, three months?

With an eye on his or her future, how can we be sure that the commissioner will be independent of the executive? We can't under the Hon. Mr Brokenshire's clause.

The Hon. B.V. FINNIGAN: I find it quite extraordinary that the response to the Hon. Mr Hunter's question is that pressure from the public, the media and parliament—members of parliament and the opposition—will not allow it. The whole purpose of this bill, supposedly, is to have an independent commissioner who is beyond the reach of government and who is not subject to political influence. The response to 'How are we going to stop the executive exerting political pressure on the commission?' is that politics will take care of it and that the media and the opposition will hold the government to account. That seems an extraordinary proposition.

The Hon. R.L. BROKENSHIRE: The bill provides that the 'Governor may, on the address of both houses of parliament, remove the commissioner from office'. If there is a real problem the clauses are here. This bill has much better checks and balances than a lot of executive appointments, legislation and so-called independence I have seen in the past. Clearly, the bill provides:

> The Governor may, on the address of both houses of parliament, remove the commissioner from office.

I am not saying anything further on this. I know what they are on about and I have given them the answers.

The Hon. R.D. LAWSON: As the Hon. Mr Winderlich has been muttering, if those opposite are so concerned about this particular provision, one would expect them to move an amendment here. Of course, they will have an opportunity when this bill reaches another place to use the numbers there to make changes which they regard as appropriate. There is no point in bellyaching about it here in committee if they are not going to move some amendment to support their own rhetoric.

The Hon. I.K. HUNTER: I am sorry to delay the committee further, but quite frankly the mover has not grabbed the gist of what I was saying. He is going on about a petition of both houses of parliament and the Governor being able to remove a commissioner. That is not the point. Why would a house of parliament—for example, the lower house where the government has a majority—ever do so if in fact it has the commissioner under its control by dint of this clause and its rolling appointments? That is the question the Hon. Mr Brokenshire has not addressed at all.

The Hon. R.L. BROKENSHIRE: Again, I say to the honourable member that, if he wants to move an amendment and get it drafted while we are debating this, I am sure the chamber will be very happy to see an amendment. If he is not satisfied and he wants to see some more specifics with respect to that, to ensure that a devious government would not try political gain, then move the amendment now or, if it is passed in this chamber, I invite him to move the amendment through his colleagues in another place.

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order!

Clause passed.

Clauses 12 to 15 passed.

Clause 16.

The Hon. R.P. WORTLEY: This clause allows the appointment of legal practitioners to assist the commission as counsel. Will the mover explain under what circumstances he would anticipate this provision being used? Why would the commission not use the services of the Crown or the DPP? In what circumstances would one engage a legal practitioner as counsel?

The Hon. R.L. BROKENSHIRE: That would be a working call of the commissioner. If the commissioner wanted to appoint a legal practitioner to assist the commission, why not have that clause in there? There have been plenty of situations in the past (and in the present) where commissioners who are looking into certain areas requested by government and parliament have the power to employ legal practitioners as counsel. If you are going to have something as important as an ICAC you would have to give the commissioner (in either general or particular matters) the opportunity to appoint specific legal practitioners to assist him if, indeed, he believed that was necessary. Why would there not be that flexibility in the bill?

The Hon. R.P. WORTLEY: I am not saying we should not have it; what I am saying is that there is a view that this commission will just end up as one big pay check for the legal profession in this state. Unfortunately, the member has just fumbled through the answers to our questions. In what circumstances would you engage a legal practitioner and not the DPP or the Crown? There is a plethora of legal advice in the DPP and the Crown. These are very important questions and issues which we must consider, so can you give some examples of why you would use a legal practitioner?

The Hon. R.D. LAWSON: I can give an example immediately.

The CHAIRMAN: I do not know whether he is asking you but you might want to help him.

The Hon. R.D. LAWSON: The Minister for Local Government Relations announced yesterday that Ken MacPherson has engaged counsel to assist him in the inquiry that he is undertaking. It is accepted that in some cases it is entirely acceptable to engage a legal practitioner. Where the honourable member fails to understand the effect of the clause, such a legal practitioner could be an officer of the Crown Law Department or could be an officer of the DPP. It can be any legal practitioner, whether in public employment or private employment.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.P. WORTLEY: I still have not had an answer to my question. Of course the commission can engage a legal practitioner from the DPP or the Crown. What I am asking is: under what circumstances would you not seek this advice from the Crown? Why would you engage a legal practitioner outside the Crown or the DPP?

One of the problems with an ICAC is that it is one big massive black hole for the legal profession. It sees it as a way of making lots of money. It has already been expressed by the Hon. Mr Brokenshire that he estimates the cost as being $15 million. Once you start engaging outside lawyers you could double the cost of that commission in no time. I am just asking: in what case would you not use the DPP or the Crown and go outside that to the legal profession? Give me a couple of examples of that circumstance.

The Hon. R.L. BROKENSHIRE: Examples could be where there is a conflict of interest. There may be allegations involving the Crown Solicitor's Office and they need an independent solicitor. I can recall occasions where this government has chosen to pull in legal people from interstate—

The Hon. R.I. Lucas: Victoria.

The Hon. R.L. BROKENSHIRE: —from Victoria, simply because they wanted some so-called independence in the legal system. But I also say that, whilst the government does use the Crown Solicitor's Office regularly (and so it should, as indeed this commission would have the right to), I can recall plenty of occasions in recent times when private law firms have been subcontracted

by government agencies and departments to give legal advice. It happens nearly every day, under this government's watch, in many departments and agencies. They do not get all their legal advice from the Crown Solicitor's Office.

The Hon. R.I. Lucas: Take that!

The CHAIRMAN: Order!

Clause passed.

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order! If the Hon. Mr Lucas cannot assist in the passage of this bill, he might want to be quiet.

Clauses 17 to 26 passed.

Clause 27.

The Hon. I.K. HUNTER: I have a question about this clause, which relates to compulsory examination. Subclause (3) provides:

> A person required to attend a compulsory examination is entitled to be informed, before or at the commencement of the compulsory examination, of the nature of the allegation of the complaint being investigated.

I readily admit that I am not a lawyer. Why is the phrase 'entitled to be informed' used instead of 'shall'?

The Hon. R.L. BROKENSHIRE: In terms of the work that parliamentary counsel, my staff and I have done on that, that was the recommendation based on the way provisions concerning other like-natured commissions and specific clauses of an act are worded. I will be leaving the clause that way, but the member has the right to move an amendment.

The Hon. R.I. Lucas: You couldn't get any better: R. Lawson QC!

The CHAIRMAN: Order!

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: The Hon. Mr Lawson has the call, not the Hon. Mr Lucas.

The Hon. R.D. LAWSON: It is important that people who are required to attend before a commissioner for public examination have certain rights. The present clause provides that a person who is required is 'entitled' to be informed. That means he or she has a right to be informed, and if that right is not honoured he or she has certain redress. If the clause simply provided that a person 'shall' be informed, that would not give to the person themselves the right. That would mean only that the person who failed to give the notice committed some relatively minor breach.

