LEGISLATIVE COUNCIL

Wednesday 18 November 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:04 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:04): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

SURF LIFE SAVING SOUTH AUSTRALIA

Adjourned debate on motion of the Minister for Mineral Resources Development:

That, for the purposes of section 13(7) of the West Beach Recreation Reserve Act 1987, this council approves the grant by the West Beach Trust of a lease to Surf Life Saving South Australia Incorporated for a period of 50 years of portion of the West Beach Recreation Reserve, being such portion of the land contained in Certificate of Title Register Book Volume 5867 Folio 283 as is determined by the Minister for Urban Development and Planning, for use for the operation of surf life saving emergency services (including administration, storage of operation craft, life saving academy, communications centre, training rooms, sporting gear and equipment storage) and for the construction of such buildings and other works for that purpose as are specified or authorised in the lease.

(Continued from 17 November 2009. Page 3878.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:05): I was briefed on this matter last week by Bernie Lange, Chair of the West Beach Trust, and an officer from the minister's office. This lease certainly makes a lot of sense and brings together a number of functions of Surf Life Saving spread all over the state and currently operating its communications functions from Lonsdale, its administration from Torrensville, with its vessels stored at various locations, including at staff and club members' homes, which is really not an appropriate way to have a modern surf rescue or life saving association operate.

Knowing Mr Lange for a number of years and having met with the West Beach Trust on other occasions when we made certain legislative amendments a couple of years ago, I am aware that they had talked about leasing and developing this area to allow Surf Life Saving to develop there. They also have a long-term vision to have the police rescue boat down there and coordinate more of the rescue functions from that area. It certainly makes sense in the first instance to allow Surf Life Saving to come together right on the coast where it can have modern facilities. Clearly, it is not satisfactory to have equipment stored at members' homes and it needs to be in a central facility. We have had the extra presence lately of sharks and evidence of global warming. In recent weeks we have experienced very high temperatures, which will continue over the next couple of days, and the beach is being used by increasing numbers of people. It makes absolute sense to have this development down there on the West Beach Trust land, and the opposition is happy to support the motion.

Motion carried.

CONSTITUTION (APPOINTMENTS) BILL

Adjourned debate on second reading.

(Continued from 17 November 2009. Page 3905.)

The Hon. R.D. LAWSON (11:09): I rise to speak on this bill, which was introduced into the parliament only yesterday. It was passed in the House of Assembly yesterday, and it is here in this place today. The government is requesting that this important measure be dealt with today. Opposition members received a briefing on the matter yesterday morning, before parliament sat.

It is indeed regrettable that the government should be seeking to rush this measure through. The reason for the haste is said to be the fact that some other states are making similar amendments. However, the problem this bill seeks to address has been around for many years. It was identified by the former solicitor-general of South Australia, later Justice Selway, who has sadly passed away.

Solicitor-General Selway, as he then was, and other solicitors-general and constitutional law experts had identified a problem that arose because of the enactment, in 1986, of the Australia Act. The Australia Act of the commonwealth parliament and similar state legislation, in the language of the time, repatriated the Australian Constitution to Australia and defined more appropriately the role of the Queen in relation to Australian issues.

Section 7 of the Australia Act provides that all of the powers and functions of the Queen in respect of a state are exercisable only by the governor of that state. Subsection (3) provides for the appointment of the governor, and subsection (4) refers to the exercise of the powers of Her Majesty while Her Majesty is personally present in the state. The only power that is exercisable by Her Majesty when not personally present in the state is the power to appoint the governor.

At the same time as the Australia Act was passed, new Letters Patent were enacted in South Australia. Those Letters Patent establish various offices and bodies, including the Governor, the Executive Council, the Lieutenant-Governor and the Administrator of the State, in the absence of governors and lieutenant-governors, etc. Clause 14 of the Letters Patent provide that the appointment of a lieutenant-governor shall, in the language of the letter, be 'during our pleasure by commission under our signed manual'. The question arises as to whether or not that provision is inconsistent with the provisions of the Letters Patent.

Justice Selway, in an article that was subsequently published, in 2003, in Volume 32 of the Common Law World Review, said:

> The consequences have been unfortunate. On 19 May 2000, Her Majesty the Queen of Australia, acting on the advice of her South Australian ministers, appointed the new Lieutenant Governor. There were necessarily doubts whether the appointment had been properly made. As the Letters Patent were made pursuant to the prerogative, an Order in Council was subsequently made by the Governor altering the existing Letters Patent, by providing that future appointments of Lieutenant Governors should be made by the Governor and confirming and validating existing appointments.

The article continues:

> Obviously, it would be preferable if the validation could have been achieved by legislation, but that may have raised concerns in respect of the 'republican debate', even though it was relevant to it.

So, what happened, as I mentioned, is that the Letters Patent were made in 1986, following the passage of the Australia Act. In May 2000, those Letters Patent in South Australia were altered.

The point that is addressed in this bill is one that I regard as arguable but not decisive. In other words, it is arguable that lieutenant-governors who were appointed by the Queen and not by the Governor are open to challenge, particularly the acts of those lieutenant-governors whilst acting as lieutenant-governor may be open to challenge. There are many acts that the Governor undertakes and that, in the absence of the Governor, are undertaken by the Lieutenant-Governor. For example, assenting to legislation is an important function, and there is the appointment of ministers and many other administrative and legal acts performed by the Lieutenant-Governor in the absence of the Governor. There has been no challenge, or even suggestion of a challenge, to any of the acts or appointments of our lieutenant-governors on the ground that there is some defect or impediment in their appointment.

The matter was recognised by solicitors-general; it was the subject of discussions at a national level, and we are told that there was an agreement to proceed with uniform legislation in those states where it is required. We are advised that no remedy is required in Queensland, where there is no Lieutenant-Governor appointed, and the parliaments in Victoria, New South Wales and Tasmania have acted to address the situation. In Western Australia there is a constitutional difficulty because the provisions relating to the appointment of a Lieutenant-Governor are contained in the state's constitution, and apparently those provisions cannot be altered without a referendum in that state.

One can readily see that any Western Australian government, of whatever political persuasion, would be reluctant to put the state to the expense of a referendum on such an esoteric point, one which has never arisen in practice and which may arise only at some time in the future. However, we believe it is appropriate to act in an abundance of caution and to agree to the terms of this legislation, which will ensure that actions taken by lieutenant-governors since this issue first arose in 1986 will be validated, and there will be no opportunity for any challenge on the basis of any alleged defect or impediment.

Personally, I deplore the fact that the government has rushed this legislation into parliament. In the second reading explanation it was suggested that the Victorian government

jumped the gun, prompting Tasmania to jump it even faster and forcing us into this position of urgency. I well recall when I was a young lawyer acting for former police commissioner Harold Salisbury in a royal commission into his dismissal. That dismissal was made by the Dunstan government and, as Mr Salisbury's counsel, I was looking at the constitution, which at that time contained a provision that all appointments and dismissals of certain officers should be passed by Executive Council and appropriately minuted and countersigned.

I discovered that, in fact, the dismissal of Mr Salisbury had not been countersigned, and advised that to the government law officers, who promptly came to parliament. The ministers of the day, without fully describing the situation and suggesting that the constitutional provision requiring the countersigning would, had it remained, have catastrophic effects on public affairs, in one day made an amendment to our constitution. In a single day it was introduced and passed by both houses, yet both houses were not fully aware of the circumstances; that the bill was being passed for the ulterior purpose of avoiding political embarrassment to the Dunstan government. Accordingly, when the government rushed this bill into the parliament I was, as you would imagine, suspicious that there was again some ulterior motive here—as, indeed, were my colleagues.

I am satisfied that there is no ulterior purpose; what we are addressing is a matter which ought to have been addressed in the ordinary course of a parliamentary session, and we would perhaps have had opportunities for consultation and other constitutional advice. We have not had those opportunities; however, in the circumstances, the opposition, not without making some protest, supports the bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:21): I thank honourable members for their support of the bill and their willingness to deal with this matter this week as a matter of urgency.

I note the comments made by the Hon. Mr Lawson regarding the delays in getting this bill before the parliament. As indicated, there has been debate about whether the provisions of the Australia acts mean that the lieutenant-governors and administrators are to be appointed by the Governor or by Her Majesty. For some time states have been discussing a national approach to this matter, including a possible amendment to the Australia Act, and it was thought prudent that, if legislation were to be introduced, the states should endeavour to introduce the legislation at the same time.

It is accepted that there have been delays in reaching agreement, but these are not the fault of South Australia. Different states had different considerations to take into account. Now that some other states have moved to introduce and pass legislation, it is important that the bill be enacted so as to limit any potential challenges. In noting that some other states have introduced or passed legislation, I take the opportunity to clarify a statement in the second reading report. The report refers to Tasmania having a bill before the parliament. It appears that Tasmania passed its legislation late last week. Again, I thank honourable members for their cooperation in ensuring the passage of this bill so that any legal issues in relation to the appointments of lieutenant-governors are clarified.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: I do not have a copy of this bill. The Legislative Council does not have a copy of this bill. I am using a draft that was an advance used in the House of Assembly, and I think this is a deplorable situation that we should be called upon not only to speak to the second reading on principles but also now being called upon to examine in committee a bill which has not actually formally been laid before us.

The Hon. P. HOLLOWAY: The bill is the same as that passed in the House of Assembly yesterday. Copies of the bill are available for anyone who wishes to peruse it.

The Hon. R.D. LAWSON: I am not sure whether crossbench members have been similarly provided with the bill, but certainly the practice of the Legislative Council is that bills and amendments be placed before members before they are asked to consider or vote upon the provisions of the bill, but presently we have not been formally provided with copies of the bill that passed in the House of Assembly. Can I ask you, Mr Chairman, to indicate when we will be supplied with a copy of the bill?

The Hon. P. HOLLOWAY: I am not responsible for the provision of bills, but obviously it should be circulated. Everyone knows what is in the bill. That much is clear; there are certainly copies of the House of Assembly version. No amendments were moved in the lower house.

The CHAIRMAN: It will not be printed until later today. My advice is that the assembly did not have an official copy when it debated it yesterday or whenever.

The Hon. P. HOLLOWAY: I guess these situations arise when you have these situations to deal with. The background of the bill and the need for it have been well canvassed. There should be no-one in this committee who is not aware of the wording of the bill, even if it is not technically the version of the upper house. If the honourable member really wishes to make an issue of it, I guess we can adjourn the debate and delay it, but I do not believe anyone in this committee could argue that they are not aware of what the bill is or does.

The Hon. S.G. WADE: Given that this bill is correcting a legal technicality, I am wondering whether there is a legal issue that might arise if the council purports to pass a bill that does not exist.

The CHAIRMAN: The bill exists.

The Hon. S.G. WADE: The house has a bill, but we do not have a bill.

The CHAIRMAN: What the House of Assembly passed was not the official bill.

The Hon. P. HOLLOWAY: To save us wasting time, I suggest that progress be reported.

Progress reported; committee to sit again.

MARALINGA TJARUTJA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 November 2009. Page 3904.)

The Hon. R.D. LAWSON (11:30): I rise on behalf of the Liberal opposition to indicate that it is with pleasure that we support the second reading and the passage of this important bill. We, in the Liberal Party, are proud of the record of Liberal governments in the past in relation to Aboriginal affairs and, in particular, Aboriginal land rights. It was the Tonkin government that introduced the Pitjantjatjara Land Rights Act, and it is with pleasure that we support the return of this particular section of land to the Maralinga Tjarutja people.

As a member of the Aboriginal Lands Parliamentary Standing Committee, I personally had the pleasure of visiting Oak Valley and the Maralinga Village, as well as flying over the land that is to be handed back in a formal ceremony later this year. I am delighted to see that there are members of the community here in parliament (as there were yesterday) who will benefit from this long overdue provision. The Maralinga Tjarutja people have worked long and hard to achieve this goal.

Speaking on behalf of members of the Liberal opposition, we did appreciate the opportunity yesterday to have a full briefing from the community members and from their counsel, Andrew Collett, who has worked tirelessly and for a very long period to advance the objectives of the community.

Hand backs of land have occurred progressively, beginning in 1984. There was a further hand back of two parcels of land in 1991, but this remaining section (Section 400) is an area comprising some 3,100 kilometres of land, so it is a substantial tract of land that is important to this community. It is land of which they are the traditional owners and custodians. The land is remote, some 300 kilometres north-west of Ceduna.

The Premier, in his ministerial statement yesterday, referred to the use of the land by the British government for nuclear weapons testing in the decade following 1953. Those tests, as a result, have caused considerable residual issues for the land and compensation has been paid, remediation has been undertaken, and the handing back of this remaining section of land will complete an important historical process.

We certainly wish the people of the Oak Valley community, and the Maralinga Tjarutja people generally, every success in the future. However, it ought to be noted that simply handing back land—as important as it is in personal and human terms—is not enough. The South Australian government, as well as governments nationally, need to recognise that there are

peculiar problems which the traditional owners of these vast tracts of land face, and measures ought to be put in place to ensure that their communities can thrive.

I know it is the plan of the community to develop the Maralinga Village site for some tourist purposes, and that is an admirable objective. The climate is such, in this particular part of South Australia, that that village—which was erected during 1953 and 1963 and subsequently improved when the remediation projects were undertaken—is in remarkably good condition. It would be a pity if that village was not used for some good purpose, a purpose to provide employment and income for people who live in the community. It ought to be able to be developed, provided the community can be given the necessary support, as an important tourist site.

We all know of the vast numbers of grey nomads who travel around Australia in four-wheel drive and other vehicles, many of them towing caravans. The Maralinga site is an ideal place for many of them to stop, and a place that they would like to visit. This is a great opportunity for the community to benefit economically, to enable the community to prosper, and we certainly hope that it does so. We also hope that the government will continue to provide additional resources and support, not only the state government but also the commonwealth government, to enable the community to benefit materially from the return of this land. The Liberal opposition looks forward to being represented at the official handover ceremony later this year. We commend the government for this measure which we wholeheartedly support.

The Hon. M. PARNELL (11:37): On behalf of the Greens, I wholeheartedly support this bill which returns to its rightful owners the area of land known as Section 400. Clearly it has been a long time coming. I will be supporting the urgent passage of this bill through the parliament, so we can ensure that the wrongs that were done some 50 years ago are remedied this year, the 25th anniversary of the Maralinga Tjarutja land rights legislation.

It is also important that we recognise the steps that have been taken to clean up this land. While they have achieved a certain amount, there is still more to do. I am comforted by the fact that there will be stringent management arrangements to ensure that the land that has been poisoned will be made as safe as we can get it for the rightful owners to be able to use it. It is also important that this legislation clarifies the ownership of what has been called the Unnamed Conservation Park.

I do not propose to speak at great length on this bill. I was very pleased to meet with the traditional owners yesterday. They have made their position very clear. They want their land returned to them. They understand that there will be some ongoing management issues. This legislation strikes a balance between redressing the wrong of the land having been taken and now returning it, but within a framework that ensures that it will be managed safely into the future. With those words, the Greens will be supporting this bill.

The Hon. DAVID WINDERLICH (11:39): I indicate that I am very pleased to support the urgent passage of this bill. As indicated by other members, it rights a wrong that harks back decades. I note that parts of the former testing grounds will still have severe contamination—and that is unfortunate. It will be an ongoing memorial in a negative sense to the damage that was done.

It is good to see universal support for this bill. It is a small but significant step for the traditional owners in terms of our relations with indigenous people, but in other areas, in terms of the way in which we handle crime and justice and what is seen by many on the lands as a new paternalism, we have a long way to go. We have actually drawn the wrong lessons from our past mistakes and are moving in a less positive direction. Today we are doing some good. We are righting a wrong that goes back decades, so I am pleased to support this bill.

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) (11:40): I thank members for their contributions and support for this most important bill. I express appreciation for all members' preparedness to deal with this bill in such an expeditious way. It has not been on the *Notice Paper* for long, so it is with the agreement and cooperation of members that we have been able to deal with the bill today; and that is greatly appreciated.

This bill is most important. It is a landmark decision in relation to the returning of land to the Maralinga Tjarutja people. It is an important addition in relation to the traditional owners and their relationship with their country, so it has cultural significance to them. There are also other important opportunities for them, as well.

As pointed out, some ongoing management issues have been identified and there are provisions for those issues to be addressed. Again, I thank members for their contributions and look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: I have a very brief contribution because I would not want to delay for a moment the passage of this important legislation. However, I must say this: once again, we have a piece of legislation before the Legislative Council and members have not yet been circulated with its precise terms. There is only one body responsible for that. The government failed to introduce this legislation earlier, as it could have done. Now we are being rushed to pass something that has not yet been circulated to members. I make the point to indicate that I do believe that it is disrespectful to the Maralinga people and also disrespectful to the parliament, but we certainly will not be delaying at all the passage of the bill. I make the point that this should not be allowed to become general practice.

The Hon. G.E. GAGO: Again, we beg the indulgence of the committee. If the honourable member feels strongly about this, obviously, he can move to report progress. However, we are very keen to see this matter completed this morning. There has been a commitment by the Leader of the Opposition to support this bill. A draft bill has been circulated, and this bill that we are agreeing on today is substantially the same as that draft bill. Unfortunately, sometimes these things occur. We do everything we can to avoid them, but we have not been able to do so at this point. As I said, I beg the indulgence of the committee.

Clause passed.

Remaining clauses (2 to 22), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

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

In committee.

Clause 1.

The Hon. S.G. WADE: Is the minister in a position to provide any answers to questions raised in the second reading debate?

The Hon. G.E. GAGO: I again thank honourable members for their support. I want to take this opportunity to answer questions raised by the Hon. Stephen Wade. In noting the opposition's support for the bill, he has asked the following questions: does the bill provide sufficient power under new section 8B(8), the prescribed functions definition, to limit these functions; and how do the provisions of this bill for the independence of the guardian compare with independence provisions in other legislation for statutory officers; and, to the extent that they differ, why does the government prefer the provisions in this bill? The third question is: have there been any ministerial directions given to the guardian under this legislation?

The bill amends the prescribed functions definition to achieve a better balance between protection and practicality. The definition within the act is amended to exclude situations where a person is under the direct supervision and observation at all times of appropriate personnel. There is sufficient power for this to occur, as the bill amends the definition contained within the act itself rather than by regulation.

In regard to the independence of the guardian, the honourable member asked how the provisions of this bill compare with other states. Most Australian jurisdictions have established a commission for children or a children's guardian. The role and functions of these offices vary from state to state—for example, the Queensland Commission for Children and Young People—and the Guardian Act 2000 states that the commissioner must act independently and in a way that promotes and protects the rights, interests and wellbeing of children and is not under the control or direction of the minister.

In practice, the guardian already operates as a statutory officer at arm's length from executive government. In drafting this bill, the South Australian government chose to align the provisions establishing the independence of the guardian with those of the Health and Community Services Complaints Commissioner (section 11). This provision is also consistent with the discussion relating to this section, where the commissioner specifically refers to the provisions within the Health and Community Services Complaints Act. Whilst the Minister for Families and Communities has from time to time requested advice from the guardian pursuant to section 52C(1)(f) of the act, to the best of my knowledge, no other ministerial directions have been given to the guardian under this act.

The Hon. Stephen Wade also noted that, first, regulations to be established under section 8D of the act must be carefully worded and scrutinised and, secondly, that the Charter of Rights for Children and Young People will not be annexed as a schedule to the act. The act makes provisions for the making of regulations to exempt certain organisations, persons and positions from the requirement to conduct criminal history checks, where the risk to children from a particular activity or position is low; for example, the activity where a parent is present at all times or where it is not appropriate to require a person to be checked, such as parents volunteering in activities with their own children or people in general work situations. For this reason the clause provides for the making of regulations to exempt organisations, persons and positions in certain circumstances. The exemptions seek to achieve the best balance between best child protection mechanisms and practicality.

In drafting the proposed exempting criteria consideration was given to the Working with Children schemes in other states and territories. To ensure that the scheme has achieved this balance, the operation of the exemption scheme will be reviewed at the end of the phase-in period. A key philosophy of this bill is that child protection is a community responsibility and that children must be safe and protected in all settings. This is particularly important where a child or young person is in care, as they are amongst the most vulnerable.

Amending the Children's Protection Act 1993 to require that a charter of rights for children and young people in care exists will enshrine principles and objectives that will influence the practices of agencies and individuals caring for children and young people in care. This will help ensure best practice for the treatment of children and young people and ensure they are embedded in agencies, policies and procedures. The primary purpose of the charter is to communicate to children and young people in care their rights in an easy and comprehensible format.

In its discussions relating to recommendation seven, the commission of inquiry advised that it supported a legislative endorsement of the charter of rights in the same way that the parliament passed schedule 1, South Australia's carer charter and the Carers Recognition Act 2005. The proposed amendment does not include the charter as a schedule to the act but instead creates a legislative requirement that a charter exists. This is considered preferable because it allows for the charter to be drafted in easy and comprehensible language and also allows for more frequent review of the charter, thus ensuring it remains relevant and a useful resource for children and young people in care.

It should be noted that similar provisions exist in legislation in both Western Australia and Victoria. I also take this opportunity to respond to the honourable member's concern regarding the government's response to recommendation 43. Recommendation 43 calls for the establishment of a secure care therapeutic facility for high risk children. This recommendation remains under consideration by the South Australian government and no final decision has been made. The government has received comprehensive advice from the Guardian on the issue, and she is strongly opposed to the introduction of legislation and facilities for safe keeping children.

In light of this advice the government is continuing to seek advice on the issue of a secure care therapeutic facility and will consult further with interested stakeholders. The government's response to a number of other recommendations of the Mullighan inquiry will also support children and young people in care who are at risk. These recommendations include recommendation 42 (a pilot program to provide intensive therapeutic support to children and young people who are identified as at risk), recommendation 47 (legislation to create offences for failing to comply with a direction not to harbour or communicate with children who are the subject of a placement arrangement), recommendation 2 (self-protective training for children in care), and recommendation 45 (where contact officers have been appointed for SAPOL local service areas where residential care facilities are located to ensure strong communication between agencies if a young person absconds).