People are entitled to be informed. If they are not informed they have certain rights, which they can enforce. The entitlement given by this clause is an important protection. This is a better protection than the mere provision that requires a person, who is undertaking the examination, to provide certain information.

The Hon. I.K. HUNTER: I am grateful to my learned friend for that free advice, and I emphasise the word 'free' because I understand that, given his eminence in his field, he would otherwise charge quite hugely for it. My concern relates to the following subclause (4)—if that is the case and his advice is correct, and I have no reason to doubt it—where it states:

> A failure to comply with subsection (3) does not invalidate or otherwise affect the compulsory examination.

My comment to the mover of the bill is: a person who is required to attend a compulsory examination, who may not have been given his entitlement to be informed of the nature of the allegation or the complaint before or at the commencement of the compulsory examination, has very little redress, because a failure to do so does not invalidate the process at all.

The Hon. R.L. BROKENSHIRE: The member has rightly read the clause but, because of the sensitivities and complexities of the possible investigations, the situation is that that is the way it has to be drafted. That is where I will leave it. Because of the specifics of what we are trying to achieve here from a legal sense, that is the way that the processes are drafted to occur.

The Hon. I.K. HUNTER: Mr Chairman, I give up. Frankly, during the course of this debate in committee, I have drawn attention to some serious flaws in the drafting of this bill. I believe they

have not been given adequate consideration by the mover. I believe they are wide open to abuse in many forms. God forbid if the council passes this bill, and God forbid should the government ever consider passing a bill that is so fatally flawed.

Clause passed.

Clauses 28 to 31 passed.

Clause 32.

The Hon. B.V. FINNIGAN: I find it extraordinary that the response from honourable members to questions about a bill is: 'We'll amend it. Rather than answering the questions, you should amend it.' How would we consider and draft amendments when we do not have an answer to our question to begin with? Why would we amend something when we cannot even be informed as to how the clause would operate to start with?

In relation to clause 32, which relates to the substantial powers to summons witnesses and take evidence, subclause (5) provides:

> A person appearing as a witness at a compulsory examination or public inquiry before the Commission must not, without reasonable excuse—
>
> (b) refuse or fail to answer a question that the person is required to answer by the Commission; or
>
> (c) ...to produce a document...

Can the honourable mover indicate whether that power of the commission is to be considered absolute in the example of a journalist who is trying to protect a source who provided him or her with some confidential government documents? Would that person be obliged to reveal their source?

The Hon. R.L. BROKENSHIRE: The clause states, 'without reasonable excuse'. I think the honourable member did not read that out. It states:

> A person appearing as a witness at a compulsory examination or public inquiry before the Commission must not, without reasonable excuse...

If there is a reasonable excuse, that would take effect, but it has to be a reasonable excuse. It is interesting that, in the area around bikies, the government is talking about all sorts of powers. This one states, 'without reasonable excuse'.

The Hon. B.V. FINNIGAN: To repeat my question: is a reasonable excuse that a person is a journalist and wishes to protect their source?

The Hon. R.D. LAWSON: The commissioner is clearly the arbiter as to what is actually a reasonable excuse in the circumstances: in certain circumstances it may be deemed reasonable, and in others it might not be reasonable. It is impossible to answer in advance whether questions will be directed to be answered.

Clause passed.

Clauses 33 to 50 passed.

Clause 51.

The Hon. R.D. LAWSON: I move:

Page 27, lines 3 to 9—Delete the clause and substitute:

> 51—Self-incrimination
>
> (1) A statement of information, document or other thing produced under section 45 or 46, that tends to incriminate the person producing it, will not, if the person objects to production at the time, be admissible in evidence against the person in proceedings for an offence other than proceedings in respect of the making of a false or misleading statement or declaration.
>
> (2) This section does not prevent the use of such a statement, document or other thing for the purposes of an investigation under this act.

Currently, clause 51 provides that a person who is required to produce a statement of information, a document, etc., is not entitled to refuse to do so on the ground of privilege, other than legal professional privilege, but if the person objects then the item will not be admissible in evidence for an offence other than for proceedings against him or her for making a false or misleading statement.

We believe that the appropriate form of self-incrimination provision is as proposed in the clause that stands in my name. We believe the appropriate provision, which is a standard provision in a case of this kind, is that a statement of information, document or other thing produced under the compulsion of the previous sections that tends to incriminate the person producing it will not, if the person actually objects to production at the time, be admissible in evidence against that person in proceedings for an offence other than proceedings in respect of the making of a false or misleading statement.

That is the standard clause, and we believe that is the appropriate one in circumstances where somebody is compelled under compulsion of law to produce documents or things. I invite the honourable member to adopt this formulation.

The Hon. R.L. BROKENSHIRE: I advise the committee that I am happy to accept that amendment.

Amendment carried; clause as amended passed.

Clauses 52 to 74 passed.

Clause 75.

The Hon. R.P. WORTLEY: I refer to part 4, Inspector of Commission. I have a question of the mover, but do I address it to the Hon. Mr Lawson or do I do the right angle and it goes over there?

Members interjecting:

The ACTING CHAIRMAN (Hon. I.K. Hunter): Order! The Hon. Mr Wortley will address the question through the chair.

Members interjecting:

The ACTING CHAIRMAN: The chair will decide who will ask the questions.

The Hon. R.P. WORTLEY: This might not be serious to you, but this is a very serious issue for this state, so I think people who want to contribute should at least be given an opportunity to do it without interjection; that is what I am saying. This clause relates to the appointment of an inspector with the powers to watch over the commission, and it also contemplates the remuneration for the inspector, staffing and so on. Does the mover anticipate that it will be a standing practice to have an inspector or that the inspector would only appointed if there were a perceived problem in the running of the commission?

The Hon. R.L. BROKENSHIRE: The expectation is that the role would be permanent because the inspector has certain functions with respect to auditing the operations of the commission: to make sure that the commission is complying with the law; to deal with complaints of abuse of power, impropriety and other forms of misconduct; to deal with conduct amounting to maladministration; and it goes on from there. It is an oversight position to ensure that there are some checks and balances in the performance of the commission.

The Hon. B.V. FINNIGAN: This really is extraordinary. Here we have the Independent Commission Against Corruption Bill. We are going to have the independent commission that is going to be the big watchdog. It is going to keep an eye on us all—government, local government, teachers, doctors and heavens knows who else—and it is going to have a massive staff and a huge budget and, as well, we will have an inspector to keep an eye on the commission, who is also going to be remunerated and appointed for five year terms, not seven for some reason, and will also have staff.

It is just extraordinary that we are going to have on top of the ICAC another level of inspection and oversight as well as a parliamentary committee whose members assumedly would be paid. It really is extraordinary. It reminds me of the quote from Juvenal, which I think I first heard in *Yes, Minister*: quis custodiet ipsos custodes? Who shall guard the guards?

Apparently we are going to have an inspector to guard the guards and an inspector to watch over the ICAC. Perhaps I should move an amendment to have an inspector to watch over the inspector and inspector No. 3 to watch over inspector No. 2. This is an absurd proposition that you are going to have an independent watchdog to be there to safeguard public administration in this state and, on top of that, there is going to be an inspector to keep an eye on the commissioner. Where does it end?

The Hon. R.P. WORTLEY: If it is the intention to have a permanent inspector, why does clause 75 actually not say that? It does not say that there will be an inspector: it says that the Governor may appoint one. Secondly, is the cost of running the inspectorate and all the staff part of the $15 million cost of the commission or is this on top of that? How much do you think the cost of having an inspectorate with all the staff is going to cost?

The Hon. R.L. BROKENSHIRE: It is intended that this will be within the global budget. I do not quite understand what the government is actually saying here. Is it that it does not want any check and balance with respect to an inspector? With SAPOL, you have the Police Complaints Authority, which in a sense is equivalent to what is advocated here. Are you wanting to dump the PCA, as an example? It is here for a reason and a purpose and it would be within the global budget.

Clause passed.

Clauses 76 to 87 passed.

Clause 88.

The Hon. R.D. LAWSON: I move:

Page 41—

Line 8 [Clause 88(1)]—Delete '7' and substitute '11'

Line 9 [Clause 88(1)(a)]—Delete '4' and substitute '3'

Line 10 [Clause 88(1)(b)]—Delete '3' and substitute '8'

The Hon. B.V. FINNIGAN: Isn't it extraordinary that the Hon. Mr Lawson withdrew all his amendments proposing that it would have to be both houses and not either house that could initiate all these things! Obviously his confidence in Mrs Redmond, the Leader of the Opposition, is so great that he is not prepared to take the risk that the other place would have to sign off on those things.

He wants to keep the old kangaroo court Legislative Council able to initiate all these things by itself because he is pretty confident that he will not have the numbers in the lower house. I have a question of the honourable mover on clause 88. How did he come to the decision that the ideal membership of a joint committee would be seven members—four members of the Legislative Council and three members of the House of Assembly?

The Hon. R.L. BROKENSHIRE: I came to that decision because a joint committee obviously allows input from both houses, but my view—and we discussed this with my adviser for some time—is that it is appropriate as the house of review, as the people's house, that the Legislative Council have four members.

The Hon. B.V. FINNIGAN: This is my last question, but what an absurd proposition this is. It is clearly a naked grab for power. Correct me if I am wrong but other joint committees, I understand, have six members—three from each house—but here we are going to have 22 members of the Legislative Council represented by four members and 47 members of the House of Assembly represented by three members. Why would that be?

That would be because the government does not have the numbers in the upper house. It is composed of the various rabble that are sitting opposite me. This just shows what a ridiculously naked political exercise this is. The joint committee which will have oversight of this commission and which will have the veto power over the commissioner and the inspector is going to be composed deliberately so that the numbers will reside not with the government. That just demonstrates that this is purely a political exercise, it has no justification and it ought to be defeated.

The Hon. R.D. LAWSON: The amendments that I have moved propose that the joint committee do not comprise seven members (four from the council and three from the assembly), but instead 11 members, giving plenty of opportunity for all members to participate in this important committee, three of whom must be members appointed from the council and eight appointed from the assembly. That shows that we recognise that there is a greater number of members in the assembly.

The reason I move this amendment is simply to emphasise the point that the honourable member's bill has adopted the language of the Liberal Party bill in another place. Mrs Redmond

moved for the establishment of a committee of 11 with the composition of three and eight and, in order to bring the bills into conformity, I invite members to support my amendment.

The Hon. B.V. FINNIGAN: This really does take the cake, doesn't it! The Supreme Court of the United States can get by with nine justices, the High Court of Australia can do with seven but the joint committee on the ICAC needs 11. No fewer than 11 members will do, according to members of the opposition, to maintain oversight of this committee.

One has to ask whether this is going to be a paid committee of the parliament with its own secretariat. There is another $300,000 or $400,000 a year tossed in. Even on the completely baseless calculations of the honourable member, we are already up to about $15.5 million, so we have had a budget blow-out of $1.5 million just tonight in two hours. Who knows how much it would end up costing if this bill were actually accepted? Now we are going to need 11 members of parliament to scrutinise the ICAC and the inspectorate—a joint committee of 11 members. This really is piling absurdity one upon another.

The Hon. A. BRESSINGTON: If we are to have parliamentary oversight of an ICAC, how is it then an independent commission against crime and corruption? I thought that was the whole point of it.

The Hon. R.D. LAWSON: It is a feature of all independent commissions against corruption in Australia that they have a parliamentary committee with an oversight role. It is a limited role; it can play no part in any particular investigation. It is simply to ensure that the commission is responsible ultimately to the parliament as a whole—not to the government or the Governor-in-Council but to the parliament as a whole. According to the information I read, the parliamentary oversight committees in the various states have fulfilled their function appropriately and it is considered to be a desirable feature of such legislation.

The Hon. A. BRESSINGTON: For further clarity—I am not arguing as I am not sure—I thought those parliamentary oversight committees were in place for the states that did not have an upper house.

The Hon. R.D. LAWSON: That is not the case. In New South Wales the committee has been particularly active in publishing annual reports. We believe, given the level of corruption in this state, that there will be plenty of work for an independent commission against corruption and the oversight committee.

The Hon. I.K. HUNTER: I ask the mover of the bill and the amendments what quorum is required under clause 88 for this committee of parliamentary oversight?

The Hon. R.L. BROKENSHIRE: In my proposal, where there are seven members, you would have to have an absolute majority, as with any other committee. To let my colleagues know—and confirming what the Hon. Robert Lawson said—the oversight role is in force in respect of every state's ICAC.

The Hon. I.K. HUNTER: I thank the honourable member for his response, but where in this bill does it indicate that an absolute majority is required for the parliamentary oversight committee? Could not the parliamentary oversight committee meet with just two members?

The Hon. R.L. BROKENSHIRE: Committees by definition, rule and protocol of this parliament—

The Hon. I.K. Hunter: Where? Point to the definition.

The Hon. R.L. BROKENSHIRE: The same as with any other committee, you would have to have an absolute majority.

The Hon. I.K. Hunter: You haven't written one.

The Hon. R.I. Lucas: Look at the standing orders.

The Hon. B.V. Finnigan: Standing orders don't cover standing committees.

The Hon. I.K. HUNTER: Another flaw in this bill! This bill has not been thought through at all. It is hodgepodge, thrown together by a committee of I do not know who—I can take a guess. Absolutely no thought has been put into the construction of this bill. We are setting a precedent and putting through this parliament a bill that will have a fundamental impact on the way the state is governed, and we do not even know on this important parliamentary committee who will comprise a

quorum. It is not in the bill; there is no definition. To what do you point—standing orders? Where does it say in the bill that standing orders will apply?

The Hon. B.V. FINNIGAN: This will be my last contribution, but this debate has demonstrated what a furphy this bill is. It is the independent commission against corruption, potentially with rolling appointments of the commissioner, an inspector appointed over the top, external legal counsel employed, potentially doing prosecutions, management consultants are able to be employed, and a joint parliamentary committee, either composed of a majority of Legislative Council members or, under the other circus model the Hon. Mr Lawson is proposing, with 11 members. This must be the most ill thought-out proposition, completely without justification, to have ever come before this parliament.