The Hon. S.G. WADE: I thank the minister for her answer. Can the minister advise when the next implementation report for the Mullighan commission of inquiry will be available?

The Hon. G.E. GAGO: It is due to be reported on in January. However, we are committed to having that done by the end of this session, and I am advised that it is likely to be sooner rather than later in terms of this parliamentary session.

The Hon. S.G. WADE: Do I take from the minister's remark that it was due in January and that the report that will be tabled before the close of the session is the 2010 report and not the 2009 report?

The Hon. G.E. GAGO: The reports are obviously over a 12 month period, and the period on which it will report is December 2008 to December 2009.

The Hon. S.G. WADE: If I explain my understanding of the implementation report process, it might help the minister in terms of understanding my query. In the other place the minister responsible suggested that the government had made a commitment to annual reporting. What is relevant is not the government's commitment but the statute, which requires that the government reports for each of five years following the making of the full response. The full response was made on 25 September 2008. Section 11A(c) of the Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004 provides:

> For each year for five years following the making of the full response, the minister must, within three months after the end of the year, make a further response stating...

The year in that context is not a financial year: it is a calendar year. Considering that the full response was given on 25 September, one interpretation of that paragraph might have been that a report was due by the end of March 2009. I am not being critical of that; it could it interpreted in one of two ways. However, if the government is interpreting it as meaning that the first report is due at the end of March 2010, that means we have five reports left, and the last one will be in 2014. That is really what I am getting at. I do not think a report can be for a financial year; I think it needs to be for a calendar year.

The Hon. G.E. GAGO: I have been advised that the response was tabled in September. The implementation was required to be reported three months after that time, which was in December. We take the view that it is then 12 monthly after that December report. We apply that same view to both the Mullighan report and the APY report, and we report on and table those reports in good faith at the same time so that they do not fall outside of a session.

The Hon. S.G. WADE: That is an interesting interpretation. In that case, it would be due at the end of December, not the end of January: three months from 25 September would be 25 December. I thank the minister for clarifying how the government is interpreting that section. I take it that, in that context, the last report will be due in 2014.

The Hon. G.E. GAGO: I am advised that the last report is due in 2013.

The Hon. S.G. WADE: I will do my maths outside the chamber. Can the minister advise when the act will be proclaimed and when it will come into operation?

The Hon. G.E. GAGO: I have been advised that, in fact, the act can be proclaimed now. However, because we have given a commitment to give organisations one year's grace in relation to police checks, that section will not be operational until 2011. However, the guardianship and community complaints component—the COAG component—can all be operational straightaway.

The Hon. S.G. WADE: I gather from the briefings that the government will be continuing to consult on the regulations and the implementation. Can the minister indicate what process the government intends to go through in relation to consulting on the regulations and when they are likely to be promulgated?

The Hon. G.E. GAGO: I have been advised that the consultations are occurring already, that the Department of Recreation and Sport is undertaking significant consultation with sporting groups and that we will continue to consult with all relevant stakeholders. That is what the one year's grace is partially about as well, and we will continue that process throughout the next 12 months.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. G.E. GAGO: I move:

Page 5, after line 5 [clause 7(6), inserted subsection (7)]—insert:

(ab) provide for the authorisation of persons or bodies to undertake criminal history assessments for the purposes of this section; and

(ac) make provision in relation to the release of information relating to a person's criminal history to another jurisdiction; and

This amendment enables the authorisation of persons or bodies to undertake criminal history assessments for the purposes of this section. It provides for the release of information relating to a person's criminal history from another jurisdiction.

The amendment has been introduced to accommodate South Australia's participation in the Council of Australian Governments' interjurisdictional exchange of criminal history information. In April 2007, COAG agreed to a framework to improve access to enhance interjurisdictional information to improve the quality of screenings undertaken by child-related employment screening units. In order to participate in the exchange South Australia must meet the minimum legislative requirement agreed to by all Australian jurisdictions. This amendment will ensure that South Australia has an appropriate legislative basis to meet these minimum requirements, which include provisions to authorise persons or bodies as authorised screening units and to enable the release of information relating to a person's criminal history from another jurisdiction.

The Hon. S.G. WADE: In the context of the clause as a whole, including the foreshadowed amendments, could the minister advise, first, how many people are currently required to have a criminal history report under section 8B? Secondly, how many additional people is it estimated will need to have a criminal history check following the passage of the legislation, including the foreshadowed amendments?

The CHAIRMAN: I remind the Hon. Mr Wade that this is the first amendment. Can the honourable member indicate support or otherwise for that amendment?

The Hon. S.G. WADE: I will support the amendment.

The Hon. G.E. GAGO: I have been advised that, in terms of the new arrangements, it is currently unknown. Obviously the new additions will involve non-government organisations, sporting organisations, GPs, etc., and the actual number will depend on how many of those organisations are deemed to require that. The exact figure is unknown, but obviously there would be a reasonably significant increase in the number required.

The Hon. S.G. WADE: In that context, the AMA said, in a letter to a minister in another place:

Some 160,000 South Australian employees and volunteers will be impacted, and required to undergo a police check and criminal history assessment (on the department's own estimates).

Would the minister be aware to what departmental estimate the AMA may have been referring?

The Hon. G.E. GAGO: Yes; I have been advised that the figure is based on the Western Australia figure. It is an estimation; it may or may not be an indicative figure for South Australia. As I said, it will depend on the number of people actually deemed. However, it is based on Western Australia, I believe.

The Hon. S.G. WADE: In terms of the current number of people with a criminal history report under section 8B (and I may have missed it), is the government in a position to estimate how many people are currently required?

The Hon. G.E. GAGO: Again, I am advised that the figure is unknown. I am happy to take it on notice and try to find the best figure available. The reason we do not have an exact figure is that the checks are conducted by different bodies or organisations—SAPOL, the Department for Families and Communities, and schools also conduct their own. The information sharing between those agencies is not necessarily efficient.

The Hon. S.G. WADE: I thank the minister for her answer. I appreciate that it is very difficult, particularly in relation to projected figures moving forward, because, based on the consultation on the regulation, I assume that number will vary. Presumably, if the government agrees to exemptions, there will actually be a reduction in the number. However, I suggest to the

government that it may be of assistance to the Legislative Review Committee, when the regulations come before it, if an estimate were to be provided to that committee.

I would like to make some general remarks. As I have already indicated, the opposition will support amendment No. 1, but in doing so I should indicate that it is somewhat bemused. We are told that these amendments came out of a COAG process, so could the minister explain the origin of the amendments?

The Hon. G.E. GAGO: I have been advised that it was work that was done by an officers group, and their work was not finalised until after the bill had been tabled in the lower house, so it is hot off the press, so to speak.

Amendment carried.

The Hon. G.E. GAGO: I move.

Page 5, after line 10 [clause 7(6), inserted subsection (7)]—Insert:

(ca) define classes of information that are to be taken to be included in, or excluded from, a person's criminal history for the purposes of this section; and

(cb) confer discretionary powers on the Minister, the Chief Executive or another person or body; and

This enables South Australia to define types of information that are to be included or excluded from a person's criminal history for the purposes of section 8B and enables discretionary powers to be conferred on the minister or chief executive via regulation. Again, it is to bring this into line with the COAG commitments that I have already outlined.

The Hon. S.G. WADE: Paragraph (ca) is reminiscent of the recommendation from commissioner Mullighan where in recommendation 3 he said that a criminal history report should be defined as a report that includes information as to whether a person is on the Australian National Child Offender Register. Will the minister indicate whether under the act as proposed to be amended by the bill the criminal history report needs to include information as to whether the person is on the Australian National Child Offender Register or whether it is the government's intention that the regulations made under this measure will include such a requirement?

The Hon. G.E. GAGO: I have been advised that the way that CrimTrac works it does not actually indicate whether or not a person is on the register; however, it does show an offence that would put a person on the register so, in effect, it does identify those persons, but it does it by way of identifying the offence.

The Hon. S.G. WADE: I thank the minister. In relation to paragraph (cb), will the minister explain what the effects of this provision would be and why it is necessary? On a broad reading, it would seem to be a power for not only the minister but also the chief executive, another person or a body to make regulations or even to change the statute, so we are not clear as to the impacts of this provision.

The Hon. G.E. GAGO: I have been advised that, because we have a pilot and a 12 month review and it is part of a COAG process and agenda, we believe that then provides the flexibility to us to enable us to deal with it through regulation rather than the act itself. Therefore, it is then easier to amend and accommodate changes in a much more timely and less cumbersome way in future.

The Hon. S.G. WADE: Do I take it from the minister's answer that, considering that that is a subsection of the section that deals with the scope of the regulations, the discretionary powers being referred to therefore are discretionary powers only to amend the regulations?

The Hon. G.E. GAGO: I have been advised that you are right: it does allow amendment through regulation, and it also allows the minister to designate the screening units which can process people.

The Hon. S.G. WADE: Considering that members would like to deal with other matters, I wonder whether the minister might consider reporting progress. The breadth of that power does concern the opposition. We do not think it is appropriate. Obviously, the minister can go to cabinet at any time and seek a regulation, but this power seems to be very broad and the possibility of a chief executive, another person, or a body making what is subdelegated legislation is of concern.

The Hon. G.E. GAGO: At this point I will ask that we report progress, as there are some other matters that the chamber needs to deal with.

Progress reported; committee to sit again.

CONSTITUTION (APPOINTMENTS) BILL

In committee (resumed on motion).

(Continued from page 3936.)

Clause 1.

The Hon. P. HOLLOWAY: I am advised that the printed copies of the Constitution (Appointments) Bill have arrived and, believe it or not, they are absolutely identical to the copies that were circulated. Other than the fact that the name of the Legislative Council is on the top, the content is identical to that which was circulated to members yesterday.

The Hon. R.D. LAWSON: I thank the government for finally making available to members of the Legislative Council a printed copy of this bill. The minister just said that it is in identical terms to the draft that was circulated to members yesterday. I believe that to be the case, although it was my understanding that actually the draft that was circulated to me was not circulated to all members yesterday, so it is not entirely true to say that.

However, I make no apology for making the point that the committee ought to have a printed copy of a bill before it considers it, especially in a matter which is to remedy an issue that was identified by the government years ago.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (PUBLIC SECTOR CONSEQUENTIAL AMENDMENTS) BILL

Adjourned debate on second reading.

(Continued from 29 October 2009. Page 3858.)

The Hon. R.I. LUCAS (12:28): I rise to speak to the second reading of the bill. At the outset, I thank the government and its officers for the provision of some answers and information in the briefing that was provided to the opposition.

This is an extraordinarily complicated piece of legislation because it impacts on so many existing statutes. It may well be, when all the detail has been analysed, that it is as the government and its advisers have indicated; that is, it is essentially a technical bill which is just full of consequential amendments from the passage of the public sector reform legislation earlier in the year.

Nevertheless, it is the task of members of this chamber to test the claims being made by the government to the best of our ability in relation to analysing the actual changes and implementation on the existing statutes. Because it does impact on so many pieces of legislation, it is extraordinarily complicated.

I want to ask some further questions and, hopefully, get a response from the minister or the minister's officers this week, in order to give the opposition and any other member interested the opportunity to look at it in detail next week, with the intention—if there is no problem—of ensuring quick passage in the final week of the session. However, if particular issues arise as a result of further analysis, the opposition has reserved its position in relation to moving amendments in the committee stage.

I give that background. My first question is a technical matter. I was trying to track down parliamentary counsel in the minutes before this debate, but I will put the question on the record and I am sure the minister's officers with advice from parliamentary counsel will give me a simple response.

In the advice that the minister's officers provided to me—and I will certainly refer to it during my contribution today—the minister's response, when I asked a series of questions in relation to the honesty and accountability provisions or the conflict of interest provisions as they relate to the public sector, gave some detail and then said:

> It was always intended, when the opportunity arose, that the myriad of different provisions across the statute book would be removed, with full reliance placed on those included in the Public Sector Management Act.

The opportunity to do so has now arisen, in particular because the honesty and accountability provisions have been elevated to their own special piece of legislation—the public sector honesty and accountability act 1995.

I have a relatively simple question. In looking at the statutes provided to members and the officers in the chamber, we have a copy of the Public Sector Act (which is the new act) and a copy of the Public Sector Management Act, but I could not find a copy of the public sector honesty and accountability act 1995. It may be that it is lodged there somewhere in a different section, but could the minister and his advisers clarify that particular issue? There is confusion about having the Public Sector Act, the Public Sector Management Act, the public sector honesty and accountability act and the Public Corporations Act; I will make some comments about those later.

The first major issue I want to raise is that the title of the legislation is the Statutes Amendment (Public Sector Consequential Amendments) Bill. What we have now established is that, in essence, there are a number of provisions in this bill which are in no way consequential to the reforms that were originally agreed upon by the parliament earlier this year.

As I understand it, the government has taken the opportunity with this bill to clear up other issues which it would argue are minor and technical—and that may be the case—and which either bureaucrats or ministers or others have wanted to clear up over the years and have not got around to doing.

My first request to the minister in her reply or at the start of the committee stage is to specifically list the provisions in this bill which are not consequential on the earlier reforms and which are stand alone provisions, and for each case provide an explanation for that particular change and the reasons that the parliament ought to be supporting them.

I make the comment that there is no reference to this in the minister's second reading explanation. It talks about the five themes of the changes—and I will address those in my comments—but it does not say, 'By the way, there are another half a dozen issues we are tidying up.' I think that, if we are talking about honesty, accountability and transparency and all those wonderful virtues in terms of the public sector, in the second reading contribution the minister should have made it clear that the vast bulk of this is consequential on the earlier reforms, and he should have said, 'By the way, here are these half a dozen other issues, which we do not think are too significant, but you should have been aware of them; they should have been listed and there should have been an explanation in the second reading'.

There has been no reference to those issues in the debate and, unless the question was put to the ministers and unless this chamber had been doing its work, it may well be that the parliament would have been blissfully ignorant of the fact that there are these other changes that have been incorporated into the legislation.

As a result of the discussion I had with one of the minister's officers, I understand that one of the provisions in relation to the Adelaide Festival Centre Trust Act is not strictly consequential on these changes. I understand that one of the provisions in an amendment to the Courts Administration Act is not consequential and, potentially, I think, also clause 77 of the bill in relation to the Courts Administration Act, which is the application of the Public Sector Act and the Superannuation Act. I understand that an amendment to the Equal Opportunity Act is not consequential on the public sector reform provisions that we discussed before, and that has been included in this bill.

I understand that an amendment to the Family and Community Services Act similarly might not be consequential. I understand that an amendment to the Motor Vehicles Act which deals with state concession cards might not be a consequential amendment. I understand that an amendment to the Solicitor-General Act (and that is one that I have quickly pulled out) again, as I have said, is not consequential. All that is doing, as I understand it, is in essence removing some outdated provisions—section 4(3): 'The office of Solicitor-General under the Public Service Act, as amended, is, by force of this subsection, abolished', and there is a transitional provision, I think, in section 4(2). Again, my understanding is that it is not a consequential amendment on the passage of the public sector legislation.

Finally, I think there is another example in relation to the Housing Trust, which deals with domestic partners and definitions of spouses and relatives, which is not consequential on the earlier reforms. My first question is for the minister to summarise those amendments that are not consequential and give us an explanation and the reasons why the parliament ought to support them.

From the discussions, a series of the changes in the bill are indeed consequential and technical in nature, and the opposition does not believe that it has any particular concerns about them. However, there are two streams of amendments about which, on the surface, the opposition does have some questions and potentially might have some concerns. They relate to the changes to conflict of interest provisions and immunity provisions as they relate to senior public officers and, in particular, members of boards or directors of boards of government agencies and authorities.

To put it as simply as it has been put to me, as I understand it, the government is saying, 'Look, there is a whole series of different conflict of interest provisions and immunity provisions that have been incorporated in legislation over the years. We believe that there should just be one template'—although the one template does have a number of exemptions, which are outlined in the second reading. However, for everything else, that there is one template; that is, there should be one standard of conflict of interest provision and one standard of immunity provision for all these agencies and senior officers.

There is a superficial logic to that, and one can understand why the government and government bureaucrats might want to see that incorporated in legislation. The question I put to the government advisers was: what in practice does that mean? Clearly, if one is going to impose one template or standard, it would mean that some bodies and officers currently required to abide by a higher standard or potentially be exposed to a stronger penalty for any misdemeanour or offence will have that reduced or weakened because of the imposition of the template or standard. Similarly, I acknowledge that it may well mean that for some, who have either a lower standard or lower expectation currently in existing legislation, the imposition of a template or standard formula may well increase or strengthen the accountability requirement.

The issues of concern to me in looking at this are whether there is any hidden intent of the government in relation to this. Is there some ulterior motive or purpose being served by what on the surface of it is a superficially attractive and plausible argument? To be fair, it would not be the first time that a superficially attractive argument has been used to convince the parliament of the need for change, which may well have served some ulterior motive from a government or minister.

My second series of questions relate to the fact that the government has provided to me as of two weeks ago a summary of the change of the impacts on conflict of interest and immunity provisions of this legislation on the many existing statutes that have these conflict of interest and immunity provisions. I am not sure whether it will be possible, without requiring the minister to read it all into *Hansard* (which I do not want to happen), to have incorporated into *Hansard* the detailed reply. If that is not possible, I ask that a copy of that information is tabled in this chamber prior to the committee stage and that a copy of that information is provided by way of written correspondence to all Independent members of the Legislative Council prior to the recommencement of the debate in approximately two weeks.

I know how busy are the officers of Independent members of this chamber, and it may be that either they are not interested or they do not have the time to go through it in detail, but I believe it is important that the information the government has provided to the opposition should be available to those members should they wish to peruse it or potentially pursue one or two issues that may be of particular interest to them.

My second reading contribution is relatively brief. I suspect that, if there is to be a debate, it will be longer in committee, depending on the minister's replies and also on the further work the opposition needs to do in the next two weeks before we finally conclude debate on the legislation. In so doing I will refer to two boards and look at the existing provisions as they relate to conflict of interest and immunity and seek from the government in its reply a specific response as to how the conflict of interest and immunity provisions will be changed by this legislation specifically as it relates to these two boards. It may not surprise members that the first board I refer to is the WorkCover Corporation.

The WorkCover Corporation is a critical board in terms of the operations of the workers compensation scheme here in South Australia. I will not go through the detail of the challenges facing WorkCover at the moment and the fact that there is a separate inquiry. However, as it relates to the conflict of interest and immunity provisions, it has been widely reported that many questions have been raised and, further to that, many allegations made about the activities of one particular board member, Sandra De Poi, in the WorkCover Corporation.

In evidence in another forum (and I obviously will not read that, but it has been reported publicly), leading figures within the broader labour movement, such as Les Birch and other

rehabilitation providers, have made allegations in relation to conflict of interest as it relates to the companies Ms De Poi operates involving rehabilitation.

To be fair, it should be placed on the record that those allegations have been strongly rebutted by the past and I think the present chair of the WorkCover Corporation. So, whilst allegations have been made by Mr Birch and others, the WorkCover Corporation has strongly refuted the allegations.

The Hon. CARMEL ZOLLO: I rise on a point of order, Mr President. As I have been listening to the Hon. Rob Lucas, I have noted that he is referring to matters that are before the Statutory Authorities Review Committee. In referring to those matters, he has just said on the record, 'To be fair,' etc. However, those allegations have also been independently reviewed by another independent body, as well as by the Auditor-General, and refuted as well. I think the point of order is that the Hon. Mr Lucas should not be referring to those matters.

The PRESIDENT: The Hon. Mr Lucas will refrain from referring to matters before the committee that the committee has not reported on.

The Hon. R.I. LUCAS: Mr President, I referred to issues that have been reported publicly. However, the issue to which the Hon. Ms Zollo has just referred has not been reported publicly.

The Hon. Carmel Zollo: But you only refuted some of it.

The Hon. R.I. LUCAS: That is because it has not been reported publicly.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: So, the Hon. Ms Zollo has just breached the particular provision she has accused me of in a shameful—

The PRESIDENT: Order! The Hon. Mr Lucas will continue his remarks, but he will refrain from referring to anything the committee has not reported on.

The Hon. R.I. LUCAS: Or has indeed been reported publicly, Mr President. That is the point I think I raised in relation to the Hon. Ms Zollo's comment. I studiously avoided referring to that matter because it has not been reported publicly in the media. It ill behoves the chair of that committee to breach that particular provision in a quite deliberate way during that point of order.

The Hon. CARMEL ZOLLO: Mr President, the Hon. Rob Lucas referred to a particular person who appeared before our committee.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Yes, he did. He has referred to evidence presented to our committee.

The Hon. R.I. LUCAS: The Hon. Ms Zollo is squealing like a skewered little animal at the moment, Mr President, because she knows she has breached—

The PRESIDENT: Order! The Hon. Mr Lucas will continue to address the matters within the bill.

The Hon. R.I. LUCAS: The only things I am referring to, Mr President, are matters that have been reported publicly in the Adelaide *Advertiser* and in other news media in relation to issues that have been raised about the conflict of interest provisions.

The PRESIDENT: I have made it quite clear that there will be no discussion of matters that have not been made public in reports of the committee. Both parties will stick to that, and the Hon. Mr Lucas will confine his remarks to matters relating to the bill.

The Hon. R.I. LUCAS: Mr President, I thank you for your firm admonishment of the contribution of the Hon. Ms Zollo in relation to this—

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: Well, it was your point of order. I was happy to proceed.

The PRESIDENT: I have ruled on the point of order raised by the Hon. Ms Zollo.