The Hon. R.P. WORTLEY: I need a bit of clarification concerning a statement made by the Hon. Mr Lawson a few minutes ago regarding 'due to the level of corruption in the government in this state'. The only corruption in a government in this state over the past 20 years, as I understand it, was during the years when the opposition was in power when I think no fewer than five members were sacked for misleading—

The Hon. R.I. Lucas: Not for corruption.

The Hon. R.P. WORTLEY: The Hon. Dale Baker—

An honourable member: And Olsen.

The Hon. R.P. WORTLEY: And Olsen—that wasn't corrupt was it? Half of your people would have been in gaol if we had an ICAC then.

The Hon. R.D. LAWSON: Mr Chairman, I know you do not need to be reminded of this but other members might: joint standing orders 4 provides that a joint committee may fix its own quorum.

Members interjecting:

The CHAIRMAN: Order!

Amendments carried; clause as amended passed.

Remaining clauses (89 to 104) and title passed.

Bill reported with amendments.

The Hon. R.L. BROKENSHIRE (21:49): I move:

That this bill be now read a third time.

I thank my colleagues and all honourable members for their contribution. I note the criticism from the government, but we have put up a bill that I believe is in the best interests of South Australia, and it is a vast improvement on what the government has put forward.

Bill read a third time and passed.

WILLUNGA BASIN PROTECTION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 3538.)

The Hon. I.K. HUNTER (21:50): I advise the council that the government has much more sympathy for this bill than it had for the last matter we dealt with, but we still will not be supporting it. I will come to the government's preferred course of action shortly, but now I would like to provide some background to the government's position. The current legislative framework that exists under the Development Act 1993 already provides the state legislative framework to manage land use and development matters. The planning strategy provides land use direction to guide future growth of the development plan, which is guided by the planning strategy, and provides a policy framework for assessing applications for development. The system provides a transparent and consistent process for planning matters across the state.

The planning strategy clearly recognises the importance of the Willunga Basin as a prime food and wine producing region, tourism destination, key regional employment area and coastal settlement area that supports affordable housing and choice of housing in that region, as well as containing areas of environmental importance. Protection of the Willunga Basin and its key environmental areas, such as the Aldinga Scrub Reserve, has been in place for many years. The

current policy applying to the region is therefore a long-standing one that recognises the value of the area and the aspects that contribute to this.

The bill being proposed shifts the responsibility for planning matters in the region from elected representatives—that is, the Minister for Urban Development and Planning and local government—who are accountable to the community, to an appointed committee that is not accountable to anyone. The government does not believe that this is an appropriate course of action, as envisaged by this bill, and believes there are better ways to move forward.

Additionally, the introduction of the proposed Willunga Basin protection committee would introduce a new layer of bureaucracy which would slow development assessment processes in the region, with all development proposals requiring referral to the committee. I point out that this would apply even to a homeowner who wanted to put up a shed on their block. If this bill was successful the homeowner who wanted to put a shed on his block would have to go through this extra layer of bureaucracy.

Further, the introduction of the basin plan would duplicate the planning strategy and development plan and create some confusion as to the relationship of these, particularly if there were inconsistencies between the two. If accepted, the new 30-Year Plan for Greater Adelaide—the public consultation period for which finished at the end of last month—will continue to recognise the importance of the Willunga Basin and its key attributes, as described in the current planning strategy for the metropolitan Adelaide region, that is, as a prime food and wine producing region, tourism destination, key regional employment area, etc., as I have already highlighted.

The 30-year plan is designed to take a holistic view to population and housing targets across the Greater Adelaide region, including consideration of employment opportunities, areas of environmental importance, and water and food security issues. This will provide the strategic context for land use and development. I understand that the Minister for Urban Development and Planning has already contacted the local council and stressed that he desires that local and state government work collaboratively to ensure the best outcome for the basin, including banning controls that do not inadvertently restrict existing homeowners from improving their properties. I repeat: if you own a block in the urban growth boundary, for example, and want to put up a shed, under this bill you will be captured and will have to go through the process of developmental approval.

I am confident that through a genuine partnership with local government we can achieve an outcome that ensures that the significance of the Willunga Basin is maintained and promoted for generations to come in a way that does not impose new levels or new layers of bureaucracy. For these reasons the government will not support the bill, although, as I indicated, it does have sympathy for the intent and will work with local government to ensure that those outcomes come to pass.

The Hon. R.L. BROKENSHIRE (21:54): Given the time, and the patience of my colleagues, I will be brief, but I would like to put a few things on the public record. First, I would like to thank colleagues who have indicated support for this bill. It is a very important one and, yes, it is groundbreaking. In fact, it is the reverse of where the government has been going. The real contrast between where the government is headed and where this bill is headed is that this bill puts the big picture—the thinking, planning and guaranteeing of longevity when it comes to the protection of areas of environmental importance in the region and tourism, and the opportunity to protect it not only as a food bowl, as it is now, but also to enhance it as an intensive, increased food bowl for South Australia in the hands of a specific and dedicated committee. We see a government that wants to take power away from councils and local communities more and more every day and put it into the hands of the minister, where he or she can pick and choose.

I am disappointed that the government has indicated that it will not be supporting this bill. It has said that it understands the goodwill intent of this bill, but it is not prepared to proactively support it. In fact, it has used every excuse in the book to try to knock this bill over.

This bill is really important from the point of view that it allows a model piece of legislation to be set up and, if it is as successful as I know it will be, I do not think it will be long before governments will be introducing similar bills for parts of the Adelaide Hills and the northern areas that are also in diabolical trouble when it comes to food security protection for them, our state and our consumers.

It is interesting that I received some documentation (which I appreciated receiving), which was a request from government to come up with every possible way that it could go out into the

public arena, and particularly in the Willunga Basin, and run all the negatives about the bill that I have introduced. There was nothing in that documentation requested by government that looked at any of the positives of this bill.

This has been a long time in coming for me and, if the bill is passed tonight, I will be extremely grateful to my colleagues because, as I said, it is groundbreaking. Back in 1995, when I was studying the recycled water project for the Willunga Basin in the USA, I had a look at what was happening in the Napa Valley and the Sonoma Valley. It has worked in those places. I have also visited the Swan Valley in Western Australia. It works there, although I believe that this bill is a better model than the Swan Valley model. I thank colleagues for their contribution and I commend the bill to the council.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. P. HOLLOWAY: In addition to the comments made by the Hon. Ian Hunter in setting out the government's position, I want to mention some of my concerns about this body—the Willunga Basin Protection Committee—and also the definition of the area that it takes in. As I understand the act, it would apply to the Willunga Basin, which means the geographical area that is defined as the Willunga Basin in a plan deposited by the minister for the purposes of the act.

The committee that is set up then has a representative of almost every group in that region that one could possibly name. If I interpret the bill correctly, the committee could effectively have veto powers over any development whatsoever within the entire Willunga Basin. Given the interest in the committee, I think that could well be to the detriment of the community as a whole.

When this bill was introduced, I did look at the powers which the Swan Valley committee had and which were referred to by the Hon. Robert Brokenshire. The problem with this particular bill is that it goes much further than the act in the Swan Valley, which, essentially, has more of an advisory committee, I would suggest, than this particular committee, because if I read the bill correctly, it could really veto almost any development whatsoever, and given the nature of the committee and the incredibly diverse membership of it, in my view, it would be the sort of committee where it would be very hard to get any sort of consensus or cohesive action out of it altogether.

Far better I believe, as was indicated by the Hon. Mr Hunter, that we should just change the development plan for the region, along the lines that take place in the Barossa Valley, to ensure that holdings are larger. We can do that through restricting subdivision to a size that is larger than would be the case now and also, as applies in parts of the Barossa Valley, you can have a prohibition on any dwelling being built on a block below, I think, 25 hectares. You can certainly have a look at this.

That is why, following the approach of the member for Mawson, Leon Bignell, and also my colleague John Hill, I have written to the Onkaparinga council seeking its cooperation in relation to developing a development plan for the region which have provisions such as those which exist within the Barossa Valley to give a greater level of protection. Being in the development plan, it will have the force of law, but the great advantage, I believe, is that it will obviate the need for this large committee, a rather cumbersome progress that could hinder even desirable development within the valley and development that might otherwise take place. I think it should be pointed out that the models that the Hon. Mr Brokenshire referred to such as the one in the Swan Valley are essentially advisory committees. They do not have the powers, if I understand this bill correctly, that this particular committee has.

Nonetheless, as I said, the government certainly supports the view of the Hon. Mr Brokenshire; that is, we should provide greater protection to those agricultural areas which would be roughly those east of the Main South Road and south of Old Noarlunga and mounded in the other area by the hills face zone to the east and south. That region, we believe, should be given protection along the lines that now exist in the Barossa Valley in relation to minimum subdivision lots and the minimum size of blocks on which dwellings can be built. We believe that will give much greater protection to this important agricultural region than a Sanhedrin council which will simply complicate the management of the area rather than assist.

Clause passed.

Remaining clauses (5 to 23), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

MEMBERS' REMARKS

The Hon. I.K. HUNTER (22:05): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.I. Lucas: Do you claim to be misrepresented?

The Hon. I.K. HUNTER: I do. I claim to be misrepresented by the Hons Mr Lawson and Mr Lucas. During the debate on Order of the Day: Private Business No. 30, the Independent Commission Against Corruption Bill, I raised some questions of the mover about quorums, and the Hon. Mr Lawson chirped in with a scathing attack on my understanding of standing orders and caused me great personal hurt. He wounded me tremendously, because I have always been in awe of the Hon. Mr Lawson's wide knowledge of the law and the processes and procedures of this council. The Hon. Mr Lucas was giving him support and barracking from the sidelines. I am not sure whether that will be on the public record, but I would like it noted that he was certainly there attacking my credibility.

I understand that the point the Hon. Mr Lawson was making about standing orders was, in fact, incorrect and that I am correct. The Hon. Mr Lawson was, in fact, referring to the standing orders applying to standing committees of this chamber, not to committees set up under joint standing orders. I refer to the standing orders at page 105, Joint Committees, and No. 3 states:

> The number of Members appointed by each House shall be the same—

not eight and three, but the same number. Further, referring to a quorum, No. 4 states:

> Each House shall fix the Quorum of its Members—

not the quorum of the committee, but the quorum of its members on the committee—

> necessary to be present at all sittings of the Committee; but, subject hereto, a Joint Committee may fix its own Quorum.

I claim that I have been grossly misrepresented during that debate. I do not know what redress I have in the council, but I thought it important to make that plain and put it on the record.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE (VOLUNTARY EUTHANASIA) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November 2008. Page 943.)

The Hon. D.G.E. HOOD (22:07): Time and again, world wide, the euthanasia issue has been put to a vote or an inquiry, and on each of those occasions, in my view, it has been found wanting. World wide, the only countries allowing the practice of legalised euthanasia are the Netherlands, Belgium, Albania and, most recently, Luxembourg. Oregon and Washington states in the US also allow it, and it is not listed as a crime specifically in Switzerland. Numerous inquiries world wide have criticised and reported negatively on the practice. Indeed, our own Prime Minister (Hon. Kevin Rudd) condemned the practice during an interview on Macquarie radio in just May last year, saying he was concerned that laws allowing euthanasia could lead to the elderly and terminally ill thinking they were a burden on their loved ones and, thus, being forced into opting for euthanasia.

I begin by acknowledging that there are many sincere people calling for active euthanasia. It is, indeed, a difficult area, and I am sure everyone would acknowledge that. I have listened respectfully to the arguments that they have put to me in numerous letters and emails that have come across my desk, and I have tremendous sympathy for people in hospital who are suffering what they consider to be unbearable pain through disease, accident, or whatever the cause may be.

However, I have consistently opposed euthanasia and our party has consistently opposed all bills that have as their objective the legalisation of active euthanasia. We maintain that the

position of allowing so-called mercy killing or assisted suicide sends the wrong message about the sanctity of life and may result in some elderly South Australians feeling that they almost have a duty to die so as not to be a burden on others.

Our opposition to active euthanasia is based on a public policy ground that it is inappropriate for a state such as ours to tacitly condone or, indeed, even promote the taking of life, either by suicide, assisted suicide or active euthanasia. One person dies by suicide in South Australia every second day on average. The South Australian rate is 14 per cent above the national average. In my view, our priority at the moment must be to promote the value of human life rather than to see people succumb to the pressure that may be placed upon them to euthanise themselves.

This is not to say that we believe that artificial methods should be employed to prolong life where there are no prospects of recovery—we do not; or indeed when the patient does not consent to medical intervention—that should be up to them. In many medical cases pain relief or other medication is required by a patient even when there is the knowledge that the treatment or pain relief may actually shorten the patient's life as a side effect of that treatment.

If the treatment is required to alleviate suffering or for other medical needs, again, Family First is not opposed to it. We do not argue that life needs to be artificially prolonged or, indeed, that pain be left untreated. I should point out that a number of people I have spoken to who have lobbied in favour of euthanasia have misunderstood that allowing euthanasia laws would allow their life not to be artificially prolonged. Of course, that is not what euthanasia is. When I have explained that on the phone or in person, some people have changed their view during those discussions.

When the figures of four out of five South Australians being in support of euthanasia are commonly quoted, I suspect that many of these people have in mind what I have just mentioned, that is, the administration of a drug to alleviate suffering; or they may be opposed to artificial methods that are sometimes employed to prolong life needlessly. In fact, the majority of survey questions can contain loaded language. Indeed, one survey I was sent, which noted that 80 per cent of people in Adelaide wanted euthanasia laws, actually asked, when I checked the language of the policy:

> If a hopelessly ill patient experiencing unbelievable suffering with absolutely no chance of recovering asks for a lethal dose, should a doctor be allowed to provide a lethal dose or not?

That is hardly an objective question: indeed, it is quite leading. Correspondingly, if we asked a loaded question along the lines of, 'Is a doctor's oath that they do no harm important to you, and would you object to a doctor being legally able to harm or kill you?', I suspect that the number apparently opposed to euthanasia would fall just as far the other way. Indeed, I could not believe that numbers alone is a sufficient reason to enact euthanasia legislation, that is, that apparently 80 per cent of people want it. I do not accept that figure, as I have just indicated.