The Hon. R.I. LUCAS: I thank you for that ruling, Mr President; I hope the Hon. Ms Zollo is suitably chastised.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We certainly strongly support you in terms of that ruling, Mr President.

The PRESIDENT: The Hon. Mr Lucas will get on with his contribution to the bill.

The Hon. R.I. LUCAS: I would be pleased to, but I keep getting these points of order.

The Hon. S.G. Wade: I think she's trying to disrupt his flow.

The Hon. R.I. LUCAS: Exactly. I would happily proceed—

The PRESIDENT: Time is of the essence on a Wednesday, as you well know.

The Hon. R.I. LUCAS: I was trying to be as fair as possible. As has been noted in the Auditor-General's Report in only the past two weeks, the Auditor-General has commented on the conflict of interest provisions in relation to Ms De Poi. On page 1774 of that report he says:

> In relation to Ms De Poi, the companies in which she has an interest, De Poi Consulting Pty Ltd and Refining Skills Pty Ltd, have current contracts with WorkCover SA for the provision of rehabilitation services as directed by WorkCover SA's claims agents. The value of the transactions during the year ended 30 June 2009 was $3.1 million ($2.7 million the previous year]).

I interpose here that that is a 15 per cent increase in contract value in the past 12 months to Ms De Poi's companies. The Auditor-General continues:

> The terms and conditions of the transactions were no more favourable than those available, or which might reasonably be expected to be available, on similar transactions to non-Board member related entities on an arm's length basis.

So, the issue has been considered; the Auditor-General has reported on the issue in those particular terms. When one looks at the current WorkCover Corporation Act as it relates to these conflict of interest provisions, section 8 relates to disclosure of interest and section 9 relates to members' duty of honesty, care and diligence. This consequential amendment deletes all those provisions, that is, the current disclosure of interest provisions and the current members' duty of honesty, care and diligence provisions. It also deletes section 10(2), (3) and (4), which are key provisions relating to the immunity of members. As I said, it seeks to impose a template or a standard that applies to other sections of the public sector.

The current disclosure of interest provisions require that a board member must, as soon as he or she becomes aware of the interest, disclose its nature. The new standard provision is different, requiring it 'as soon as reasonably practicable'. I seek an explanation from the government regarding that particular change. It appears that the existing WorkCover Corporation provision is a tougher and more restrictive requirement on disclosure—that is, as soon as you become aware of it you must do it—whereas the new provision requires it 'as soon as reasonably practicable'.

A more significant issue is that, in relation to a disclosure of interest offence by a board member, currently there is provision in the penalty not only for a fine but also for division 5 imprisonment. That is, an offence by a WorkCover board member on a conflict of interest provision, as I read it, currently has a significant penalty in terms of a period of imprisonment. My understanding is that, as it relates to WorkCover, the government has reduced the penalty on a board member found guilty of a conflict of interest provision.

My question to the government is, therefore: is that correct? What is the government's explanation, in a body as critical as WorkCover, for reducing the penalty; in particular, in reducing the potential deterrent effect of a term of imprisonment for a board member who is found guilty of a conflict of interest in relation to his or her activities?

In relation to the general standard or template that the government is imposing, I also have the following question: is it correct that the government, in relation to honesty provisions—that is, if a member of a general board (not just WorkCover) in essence does not act honestly—has retained the penalty of a fine and a prison term? If that is correct, why is it that the government—and let us look again at WorkCover—would retain the deterrent effect of a prison term for someone who was found not to have acted honestly but, in relation to someone who has a significant conflict of interest in relation to that board member's activities, has decided that it will remove the deterrent

effect of a prison term? I put that general question but also, specifically, as to why it would be removed in relation to the WorkCover board.

Similarly, in 10(3) of the WorkCover Corporations Act (the immunity provision) it states that the immunity conferred by subsection (2) does not extend to culpable negligence. As I understand it (if I have correctly understood the complex new provisions that have been incorporated), an alternative drafting of clauses as they relate to culpable negligence will now apply to the WorkCover board as they would apply to other boards.

If that is correct, can the government and its advisers indicate whether the new drafting, as it relates to culpable negligence, is tougher, harder or stronger as it relates to the actions of board members or has it weakened the immunity provision as it relates to this issue of culpable negligence?

There are a number of other provisions in the current WorkCover disclosure of interests—members' duty of honesty, care and diligence, and validity of acts and immunity of members clauses—which are being removed. I specifically ask the government whether, in its response, it will compare the existing requirements and penalties on board members with those clauses that exist in 8, 9 and most of 10, and compare them to the new provisions as they will relate to the WorkCover board.

Without going through the detail, given the time, I also ask those questions in relation to the Motor Accident Commission because there are some similar issues that can be raised. Again, will the government look at the existing provisions for board members in the Motor Accident Commission and whether the new provisions are, as I said, tougher, stronger or harder on them or the reverse? So, I would like a specific comparison of the requirements under the existing legislation of the MAC and the new requirements of the legislation.

I seek an early response from the government, and the reason I do that is that I think that will assist me and anyone else who wants to go through this task over the next week or so in comparing whether or not the standard template that the government wants to impose does, in fact, have some unfortunate side-effects and that perhaps, in some cases, we should not be weakening our expectations for some of the board members—for example, in WorkCover or other corporations.

Subject to receiving those responses from the government the opposition, as it has indicated, is reserving its position in relation to potentially moving amendments. If the government's explanation is one with which we can agree, we would certainly see an expedited committee stage of the bill.

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

[Sitting suspended from 13:00 to 14:18]

PAPERS

The following papers were laid on the table:

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

Reports, 2008-09—
- Electricity Supply Industry Planning Council
- Energy Consumers' Council
- Jam Factory Contemporary Craft and Design Inc.
- Land Management Corporation
- Power Line Environment Committee

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

Reports, 2008-09—
- Chiropractic and Osteopathy Board of South Australia
- Country Health SA Hospital Inc.
- Dental Board of South Australia
- Department for Transport, Energy and Infrastructure
- Health Performance Council
- Libraries Board of South Australia

Medical Board of South Australia
Nurses Board of South Australia
Occupational Therapy Board of South Australia
Pharmacy Board of South Australia
Podiatry Board of South Australia
Rail Safety Regulator
State Theatre Company of South Australia
TransAdelaide

Gene Technology Activities in 2008—Report
Playford Centre Charter

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:21): I bring up the 30th report of the committee.

Report received.

The Hon. J.M. GAZZOLA: I bring up the 31st report of the committee.

Report received and read.

SHELL GRIT MINING

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: Yesterday I provided a preliminary response to the Hon. Michelle Lensink who asked questions about shell grit mining by the Clay & Mineral Sales company at Port Parham. I am advised that since the extractive mineral lease for small scale shell grit extraction was granted in 1968 there have been two reviews of the mining and rehabilitation program.

The first review was undertaken in 1980. In 2008 the Chief Inspector of Mines requested that the operator, Clay & Mineral Sales, undertake a further review of the mining and rehabilitation program. The company has submitted a draft of the revised mining and rehabilitation program. The Chief Inspector of Mines has further requested that Clay & Mineral Sales consult with all relevant stakeholders, including the District Council of Mallala and nearby landholders, to ensure that all environmental impacts of the operation are satisfactorily addressed in the revised mining and rehabilitation program.

CHARITIES

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) (14:25): I table a copy of a ministerial statement relating to charities made earlier today in another place by my colleague the Hon. Tom Koutsantonis.

QUESTION TIME

ST CLAIR LAND SWAP

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Cheltenham Park/St Clair master plan.

Leave granted.

The Hon. D.W. RIDGWAY: As members would be aware, we have had significant discussion in this chamber during the past couple of question times in relation to the St Clair land swap and the new development at Cheltenham Park. In fact, minister Gago, minister Atkinson and minister Foley have all been on radio saying that this is a government project, that it is part of the transport-oriented development projects that the government is rolling out and that the St Clair land swap, in particular, was their idea.

On 11 November, I think, Mr Peter Jensen, national chair of the urban chapter of the Planning Institute of Australia, said on 891 Radio that it was not anything to do with the government but that in fact it was the council planners who came up with the idea and that the council was driving the idea. I have a chronological map here of the Cheltenham Park draft DPA from 2007—

The Hon. I.K. Hunter interjecting:

The Hon. D.W. RIDGWAY: —one of them is in colour, Mr Hunter; the other two are in black and white. They are the Cheltenham Park final DPA of 2008 and the Cheltenham Park master plan of August 2009. It is interesting to note that, while it might be somewhat similar in shape, it does not end up anything like it started out.

The President of the Planning Institute of Australia, South Australian Division, Mr Gary Mavrinac, at a public hearing for submissions on the rezoning of Cheltenham, said that the Planning Institute did not support the redevelopment of the Cheltenham racecourse unless a new railway station was built to accommodate the development. He said, 'It is an opportunity to create Adelaide's first "transit-oriented development" with mixed use, medium and high rise apartments around a new railway station built at the site.' We have noticed with the Cheltenham Park/St Clair master plan that the site known as St Clair is now just in a beige colour and marked 'possible future development'. My questions to the minister are:

1. What types of developments will take place on the St Clair site if the land swap goes ahead?

2. Is it the government's intention that a future development on that site will be integrated with a new railway station?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:29): If one is proposing to build a TOD and the 30-year plan identifies the site around the Woodville station as a TOD site, obviously, the development that takes place there would be integrated with a transit facility. That is what transit-oriented developments are.

In relation to the thrust of the honourable member's question, my recollection of the history of the consideration of the Cheltenham issue is that it began with the SAJC proposing the sale of Cheltenham Park Racecourse, and that was (so my notes tell me) back on 4 August 2004. That is when it began. The SAJC made the decision that it would sell Cheltenham Park Racecourse.

That was something I well recall. It was a move for which the then opposition spokesperson, Angus Redford (who I think was in here yesterday), was an advocate. He was an avid supporter of that move by the SAJC and he made several speeches in this place admonishing the government for not getting behind the sale of the Cheltenham Park Racecourse. The government had various meetings with residents and others and the Jockey Club around that time, and in the end it became clear that because it was SAJC land it would proceed with that. It was then that the government made clear that we would not support any lifting of the encumbrance on that land unless there was a significant amount of open space. The government proposed 35 per cent, of which it would contribute—

The Hon. D.W. Ridgway: You backed down on that.

The Hon. P. HOLLOWAY: No, we did not back down. We would contribute $5 million, and we suggested to the council, which at the time had been lobbying for the retention of open space, that, if it provided a $5 million contribution from the City of Charles Sturt, that would enable 40 per cent of the site to be open space. That is all history and in the end the City of Charles Sturt decided not to support that. Nevertheless, the government honoured its promise to ensure that 35 per cent of that Cheltenham Park land remain as open space and that we would make a contribution towards that.

Around the same time, Stockland had purchased the former Actil site and was proposing to develop it. They came to see us about a development plan to enable that former industrial site to be redeveloped. It obviously made sense, given that it was right next door—about 17 hectares—to the site of the Cheltenham racecourse, to consider it together. Since both those parcels of land were being considered, the potential to look at the whole region, given that council owned the land around St Clair, it made sense to look at the entire area from Cheltenham Road right through to Woodville Road, because with the significant amount of open space land available in that area the potential for a path that went right the way between those two roads would have been a significant community asset for the people of the western suburbs.

What began with the sale of the SAJC land, combined with the Stockland land, has grown eventually into the master plan put forward for the entire site. Obviously a master plan of the entire site provides a much better outcome for the people of the western suburbs than if one were to look at the Cheltenham area alone or at the Stockland land, which ultimately was sold to AVJennings, which won the tender to purchase the Cheltenham racecourse site.

There has been an involvement with this project over more than five years and it has evolved as these other issues came into play. Clearly the council played a part from originally opposing the sale of Cheltenham to becoming involved with this, and it has been a keen supporter—appropriately so—of the enhanced development. One of the issues looked at in the original development plan when it was Cheltenham only was the location of the railway station. Clearly the best outcome in terms of a transit-oriented development would be to use the Woodville station site, because it is at that point that the line branches off to Grange. Being a junction, it is from a number of perspectives a most desirable location for a transit-oriented development. A lot of work involving three different parcels of land has come together ultimately with the master plan. What should be pointed out to this chamber is that the Liberal Party's latent interest in this matter—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Let's get the history straight. The Liberal Party's original interest was to support the sale of the SAJC land with no open space requirement. That was the original statement way back prior to the previous state election. So, that was the Liberal Party's position. But, of course, the Liberal Party's position now is that it does not want to proceed with the city to coast rail line. So, not only would there be no open space down there but there would be no upgrade of the rail system for the western suburbs because the Liberal Party has made it clear that it does not support that city to coast tram line. So, really, the Liberals are playing games with the people of the western suburbs, and they are trying to capitalise on public interest in the sale of that land.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes, I know you go and talk to them and you mislead them, because you don't tell them the truth about how you are not going to proceed with that rail line. It has taken five years for the evolution of this project—and it has been an evolution. As the other parcels of land have all been put in place, the potential to do something much better for the people of the western suburbs has evolved and various parties, such as the council, have changed their views during that period.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Well, you can talk about that. It is strange how for years councils, particularly in country areas, have been entirely dominated by members of the Liberal Party—and they have been doing it for years. Within the Australian Labor Party, there is no caucusing, and there is no declared policy in relation to local government issues. It is quite clear that, under the rules of the Australian Labor Party, we do not have a policy in relation to local government issues. The Labor Party, while certainly supportive of anyone who wishes to run for local government, does not have a policy in relation to local government in this state, like other parties do in other states. That has never been the case in South Australia.

So, the honourable member can try to mislead in relation to that. As was mentioned yesterday, a number of prominent Liberals, such as the Mayor of Mount Gambier, are running for office. I make no criticism of his doing that; he is entitled to do that. However, why is it wrong for members of the Labor Party, in an area where the Labor Party has 70 or 80 per cent support, to run for local government and for that council to have a significant number of Labor Party members but it is okay for Liberals to run for local government? It seems that it is okay for people like Mr Winderlich to not attend parliament and turn up at and disrupt a local government meeting, clambering over desks like he was doing last night at Burnside.

It is about time that we had some respect for local government within this state. Instead of attacking those people who take on this difficult job, we should be grateful to those people who give up their time to run for local government. We all know that local government is not particularly well remunerated; there is a small allowance. No-one wants to know about local government until there is something they disagree with, and then they try to attack it.

I think it is about time that members of this place had some respect for local government as a separate tier of government. This government accepts that local government is a separate tier of

government. We have a memorandum of understanding, and we respect the difficult job that many volunteers do in local government around this state. I want to put that on the record, because it is so easy for others to come in here and criticise those people doing that job and try to make a political point by resorting to cheap, grubby politics.

The fact is that someone has to run for local government. It is a democratic election and, if people do not like the people who are running their local councils, they have a remedy just like they do in this parliament. It is ultimately up to the people. In my view, once they are elected, they should be entitled to govern.

In relation to St Clair, it is an issue that has evolved. It began more than five years ago when the SAJC made the decision to sell the land at Cheltenham. These other bits of land gradually came into the equation, along with the evolution of policy in relation to transit-oriented developments. So, yes; it has evolved over that five years, but I believe that the current proposal has a great deal to offer the people of the western suburbs. Members opposite who really do not support transit-oriented developments in that suburb should be outed for their hypocrisy.

ST CLAIR LAND SWAP

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:40): I have a supplementary question. Will the minister rule out any commercial or retail development on the St Clair site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:40): The whole idea of a transit-oriented development is that—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I suggest that the honourable member—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —go and have a look. In this country he could go to Subiaco in Perth, which is a very good example of a transit-oriented development—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Well, are there commercial operations around Subiaco? Of course there are, and there are residences. It is a mixed use development. They have street level shops. The idea of a transit-oriented development is that you have employment in the area. You have people coming on the train both ways; you have people who use public transport but people also come for employment.

The best examples of transit-oriented development have a mix of residential and commercial use. That is what all the great cities of the world do; that is what you see in London, Paris, and anywhere else. Those cities that are enduring, that predated the motor vehicle, evolved like that for very good reasons. The distortion in the growth of our cities has really been because of the dominance of the motor vehicle in the petrol era, from about the 1950s and 1960s onwards, and I suggest that we cannot necessarily build our future on that assumption. Also, and as other cities have seen, the massive congestion that has come with freeway solutions has had its impact. What we see through transit-oriented developments—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Well, we are the government that is spending $2 billion to $3 billion on upgrading public transport in this state. We have already done it.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: These are the people who wanted to keep 1929 tramcars going to Glenelg; that was the opposition's policy. If those opposite were still in government the tramline to Glenelg would have been closed because those trams were no longer viable. Not only did this government make it more viable by extending the line but it also got new rolling stock—and it is getting more. What did the opposition do? It whinged and complained about this so-called tramline to nowhere that no-one would use, and then it complained afterwards—

The Hon. J.M.A. Lensink: It's a shocker. You don't have to—

The Hon. P. HOLLOWAY: It's a shocker, they say; they are against it. They hate public transport. The opposition wants to go back to the same old failed policies of the past. As we come up to the next election, I am quite happy that we have this contrast: a government that is moving forward, in step with the rest of the world, while those opposite cling to the past.

ST CLAIR LAND SWAP

The Hon. M. PARNELL (14:43): I have a supplementary question arising out of the minister's original answer. Given the minister's response that it made sense to consider the Cheltenham and Actil sites together, why did the minister specifically reject calls from the Environment, Resources and Development Committee to do exactly that, and do a single development plan amendment for both sites?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:43): As I said, the matter had evolved. It was a matter of which land was available. What we have now is a master plan for the whole site.

In the early stages there were two different ownerships. It has been an evolution, and we have had to deal with what was available at the time. If you could turn back the clock, and if you knew that all the land would be available at the one time then, yes, you would have master-planned the entire area, as has now been done. However, that was not the way the history of this evolved, and that is the way the planning decisions worked. Obviously, you can only deal with whatever land is available at a particular time. As it turned out, I understand that the Stockland land was actually available before the Cheltenham site.

Even though the decision was made for the SAJC to sell some time earlier, it was my understanding—and I would have to check the history and the dates—that when it was owned by Stockland, which had sought approval for the redevelopment or the rezoning of that land, it was significantly in advance, if I recall, of all the issues in relation to Cheltenham being resolved. It was always intended that there should be some compatibility in respect of that. The council had a different view in those days. Fortunately, I believe all the parties have now come together—

The Hon. J.M.A. Lensink: Except the residents!

The Hon. P. HOLLOWAY: That remains to be seen. You are presuming what the residents will do. Half of them came from Burnside and there were a couple of ex-Liberal members amongst the crowd making politics out of it. That remains to be seen and, when the public is fully informed about all the issues, they will have their say.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I think they will have their say. If they are properly informed about all of the benefits of this project I think most people will warmly support it. This will be one of the best things that has happened in the western suburbs for many years (if this project, as it is envisaged, gets up) because it will have huge benefits for those people. Ultimately, people will have their say.

ST CLAIR LAND SWAP

The Hon. DAVID WINDERLICH (14:46): I have a supplementary question arising from the minister's original answer. Is the minister aware of the value the Valuer General has placed on the Actil land?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:46): I am not aware of the value of that land. It was a private sale. It was purchased, as I said, originally by Stockland. I think it was then purchased by AVJennings, and that was a private matter. Whether it is in the public purview I am not certain.

HIGHBURY RESIDENTIAL AND OPEN SPACE DPA

The Hon. J.M.A. LENSINK (14:47): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Highbury Residential and Open Space DPA.

Leave granted.

The Hon. J.M.A. LENSINK: Honourable members may be aware of the Highbury Residential and Open Space DPA which was subject to some environmental testing. An independent environmental test found that groundwater monitoring wells had identified lead, selenium, zinc and ammonia concentrations in groundwater marginally exceeding one or more of the SA EPA criteria. There were concentrations of ammonia from adjacent landfill sites and carbon dioxide concentrations above EPA criteria, among other issues.

The EPA has advised the Messenger *Leader* that the testing method was inappropriate and that the tests need to be redone with special landfill gas probes. In September the Minister for Urban Development and Planning, conjunctly with the Minister for the Environment, announced that the DPA was being put on hold for further independent environmental testing, including monthly monitoring of landfill gases. My questions to the minister are:

1. Are there any results yet from those further environmental tests?

2. Will the EPA results be made public?

3. Are the proposed distances, in the original DPA, between residential zones and methane inundation compliant with the EPA?

4. Why is the maximum suggested height three storeys when the existing area is two storeys?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): There are a number of questions there. What I can say about the Highbury Development Plan Amendment is that, unless the government had pushed this development plan amendment, I do not think the councils that own the Highbury landfill (through a joint body), which has been the cause of problems in that area for many decades, would have taken the action that they did to try to address some of these long-standing issues.

I have to say that one of the benefits of the proposal to consider the development at Highbury has been that the landfill authority has finally got around to capping that landfill. As the honourable member announced in a question (remembering that the development plan amendment was considering development on the east of the current landfill site), the EPA suggested that further work was required before development should be permitted there. The government accepted the EPA advice. I am not aware of any further results. At this stage they would probably go to the EPA, and they would be the responsibility of my colleague, as indeed would any decision about releasing those results.

I presume at the end of it there will have to be some report, which obviously would be made public before there was any further consideration of the development plan, but whether there will be any preliminary release of results I guess is a matter for the EPA. Ultimately one would presume that all the information would have to be in the public domain before any further decision were taken.

As I understand it, there has been testing for some time in relation to the suburbs to the west of the Highbury landfill. That has been undertaken for some time. The question in relation to the proposed development plan amendment related to those areas to the east and south of the Highbury landfill, which is where the former sand mine quarry operated by CEMEX is, and that is where the 70 hectares or so of land that is proposed to be developed is located. That obviously will be put on hold until the EPA gives clearance in relation to any issues that might arise from the former landfill.