I have seen figures that indicate that of the order of 70 per cent of people want capital punishment introduced in Australia. That is something I certainly would not support, and I suspect that no member of this chamber should support it. Sometimes numbers just do not tell the full story. I personally think that the majority of South Australians, when the methods and circumstances are fully explained to them, would find the active killing of an elderly or sick patient by another person completely repugnant and certainly poor public policy.

Indeed, in the 2002 state election, Philip Nitschke drew the No. 1 spot on the ballot paper for the upper house but was able to get only 10,941 votes—a mere 1.8 per cent of the vote. The other candidate supporting voluntary euthanasia, the Hon. Sandra Kanck of the former Democrats, made a very clear statement before the election that she was in favour of voluntary euthanasia and would introduce a bill during the first session of parliament. Instead of the Democrats' vote increasing it actually fell by 58,000 votes. I suspect that support for active euthanasia is not as strong as often stated.

The Australian Medical Association's Tasmanian President, Chris Middleton, recently affirmed the following:

> Legalising euthanasia would definitely poison the doctor/patient relationship, creating fear and distrust.

That is a concern I share. I recently received a letter from Frances Coombe, President of the South Australian Voluntary Euthanasia Society (SAVES), dated 26 June 2009, in which she argued that euthanasia is 'not an issue of conscience', and I agree with her in many ways. I agree with her: it is not an issue that I think allows me or my conscience to support.

I took the opportunity to write to the heads of several churches inquiring of their attitude toward euthanasia, because we have been lobbied by some group claiming to be Christians for Euthanasia. I will read some of their responses onto the *Hansard* record. The Most Reverend Philip Wilson, Archbishop of Adelaide, wrote this to me:

> The Catholic Church's position on euthanasia is clear: the right to life is the most fundamental of all human rights and one which cannot be diminished by any other right, real or imagined. Life is to be cherished and protected from the moment of conception through to natural death. Once we seek to create exceptions such as euthanasia we effectively diminish the value of all human life. If we begin to make value judgments about the relative quality of people's lives, we lose sight of the objective reality that all life is sacred. Science and medical knowledge should always be at the service of human life. In Australia, and especially in South Australia, we are fortunate indeed that our palliative care services are amongst the best in the world. I am convinced that a broader understanding of palliative care support services in our community would serve to diminish the call for euthanasia. People are naturally concerned about what might happen to them should they experience a life threatening illness. They deserve reassurance and care, not simply the spectre of a hastened death.
>
> I believe that legalising voluntary euthanasia will only increase people's fears of what might happen to them. I understand in the Netherlands that people fearing the possibility of being euthanized now carry cards on their person making it known that they do not want to be killed should they fall ill and need hospitalisation.
>
> In a world where so-called 'mercy killing' was permitted, what would happen to the doctor-patient relationship? Would the aged and infirm among us feel pressured into accepting euthanasia for themselves as a 'duty' also as to 'unburden' their families of their care? As we have seen in the Netherlands, how long would it be before restrictions on euthanasia for the use only for the terminally ill be extended to others; the depressed, the lonely, the disabled?

The letter goes on to state, 'Thank you for taking up this fight.' In his letter to me, the Archbishop mentioned the case of the Netherlands, which has allowed legalised active euthanasia for some time now. His concern was that, once the floodgates to euthanasia were opened in that country, the practice gradually became accepted and, indeed, extended into other areas. In 1990, for example, there were some 10,558 cases in the Netherlands of doctors who had expressed intent to kill.

The Remmelink Report, an official Dutch government survey of euthanasia practices, found that over 1,000 patients are euthanased non-voluntarily in that country each year. In a 1998 submission to the Tasmanian Committee of Inquiry into Euthanasia, the Australian Medical Association stated:

> We do not think it is possible to set safe limits on voluntary euthanasia...we took account of the present situation in the Netherlands; indeed some of us visited that country and talked to doctors, lawyers and others. We returned feeling uncomfortable, especially in the light of evidence indicating that non-voluntary euthanasia...was commonly performed.

In his letter, the Archbishop also asked how long it would be before the depressed, lonely or simply disabled sought out euthanasia services—and this is not an unrealistic concern, in my view.

Philip Nitschke once stated in an interview with the *National Review* in the US that euthanasia should be available to anyone who feels the need for it. The interviewer asked him whether the lonely, old and depressed should be able to request euthanasia and he said yes. The interviewer then asked about the depressed, troubled teenager—a teenager—and, again, Nitschke said yes. I find those sentiments outrageous. Frankly, his advertisement last weekend which he sent to his supporters and which I forwarded to *The Advertiser* advertising a bundled copy of his book *The Peaceful Pill*, so-called, along with a helium bottle, was just plain irresponsible.

The depressed, troubled teenager that he quotes—as many teenagers are at some point in time—need family support when they miss out on making the football team or when they have broken up with a boyfriend or girlfriend or whatever it might be. They do not need euthanasia or a seedy deal to buy a helium bottle bundled with a suicide manual.

The undeniable truth, in my mind, is that, despite the good intentions behind this bill, if a new field of euthanasia medicine was to open in South Australia it would be quickly filled with people who have a real focus on this, like Dr Nitschke, for example, selling helium bottles, do-it-yourself suicide kits and perhaps other substances in order to assist the process. Of course, we would then become the target of interstate and, indeed, international suicide tourists, as they are called.

Dignitas International in Switzerland, a company which specialises in euthanasia services and which is often lauded as the model of a compassionate euthanasia service, recently found itself the target of an exposé in the British *Daily Mail,* which I will place on the record. The article states:

When Maxine Coombes decided she could no longer live with...pain...her family tried to convince her to battle on. But she was drawn to the idea of an assisted suicide in Switzerland, where she believed she would meet a peaceful end surrounded by music, candles, flowers and compassionate staff. After saving money from her weekly benefits and selling her car she raised the £10,000 needed and booked herself into the Dignitas clinic in Zurich, whose motto is 'Live with dignity, die with dignity'.

However, her son and twin sister, who travelled to Zurich with the 59-year-old mother of three earlier this month, claim her end was far from dignified. Paul Clifford, 40, said the family had a 'terrible' experience and likened the flat where his mother died to a 'backstreet abortion place' with graffiti-covered walls. To add to his shock, when Mrs Coombes raised concerns that her son might struggle to cope with her death, a member of staff said he, too, could die at a 'cut price' rate.

Mr Clifford, who is back home in [his hometown], South London, following his mother's death on January 10 said: 'When we arrived at the place it was a block of flats, with a buzzer marked Dignitas but there was no answer.

'We were standing there for about three-quarters of an hour until a man arrived wearing a leather jacket with a sports bag over his shoulder, a dirty blue T shirt, jeans with the knees cut out and smoking a roll-up.

There was paint and graffiti on the walls outside, and the same on the door to the apartment.

Inside there was a coffee table, four chairs around it, a bench, and a little washbasin.

He said he had to make a video and asked my mother, 'You know what you're doing, don't you? Nobody's pressuring you to drink this drink, are they? You know if you drink this you are going to die?'

Mr Clifford said his mother, a former court usher, took a lethal dose of barbiturates just 15 minutes after entering the room.

He and Mrs Coombes's sister, Dawn Davis, were told she would be conscious for another 45 minutes, but just 40 seconds later they, watched her head slump to her chest.

The Swiss member of staff, who had introduced himself as Arthur, then announced: 'Let's make sure we get our stories straight.'

Mr Clifford, a lorry driver's mate, said: 'We don't have a story to 'get straight'.'

I was just saying, 'Mum, I love you, are you sure you know what you are doing? I wanted to take the drink off her and chuck it on the floor but that would have been selfish.

He wanted us to go out of the room while he checked she was dead. We had to sit on a flight of stairs which stank of urine.

Another *Daily Mail* article, somewhat shorter, contains the allegations of a former Dignitas nurse, Soraya Wernli, who worked at the clinic for two years. The article states:

The room where people were to die was often filthy, because Minelli skimped on the cleaning bills. Often there would be shoes or underwear or some other deeply personal item of an earlier victim lying beneath the bed or around the room. It was shameful.

The article also discussed the euthanasia of a 23 year old, Daniel James, a young rugby player from Worcester in the UK who had been paralysed after being caught in a rugby scrum during training and did not want to live a life in a wheelchair. He was not terminally ill.

I take the opportunity to point out that, under clause 6 of this bill, a person in 23 year old Daniel James' position would also be able to be euthanised, notwithstanding that, at some future point, there may be a medical treatment that would see him walk again. The only requirement in clause 6 is that the injury is apparently 'intolerable'. Presumably, severe depression might also be regarded by some people as an intolerable medical condition. The words contained in clause 6 provide:

...an illness, injury or other medical condition that...irreversibly impairs the person's quality of life so that life has become intolerable to that person.

That wording sounds both subjective and very wide in scope. Was it intolerable for Daniel James to keep living after his rugby accident, given that he was confined to a wheelchair? Would it be intolerable for someone to live with arthritis or shingles, for example? Most elderly people in any nursing home have an illness that could subjectively qualify under this test.

As members would be aware, in 1995 the world's first euthanasia legislation, the Rights of the Terminally Ill Act 1995, was passed in the Northern Territory, and saw several deaths until it was overturned in a 1997 commonwealth act. In the patient examples from the limited Northern Territory experience, it is clear that four of the patients mentioned in a follow-up report prepared jointly by Dr Nitschke were not in severe pain at all.

In fact, the medical notes indicate that in case 3 'the patient took morphine for generalised bone pain'. In case 4, 'pain was well controlled'. In case 5, the patient 'complained of mild

background pain incompletely relieved by medication'. In case 6, 'regular analgesia was needed for abdominal pain'. In each case, despite the low or controlled level of pain indicated, the request for euthanasia was accepted.

Another question may be whether it is intolerable for someone to live with depression following the death of a spouse, for example. I note that clause 9 of the bill does not require a referral to a psychiatrist but leaves the question of whether a referral is necessary to the treating doctor. This discretionary provision, as far as I can see, has been taken from Oregon's Death With Dignity Act, and I understand that of the 49 people who sought euthanasia in that state in 2007 not one of them was referred to a psychiatrist.

In the Northern Territory experience, it is apparent that in cases 3 and 4 mentioned in Nitschke's report there were depressive symptoms. In the Northern Territory case 5, a psychological assessment took place on the day on which euthanasia was planned. The case involved an elderly English migrant who was unmarried and had no relatives in Australia. Dr Nitschke refers to his 'sadness over the man's loneliness and isolation' as he administered euthanasia. In evidence to a Senate committee, Dr Nitschke later admitted that he personally paid for this psychiatric consultation for this man and that it took less than 20 minutes.

Returning to the Swiss experience, the *Daily Mail* article contained discussion of one particularly gruesome episode, the 70 hour death of Peter Auhagen, a German man who had sought out the services of the clinic in 2004. Mr Auhagen's death became the subject of a TV documentary in Germany given its horrific nature. The article reads with commentary from a former nurse at the clinic, as follows:

> The majority of Dignitas clients kill themselves by drinking a spiked drug cocktail containing a lethal dose of barbiturates.

Mrs Wernli recalls:

> On this occasion, Minelli wanted to try out a suicide machine—which operated by a system of tubes and valves that the patient controlled to administer the drug intravenously.
>
> I don't know where Minelli had got this machine from. All I know is the man was still alive in the death room 24 hours later. I had to take over from the female companion who was there because she was exhausted.
>
> The machine had a fault, which meant it couldn't pump all the poison into his system. The man was partially poisoned, in agony and thrashing around in a coma, frothing at the mouth and sweating. I had to clean him. It was a terrible thing to witness, and I knew it could not go on.
>
> I slept on the kitchen floor of the apartment that night. In the morning, after 48 hours had gone by, I told the family that Mr Auhagen had to go to hospital. I rang Minelli and he broke with his usual habit by actually turning up at the death house. This was indeed out of character—Minelli's offices are in a different area to the flat, and he normally stays well clear of the scene.

Mrs Wernli went on:

> He was angry—not at the failed suicide, but with me for suggesting that man should be in a hospital bed. 'Are you crazy?' he said. 'Do you know what the papers will say about this—that Dignitas has mucked it all up? We are falling behind here—there are others waiting to use that room!'

Supporters of euthanasia may well say that I am being unfair or bringing too much emotion into the debate by raising the death of Mr Auhagen. I raise this instance because I submit that it is profoundly untrue to paint the practice of euthanasia as a uniformly loving, peaceful and problem-free practice. The Swiss experience has clearly had several problems.

When human life is cheapened to the extent that killing becomes allowed and endorsed by the state, it is just hard to understand—or impossible, I should say—how some people who have that view of life will somehow respect the death and dying process. South Australia will become a haven for doctors pursuing this sort of activity—if I can put it that way—like Dr Philip Nitschke with his low view of life. If this bill passes in this place and the other place, no doubt it will set up something here that will resemble the practice currently performed in Switzerland—a euthanasia business, if I can call it that.

Further, I doubt that Dr Nitschke and other doctors like him will be scrupulous in applying the law. Dr Nitschke gave evidence recently (on 31 August) to a Tasmanian parliamentary inquiry into the Dying with Dignity Bill presented by the Greens, in which he actually admitted that he might have broken the law when he euthanased a patient in 1997.

A small number of people died during the short time that the Northern Territory's Rights of the Terminally Ill Act was in operation, before it was quashed by the federal parliament. Serious questions have remained surrounding several of the deaths.

In response to a question from a Tasmanian Liberal member, Brett Whiteley, Dr Nitschke admitted to euthanasing an unnamed man in breach of psychiatric assessment rules contained in the act. Dr Nitschke told the inquiry:

> Maybe it was a breach, but it was a breach motivated, I would say, by compassion.

He ignored the person's legally enacted rights and killed them—and somehow this is the compassion he is claiming.

There were also questions raised during the committee whether one particular woman, Janet Mills, died in breach of the law because her skin condition was assessed by an orthopaedic surgeon rather than someone with expertise in her illness. In his evidence to the committee, Dr Nitschke seemed to indicate that he thought any specialist could carry out the examination even though the act and regulations clearly stated that the specialist had to be qualified in dealing with a terminal illness from which the patient was suffering. How many of the guidelines in the present bill would be breached when we begin entrusting its operation to the type of medical practitioner who will actually want to work and specialise in this field?