One would hope that, as a result of the action that has been taken—and the landfill has been closed for at least a decade or so—and with all the work that has been undertaken in the past couple of years, any issues have been largely addressed or could be managed into the future. Obviously, we will await the clearance of the EPA in relation to that.

The honourable member also asked some questions about clearances from that. Obviously, the government will not be approving any rezoning of any part of the area, regardless of the distance, until the results of that further work have come in and the EPA has given a clean bill of health to that area. There may be some debate about what is an appropriate distance from a former landfill, but the government has put the whole development plan amendment on hold.

Clearly, if one goes out to the west of the landfill, there are houses quite close to it that have been there for decades—at least 20 years, I would think, in most of that area. In relation to

those areas to the east and south, the government will not consider any rezoning and therefore any building on those areas unless and until this matter has been resolved to the satisfaction of the EPA.

ENTERTAINMENT INDUSTRY

The Hon. S.G. WADE (14:53): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question related to entertainment in Australia.

Leave granted.

The Hon. S.G. WADE: Pop star Britney Spears is currently undertaking a concert tour of Australia and is scheduled to perform at the Adelaide Entertainment Centre on 29 November. Concern has been raised that Ms Spears is lip-syncing during her performances rather than singing live. As a result, the Victorian consumer affairs minister has promised to legislate. I quote from the *Herald Sun* of 5 November:

> Pop stars such as Britney Spears could be forced to disclose whether they lip-sync under new laws to stop fans being ripped off. The State Government wants concert promoters to place alerts on tickets or promotional material if performers plan to mime. Consumer Affairs Minister Tony Robinson said fans deserved to know what they were paying for.
>
> 'We believe it is good business practice for concert promoters to make it clear to consumers before they buy tickets whether the performer will be miming, and make this clear on advertising, posters and other promotional materials'...

My questions are:

1. Does the South Australian government consider that the practice of lip-syncing without full disclosure is unfair consumer practice?

2. Does the government consider that the practice is contrary to current South Australian law, or will the government legislate to require full disclosure?

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): This is a matter that I have to say I have not put my mind to, but—

The Hon. R.I. Lucas: You're a Lady Gaga fan.

The Hon. G.E. GAGO: I am a Lady Gaga fan, and a Pink fan, too. To the best of my knowledge, my office has not received any letters of complaint about this particular issue. If there are some concerns here in South Australia, I am happy to look at that issue and see whether we need to address it in any way.

My understanding, though, is that she was pretty up-front about lip-syncing and that it was not something that was hidden or avoided publicly, albeit not printed on the ticket. My understanding is that it was pretty well public knowledge that she was lip-syncing. That issue aside, regarding whether or not that needs to be publicly stated as a condition of the ticket, I will check my office to see what level of interest and complaint there has been about it and, if there appears to be some indication of a need to look into this, I am more than happy to do that.

INDIGENOUS CONSUMERS

The Hon. I.K. HUNTER (14:56): Before anybody asks, I indicate that I am a Pet Shop Boys fan. I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about an informative CD called *Talk About Shopping*, which is aimed at consumers in the Far North of South Australia.

Leave granted.

The Hon. I.K. HUNTER: Under the Fair Trading Act 1987, the Commissioner for Consumer Affairs has functions which include: conducting research into matters that can affect a particular class of consumers; monitoring business activities; investigating practices that adversely affect the interests of a particular class of consumers; and conducting consumer education programs and disseminating information on matters concerning the interests of consumers. Will the minister advise the council about some of the strategies that the government has employed to educate and empower indigenous consumers from the APY lands in the state's Far North?

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) (14:57): I thank the member for his question and his interest in this important policy area. As members are aware, educating consumers about their rights can be half the battle when trying to achieve fair outcomes in the marketplace. An educated consumer is an empowered consumer, and an empowered consumer can avoid the shonks and rip-offs and know how to go about resolving a dispute if things go wrong.

The importance of educating and empowering consumers is nowhere else more vital than in some of the state's disadvantaged indigenous communities. Where English is often a second or third language in some of our communities, government agencies such as the Office of Consumer and Business Affairs (OCBA) have to take that extra step to try to communicate consumer rights and responsibilities.

I was very pleased to have the opportunity to be able to launch a CD called *Talk About Shopping* in Coober Pedy recently. The CD was produced by OCBA in collaboration with Services SA. It discusses consumer issues in three languages: English and Pitjantjatjara and Yankunyjatjara, which are obviously the two most common indigenous languages spoken in the APY lands.

The CD involves very easy to understand language and it explains concepts such as receipts, contracts, refunds, how lay-by works and what a warranty is. Excellent advice and explanations are also given on not relying on advertising as the sole source of information about products, what your rights are if a shop wants to conduct something like a bag search and what happens if a breakage occurs in a store—who has the responsibility of paying for the breakage. Understanding issues like these is not always widespread among people who speak and write English well and live in Adelaide, so to reach some of our indigenous communities in this way is a real achievement for fairness in the marketplace, and I commend OCBA and Services SA for this initiative.

The CD also deals with issues that are relevant for remote communities, such as store credit and buying second-hand vehicles. The misuse of store credit—also known as 'book up' and 'ticky'—is a really big issue and a problem in indigenous communities, and this CD explains the pitfalls and problems that can occur when consumers give their keycard and often their pin number to storekeepers.

Another problem faced by indigenous people in the APY lands and other remote areas is the sale of unroadworthy second-hand cars, often at inflated prices. The *Talk about Shopping* CD gives advice about this large purchase in a manner that will help them to avoid shonky used car dealers and, importantly, it gives advice in Pitjantjatjara and Yankunytjatjara.

The CD also explains how to go about making a complaint and trying to resolve disputes, if and when they occur. The *Talk About Shopping* CD was made in collaboration with, and with input from, Aboriginal people. It features the voices of local Aboriginal women. The cover was designed by an APY lands artist and its consumer message is interspersed with music and lyrics from the up and coming Indulkana band, Iwantja. It is great music, I might add—and I do not think they are lip-syncing, either!

The production of this important educational CD was a collaborative effort between the government and local indigenous people. I am sure Iwantja would not mind my giving them a plug, and I encourage members to get down to Victoria Square on 26 November when the band will be performing one of the songs from the CD, as well as other songs it has written, in a concert that has been organised as part of Public Sector Week.

The launch of this CD on Wednesday 4 November follows the launch of the booklet *Talk about Shopping* in March this year. Both the CD and the booklet are now being distributed through Service SA, Families SA and other government agencies throughout the APY lands and other locations in northern South Australia.

While I was in Coober Pedy I also had the pleasure of visiting Umoona Aged Care Facility to personally acknowledge members of Kupa Piti Kungka Tjuta (Coober Pedy Senior Aboriginal Women's Council). These extraordinary women are among the outstanding nominees of the 2009 South Australian Women's Honour Roll, but they were unable to attend the ceremony held at Government House to honour the contribution these women have made to their community. The seven members of this group are Eileen Brown, Eileen Crombie, Ivy Stewart, Angelina Wonga,

Emily Austin, Martha Edwards and Eileen Wingfield. Together they represent the Yankunytjatjara, Antikarinya and Kokatha language groups of South Australia's hinterland and Far North region.

These women hold positions of seniority in terms of Aboriginal law and culture in their region. They are pillars of strength in their community, grassroots leaders and volunteers. They are recognised at the national and international level for their work on the Irati Wanti (Poison—Leave it!) campaign. Their work on this campaign successfully stopped the dumping of radioactive nuclear waste in the South Australian Outback—a landmark event in South Australia's history.

The group has a close consumer relationship with Umoona Aged Care Services and has been pivotal in bringing about the development of the Tjamuku Kamaiku Ara Nintitjaku (Grandparents Knowledge) program. This program aims to teach younger people about the culture and heritage, and structure and importance of relationship connections. It was a great privilege to be in their company and witness their commitment. They might appear elderly and frail, but they show a great deal of courage, determination and strength which is an inspiration to us all.

INDIGENOUS CONSUMERS

The Hon. T.J. STEPHENS (15:04): Sir, I have a supplementary question. Will the minister report back to us as to how much that CD cost to produce and how many to date have been distributed?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:05): I am happy to do that. I might add that it was done at quite a nominal cost. I do not have the exact figures with me but, as I said, it was very carefully managed and it was done at a very nominal cost, considering what an incredibly valuable resource it is. The poverty group from Families SA in Coober Pedy has already fed back to me how valuable it has been as a resource on the lands. They are using it already.

They say that it is very difficult to engage Aboriginal people around financial matters: it is often a difficult subject to broach. However, having that message out there, along with the booklet, means that they are able to broach financial matters using, if you like, safe topics and then using those to develop a conversation around family budgeting and other more serious financial issues that affect many of these families. So, the feedback already has been extremely positive. It is obviously a very valuable tool and, as I said, we have been able to do it almost on a shoestring budget.

PENRICE MINE

The Hon. DAVID WINDERLICH (15:06): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Penrice mine at Angaston.

Leave granted.

The Hon. DAVID WINDERLICH: Members may be aware that the Penrice mine has dramatically expanded its operations in the past two years to provide fill for the Northern Expressway. Community concern about the noise, hours of operation, heavy truck movements and dust have led to the establishment of the Penrice Community Consultative Group to provide a forum for the flow of information and advice. According to the terms of reference, Penrice Quarry and Mineral is responsible for resourcing and participating with and maintaining to the satisfaction of PIRSA a community consultative group. The independent Chair, Mr Charlie Irwin, was appointed by a selection panel comprised of Penrice, PIRSA and the council. However, two problems have emerged with the process of the Penrice Community Consultative Group.

Community members called for indemnity against legal action at the first meeting of the Penrice Community Consultative Group on Wednesday 5 November 2008. This still has not been provided, and since that time members of the local community allege that they have been threatened with legal action by Penrice for publicly criticising the mine. The provision of legal indemnity is the responsibility of Crown Law.

The second problem that has emerged with the process is that Penrice and PIRSA have begun drafting a management and rehabilitation program for the mine separately from the Penrice Community Consultative Group meetings, thus shutting out community participation. My questions are:

1. Is the minister aware of concerns about legal action by Penrice against community members?

2. Will the minister undertake to write to Penrice pointing out the desirability of maintaining positive relationships with the community?

3. Will the minister undertake to write to Crown Law to urge it to fast-track the provision of legal indemnity to community members of the Penrice Community Consultative Group?

4. Will the minister direct PIRSA to ensure that the Penrice Community Consultative Group is involved in the drafting of the management and rehabilitation plan so that community members can have an input into something that greatly affects their lives?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:08): I am pleased that the honourable member recognises the initiative of the government in establishing the community consultation group at Penrice. The government was concerned some time back (at least 12 months ago; perhaps longer) when we received some community feedback in relation to issues that the local community was having with Penrice. It was as a result of that that the government was called in, and I was at those meetings with the Chief Executive of Penrice, after I had had meetings with the local community.

It was at the instigation and initiative of the government that that community group was established. The whole idea of that community group was that it would have an active involvement to put the community views in relation to the future operations of the quarry at Angaston operated by Penrice. So, the government is certainly well aware of the history of this. There was an issue raised.

The government first established one of these community consultation groups with the Angas mine at Strathalbyn, and it is now the government's proposal that these sorts of groups should be incorporated into all new operations of this nature. Members might recall that the former premier Dean Brown, as a former member for that area, chaired that committee—and I have to say he did a very good job. Also, it involved the local member for the area down there.

That was really the first example of where PIRSA had used this approach, and it was something we decided that we would extend, given the experience of that group, to the Penrice quarry. Issues have been raised in relation to the liability issues involving members there. I am not aware of any threats being made to individuals by Penrice, but I am certainly aware that the community had concerns that they could be liable for the work on that committee and, as a result, the government sought Crown Law advice.

Unfortunately that advice was a long time coming, but I believe the government recently received it, which I will check on and confirm. Once that advice is there, we would certainly ensure that the people serving on that committee do not suffer any legal liability from that work, and essentially that is why we are waiting for Crown Law advice. I understand community members a week or two ago stated that they would not further serve until that matter is resolved. I understand why they are doing that and we are seeking to resolve it as soon as possible. We are happy to do that.

In relation to the latter part of the question, the whole point of having the community consultation group was to ensure that they have an input into the future of the mine and not just in relation to the operation of the plan and the mine operation plan currently developed. There are issues as to the future of that mining operation. One of the concerns of residents, which I can well understand, is the visual impact that the overburden dump could have potentially on the amenity of the Barossa Valley. That has been made clear to the company.

I understand that a lot of the overburden currently visible from the valley floor is to be transported as part of the Northern Expressway, but certainly in the longer term we would expect that the visual impact would be greatly diminished, either with proper screening or removal of some of the overburden. Certainly in the meetings I have had I have made clear that we expect it to be addressed during the course of the operations of the mine over the next few years. Clearly residents of the Barossa Valley in the vicinity of that mine should have an impact through an effective community consultation committee. I hope that I can find a way, acting on the Crown Law advice, to ensure that all residents have proper protection in relation to performing their tasks on that community consultation group, as that is what the government intended when it was set up a year or two ago.

PENRICE MINE

The Hon. DAVID WINDERLICH (15:14): By way of a supplementary question, will the provision of legal indemnity be a characteristic of all future community consultative groups?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:14): If you have a community group, one would expect that work undertaken by people on those groups should not involve them in any undue legal risk. I need to look at the advice. People should have legal indemnity. Where people work on government boards and have a reasonable indemnity, that should not necessarily flow through to deliberately reckless behaviour, and that is where we need the Crown Law advice to define the parameters. One would expect that anyone who is participating on these boards should not suffer from any work they undertake in a reasonable and diligent manner. The matter is fairly complicated, which is why unfortunately Crown Law has taken so long to get the advice back to the government. Clearly, we want an outcome where people should not fear undertaking work in good faith on these committees.

FOOD SCORECARD

The Hon. C.V. SCHAEFER (15:15): I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question about the Food ScoreCard.

Leave granted.

The Hon. C.V. SCHAEFER: I think most of us know that 10 years ago the State Food Plan was set up, with a target of reaching $15 billion of gross food revenue for South Australia by 2010. Several weeks ago, this year's food card, which is an indication of the performance each year, was released. With it came a press release from the minister which said something like, 'South Australia reaches a record and astonishing $12 billion'—and that is to be commended.

However, a cursory look at the scorecard which, I might add, used to be broken down to individual industries, regions and products and which is now an eight page document, shows that the average gross food revenue growth over the nine year period to date has been 5.7 per cent per annum. The current 2008-09 GFR is stated to be up by $1 billion (that is, 9 per cent) and the scorecard crows that that is a record level. However, the next paragraph in the Food ScoreCard states:

> Being a figure expressed in nominal terms, it is estimated that around half of the annual growth in GFR was the result of domestic food price inflation—

and this is in italics in the government's very own scorecard—

> Thus real GFR growth over the year is estimated at 3.4%.

So, in real terms, the actual revenue has indeed fallen. This is illustrated on page 5 of this very small document, where it shows farm gate revenue and the following details: field crops are back by 24 per cent on last year; wheat by 23 per cent; barley by 17 per cent; dairy by 8 per cent; potatoes by 1 per cent; other vegetables by 11 per cent; citrus by 8 per cent; cucumbers and capsicums by 1 per cent; bluefin tuna by 15 per cent; and so on. The total primary production loss is an average of 4 per cent. My questions are:

1. Given these figures, does the minister agree that his press release and announcement with regard to the Food ScoreCard was misleading?

2. Does he agree that on current trends the South Australian food industry will fall short of its 2010 target by between 10 and 15 per cent?

3. Why has the wine industry scorecard, which was presented to the minister at about the same time as the Food ScoreCard, not been published?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:19): I will pass on those questions to the Minister for Agriculture, Food and Fisheries in another place and bring back a reply.

CENTREX METALS

The Hon. CARMEL ZOLLO (15:19): My question is to the Minister for Urban Development and Planning. Will the minister outline the decision by the Foreign Investment Review Board to approve a joint venture agreement between Centrex Metals and China's WISCO?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:19): Last month, I informed honourable members of my decision to grant conditional approval to Centrex Metals to establish bulk handling facilities at Port Lincoln. That approval marked a further significant step in the emergence of a new mining industry on Eyre Peninsula. It was also an important step in the development of South Australia's mining industry and the state's re-emergence as a major supplier of iron ore to the world.

I am pleased to be able to follow up that information with news that the Foreign Investment Review Board has approved a $271 million investment by China's Wuhan Iron and Steel Company (or WISCO) in Centrex Metals. Centrex Metals informed the Australian Stock Exchange that the FIRB approval is unconditional and allows China's third largest steelmaker to take a 60 per cent share in the Australian iron ore company. The FIRB's approval is an important step in the continued revitalisation of South Australia's mining industry since this government took office and the state's emergence as a significant iron ore supplier to China.

I met several representatives of Wuhan and its subsidiary WISCO during my visit last month to China Mining 2009 in Tianjin. During those talks I expressed my support for foreign investment, including capital from China, in our mineral resources sector. The South Australian government further demonstrated its support in a letter to the federal government supporting WISCO's investment in the Centrex Metals Wilgerup project.

I was extremely delighted by the enthusiasm generated in China about prospects in South Australia, including WISCO's investment in Centrex. Now that the Foreign Investment Review Board has cleared the way for that company to play a role in developing our mineral resources on Eyre Peninsula, I hope that will encourage WISCO to establish a regional office in Adelaide to support its investment in South Australia. China's investment in South Australia will assist companies such as Centrex to develop iron ore projects throughout the state and provide an alternative supply of resources to the major producers.

Commercial mining at Wilgerup is expected to begin after all statutory approvals are finalised, with the first shipment of iron ore scheduled for midway through 2010. The ten-year mining lease granted to Centrex Metals for its Wilgerup iron ore project on South Australia's Eyre Peninsula highlights the continued confidence of the state's minerals sector.

The Wilgerup project follows the success of OneSteel's Project Magnet in the Middleback Ranges, and it will create both jobs and export income to support the South Australian economy into the next decade and beyond. I am advised that the Wilgerup mine near Lock will create up to 150 jobs and inject $70 million a year into the regional economy. That is an important development considering the recent reduction in blue fin tuna quotas and the impact that will have on the local fishing industry.

The WISCO investment demonstrates that Eyre Peninsula will need a large and more significant port if it is to accommodate the huge cape-sized vessels required to transport iron ore to markets in China—and I referred to that yesterday in answer to a question from the Hon. Mr Brokenshire. I was also heartened to note that WISCO and Centrex have announced plans to embark on a joint-venture to develop a deepwater port at Sheep Hill Bay, near Tumby Bay, capable of handling cape-sized vessels.

South Australia has emerged as a competitive and reliable supplier of a wide range of resources, and that has attracted strong interest from Chinese investors. At the recent international China Mining convention in Tianjin, major Chinese mining companies acknowledged that South Australia is host to many world-class mineral and energy deposits and has great potential for further discoveries of copper, gold, uranium, iron ore and mineral sands. The number of Chinese-South Australian project partnerships has continued to grow this year, despite the recent global financial downturn, with more than a dozen significant mineral project investments by Chinese-based companies.

This government continues to support the numerous Chinese resource and investment groups that have entered into cooperative ventures with South Australian explorers and mining companies to harness this state's enormous mineral potential.

ADOPTION

The Hon. D.G.E. HOOD (15:23): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question regarding media restrictions being placed on parties to adoptions, and prospective parties to adoptions, in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: Currently, sections 31 and 32 of the South Australian Adoption Act prevent birth parents, adoptive parents and adoptive children from being able to identify themselves in the media as such. While some forms of restriction may be necessary to protect the identity of parties while adoption proceedings are in progress, the current wording of the provisions also prevent parties to adoptions from speaking publicly about their adoption experience, or even publishing their memoirs, for example, well and truly after the fact some 20 or 30 years later.

I recently met with a group of adoption rights advocates in South Australia in the lead-up to this week's national Adoption Awareness Week, and they indicated to me that this law, in particular, angers and upsets them and is preventing them from telling their stories and using their networks to associate with each other. One representative who spoke to me indicated that she was told by a senior officer at Families SA that, despite the law, no-one has ever been prosecuted under it and that parties to an adoption would be unlikely to be prosecuted for speaking to the media.

Nevertheless, the constituent remarked to me that the fact that the law remains on our books does nothing to alleviate the fear of penalty or feelings of being offended, upset and angry that remain within the South Australian adoption community.

New South Wales, in its 2008 redrafting of section 180 of its law, had the ban revoked in cases where there was consent by all parties, and section 121 of the Victorian Adoption Act has also had the complete ban revoked. My question is: will the minister consider consulting with adoption groups in South Australia with a view to introducing similar laws to those that have been introduced interstate?

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) (15:25): I am happy to take that on notice and will refer it to the relevant minister in another place and bring back a response.

EDUCATION WORKS

The Hon. R.I. LUCAS (15:25): I seek leave to make a brief explanation before asking the minister representing the Minister for Education a question about claimed savings from schools, PPPs and Education Works projects.

Leave granted.

The Hon. R.I. LUCAS: In the 2006-07 budget year, the Rann government announced Education Works, which was a $216 million program. Stage 1 was $134 million for the six super schools which have subsequently been done by PPP, and stage 2 was for $82 million and involved a series of voluntary mergers and amalgamations of schools and children's services centres.

In the 2006-07 budget, the government announced that the savings from Education Works would total $16 million per year from the 2009-10 financial year. Since the 2006-07 budget, we have become aware that the Education Works stage 1 has now progressed in that the super schools PPP project has proceeded and a $323 million project was announced which was, according to Treasury, 3 per cent or $10 million more expensive than if it had been done in the traditional way through the public sector.

The Budget and Finance Committee, over a series of months, has taken evidence from Education and Treasury officers in relation to the expected savings from the Education Works program. On 10 November this year, some three years after the 2006-07 budget was announced,

the education department advised the Budget and Finance Committee that of the Education Works stage 2 program only $8.2 million of the $82 million had been spent in that three-year period.