Members will also be aware of Nancy Crick's circumstances—an Australian woman who took her own life by drinking a solution of Nembutal. Nancy's decision to end her life was supported by Dr Nitschke, and her death to escape the ravages of bowel cancer was trumpeted by euthanasia advocates as a humane end. The autopsy results later showed that Mrs Crick did not, in fact, have bowel cancer at all, despite Dr Nitschke's contrary assertions. How many cases similar to Nancy Crick's will result if this bill passes? Dr Russell Stitz, a Queensland bowel cancer expert, has said that if Mrs Crick did not have cancer, as the tests clearly showed, her symptoms could have been simply treated with pain management and psychological support.

I have read onto the record a letter from the Catholic Church regarding this bill. I was also grateful to receive a letter from the Most Reverend Dr Jeffrey Driver, Archbishop of Adelaide for the Anglican Church. He states:

> The Anglican Church in Australia has maintained opposition to voluntary euthanasia, while at the same time supporting the palliative use of painkilling medication, even where the use of such medication to control pain may also have the possible side effect of shortening life [although this is not the intention]. Similarly, we do not support the use of 'artificial means' to prolong life when there are no prospects of recovery.

The Reverend Mike Mills, State Executive Minister, and Mr Allan Priest, President of the Baptist Churches of South Australia, were also kind enough to reply to my call for input, and their letter reads:

> We feel compelled to write and express our deep disquiet concerning the recently introduced bill to allow voluntary euthanasia. The Baptist Churches of South Australia strongly oppose any legislative change that would make euthanasia legal. As Baptists we place a very high value on the sanctity and gift of human life and do not believe legislative provisions allowing intentional action to end it are justifiable or appropriate...Christians who make representation in support of moves to legalise euthanasia are representative of a very tiny minority and do not in any way reflect the views of the overwhelming majority of the Baptist movement. We therefore implore you to oppose this proposed legislation.

Many countries have investigated the practice of active euthanasia and rejected it. The House of Lords carried out intensive investigations, hearing and obtaining evidence from experts. It came to the following conclusion in recommendation 237:

> We do not think it possible to set secure limits on voluntary euthanasia...it would be impossible to frame adequate safeguards against non-voluntary euthanasia if voluntary euthanasia were to be legalised. It would be next to impossible to ensure that all acts of euthanasia were truly voluntary, and that any liberalisation of the law is not abused. Moreover, to create an exception to the general prohibition of intentional killing would inevitably open the way to its further erosion whether by design, by inadvertence, or by the human tendency to test the limits of any regulation. These dangers are such that we believe that any decriminalisation of voluntary euthanasia would give rise to more and more grave problems than those it sought to address.

A 1998 report prepared by the Tasmanian Community Development Committee, House of Assembly, at finding No. 6 states:

> The committee does not consider the legalisation of voluntary euthanasia as an appropriate solution to abuses that may be occurring in the current system.

Finding No. 10 from the same report states:

The committee found that the legalisation of voluntary euthanasia would pose a serious threat to the more vulnerable members of society and that the obligation of the state to protect all its members equally outweighs the individual's freedom to choose voluntary euthanasia.

In 1994, the New York Task Force on Life and the Law noted that if voluntary euthanasia were to be legalised the potential for abuse would be profound. Once euthanasia is established as a therapeutic alternative, the line between patients who are competent to consent and those who are not will seem arbitrary to some doctors. To others it will seem outright discriminatory or unjust to deny a therapy because of the patient's incapacity to consent.

An argument is sometimes raised noting that if a particular person or church does not believe in euthanasia then that is their choice, but that it is inappropriate for them to force their choice onto others. However, my role as a legislator means that if I believe that a certain type of action is wrong, as I believe that active euthanasia is wrong, then it is my role to vote to ensure that it remains a criminal offence. I would not vote to legalise drug dealing, for example, simply because some people believe that drugs are harmless and it is their choice to abuse illicit substances: it does more harm than good. In my view, there are profound public policy reasons why we limit the supply of illicit drugs and why the practice of active euthanasia should remain illegal. My voting will reflect this, in both examples.

I have serious concerns regarding this bill, which I have outlined. It goes further than the Northern Territory bill. It does not require a second medical opinion, or for the medical practitioner to have any expertise at all in dealing with the patient's particular illness. The bill allows active euthanasia on patients who may have years to live. There is no requirement in the bill for terminal illness, or even any physical pain. It leaves elderly and sick South Australians with the thought that they are a burden and that the right thing to do is to request euthanasia, fully sanctioned and legalised by this government. I can just see the elderly and weak feeling almost compelled to opt for that option in order to relieve the burden on others.

Lastly, it will set up South Australia as a hub for suicide tourists—a terrible term—and I can see them coming here from all parts of the country. This well-meaning law will inevitably be abused. I believe it is poor public policy; it sends the wrong message about this state's view and value of life, and I indicate that I strongly oppose it. I leave members who are considering voting for this bill with one question: can they be certain that if they support this bill becoming law it will not lead to a single person being killed without their consent as a direct result of the passage of this bill?

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

CORONERS (RECOMMENDATIONS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. B.V. FINNIGAN: I wanted to respond to some of the comments made by the Hons Mr Wade and Mr Winderlich in their second reading speeches. They were very critical of me in suggesting that I had failed to put the government's position on the record which, in fact, I did. I indicated that we were consulting the Coroner and, while those consultations were taking place, we would prefer to defer the bill but if pushed we would oppose it. I have the *Hansard* here but I cannot see the passage. I think one of them at least claimed—and I think it was the Hon. Mr Wade—that we clearly had not consulted the Coroner or were not intending to and that it was some sort of furphy.

I indicate to the committee that we consulted the Coroner, as we said we would, and received a response. I am not at liberty to discuss the response the Coroner has made but he raised a number of issues in relation to the bill and some other matters that he thinks the government should consider consistent with the opinion that was sought of this bill, but he also raised some other matters. The government is further considering what the Coroner had to say and we will come to a view about whether or not it will require a legislative response.

We continue to be of the view, in light of what the Coroner has had to say and our own consideration of the matter, that this is not the most appropriate bill to progress the issue of whether or not the Coroner requires an expanded power or whether other things might be required by legislation, so we will oppose the bill.

Clause passed.

Remaining clauses (2 and 3), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

STANDING ORDERS

The Hon. R.D. LAWSON (22:40): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.D. LAWSON: Earlier in the debate on the Independent Commission Against Corruption Bill, I referred to joint standing order 4 as providing some guidance to the committee on the question of the quorum for meetings of the joint parliamentary committee proposed to be established under that bill.

I accept that I should have referred instead to joint standing order 16, which deals with joint sittings of the houses to elect senators, which joint standing order does not provide for the imposition of any particular quorum for such meetings—an important precedent which the committee should have known, and I should have given a correct reference.

At 22:41 the council adjourned until Thursday 15 October 2009 at 11:00.