In relation to the Education Works stage 1, the efficiencies had generated only $2.3 million per annum in efficiencies from 2010-11 onwards. As I said, I noted that the 2006-07 budget claimed savings of $16 million per year from 2009-10. My questions to the minister are:

1. When will the Rann government actually spend the claimed $82 million of Education Works stage 2 that it announced in the 2006-07 budget documents?

2. Is it correct that the claimed annual savings of $16 million per annum for 2009-10 have not been achieved in 2009-10?

3. Is it correct that they will not be achieved during the forward estimates period? In other words, during the forward estimates period will the claimed savings of $16 million per annum be achieved by the Rann government?

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) (15:29): I thank the honourable member for his questions and will refer the matter to the relevant minister in another place and bring back a response.

MATTERS OF INTEREST

REGIONAL COMMUNITIES

The Hon. J.S.L. DAWKINS (15:29): I rise today to address two matters of particular relevance to regional communities. On 19 October I had great pride in standing alongside the Liberal leader, Ms Isobel Redmond, at Port Augusta, as she announced our policy to direct 25 per cent of mining royalties from general revenue into the Regional Development Infrastructure Fund, otherwise known as RDIF.

This initiative represents an investment of about $40 million of additional funding into regional South Australia in 2010-11. Indeed, using the government's own forward estimates, it appears that by 2012-13 RDIF will have $50 million dedicated to infrastructure in rural and regional South Australia. Again, using current state government modelling, this level of investment is likely to boost the South Australian economy by $6.4 billion and create over 8,000 jobs.

The Regional Development Infrastructure Fund was established by a former Liberal government in 1999. A decade later, the fund has invested $27 million supporting projects worth a total of $1.1 billion and collectively creating 4,900 jobs. It has been a worthy initiative by a former Liberal government. Sadly, under this city-centric Labor government, the fund has not only lagged but also been stripped of vital funding, currently investing a paltry $2.5 million per annum. So, here we have a fund which invests in regional South Australia and which is achieving great results, and the Rann government's response is to strip its funding.

I note the recent announcements about funding from RDIF by the minister, the Hon. Paul Caica. They are welcome, but regional communities can expect much more from RDIF under a Liberal government. The reason for slashing its funding is very simple: it is the Rann government's neglect of regional South Australia in favour of the city. This government would rather invest the money in a tram extension in the city than fix country roads. It would rather strip funding from country health to pay for its rail yards hospital, and it would rather double the capacity of Adelaide's desalination plant while at the same time turning its back on the Upper Spencer Gulf desalinisation plant.

It is clear that there is only one major party which cares about and understands regional South Australia and which has a track record on which it can look back and be proud, and that is the state Liberal Party. This policy is good for the economy, good for regional South Australians and good for the state.

The expanded Liberal RDIF will utilise 25 per cent of mining royalties exclusively for infrastructure. In addition, it will contribute 50 per cent of the total project costs. Eligible applicants and proponents, whether they be local government, regional development boards or private bodies, will need to commit the other 50 per cent prior to seeking the grant. This ensures that the regional community will have to work together as a team for the project to get under way. It will create investment and it will give regional communities a say in the future direction of their community,

and it gives them a stake in each and every project. It is a responsible, fiscally prudent strategy to ensure continuing investment in regional South Australia.

The response to this announcement has been most encouraging, and regional South Australians have welcomed the plan with open arms. Unfortunately, the Treasurer, the Hon. Kevin Foley, denigrated this increased investment in regional South Australia as political window-dressing, saying he has never been a fan of diverting mining royalties away from general revenue for reinvestment back into regional South Australia. I say very clearly to people all across this state that the only way to ensure that this $40 million at least will be invested in infrastructure for regional South Australia is to vote for an Isobel Redmond government at the next election.

On another matter, suicide prevention is something I have raised in this place on many occasions. When new minister Lomax-Smith came into the mental health portfolio last year, I raised the Community Response to Eliminating Suicide (CORES) program with her. In September last year I was promised by that minister and the Social Inclusion Commissioner that it would be part of a review of mental health and suicide prevention issues. After my repeated correspondence and inquiries in January and July this year, in October this year I was finally offered a briefing, which will not take place until December. Certainly, regional communities are very concerned about suicide prevention, and I wish the government shared that concern.

Time expired.

VIETNAMESE NAVY VETERANS' ASSOCIATION

The Hon. CARMEL ZOLLO (15:34): Last month, I was pleased to represent the Minister for Multicultural Affairs, the Hon. Michael Atkinson MP, at a ceremony hosted by the Vietnamese Navy Veterans' Association of South Australia to celebrate the life and exceptional achievements of Marshal Tran Hung Dao. The association, which was formed in 1983, today has about 60 members and has been holding the Marshal Tran Hung Dao ceremony in Adelaide for over 10 years.

I was pleased to join Mr Hieu Van Le, the Lieutenant-Governor of South Australia and Chairman of the Multicultural and Ethnic Affairs Commission, as well as Mr Ninh Duy Dinh (President of the Vietnamese Navy Veterans' Association of South Australia), Mr Loc Doan (President of the South Australian Chapter of the Vietnamese Community in Australia), and Mr Du Huu Chi, (President of the Vietnamese Veterans' Association), along with representatives of the South Australian Vietnam War Veterans, to first of all pay our respects to the memory of Marshal Tran, our respect for all war veterans and then to share a meal together. In his address, Mr Hieu Van Le described Marshal Tran as a man of enormous resilience, resourcefulness and military skill. Mr Van Le said:

> Although his deeds are now more than 720 years in the past, they continue to inspire us and make us proud to say we are Vietnamese.
>
> In 1284, the people of Vietnam faced an overwhelmingly powerful enemy, and it seemed their defeat and subjugation to the Mongols was a fait accompli. How could they defend their homeland against a ferocious and huge force—one that had already cut a swathe through Europe and Asia? Under the cunning and astute leadership of Marshal Tran, however, the Navy and the people successfully resisted. They resisted not just once, in 1284, but twice more—becoming the only nation in the world to have held back the Mongol hordes three times.
>
> ...the Marshall and his determined and courageous men did two things that have resonated throughout the history of Vietnam. First, they protected a proud nation and rich culture—allowing generations of Vietnamese people to live free and peacefully for many, many more centuries.
>
> Second, the Marshal and his sailors created a spirit that was passed down and became evident in the Vietnamese Navy of the 1950s, '60s and '70s. That force—in which so many of people here tonight served so valiantly—existed for only 20 years. But in that short period, it established a reputation not just for military strength and ingenuity, but also for compassion.
>
> With the assistance of the Americans, the Vietnamese Navy quickly became one of the largest and best organised in the world. When Communist forces overran the Republic of Vietnam, members of the Navy played a crucial role in helping their countrymen and women flee the advancing tyranny and—ultimately—make a new life for themselves.

Marshal Tran's feats continue to inspire the Vietnamese community and are celebrated here every year, because the Vietnamese community believes that his life can serve as a source of inspiration for everyone, no matter who we are, where we come from and what we do in this world. Those present particularly appreciated the remarks of the Lieutenant-Governor. His presence and own success story served to remind us just how important the work and the presence of the Vietnamese-Australian community is in South Australia.

The Vietnamese Navy Veterans' Association of South Australia practically improves the lives of South Australians of Vietnamese origin and, in the case of the veterans' groups, maintains bonds of friendship and fraternity forged many years ago. I was pleased to remark on the night that the various Vietnamese groups contribute enormously to the much admired model of multiculturalism that exists in South Australia.

One of the people present on the evening that I was pleased to acknowledge was Councillor Tung Ngo, who I am pleased to say has been preselected for the Labor Party as a candidate for this place at the next election. He will make an excellent representative, and I know that he is proud to be the first candidate of Vietnamese heritage to be preselected in our state, and we all wish him success.

BLUE, MR J.N.

The Hon. R.I. LUCAS (15:39): Some weeks ago, there was a notorious South Australian progressive business fundraiser at the National Wine Centre involving the Premier, the Deputy Premier and other ministers. Seated at the main table with the Premier at that fundraiser was one of the representatives and one of the bidding partners for the rail yards hospital project PPP, but there was also another gentleman by the name of Mr Blue from a company called General Atomics. My attention has been drawn in the past week or so to a significant article in the *Sydney Morning Herald* by the journalist Ben Cubby under the headline, 'Secretive US arms tycoon behind a new uranium mine in Australia'. The article states:

> The new uranium mine approved by the environment minister, Peter Garrett, will be owned by a subsidiary of one of the world's biggest arms dealer. A colourful but reclusive billionaire named James Neal Blue, who helped devise the Predator unmanned aircraft being used in the wars in Afghanistan and Iraq, is a director of Quasar Resources—the company that will control the Four Mile Mine.
>
> Quasar Resources is an affiliate of General Atomics, a US weapons and nuclear energy corporation which is chaired by Mr Blue, and reportedly holds $US700 million in Pentagon contracts. Mr Blue, 74, first came to prominence during the 1980s as a self-described 'enthusiastic supporter' of US involvement in a covert war against the left wing government in Nicaragua.

It is a long article but I will quote the concluding paragraphs. Mr Cubby refers to a recent article in *The New York Times*, and the article continues:

> According to *The New York Times*, Mr Blue once part-owned a cocoa and banana plantation in Nicaragua with the family of former president Anastasio Samosa. He told the paper he was supportive of the Contra guerrillas that fought Nicaragua's Sandinista government but refused to discuss any link to CIA operations in that country. Mr Blue's brother Linden—

and I interpose to say that they were evidently referred to as the Blue brothers—

> was briefly imprisoned by the Cuban dictator Fidel Castro after apparently violating Cuban air space in a private aircraft.
>
> Mr Blue established a business empire based on oil and real estate, before moving into weapons and nuclear power. He is regarded as a pioneer of the unmanned aircraft that the US military uses to spy on and bomb its enemies.
>
> General Atomics has also prospered, and between 2000 and 2005 it was the biggest corporate sponsor of travel for members of the US Congress and their families and aides.

Clearly, Mr Blue, to be seated at the main table with the Premier of South Australia at the SA Progressive Business fundraiser, has very significant connections with the Premier and, also, as I will outline, the Deputy Premier, Mr Foley. Time does not allow me to go into all those links, so I will just refer to travel documents for Mr Foley's trip to the United States in 2005. Three telephone contact numbers are given: one is a DFAT number, one is a SA Tourism Commission number and another one is for someone from General Atomics as a contact for Mr Foley's travel in January 2005.

In the late morning of 17 January 2005, Mr Foley had a meeting with the owners of General Atomics. He attended a lunch hosted by General Atomics in the company's restaurant, and with other stakeholders he attended a dinner hosted by General Atomics at George's at the Cove on that evening. In June 2006, Mr Foley visited the United States and, again, there was a dinner with the chairman of General Atomics, the president of General Atomics Aeronautical Systems and other significant people at George's at the Cove. There are a number of other references in the travel documentation that indicates the very close association the Deputy Premier and the Premier, through both direct contact and SA Progressive Business, have with the Blue brothers.

The importance of this matter is that there is a dispute in relation to the Four Mile Mine between the minority partner Reliance (25 per cent) and Heathgate (75 per cent), which is the General Atomics company. There has been a considerable amount of evidence in recent times that the Rann government, through the Premier in particular, is supporting the position of the Blue brothers' companies or interests in relation to this dispute. As I understand it, there is much more to come over the coming weeks in relation to the Rann government's involvement in this dispute and the position it has been adopting—which is, generally, supportive of the Blue brothers' companies.

Time expired.

BERLIN WALL

The Hon. B.V. FINNIGAN (15:44): Well, we have more absurdity from the Hon. Mr Lucas. He has accused the government of everything else, and now we are apparently consorting with arms dealers, as well. The Hon. Mr Lucas employs his very old trick; that is, to speculate about something himself and then say, 'There is all this speculation about it,' when in fact he is the only one who is talking about it and the one who starts talking about it.

I rise today to speak about the 20th anniversary of the fall of the Berlin Wall, which was commemorated last week, as most honourable members would have observed, by world leaders and the German people with ceremonies in Berlin. I think we all owe a great debt to the people of Berlin and East Germany for their courage in standing up to the Soviet Union over a long period of time. Berlin was the key battleground of the Cold War for nearly 50 years, an island of democracy and freedom in the heart of the iron empire, behind the Iron Curtain.

It was imperative that the Soviet Union never took West Berlin, as it knew that it was the vital first domino in attacking Western Europe. As Stalin's foreign minister Molotov once said, 'What happens to Berlin happens to Germany: what happens to Germany happens to Europe.' That is why the Soviets moved quickly to try to take control of Berlin at the close of the Second World War. At the end of the war, the city was divided into four zones with the French, British and American sectors and the Russian sector and eventually, of course, the West, made up of the three allied sectors.

The most major test of the West's resolve came with the Berlin blockade in 1948, when the Soviet Berlin, which controlled East Germany, cut off West Berlin by rail and road, leaving the still war-torn city with just over a month's supply of food. The Western allies supplied Berlin with food, coal and other goods by air for close to a year. It was one of the greatest engineering achievements yet seen, even though widely predicted at the time to fail in the German winter. Over 13,000 tons of food was supplied to West Berlin every day. There were over 200,000 flights by the allied nations, including Australia's Royal Australian Air Force, and 101 people lost their lives in the airlift, mostly because of crashes.

However, as we know, West Berlin survived and prospered—so much so that the communists felt compelled to divide the city by a wall in the 1960s. That wall divided families and citizens before the people themselves finally brought it down in 1989. It was the beginning of the end for the Soviet empire and something to celebrate and remember.

I think the people of West Berlin showed great fortitude over decades in standing up to Soviet power. It is hard to imagine living in a city knowing that at any second the orders could come from the Kremlin to roll in the tanks and begin a major world war. I think it would have taken great courage to live in a city that was the first line of defence. Had West Berlin fallen to the Soviets, it would undoubtedly have been a great victory for them in their quest to essentially take over the world.

So, while it is a long way away and I suppose a lot of people are quickly forgetting about the Cold War, I think it is important that we remember those who stood up to communist aggression, particularly those in Berlin.

Amongst the commemorations last week, I was interested to hear an interview on the *PM* program on ABC with Hartmut Richter, someone who suffered greatly at the hands of East Germany, and particularly the Stasi, the secret police, who were known to be as bad as or sometimes even perhaps worse than the KGB. Herr Richter spoke of his concern about what is properly called 'ostalgia', that is, people romanticising the old East Germany and East Berlin. Some honourable members may have seen footage of hotels that are now set up in East Berlin like old East German apartments, with photos on the wall of the East German leaders, and so on, as if it is

a sort of theme park. I think Mr Richter was correct in saying that there was not much about East Germany or its regime to be celebrated. Indeed, he said in this interview:

> I think it's disgusting how East Germany is sometimes portrayed. Can you imagine if the history of Nazi Germany was glossed over like that? It would be an outrage! It's a disproportionate response the way that the history is trivialised and romanticised. You can understand why people like me see this very critically.

I think the 20th anniversary of the fall of the Berlin Wall is a good opportunity for us to remember those who did stand up against the Soviets over a long period of time, from which we all benefited in maintaining our own freedom.

Time expired.

MANUEL, DR B.

The Hon. R.L. BROKENSHIRE (15:49): It is with great privilege and pleasure that I put on the official parliamentary *Hansard* record my appreciation—and indeed that of thousands of people in the south—of the enormous effort by the Reverend Dr Barry Manuel, who continuously for 28 years was the head pastor of the Morphett Vale Baptist Church. As colleagues would know, there are a lot of demands and requirements in the south, not least of which are those regarding the support of significant family, community and social issues. Pastor Barry led the charge on non-government organisations, such as the church welfare sector, in developing outreach opportunities for the southern suburbs of Adelaide. In my early years in the parliament he said to me, 'Robert, it is about time governments started to put grant funds together to assist the church and other non-government organisations in welfare outreach.' With other of my colleagues at the time it was considered in the deliberations that then created grants that still continue with successive governments, starting with the then Liberal government, and have allowed for a lot more grassroots contact and support in the community in South Australia.

Pastor Barry was incredibly well supported during this time by Janet—clearly, the Morphett Vale Baptist Church in the southern community got two for one—and their four children Brett, Becky, Martyn and Kristy, who have all been involved in the area from January 1982. Martyn has set up a very successful business building pipes from Lonsdale for the desalination plants in Adelaide, Perth and Melbourne, and as well as doing this has taken responsibility to become the head pastor, replacing his father. With the great grounding, family support and upbringing he has had, he will continue to grow opportunities for the southern community.

There were many highlights Pastor Barry brought to the area. He was strongly committed to the church and to Southern Vales Christian School. He worked with a campus establishment at Morphett Vale and another at Aldinga, later headed up by principal Stewart Leggett, a former colleague of many of us. He was also heavily involved in Elkana with aged care and youth development. Andrew Tainsh, the Family First candidate for Mawson, is a very well known and highly respected youth worker and pastor in the south and is an excellent candidate for us in the seat of Mawson and was ably developed by Pastor Barry.

One of the highlights was Cornerstone in the old commonwealth bank building, which I had the privilege of formally opening on behalf of Pastor Barry and the Morphett Vale Baptist Church—a magnificent facility on South Road, which day in and day out is delivering all sorts of care, support, clothing, food parcels and hampers, counselling and comprehensive services to the southern community. Pastor Barry was also involved in the decision to sell the old Morphett Vale Baptist Church on South Road and built a fantastic new church on States Road on the school campus. On 8 November when we celebrated his 28 years of splendid and superb work we were able to see another opening of that church extension.

It is an awesome task to look after community well-being. It is a huge responsibility, and to consider that someone was able to do that for 28 years is an absolutely superb effort. The energy levels, the dedication, the inspiration, the hard work and the heartache one would deal with as head pastor is enormous, but Pastor Barry Manuel can certainly hold his head high, as can Janet and the whole family.

Having dealt with a lot of the southern community for so long, I know that the community is much richer as a result of Pastor Barry's works. While he has made a decision to retire, I know he will continue living in the southern region of the state and continue to have his passion and dedication for South Australia, but will now be able to do some of the other outreach work on which many countries around the world will be pleased to engage with him. I wish him and his family health and success in future. Of all the people I have known he is one of the most outstanding in the south when it comes to commitment to the southern community.

Time expired.

FAIRTRADE LABELLING ORGANISATION

The Hon. I.K. HUNTER (15:55): Well, it is official: Father Christmas arrived in Adelaide last Saturday, so none of us can now avoid dealing with the coming festive season, even if we prefer to. I encourage those who celebrate Christmas with the giving of gifts to turn your minds to where your gifts have come from, that is, have they been made in a fair and ethical environment?

I have spoken before about Fairtrade in this place. It is an important issue, which I try to keep in the forefront of my thinking when shopping. Of course, we know that consumer activism is incredibly effective. Businesses want to make money, and they will pay attention when consumers say, 'This is where I want to spend my money.' I am pleased to report that Fairtrade sales in Australia and New Zealand are increasing significantly: up 72 per cent between 2007 and 2008. Worldwide, the increase is 22 per cent year to year. I recently received an email from Fairtrade Labelling Australia and New Zealand that read, in part:

> Last year alone $A25 million worth of Fairtrade coffee sales in Australia and New Zealand helped provide farmers with over $2 million in additional funds to spend on their businesses and their communities.

Who says coffee cannot change the world? Consumer demand, driven by consumer education, is making retailers respond by offering these ethical options. The more people know about the realities of the lives of those who produce their coffee, chocolate and cotton, the more engaged they become with the reality—and they are voting with their dollars.

Currently, coffee makes up 78 per cent of Fairtrade sales across Australia and New Zealand. Similarly, in the United States, coffee was the first commodity to have an independent regulatory body to ensure that producers were paid a fair living wage for their work. Wild Bean cafes, which I am happy to say can be found throughout Adelaide, switched to 100 per cent Fairtrade coffee in 2008, and a number of other retailers are incorporating more and more Fairtrade options into their retail lines as consumer demand grows.

But it is not just food and drink that we need to think about. Consider for a moment the soccer ball that you might want to buy for a youngster for Christmas. Soccer balls are still often hand stitched and their production is labour intensive. The hand stitching is easier for those with smaller fingers, so children in Third World countries between the ages of five and 14 are often employed to sew together soccer balls for children in First World countries—and, of course, children are cheaper to employ.

Imagine those children with crippled fingers from sewing 11 hours each day not having the time to play in the street themselves as you picture the children in your life playing with their new soccer ball. Then consider buying a soccer ball that is made by a company that certifies that it does not use child labour and that it pays its workers a decent wage, a wage that means that their children do not need to go to work.

By 2007, the Fairtrade Labelling Organisations International reported that Fairtrade sales globally exceeded 2.3 billion euros and that 7.5 million people were benefitting from being involved with Fairtrade. By buying Fairtrade, you can ensure that you are buying directly from producers who are being paid a reasonable wage, a wage they can live on and support their family. You know that you are not buying chocolate that has been produced by beans cut by children, or a shirt that has been sewn by an exploited woman living in grinding poverty. You are paying for what you get, for the work that has gone into producing it and not for ridiculous mark-ups that never trickle down to those who labour in the production of the items.

If members want further information, I direct them to www.fairtrade.com.au as a good jumping off point. I will briefly quote from an article in the September *New Scientist*, which I picked up today. The article states:

> Studies suggest labelling schemes like Fairtrade, designed to ensure people get a better price for their products, really can make a big difference to poor farmers, improving things like family stability and children's education.

So, when you invite family and friends around for a coffee or a cup of tea over the holiday season, or when you give someone chocolates as a gift, think of where these items were sourced—and remember that when you buy Fairtrade you are helping to make a real difference in the lives of children all over the world. I remind honourable members that you can buy Fairtrade now at your local Woolworths and Coles supermarkets.

The Hon. B.V. FINNIGAN: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

BAHA'I COMMUNITY

The Hon. DAVID WINDERLICH (16:00): I move:

That this council—

1. Notes with serious concern that—

   (a) Seven Baha'i community members in Iran have been charged with spying, insulting religious sanctities and propaganda against the Islamic Republic, and that these charges could attract the death penalty.

   (b) The Baha'i detainees have not been given any access to legal representation and have not been subject to due legal process;

2. Calls on Iran to respect rights to freedom of religion and the peaceful exercise of freedom of expression and association, in accordance with international human rights conventions; and

3. Calls on Iran to release the seven Baha'i detainees without delay.

The prosecutor's office in Iran publicly announced on 16 August 2009 that seven imprisoned Baha'i leaders would be tried on 18 August—just a few days' notice. This was despite the fact that the lead lawyers registered with the court to defend them were either in prison or outside the country. Following a request for postponement of the trial from the Defenders of Human Rights Centre the court has decided to delay the hearing.

The seven Baha'i leaders are: Mr Behrouz Tavakkoli, Mr Saeid Rezaie, Ms Fariba Kamalabadi, Mr Vahid Tizfahm, Mr Jamaloddin Khanjani, Mr Afif Naeimi and Ms Mahvash Sabet. The arrest of these seven Baha'i leaders was grimly similar to episodes in the 1980s when scores of Iranian Baha'i leaders were rounded up and killed. Since their arrest, the seven have been subject to intensive interrogation, despite no evidence against them having been brought to light. They are being held in Teheran's notorious Evin prison, where they were kept in solitary confinement for five months after their arrest.

Efforts to have them released on bail have not succeeded. The investigation against them was concluded months ago but they remain incarcerated, without access to their legal counsel (a bit like criminal intelligence in South Australia), Nobel Laureate Shirin Edadi. The seven have only the barest minimum contact with their families.

Iranian authorities announced in early 2009 that accusations against the seven Baha'i leaders would include 'espionage for Israel, insulting religious sanctities, and propaganda against the Islamic republic'. More recently, families of the seven were told that a charge of 'spreading corruption of earth' may be added, but this has never been announced publicly. No charge has been formalised in any public record. Some of the crimes are punishable by death. Recently Ms Cherie Blair, the prominent human rights lawyer and wife of former British prime minister Tony Blair, wrote an article in *The Times* newspaper in London condemning the way the seven have been imprisoned on spurious charges.

Throughout my own refugee advocacy work, including the Circle of Friends, I have come to know members of the Baha'i community living in South Australia. Many of them have been born and raised in South Australia; others came here as refugees, fleeing persecution by the authorities in the Islamic Republic of Iran. There has been a strong and active Baha'i community in South Australia since 1920.

Like Baha'i members around the world, those in South Australia are dedicated to creating a peaceful and prosperous world community that is based on justice and that provides every human being with scope to cultivate and express their abilities. While abstaining from involvement in partisan politics—Baha'i members are not allowed to join political parties, for example—the Baha'i community actively works for human rights, reconciliation, the equality of men and women, moral education, sustainable development, and interfaith movements.

Other honourable members of this parliament have dealt with representatives from the Baha'i communities in their electorates and have developed positive relations with them. For example, the Hon. Bob Such has been a staunch supporter of the annual teachers' appreciation events conducted by the Onkaparinga Baha'i community.

While the Baha'i community in South Australia has won my respect and that of a number of my honourable colleagues, the Islamic regime refers to the Baha'i faith as a heresy and conspiracy. The 300,000 members of the Iranian Baha'i community are not recognised as a religious minority by authorities. Despite constituting the largest religious minority in Iran, they are classified as 'unprotected infidels' who have no legal recourse.

For nearly 30 years the Iranian authorities have conducted a systematic campaign to destroy the Baha'i community in Iran. Since the early 1980s, over 200 Baha'i have been executed or killed, thousands imprisoned, and tens of thousands deprived of jobs, pensions and educational opportunities. The Iranian government banned the Baha'i institutions which perform the role of clergy in other religions. The community's holy places, cemeteries and property were confiscated, vandalised or destroyed. Teenage Baha'i girls have been hanged for conducting what we would refer to as Sunday school.

Due to international pressure during the 1980s and 1990s the worst aspects of persecution began to improve. However, over the past few years there has been a resurgence of the more extreme forms of persecution of Iranian Baha'is and ominous warning signs that often foreshadow widespread purges.

The trial of the seven Baha'is takes place in the context of a rapidly escalating campaign of attacks against the Baha'i community which have included the circulation of lists of Baha'is with instructions that members of the community be secretly monitored. There have been dawn raids on Baha'i homes and the confiscation of personal property, as well as a dramatic increase over the past six months in the number of Baha'is arrested.

The Iranian government has sponsored mass media campaigns against the Baha'i and the holding of anti-Baha'i symposia and seminars. These are often followed by orchestrated attacks and arson on Baha'i homes and properties in the cities and towns where such events are held. Baha'i children are denied access to higher education and are increasingly subjected to vilification of children in their classrooms by teachers.

Baha'i are barred from numerous occupations and businesses. They may be denied the issue of business licences and bank loans. There are circumstances of harassment by landlords of Baha'i business tenants to force their eviction, and the sealing of shops run by Baha'i.

One of the seven Baha'i leaders languishing in gaol without trial or access to a lawyer is Mr Behrouz Tavakoli. His brother, Amin Tavakoli, and his family have called South Australia home for more than 20 years. The past 12 months has been a harrowing time for Amin Tavakoli and his family here in Adelaide. Behrouz Tavakoli is one of three gaoled leaders who have close family members living in Australia.

The ongoing persecution of Iranian Baha'is is a clear breach of all international human rights laws. The United Nations has repeatedly called on Iran to abide by its international obligations to respect the human rights of the Baha'i. Dozens of governments, NGOs and prominent individuals have spoken out in past years urging the release of Baha'i prisoners or the guarantee of a fair trial. These include the United Kingdom, the European Union, the United States Congress, the Canadian Senate, Amnesty International, and Human Rights Watch to name just a few.

In May this year the Australian House of Representatives passed a motion identical to the one before this chamber now. It is time for the South Australian parliament to take a stand and call for the immediate release of the seven Baha'i leaders in Iran. At the very least, these Baha'i should be released immediately on bail to await trial, and that trial should be conducted according to internationally recognised legal standards.

I also note that there are other persecuted religious minorities in Iran. I have raised this one because I have been approached by the Baha'i community and because of their South Australian connections. However, other members may wish to speak about some other issues of religious persecution in Iran. I commend this motion to the council.

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

SELECT COMMITTEE ON FAMILIES SA

The Hon. C.V. SCHAEFER (16:07): I move:

That the report be noted.

I move the adoption of this report and I must say that my only pleasure in doing so comes from the fact that it is finished. It has been a long and arduous inquiry. The committee has heard a litany of evidence, all of which condemns the department. I commend the Hon. Ann Bressington for bringing this reference to the council. I am sure she will speak for herself but, after two years of often harrowing evidence, I well understand the frustration which prompted her to do so.

The committee received 98 written submissions. Many of them were deeply personal, in great detail and quite heart-wrenching. For this reason, the committee determined that it would retain the anonymity of all but the experts. Given the number and extent of written submissions, we did not seek verbal evidence from everyone but, rather, sought a broad cross-section and endeavoured to cover all aspects raised.

On 11 November last year the committee tabled an interim report on the department's relationship with and eventual closure of the SOS Children's Village. Given the time constraints, I do not propose to revisit that report; suffice to say that we believe the minister and his department must look at more flexible arrangements for the housing and care of children at risk.

It is a great disappointment to me that the government chose, at the outset, not to participate in this committee. Had it done so, many of the problems that were uncovered might have been addressed on an ongoing basis rather than continuing to fester for another two years.

There have been numerous inquiries pertaining to various aspects of the neglect of children commissioned and delivered over the past 20 years. We have referred to many of these throughout this report. Sadly, it appears that the lot of children at risk and their families has not improved, in spite of the numerous recommendations made over those 20 years.

I also acknowledge the most recent effort of the government in its introduction of the Statutes Amendment (Children's Protection) Bill, which was debated to second reading in this place yesterday, but I am cynical that it will be successful unless the root cause is addressed. Our committee found that, to quote one witness, there is a rotten culture of power without accountability in the department which is now called Families SA and, until that deeply ingrained culture changes, little else will change.

We were told that many officers behave in an unprofessional, biased and vindictive manner and that they are permitted to hide from recrimination. Case workers are bullied by supervisors, and policy is developed without input from workers at the coal face, who feel that they are unsupported by their superiors. In fact, many believe they are used as scapegoats for organisational failure. This is, of course, in absolute contrast to the policy quoted in the Families SA annual report, which says it is 'connected, ethical, brave and respected'. The committee has found that the words and the actions do not match.

In spite of the emotionally draining, often traumatic conditions of working in child protection, it is a poorly remunerated profession; therefore, staff tend to be young and inexperienced, yet they have unfettered power and poor supervision, and in most cases they lack mentoring. Many have no experience and therefore no ability to work in partnership with families and foster carers. They are often untrained or under-trained in child development. They also lack training in conflict management and case conferencing. Although the work requires the minimum skills of a qualified social worker, many caseworkers do not have those qualifications. It is little wonder that there is a high turnover of staff, which in turn exacerbates the lack of experienced workers.

The statutory child protection system in South Australia is in crisis. The total number of notifications has doubled in 10 years. The tier system for isolating children at severe risk has failed. The committee heard that Families SA investigates less than half the notifications it receives. Non-government organisations contracted to provide services under the Keeping Families Together program, which was introduced in 1993, are not respected or asked for policy input and claim that they do not have cases referred to them in spite of the desperate need for such services.

South Australia spends 35.4 per cent less than the national average per child on out of home care, yet has the highest per capita number of children in alternative care for a five year period. In 2007-08, Families SA spent $270,000 per child—that is, over $16 million—to care for a small number of children in motel type accommodation. We believe that dedicated facilities must be established for emergency accommodation as a matter of urgency.

South Australia relies on foster carers for the placement of 49.5 per cent of the children in state care, yet our committee received numerous complaints from foster carers who have been treated with disrespect by departmental workers. Procedures for investigating complaints against

foster carers are, to say the least, unsatisfactory. Many believe they are given unsatisfactory information with regard to the children they care for.

These are dedicated volunteers, yet in many cases they are treated by caseworkers with suspicion. They are rarely offered professional training, and many live in fear that they will have false complaints raised against them. Procedures for investigating these complaints are not satisfactory. The competence of the Special Investigations Unit is questionable.

The committee was assured that the unit has been reorganised, but serious questions remain about the fairness and efficacy of the investigative processes. Many carers have no confidence that their case will be given a fair or transparent investigation. Thirty-six per cent of children in state care are cared for by grandparents and other relatives. They, too, struggle to cope with what appears to be an adversarial system. We heard many cases, particularly from grandparents who had appealed to the department to intervene and save their grandchildren from parents who were dysfunctional, but their pleas went unheard as the department blindly stuck to a policy of family reunification.

On the other hand, grandparents who were carers and, in some cases, parents in crisis, who sought temporary respite or counselling, were also ignored. Drug and alcohol abuse by parents was described by one expert as the elephant in the lounge room, but there are few protocols to deal with this problem. Although manuals of practice provide appropriate methods of dealing with families in crisis, these principles are not practised. Certainly they are not applied consistently, and it would appear that many caseworkers do not know they exist. Too often, Families SA fails to recognise that support, advice, guidance and compassion would improve the long-term outcomes for children and their families.

Further, there is no consistency in the practices applied by Families SA. Some workers insist on numerous attempts at reunification and some insist that children be forced to spend weekends with their parents against their wishes, while others remove children from the care of families when it is clear that counselling would be an appropriate first method of dealing with the problem.

Perhaps of greatest concern is that, under the tier system of assessment, many tier 2 notifications are ignored until several complaints have been received. We were told that this is due to a lack of resources within regional offices yet, each time such a notification is ignored, a child or a family is put at further risk. One worker told us that the removal of administrative assistants has meant that she can handle many fewer cases than previously. Surely, this is an indication of false savings. I am left to question the appropriateness of the application of funding within Families SA.

To those of us who took part in this inquiry, Families SA appears to be top-heavy and arrogant. Children and families at risk will not be better served until the minister attacks the fundamental cultural flaws which are endemic within the department and which have existed for many years.

I thank the staff members who assisted for the duration of this committee. They include Ms Noeleen Ryan, the late Mr Trevor Blowes, Mr Guy Dickson and the research officer, Dr Pam Carroll. I also thank the members of the committee: the Hon. Ann Bressington, the Hon. Andrew Evans (who served until July 2008) and the Hon. Robert Brokenshire, who took his place. In particular, I thank my colleague the Hon. Robert Lawson, without whose expertise I do not believe we would have been able to table this report. The committee made 16 recommendations, which read as follows:

1. The minister must take steps to address the rotten culture within the department.

2. The department must adopt a more cooperative, accountable, transparent and inclusive approach to dealing with foster carers, families, non-government organisations and others.

3. An independent competency assessment and evaluation of minimum training and competency levels for child protection workers must take place.

4. An independent audit of the qualifications of workers within the child protection system to be undertaken.

5. The mandatory reporting system be improved by the establishment of independent regional panels to determine appropriate responses to all notifications of child abuse. The panels

are to consist of persons such as teachers, policy officers and social workers, as well as departmental officers.

6. Administrative staff be appointed in regional offices as a matter of urgency to ease the burden on caseworkers.

7. Greater efforts be made by the department to respect the work of foster parents and carers and that appropriate training and education courses be provided and encouraged.

8. There be an independent review of the performance and methods used by the Special Investigations Unit and of the competence and qualifications of its personnel; that the review examine and report on the cases of Burgess, Easling, and others, where claims of false allegations have been made and acted upon by the SIU.

9. That family reunification practices and policies be re-examined and adjusted in the light of research findings. In particular, reunification should not be universally demanded but should be targeted, time-limited and subject to change if parents do not demonstrate sufficient progress for their child's developmental and emotional needs.

10. That all relevant practice manuals, policy guidelines and pro formas—for example, a case plan and consent to family preservation services—be published on the department's website and promoted to the public.

11. The department should be encouraged to foster new and innovative models of care and service delivery. In particular, non-service organisations should be actively encouraged to participate in the field of providing care for children at risk.

12. To encourage the required cultural change within the department, an independent professional panel be established to deal with the complaints about the conduct of individual workers.

13. An advocacy service to assist parents and carers who are aggrieved by decisions and actions of the department be established and adequately funded.

14. An online information service be established containing details of non-government organisations which provide information and support for families under pressure or in crisis.

15. That an independent investigation be undertaken to prepare a report on the operation of section 38(1) of the Children's Protection Act 1993 regarding substance abuse, with particular reference to the extent to which the department seeks orders under that section requiring undertakings for parents and others, the nature of the undertaking sought and actions taken to enforce and monitor compliance with such undertakings.

16. The reports from recommendations 3, 4, 8 and 15 be tabled in both houses of parliament within 14 sitting days of their having been received.

Many of these recommendations address concerns similar to those raised by experts such as Robin Layton QC and Justice Mullighan in their reports. However, our terms of reference are specific to the faults within the department. I can only again express our extreme concern that the recommendations of those eminent experts and many others cannot and will not be addressed until the culture within the department is addressed—and only the minister of the day has the power to do that.

The Hon. R.D. LAWSON (16:23): I wish to make some brief remarks in support of the motion of the chair of the Families SA select committee, the Hon. Caroline Schaefer. I commend her for her exemplary chairmanship of the committee.

This committee was established at the initiation of the Hon. Ann Bressington and, speaking for myself, I was surprised by the number, quality and strength of submissions received from various people who come into contact with the child protection system in South Australia, in particular with Families SA, which is an agency of the Department for Families and Communities.

I do not believe the problems identified by the many witnesses who gave evidence are new. Indeed, I reached the conclusion from the evidence that these have been longstanding problems. We received evidence from families, relinquishing parents, foster carers, organisations and advocacy groups supporting foster carers and grandparent carers, workers within the field, as well as comprehensive initial evidence from Sue Vardon (then chief executive officer of the department) and Beth Dunning (then a deputy with responsibility for this area). Both those officers subsequently left the department.

The overall impression one gained from the departmental evidence was that the department talks the talk, publishes material—all of which is exemplary—that is full of manuals, training courses and requirements—all of which sounds good—but, while the department talks the talk, it appears from the evidence we received that it does not walk the walk.

One might say that when you receive a lot of evidence and submissions from people who are complaining about a system you are merely attracting those who are dissatisfied, but there may be thousands out there who are perfectly satisfied with the situation within the department. However, when the evidence of parents, families, grandparents and foster carers is unanimous and where it is was supported by not only workers in the field and employees of the department, but also independent experts, such as Professor Dorothy Scott (Director, Australian Centre for Child Protection), Emeritus Professor Freda Briggs (who may still hold the appointment of Professor of Child Development at the University of South Australia and is an international and widely acclaimed and recognised expert in the field) and a younger researcher, Associate Professor Paul Delfabbro from the School of Psychology at the University of Adelaide, you realise the people might be unlettered, untrained and perhaps not as well educated as some of the highly educated and experienced officers in the department, but you also realise that there are significant problems.

The Hon. Caroline Schaefer in her brief remarks quoted passages from the report dealing with the finding that there is an unsatisfactory culture within Families SA—a culture of bullying and overbearing behaviour towards the people with whom they deal. I must say that I was entirely convinced by the strength of that evidence.

Earlier this week, in his apology to the forgotten Australians and former child migrants, the Prime Minister referred to the fact that in Australia presently there are some 28,000 to 30,000 Australians 'in care'. We call it 'in care' because it sounds nice and comfortable, but a blunter description and a description from the other side of the coin is that the parents of 28,000 to 30,000 children have had their children removed from them.

It will not surprise me, as a result of the evidence I heard in this particular inquiry, that within the next five, 10 or maybe 20 years the prime minister of the day will be apologising not so much to the children—perhaps still to the children—but, rather, to the other people in the system who have been adversely affected by government policies and actions of departments, such as Families SA.

Like most of members of parliament (and I imagine most citizens), I have long subscribed to the view that 'the best interests of the child as paramount' is an important test. It is perhaps the best legal test and, in the absence of some better formulation, I do not resile from it. However, putting the best interests of the child first or making them paramount does not mean that you can ignore the interests of those others who might be associated with the child, that you can ignore or trash the interests of parents or of grandparents or of foster carers or that you can ignore or overbear those interests.

I think the evidence that we received established that, in the culture of Families SA, whilst it might subscribe to the statutory requirement to consider the best interests of the child, it so often overbears, overlooks or bullies parents, foster carers and others or overlooks their interests or ignores them. I think that is something that ought be placed on the record.

The fact is that, despite all the reports from Layton and Mullighan and the reports that have occurred elsewhere in Australia, such as Commissioner Woods in New South Wales, who looked into its notorious Department of Community Services (DoCS), this is a major issue and one that we are not satisfied has been appropriately addressed by Families SA.

It is a pity that the government did not cooperate with our inquiry. As I mentioned, the Chief Executive Officer and Ms Dunning did attend and presented material to the committee, but rather under sufferance. However, they certainly did not have the encouragement or support of the minister. They saw it as an irritation, and they were not going to cooperate. They thought it would be a witch-hunt. They thought that we would provide a forum for people to make public accusations against officers of the department and denigrate them in public under parliamentary privilege. None of that happened. The committee observed procedural fairness, but procedural fairness is something that in many cases is foreign to the culture of Families SA.

We made a number of recommendations. I do not suggest for a moment that the recommendations are comprehensive or all encompassing. We could have spent a great deal longer. We could have commissioned more research and come up with more comprehensive recommendations. However, time did not allow that, and I do not believe that we would have

improved much on the report that we have presented. The report is primarily an account of the evidence that we received. The evidence will be tabled, but it is very widely summarised in the report. I commend the report to members and I hope that it will mark a new beginning for Families SA.

However, I want to say this. The committee did not find, and I certainly personally do not believe, that those in Families SA, either in executive positions or elsewhere, are not as individuals conscientiously pursuing their duties as they see them. However, I do see that there are many who are of a bullying type; that type of officer who believes that they know best in every situation and who may not be flexible. There are many who are young, enthusiastic and idealistic but, unfortunately, they are not appropriately trained and do not have the necessary qualifications or experience in matters such as child development. Many lack diplomatic skills. Many lack the sort of experience and training that a better system would provide for them. I hope that both the department and the government will hear the message about the training and qualifications required for this difficult task.

I do not for a moment suggest, nor does the committee, that the task that faces Families SA is an easy one. It is not. It is a highly difficult and complex task and it requires skill. However, the ingrained culture of the department seems to be rather closed and defensive and one that is resistant to change and outside support.

In the nature of things, the government produced a new guardian for children: Ms Pam Simmons has been appointed. That was as a result of a recommendation of the Layton report. We have a guardian for children who is looking after children's interests, but it seems to me there is no advocate or support for the interests of others in the system. So, for example, people who are foster parents can be accused of improper behaviour, accused quite wrongly often of quite serious offences and have children removed from them, as can natural parents have children removed from them, in circumstances where their side of the story is not appropriately heard and they have no redress.

I think we have gone perhaps too far, and the appointment of the guardian for children is an example of where you go in one direction to support one particular group but you overlook others with an equal interest in the system. I think one of the important recommendations of the report is that there be an appeal mechanism which enables people to have quick redress.

A number of cases were cited to the committee where the Ombudsman had been involved and, after long and protracted hearings, some lasting many years, the Ombudsman came up with a report that completely absolved the complainant, in the case of perhaps a parent or a foster carer. However, what use is that in real terms? We need better mechanisms.

I commend the report and commend members of the committee. The Hon. Ann Bressington was tireless in her pursuit of the truth in relation to many matters. I commend also Guy Dickson, the most recent secretary of the committee. This may have been the first committee concerning which Guy conducted a great deal of the secretarial duties, which was no mean task. He followed Noelene Ryan, who retired earlier, and Trevor Blowes who sadly died during the course of the inquiry. I commend also research officer Dr Pam Carroll.

The Hon. R.L. BROKENSHIRE (16:39): I rise to speak briefly to this important report on the activities of Families SA. Understandably, the operation of Families SA is something of interest to our own party. I had the privilege of continuing on from my predecessor, the Hon. Andrew Evans, who I acknowledge had a role on this important committee, although I was not involved on it for as long as he was. I commend the Hon. Ann Bressington for moving the motion on 21 February 2007 to establish the select committee, and I also commend the opposition and crossbenches for supporting the select committee, which now brings down its report some 2½ years later.

I commend the chairperson for her patience and tolerance, bearing in mind that this matter could have gone on for much longer, had we taken time to go into the details of every case brought before the committee by the people concerned. I commend all committee members and Legislative Council staff who assisted in the difficult process of sifting through the witnesses' evidence to discern some common threads of allegation and concern about the operations of the department.

I know that our officers had conversations with the late Trevor Blowes about witnesses who wanted to give evidence, and it was a difficult task to manage witnesses wanting to share very personal, emotive experiences when they felt that nobody wanted to listen to them. I put on record early in my contribution that as individuals I have the utmost respect for the absolute majority of the staff and management of Families SA, whose job is a difficult one and under-resourced. Recently I

met with a couple of Families SA officers when staying in a country region where they were training some Families SA personnel, and they told me in no uncertain terms just how under-resourced and under-funded they were. The two dedicated officers concerned described the pressure they were under and the difficulties they had in coping.

I hope that our support for this motion is not seen by the staff or the Public Service generally as being an overall personal attack on them, but there are important matters that have to be raised, and some of my colleagues have raised certain issues. Sadly, under the pressure of an under-resourced budget, decisions are made on the basis of necessity rather than on the basis of what is right, and mistakes are made. We only need to think about what the Prime Minister and the federal opposition leader said earlier in the week regarding forgotten Australians, which included a commitment to do everything possible to prevent abuse in state care today, to be reminded of how important it is to scrutinise the activities of Families SA.

Family First has, with others, been consistent in calling for more funding for the investigation of child abuse complaints. Right back on 14 March 2007, when the Hon. Ann Bressington moved for this committee to be established, the Hon. Andrew Evans moved for a bill to improve the way investigations into allegations of child abuse are handled. My colleague the Hon. Dennis Hood has also been on the public record about this matter, and we have also been on the record saying we believe that far better liaison needs to occur between, on the one hand, the Family Court and the federal Magistrates Court exercising family law jurisdiction and, on the other hand, Families SA.

Often the Family Court does not have before it any information on the child abuse allegations or history of the family in question and relies upon the 'he said, she said' approach to the case, which lacks input from social workers who have been working with the family. That is not to say that consultation never occurs. Often lawyers will subpoena Families SA if they have a hint of abuse but if, for instance, one parent has never known that the other parent had a previous history of abuse allegations, it would be more useful for Families SA to take a proactive role in family law cases, as I see it, after reading and listening to some of the evidence, albeit that I was a late starter on this committee.

It is also true that false allegations to Families SA are made for strategic family law purposes, and that is a great shame. Were the department better resourced, I am sure that such allegations could be better filtered out of the system and some sanctions brought to bear on people who made them. Even though it is a sensitive area, it might well be worth looking at the regime that exists for prosecuting false reports to police, to serve as some incentive to prevent the tying up of limited departmental resources investigating allegations that end up being false.

I have heard stories from the coalface involving the issue of drug-addicted mothers carrying a child. We need to give that child every chance at life, but I am advised that the child is not a child until it is born, so the matter does not come under state jurisdiction to intervene until that time. I do not think for a moment that we want to extend jurisdiction to the womb, as there is a risk of unintended consequences. However, it is concerning to hear about a lack of programs and means of helping a mother become involved in getting clean of drugs while carrying a child. I would have thought, with all the talk about human rights in other fields that we hear today, the government should be setting up the strongest possible interventions for pregnant, drug-addicted mothers to respect the human rights of the unborn child, who gets no say in whether he or she has physical and/or psychological deficiencies because of the drug addiction of their mother.

I turn now to the recommendations. I do not think that my statements about the staff and management of Families SA contradict recommendation No. 1, which says that the culture in the department is rotten. That is the natural order of things. If you think of an apple on a tree, when a crop has outlasted its value it begins to rot. There is a need for new management, a new approach to families in the system and more resources. To say something is rotten does not mean it is beyond hope, as a healthy new crop could well be would be on the horizon if the recommendations of this committee are adopted. That is the challenge for the minister, the chief executive and the government, and I hope that they look at the recommendations closely.

There is a reference to the Easling and Burgess cases, and others might want to say more about that. It appears to Family First that there are real questions to be explored, and we support the recommended review. The recommendations are essential to improve the number of people willing to take up foster care and improve the lives of frazzled case workers whose workloads bury them: theirs is a difficult job at the coalface.

We support the statements in relation to reunification. Parents who are drug addicted must be compelled to get clean of drugs because, if they are not free of drugs, they are not safe for their children. They must choose between the drugs and the kids, and the government should resource them for proper rehabilitation so that they can get clean. I do not believe that any drug addicted person deep down genuinely wants to stay that way. They want to get off the drugs but, clearly, they need help to do it.

With those comments, I look forward to the recommendations being adopted and the tabling of the independent audit on competency and qualifications and the independent review by the Special Investigations Unit in relation to further scrutiny of an important department that affects families.

In conclusion, I again congratulate the Hon. Ann Bressington, who put up the motion, and Caroline Schaefer and the committee. I had only little to do with the committee, but I know Andrew Evans was actively involved. As hard it was, I commend my colleagues on the committee for doing a damn good job. I hope we get some positive results from government as a result of their efforts. I commend the report to the council.

The Hon. A. BRESSINGTON (16:46): First, I again thank the members of the committee; that is, the Hon. Caroline Schaefer, who chaired the committee; the Hon. Rob Lawson; the Hon. Andrew Evans and, after his departure, the Hon. Robert Brokenshire; Mr Guy Dickson, the committee secretary; Pam Carroll, the research officer; and, of course, prior to that, Noelene Ryan and the late Trevor Blowes.

I believe that this was a cooperative and respectful committee. We tried to produce a report that adequately demonstrated the problems facing families and children. I believe that we took time to hear the relevant stories to do with the complaints that I believe so many of us in this place have received over the course of our time in this place.

I recall clearly the night this committee was supported by the Liberal Party, the Greens, the Democrats, Family First and the Hon. Nick Xenophon (now Senator Xenophon). It was clear that the majority of members in this place had received complaints about Families SA and the agencies prior to that. We heard about the level of frustration at poor performance and the apparent lack of accountability, and we were all in agreement that it needed immediate attention. I also recall clearly the government deciding to boycott this inquiry, describing it as a political ploy. The gallery was packed with individuals that night—individuals with many sad tales to tell—and they were outraged that the government seemed to dismiss their despair and turn its back on a legitimate forum to deal with public dissatisfaction.

This has been a difficult inquiry because of the stories we heard. What was even more difficult to comprehend was the obvious lack of consistency in the application of policy and procedures, as well as the often loose interpretation of the legislation by social workers, who had come to the conclusion that they were above the law. That is not just a flippant statement or a guess on my part because, during the course of the investigation, I was in a position where I had to interact with some of these social workers who believe that accountability is not for them.

I can tell members straight up that the comments they were making to constituents about members of parliament interfering in their work not only were disturbing but showed the high rebellion that exists. It is no wonder that neither this minister nor any other minister has been able to put a dent into that pervasive and rotten culture, as it has been described in the report.

It is also clear that there were very few people prepared to come to the defence of this department. We received submissions from professionals, current workers, family members, foster parents, grandparents complaining that their grandchildren had not been removed when they should have been, and parents who have lost their children. In fact, the only people prepared to stand up for the department was the then CEO, Ms Sue Vardon, and her sidekick, Ms Beth Dunning. They tried desperately to convince the committee that the operations of Families SA were tight, well supervised and conducted via clear and strict guidelines. There was no other evidence that supported those statements, by the way.

There are obviously communication issues between workers at the grassroots level and those at the top of the food chain within Families SA. This was made very clear when evidence was received from both past and current workers within the department. This was one of the beneficial effects, I guess, of the government boycotting this inquiry. Professionals and workers stated that they felt comfortable in coming forward to tell the committee what actually happens when decisions

are made about the future of children brought to the attention of this agency. The Families SA manual states:

> Placement with relatives or significant others is a major priority in placement planning for children who need to be separated from their family of origin.

A current worker said:

> The first thing we wonder about when we decide whether or not we pursue an order on a child is how much more funding we would get if an order is placed on a child—

that is an 18 year order—

> not how we protect that child most effectively, not what kind of impact that will have on the child. If we place a child under the guardianship 18 order, the funding arrangements for that child are huge compared with taking the risk on [maybe, say,] an aunty who is safe but who is getting on in years.
>
> The amount of scrabbling for money we have to do to keep that child out of court is huge compared with getting a guardianship 18 order, which means weeks and weeks of paperwork and about 40 seconds in court. However, that child's life is changed for ever in quite a significant way, all because we can get more money [for that child].

This statement to the committee and to me personally was a bombshell and went a long way towards my understanding evidence that came before and after this particular statement. According to this and other workers, decisions are not made in the best interests of the child; decisions are made to bring in more money. It also cannot be argued that this money is put to good use, because foster carers do not see that money converted into services and support for the kids placed in their care, and grandparents do not see that money converted in to services and support. So where does it go?

Could it be that these children are taken away from the care of a willing family member or from parents and accommodated in motels and bed and breakfast establishments? That exercise sucked over $16 million from the budget for the year ended June 2008, during which time a small number of children were placed in this style of accommodation at an annual cost of $270,000 per child, as mentioned by the Hon. Caroline Schaefer. The $16 million spent for motel-type accommodation was almost double that of non-government organisation funding of $8.913 million.

The committee heard further evidence that residential care units accommodate both males and females, that underage sexual activities occur, and that residential staff have allowed girls on 18-year orders in their care to have a male visitor stay overnight. As a result, pregnancies have occurred. One departmental worker reported as follows:

> It does not work for these children. Once they step into the residential unit structure, they usually end up in the youth justice system. If they were not before they certainly do after. They usually end up using drugs, or trying drugs once they are in that particular system.

Dr Delfabbro, associate professor in the School of Psychology at the University of Adelaide, stated:

> That is one of the things we noticed. Adolescents would tend to go into residential care, they would stay there, but you could see them getting worse and worse because they are all hanging out with other kids with similar problems, learning bad habits, often being placed with the correctional kids.

We should be viewing what we are currently doing with a high level of investigation, because we seem to be creating instability and dysfunction. Rather than actually preventing harm, we are causing harm.

Is this because the minister does not care? I am absolutely positive that that is not the case, but at the end of the day the buck will stop with the minister, whoever it is on the day. The change needed cannot be, and is not, purely legislative: the change needed must come down to a change in a culture that believes, but would never state openly, that the family is the cause of all dysfunction. Like it or not, believe it or not, there are those within this department, this agency, who believe that the state is the best parent.

I believe this change in culture can occur only when those working for the state are prepared to know and understand their place in the greater scheme of society. Professor Dorothy Scott was quoted as saying:

> The state can be the legal guardian, the state can financially provide for children, but the state cannot be an emotional in loco parentis: it can only find people who will love and care for children if they are available.

She also said:

> The most current child protection systems in Australia are unsustainable and potentially harmful. I think people are fairly united on the diagnosis that this is completely unsustainable. We will differ in our solutions, but the statement that it is unsustainable and that it could be harming children, as well as helping children, is now not disputed.

Considering this evidence, we have to wonder why some child protection workers seem to treat family and foster carers with nothing less than contempt. This is at a time when the child protection system is in crisis. In response to complaints, we also discovered that there is no satisfactory pathway for people to complain about their treatment or the attitude of those workers who appear to believe that they are a law unto themselves. One grandparent stated:

> Caseworkers see their role as the major role; they are in complete control and don't you dare try to tell them that they are going down the wrong road. The worker is correct: we have come across some wonderful caseworkers who really work hard. Unfortunately we tend to come across those who don't more often, and their attitude is, 'Grandparents, why do you want to look after the grandchildren? You should be out enjoying yourselves.' I think that permeates through their thoughts. We have been told by some senior members of Families SA that the caseworkers are the sole arbiters.

Another grandparent, qualified as a 'young person specialist', stated that the department takes the view that if one family member is dysfunctional then the whole family—grandparents and other relatives—are also dysfunctional. Another grandfather who had custody of his grandson said:

> The workers to whom we were first assigned were abusive, unprofessional and not at all concerned with the children's welfare. Their attitude was that they were in charge and we would accede to their demands or else. This opinion was borne out by threats made directly to us and innuendo during our presence at meetings, etc. The upshot of all this is that the department's workers see themselves as beyond question. They are effectively self-regulating and they are asked to report on themselves should concerns be raised. It's a nonsense.

A foster mother stated:

> Families SA have no accountability and each individual that you deal with has a different set of rules and the goalposts keep shifting.

Others stated that Families SA workers appear not to wish anyone else to have any view or opinion or rights to a decision, that the department can do anything because it is the guardian of the children and there is no mechanism in place to be accountable. The government could well claim that these comments were made by persons who feel aggrieved by decisions they did not agree with, so I will again quote Dr Delfabbro, who said:

> You get some workers who can be very stubborn about seeing themselves as the one 'in charge'; you are the one who receives information from them and you are kept on a need to know basis. In some cases it can be due simply to the pettiness of the workers—they believe that they have their role, and are not going to allow you to traverse territory they see to be their responsibility.

Let me just say that it is workers with this attitude who create a toxic culture. I could probably stand here all day giving example after example of similar comments, but I can assure the government that, as more and more families are devastated by the decisions of social workers of this ilk, a tipping point is getting closer and closer. I also do not believe that these particular social workers are the majority of workers in this agency, but it is not always the majority who cause the most harm.

It is also only fair to acknowledge that Families SA has not become like this overnight. In fact, inquiries and reports date as far back as 1984. It just seems incomprehensible to me that report after report basically says the same thing and, over decades, our child protection agency has been allowed to decline by way of professional conduct to the point we find ourselves at now, spending millions of dollars and appearing to go backwards at an alarming rate. The question is: can this ship be turned around to the point where the value of the family unit, once again, is seen as a necessity rather than a nuisance?

Of course, there are families who do not deserve to have the care of their children and there is a need to ensure that those children are kept safe. However, as I have said before in this place, the state has not proven to be the best and safest option for many of these children. There are alternative approaches that have shown success overseas and interstate, but it seems that globally and nationally we are either unable or unwilling to take what works and apply those programs without change or without modification. We know that one size does not fit all. We know that kids removed from their families will suffer in the long term and yet we are reluctant to move outside of the square and act in the best interests of the child.

The SOS Village mentioned in our interim report is a perfect example of the resistance of Families SA to consider anything that would be different from the system that it has or remove its level of control over children that, in the view of some, are the property of the state.

I could stand here, as I said, for hours giving examples (both within this report and cases that have come across my desk during the course of the inquiry and since its conclusion), but I will not. What I will say is that not even a parliamentary inquiry was enough for some of those responsible for making critical decisions about the future of families and children to have them make an effort to improve their practices.

I have said on numerous occasions that child protection is a very difficult and often tragic area of service, and I sincerely thank those people who commit themselves to ensuring the safety and well-being of our vulnerable children. Those who perform their responsibilities and go above and beyond the call of duty are, in my mind, heroes.

As I have said many times, it is best to remove a child if there is a suspicion that the child is at risk. No-one wants to see children hurt by abuse of any kind or neglected and it is always best to be more careful, but what I cannot understand is that when an investigation shows nothing of concern there are those who will move heaven and earth to stand by their decision, regardless of medical reports, psychological reports, etc.

Professor Freda Briggs gave evidence stating that it was not unusual for documents to be missing when FOI requests were produced. Surely claims of file tampering are of a serious nature and that should have our minister's ears pricking—but it seems not. Surely disregarding medical records that show that parents accused of abuse and neglect are innocent would be a point of concern. Most times it is all put down to the citizen being over-zealous. However, I ask: would we not be agitated, angry, frustrated and zealous when being threatened with the loss of our own children?

Training and development of child protection workers was also raised on numerous occasions. The College of Learning and Development has done little to provide the training needed and, according to evidence, has focused more on how to obtain court orders than assisting young and inexperienced workers to identify the difference between normal childhood behaviour and behaviour that could be a red flag for abuse or neglect. As Professor Freda Briggs stated:

> If you are training kindergarten teachers, they have four years of child development and they do not have to make life-affecting decisions about children that social workers have to make.

Professor Dorothy Scott agreed that training and development of staff is essential. She stated:

> In-service education can go so far but that is done within the silo of one service and, I think, ideally you would want to broaden that.

Departmental policy outlined in its manual states:

> All professionals working with children, young people, need particular skills to enable them to relate to them. They must have an understanding of child development and to know how children function when distressed.

An expert witness stated that one of the worst things about the department is that social workers are not trained in child development. I know that one lecture is given during their program and that the department has set up a little course which was written by social workers. One departmental worker stated:

> The department established the College for Learning and Development in December 2006 to address concerns about newly-employed child protection workers.

He stated further:

> There was a real concern that workers starting in child protection did not have the necessary understanding of what that means, both in terms of legal responsibilities and in terms of protecting children. That was why it was established. It was part of a drive from that particular review, the Layton Review, to have risk management taking place in people's homes with frontline workers such as us, not risk management strategies taking place on the 7th floor of the EDS building when things have gone awry. The idea is to avoid making the mistake, not come up with new reasons for making it go away.

He went on to say:

> Part of my Diploma in Child Protection included a topic about pursuing guardianship orders in the Youth Court and about how to operate in a legal context. I did that unit eight months after I started, after I had already two of my children placed under guardianship orders, so I had really walked a long way down that path professionally despite the training.

As I said earlier, evidence stated clearly that the child protection system is in crisis. We have more children being placed in care, we have fewer foster parents being recruited, family members are not the first consideration as carers in many cases, training and development is not only of poor quality but it is almost non-existent, mandatory reporting was stated as being responsible for the overload as well as the ever-narrowing definition of abuse.

It was Professor Dorothy Scott who brought to our attention the difficulty with mandatory reporting.

She has made it very clear that the ever expanding definition of abuse is now catching children in the net of the child protection agency who should never be in that net; that we are taking kids away from families where perhaps a little support, a little guidance, perhaps some counselling, as the Hon. Caroline Schaefer mentioned, would pull them through that situation and allow them to move forward and remain intact as a family. However, in her words, she said that trying to find and sort through those cases is like trying to find a needle in a haystack. She made the point somewhere through the inquiry that we have become obsessed with protecting our children from any injury at all, that under the child protection system now every little bump and graze has mandatory notification and that the number of reports is overwhelming the system and, as a result of that, the most serious cases of abuse and neglect are not being investigated.

I could stand here and go on for hours about this, but I will not. I hope the government reads this report and the recommendations, and I hope there is an understanding that at no time was this committee taking evidence to be political. This is a deadly serious problem that we and other states share. This is not unique to South Australia, as we all know, but someone—God; anyone—has to stand up and say that we actually have to start doing things differently, because our children's lives depend on this.

I know during the course of the inquiry five cases that came across my desk of children who were removed on no evidence at all. I commend the minister for this: the minister and her chief adviser Angela Duigan worked closely with me on some of those cases, and those children were returned to their families, but we cannot assume that for all the complaints we got those three cases where the children were returned were the only ones where there has been a fault—a misdiagnosis, if you like—of the family's circumstances.

One of the most important recommendations I believe is that those independent panels be set up to review decisions to remove children and, by all means, if there is a suspicion where a child is being removed, have a 42 day order. Allow plenty of time for a thorough investigation to take place but, if we find that it was a snapshot of a bad day and there is no abuse or neglect, at least have the processes in place to return those children to their family with as little harm done to them as possible. I commend the report to the council and again thank the members of the committee for their time and effort.

Debate adjourned on motion of Hon. David Winderlich.

CHARLES STURT COUNCIL

The Hon. DAVID WINDERLICH (17:11): I move:

1. That this council:

   (a) Notes general community concern about the influence of the Australian Labor Party on the elected members of the City of Charles Sturt, including:

      i. the fact that 12 of the 17 councillors are members of the Australian Labor Party;

      ii. the fact that 3 councillors are employed by Labor members of parliament; and

      iii. the influence of the member for Croydon on elected members of council.

   (b) Notes specific concerns about the potential for conflict of interest in the revocation of the community status of land at St Clair arising from:

      i. the fact that the revocation of land is essential to the policy objectives of the state Labor government;

      ii. the fact that the decision making process followed by the council will be assessed by a Labor minister; and

      iii. the lack of any strategy adopted by the City of Charles Sturt to manage potential conflicts of interest arising from the role played by ALP members in that council.

2. The Legislative Council therefore refers the following matters to the Ombudsman, pursuant to section 14 of the Ombudsman's Act 1972, for investigation and report:

(a) The potential for actual conflict of interest of elected members of the City of Charles Sturt in relation to revoking the community status of land at St Clair as per section 73 of the Local Government Act;

(b) The extent to which the City of Charles Sturt met its obligations under section 48 of the Local Government Act to manage the risk of conflict of interest associated with the revocation of the community status of land at St Clair; and

(c) Any other relevant matter.

This motion arises from the debate at St Clair and concerns over the influence of the Australian Labor Party on the outcome of the community land revocation process in St Clair. The first point of the motion is that 12 of the 17 councillors of Charles Sturt are members of the Australian Labor Party. This is not a problem in itself, as was pointed out by minister Holloway earlier; it is Labor heartland. However, it is the fact that this aligns, like the coming of Aquarius, with a whole lot of other factors that suggest Labor domination of this council, and this in itself would not matter if councillors did not have a conflict of interest in particular decisions or if they did not stand to gain or lose a job or a position in the party or a preselection as a result of the outcome of their decisions.

This hinges on the definition of conflict of interest in the Local Government Act. Section 73 of that act provides:

(1) A member of a council has an interest in a matter before the council if—

(a) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment…

Section 73(1)(6) defines non-pecuniary benefits in the same way. The clause further provides:

(2) A person is closely associated with a member of a council…

(e) if that person is the employer or an employee of the member; or

(f) if that person is a person from whom the member has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services; or

(g) if that person is a relative of the member.

Do we have evidence that such rewards are potentially available to Labor Party members of the City of Charles Sturt? Indeed, we do. The first of these is that three councillors are on the staff of Labor members of parliament. Two, Edgar Agius and Raffaele Angelino, work in the office of the member for Enfield, John Rau MP. One member, councillor Paul Sykes, is an adviser to the Minister for Veterans Affairs, Michael Atkinson and, although I am sure he does important work, the fact that we do not have a standing army in South Australia probably indicates that he has a reasonable amount of flexibility in his duties as well.

Councillor Paul Sykes is said by several Labor Party members I have spoken to and by community members to have been anointed as the next mayor of the City of Charles Sturt and then as the next member for Lee when Michael Wright retires. I have been informed that one other councillor is a former staffer of the member for Croydon, but that is yet to be confirmed.

It is important to note that staff of Labor members of parliament have been banned from holding positions on council by the Victorian Labor government, so this is not a trivial matter. This was one of the outcomes of the sacking of the Brimbank council by the Brumby government after an investigation by the Victorian Ombudsman. I am not saying at this stage that any of these individuals or members of parliament have acted improperly, but it is clear that there are rewards and benefits and losses—

The Hon. B.V. Finnigan interjecting:

The Hon. DAVID WINDERLICH: Well, I have to say that he is listed as the adviser to the Minister for Veterans' Affairs. So, there is clear conflict of interest, or potential for conflict of interest, I should say.

The second issue of concern to the community in a general sense is the influence of the member for Croydon, Michael Atkinson, on the Charles Sturt council. Again, I have been told by several members of the Australian Labor Party that the member for Croydon controls Charles

Sturt—those are their words. I have been told by members of the Labor Party that ALP members of the council caucus on the council agenda prior to council meetings.

The Hon. B.V. Finnigan: Even if that's true, so what?

The Hon. DAVID WINDERLICH: I will come to that in just a minute. I have been told that ALP members have caucused in the office of the member for Croydon and continue to caucus at other locations.

The Hon. B.V. Finnigan interjecting:

The Hon. DAVID WINDERLICH: I will answer the Hon. Mr Finnigan's question.

The PRESIDENT: The Hon. Mr Winderlich will be better off not responding to, or taking any notice of, interjections that are out of order.

The Hon. DAVID WINDERLICH: Certainly. I will not pay any attention to the Hon. Mr Finnigan's question. I will continue to develop my case. Section 90(8) of the Local Government Act provides:

> The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving—
>
> (a) members of the council or council committee; or
>
> (b) members of the council or council committee and staff,
>
> provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

That is why it matters if people caucus. The interest of the member for Croydon in this council is intense.

The Hon. B.V. Finnigan: They can't have a binding caucus; there's no such thing.

The Hon. DAVID WINDERLICH: If I was responding to interjections, I would read it again, but it is on the record.

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. DAVID WINDERLICH: The interest of the member for Croydon in this council is intense. He weighed in first and most heavily on the St Clair land swap, despite the fact that the area of land is not even in his electorate and not part of any of his portfolios. He has even apparently, so he says, leafleted the area to build up support for the issue. I assume he was using his electorate allowance to leaflet the Hon. Jay Weatherill's electorate, a most generous act on his part.

I have been told by Australian Labor Party members that the person responsible for anointing councillor Paul Sykes is, in fact, the member for Croydon. I am told that is the way it works there. I must stress that at this stage we do not have evidence of actual conflict of interest; I am merely stating that the preconditions for a conflict of interest are very clear, and these preconditions have created a general community concern about the influence of the Australian Labor Party on the City of Charles Sturt. Specific concerns about the potential conflict of interest in relation to the St Clair land swap centre around the fact that the revocation of the community status of this land is essential to the policy objectives of the Labor government.

The importance of the St Clair land swap has been clearly articulated in media interviews over the past week by the Minister for State/Local Government Relations, Gail Gago; Attorney-General Michael Atkinson; Treasurer Kevin Foley; and today the Minister for Urban Development, Paul Holloway, pointed out that it was, in fact, part of the 30-year plan. So, this project depends on the St Clair land swap, and the success of that depends on approval by the Minister for State/Local Government Relations. So, an ALP policy coming through an ALP dominated council will be assessed by an ALP minister. It is important to be clear that the minister does have significant powers in relation to the land swap. Section 194(3) of the act provides:

> After complying with the requirements of subsection (2), the council—
>
> (a) must submit the proposal with a report on all submissions made on it as part of the public consultation process to the Minister, and

(b) if the Minister approves the proposal—may make a resolution revoking the classification of the land as community land.

So, the minister has the power to reject the proposal from the council. Again, casting no aspersions on the current occupant of the position but outlining the inherent conflicts of interest, could we assume that a minister would do this? Might the minister lose or gain some benefit on the basis of the decision that the minister would make? The obvious ones are preselection and ministry positions. So, clearly, there is a potential for conflict of interest built in here.

The Hon. B.V. Finnigan: So, we have to have a parliament full of Independents, do we?

The Hon. DAVID WINDERLICH: Thank you for the advertisement. Conflicts of interest are inherent in local government, but they can be managed. One of the ways in which they are managed is outlined under section 48 of the act, and that is to prepare a prudential report that identifies all the risks associated with a particular decision. Section 48(2)(h) provides:

any risks associated with the project, and the steps that can be taken to manage, reduce or eliminate those risks (including by the provision of periodic reports to the chief executive officer and to the council);

So, there is an opportunity for the council to identify and manage this obvious risk, a risk which is widely spoken about in the community and which community members refer to in the media. So, this risk is not a hidden one: it is widely commented on.

I have a copy of the City of Charles Sturt Land Swap Prudential Report June 2009. It does not refer to the risks created by potential conflicts of interest or perceived conflicts of interest. In fact, it does not refer to these matters at all. It is clear that the City of Charles Sturt has not managed the risk of conflict of interest in this process.

The story so far is that a council, dominated by Labor members, allegedly—and I emphasise 'allegedly'—controlled by a senior Labor member and minister, a council on which there is clear potential for benefits being handed out, has to refer a matter of vital interest to a Labor minister whose political future could potentially depend on the consequent decision.

I will outline some specific problems with the St Clair land swap consultation itself that have been highlighted to me by residents. For example, residents believe that the consultation was conducted in a way that minimised the number of members of the community consulted. Only residents within 500 metres of the land were consulted about this proposal, including an area with very few residents on it, such as the former racecourse, Woodville High School, the former Actil site and the Charles Sturt complex itself. Residents claim that sports clubs and associations were offered brand new facilities and, as part of the consultation with them, their support was claimed as part of the process. Residents claim the 1,100 students at Woodville High School were counted as individual residents as an indication of widespread support for the land swap.

The relative value of the land being exchanged has been mentioned. Earlier today I asked the Minister for Urban Planning and Development about the value of the Actil site. He was not aware of it. I have here a draft contract for the sale and purchase of land that was prepared in June for Charles Sturt council as part of its confidential documents. This document refers to section 13 of annexure five. It states:

At the date of this agreement the land is part of a public park and recreation ground that is subject to a scheme under the Recreation Grounds (Joint Schemes) Act 1947 and community land under the Local Government Act 1999.

Clearly, this is the St Clair land. The identified purchase price in the draft contract for the sale and purchase of this land is $17,382,200. Again, community members have pointed out with some force and common sense that prime recreational land which is uncontaminated with frontage to a major road would be worth more than contaminated industrial land that is not a high quality reserve. We do not know the difference but, whatever the difference, in some way it probably constitutes at the very least a potential benefit to the Land Management Corporation which may be passed on to a developer. Again, there are more potential conflicts of interest.

So we have a council that is riddled with conflicts of interest; a council that has not managed those conflicts of interest; members of the government that appear to be controlling that council; a potential benefit to the Land Management Corporation and down the track a developer; a consultation process about which questions are being asked; and the umpire for this game is one of the players, namely, a Labor minister.

The Hon. B.V. Finnigan: We are all members of the Labor Party.

The Hon. DAVID WINDERLICH: Well, that is where you come back to the importance of—

The Hon. B.V. Finnigan interjecting:

The Hon. DAVID WINDERLICH: I note the compliment about my even-handedness in tackling east and west, Liberal and Labor. Again, it is another advertisement for independence in parliament. I thank you again for that second advertisement.

It is clear that some sort of independent scrutiny of this matter is needed. It is an unusual situation. The obvious body to provide that independent scrutiny is the Ombudsman. I have received a large number of other allegations, which I need to substantiate, but they all point in the same direction. The very least you could say is that you have to make a very important decision of great concern to local interest that is clearly open to major conflicts of interest; and I think, arguably, that invalidates the process.

How deep it runs is a matter for the Ombudsman to determine, but more information will come forward—certainly in my remarks—and other members will be able to bring forward more information. I commend the motion to the council.

The Hon. M. PARNELL (17:26): I rise to support this motion. I will not go into all the detail that has been so adequately covered by the Hon. David Winderlich, but I do want to add to the case why further investigation is required. I have met with residents from around the St Clair area. I have spent a lot of time talking to the people—

The Hon. B.V. Finnigan interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Finnigan and others will get an opportunity to contribute on this matter, if they wait. The Hon. Mr Parnell has the call.

The Hon. M. PARNELL: Thank you, Mr Acting President. I have spent a lot of time talking to the residents of Cheltenham, and what strikes me about this whole exercise is that there has been a lack of trust on the part of both the state and local governments in trying to engage with their local communities and to bring their communities with them in what are in many cases some sensible proposals for development.

Not all of what is being proposed for this part of the western suburbs is a complete disaster. There is a great deal of merit in it, but it needs the governments concerned to bring the communities with them and to listen to them, particularly in relation to the provision of open space, the need to manage stormwater and the recovery of that important resource for the community.

The consultation over the three parcels of land we are talking about—the Cheltenham site, the Sheridan site and now the St Clair site—has been inadequate. In many ways you could say that the governments have done what they have had to do. I am not saying that the governments have acted illegally. They have worked to rule. They have done the minimum required of them, but they have not done enough to bring the community with them.

The state government tells us that it has a grand plan and a grand vision. We have seen some of that in the 30 year plan, the subtitle of which is 'Planning the Adelaide we all want'. What a funny subtitle, given the complete lack of commitment on the part of the state government to actually bring the community with it The fact that it did not organise any consultation whatsoever in relation to the 30 year plan is testament to that.

The government does the bare minimum it believes it can get away with, but it has not been getting away with it because there is open revolt in Labor's heartland. People in Cheltenham and Woodville are telling the state government that they are not happy with the way in which the state government and the local council is behaving.

Earlier today the Minister for Urban Development and Planning stated what I would call the obvious. The minister talked about the history of how these parcels of land have come to be developed and he said that the owners of the Sheridan site came to him as minister with a proposal to develop. The minister told us today:

> It obviously made sense [to deal with them together] given that it was right next door—about 17 hectares—to the site of the Cheltenham racecourse, to consider it together. Since both those parcels of land were being considered, the potential to look at the whole region, given that council owned the land around St Clair, it made sense to look at the entire area from Cheltenham Road right through to Woodville Road, because with the significant

amount of open space land available in that area the potential for a path that went right the way between those two roads would have been a significant community asset for the people of the western suburbs.

That is a very sensible comment that the minister made, but he has made it 2½ years after rejecting it. He rejected it when the Environment, Resources and Development Committee wrote to minister Holloway on 7 March 2007 in the following terms:

> Dear Minister
>
> Re: City of Charles Sturt—Sheridan Site—Plan Amendment by the Minister.
>
> The Environment, Resources and Development Committee at its meeting on 21 February 2007 considered the City of Charles Sturt—Sheridan Site—Plan Amendment by the Minister. The Committee discussed the circumstances where two significant contiguous parcels of land in the western suburbs are being considered independently of each other; namely, the Cheltenham and Sheridan sites. The Committee is aware that decisions regarding the Cheltenham site are well progressed. The open space outcomes for the two sites should not be disparate. The development and open space potential for the two sites is enhanced if considered in an integrated manner. The Committee recommends pursuant to section 27(3)(b) of the Development Act 1993 that the Sheridan Site zoning be considered together with the Cheltenham site.

That was the clear advice to the minister. However, the minister chose to effectively use a loophole because the committee, in its wisdom, had decided that it had no objection to the Sheridan rezoning. He grabbed hold of that and said, 'Well, you've told me you don't object to Sheridan, so therefore I am not going to pay any intention to your suggestion to me that we look at the Sheridan and Cheltenham sites together.'

Now, 2½ years later, we have the minister in this place saying, 'Of course it was obvious to look at them together.' However, we have to consider why there has been this sort of a backflip. I do not think it is a backflip. The government always intended that these parcels of land would be developed together. The reason was that the government, having committed to 35 per cent open space on Cheltenham, did not want to make that commitment to the citizens of the western suburbs to have an equal amount of open space on the Sheridan site. It knew that if it rezoned them separately it could get away with just 12½ per cent open space on the Sheridan site. Now we find with this land swap, the subject of this motion before us, that the land that is being swapped—the oval next to the Cheltenham Railway Station being swapped for contaminated industrial land—will be plonked on top of what is effectively the 12½ per cent. So, we are losing that as well.

Is it any wonder that the citizens of Charles Sturt, and the citizens generally of the western suburbs, are very unhappy with the way in which the state and local governments have approached this issue? They have been treated very poorly; they have been treated like mushrooms. The government is saying that it has a big plan, but it deals with people in a piecemeal way and it has made no attempt to bring the community with it. I believe that those reasons, in addition to those set out by the Hon. David Winderlich, are more than adequate reasons for us to support an inquiry into this whole deal.

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

ADOPTION (RESTRICTIONS ON PUBLICATION) AMENDMENT BILL

The Hon. D.G.E. HOOD (17:34): Obtained leave and introduced a bill for an act to amend the Adoption Act 1988. Read a first time.

The Hon. D.G.E. HOOD (17:34): I move:

That this bill be now read a second time.

Some time ago, I began by acknowledging that this week is National Adoption Awareness Week and I was privileged to meet with Liz Peter and other adoption advocates such as Janine Weir in the lead-up to this week.

This bill comes as a result of those meetings and many other discussions concerning the frustration felt by families who have been involved in the adoption process and the current very restrictive laws that revolve around the process. In fact, the current sections 31 and 32 of the South Australian Adoption Act prevent birth parents or adoptive parents and, indeed, adoptive children from being able to identify themselves in the media in South Australia as having been adopted.

Members are probably aware that I have a personal interest in this matter in that my wife was adopted and my father was also adopted many years ago. So, this is a matter of particular personal interest to me as well.

This bill specifically implements several interstate initiatives to reverse that rule in cases where the parties to an adoption all consent—and that is the crucial point here; they all have to consent to their details being published—making it easier for parties to an adoption to tell their important stories and breaking what I feel is the unreasonably enforced silence demanded under the current legislation. Section 31 of the Adoption Act provides:

> A person who publishes or causes to be published in the news media.
>
> (a) the name of a child, or material tending to identify a child in relation to whom proceedings have been taken under this act or any other Australian law that substantially corresponds to this act;
>
> (b) the name of a parent or guardian or material tending to identify a parent or guardian of a child in relation to whom proceedings have been taken under this act or any other Australian law that substantially corresponds to this act;
>
> (c) the name of a party or material tending to identify a party to a proceedings under this act or any other Australian law that substantially corresponds to this act,
>
> is guilty of an offence.

This section carries with it a $20,000 maximum penalty. Section 32 is also onerous in many situations. It states:

> A person who publishes or causes to be published in the news media material to the following effect:
>
> (a) that a person desires to enter into negotiations with the parents or guardians of a child with a view to adoption of the child;
>
> (b) that a person has a child that he or she desires to place with adoptive parents is guilty of an offence;
>
> Maximum penalty: $20,000.

The simple purpose of this bill is to change that I think quite ridiculous situation. If the parties are in agreement that they can be identified or feature in a news article explaining what they see as the advantages of adoption, assuming no-one is in disagreement involved in the situation, why should they not be able to do so? Why should they face a penalty of potentially $20,000 for doing wrong at all, in my view?

Whilst some forms of restriction may be necessary to protect the identity of parties while adoption proceedings are in process, the current wording of the provision is working to prevent parties to adoptions from speaking publicly about their adoption experience or even publishing their memoirs. In many circumstances people applying to participate in the adoption process are also barred from telling their story to the media, as I have suggested.

I assure the council that I have heard many such stories in my dealings with people during the drafting of this bill. They are indeed powerful and uplifting and sometimes heartbreaking stories, and they deserve to be told. There are cases where things have not gone as well as would have been hoped during the adoption process, and these stories should be told also so that other people considering adoption can benefit from the wisdom of the process. There are many positive and up-lifting stories that have never come to light as a result of this very silly law. Indeed, it is the view of Family First that these are important stories to be told and the freedom to speak is the first step in shedding light on ways to improve the adoption experience or highlight the benefits of the experience as it already exists.

In recently meeting with a group of adoption rights advocates it was made clear that this law in particular upsets and angers them and prevents them from telling their stories, which is their heartfelt desire in many cases. One representative who spoke to me said that she was told by a senior officer at Families and Communities that, despite the law in sections 31 and 32, no-one has ever actually been prosecuted, and parties to an adoption would be unlikely to be prosecuted for speaking to the media, despite the fact that clearly it is illegal to do so under the act. Nevertheless, the constituent remarked to me that the fact the law remains on our books does nothing to alleviate the fear of penalty or feelings of being offended, upset and angry that remain within the South Australian adoption community.

Members may be aware that New South Wales recently made sweeping changes to its adoption laws in 2008, which included the redrafting of section 180, which allowed discussion with the media in cases where there is consent by all parties. This bill is modelled almost word for word on the recent New South Wales amendment. Section 121 of the Victorian Adoption Act has also had the ban revoked. This legislation is similar to what we have seen enacted in Victoria and New South Wales, so why should the South Australian adoptive community face the disadvantages that

apply under the current act? This bill will fix it once and for all. It is very late in the session and it is unlikely the bill will pass both houses in the current session, and for that reason I will give members forewarning that I will reintroduce it early in the next session.

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

SELECT COMMITTEE ON COLLECTION OF PROPERTY TAXES BY STATE AND LOCAL GOVERNMENT, INCLUDING SEWERAGE CHARGES BY SA WATER

The Hon. I.K. HUNTER (17:41): I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON ALLEGEDLY UNLAWFUL PRACTICES RAISED IN THE AUDITOR-GENERAL'S REPORT 2003-04

The Hon. I.K. HUNTER (17:42): On behalf of the Hon. B.V. Finnigan, I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON SA WATER

The Hon. M. PARNELL (17:42): I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON STAFFING, RESOURCING AND EFFICIENCY OF SOUTH AUSTRALIA POLICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:43): I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

BUDGET AND FINANCE COMMITTEE

The Hon. C.V. SCHAEFER (17:43): On behalf of the Hon. R.I. Lucas, I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON TAX-PAYER FUNDED GOVERNMENT ADVERTISING CAMPAIGNS

The Hon. M. PARNELL (17:44): I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON TAXI INDUSTRY IN SOUTH AUSTRALIA

The Hon. R.L. BROKENSHIRE (17:44): I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON CERTAIN MATTERS RELATING TO HORSE RACING IN SOUTH AUSTRALIA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:44): On behalf of the Hon. T.J. Stephens, I move:

That the select committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

NATURAL RESOURCES COMMITTEE: KANGAROO ISLAND NATURAL RESOURCES MANAGEMENT BOARD

Adjourned debate on motion of Hon. R.P. Wortley:

That the 34th report of the committee, on Kangaroo Island Natural Resources Management Board levy proposal 2009-10, be noted.

(Continued from 28 October 2009. Page 3724.)

Motion carried.

NATURAL RESOURCES COMMITTEE: WATER RESOURCE MANAGEMENT IN THE MURRAY-DARLING BASIN

Adjourned debate on motion of Hon. R.P. Wortley:

That the report of the committee, on Water Resources Management in the Murray-Darling Basin Volume 2 'The Two Rivers, be noted.

(Continued from 28 October 2009. Page 3725.)

The Hon. C.V. SCHAEFER (17:45): I simply want to make a few brief comments on what I hope will be an ongoing reference to the Natural Resources Management Board on the River Murray and the River Darling catchment. This particular report is entitled 'The Two Rivers'. The committee spent some time travelling along both those waterways—or, in some cases, what is now a series of puddles— to try to assess the accuracy of some of the rumours and innuendo that are peddled within the press.

My view—and it is my individual view—is that there is no simple solution to the management of the Murray-Darling Basin. It is very easy to blame those upstream or, indeed, for them to blame those downstream, for the demise of this waterway on which not only South Australia but a great part of the eastern seaboard is dependent for not only human consumption and environmental water but also our very valuable irrigation industry.

Contrary to a number of other reports, we found no evidence of illegal activity. We found no evidence of people who were stealing or hiding water. Indeed, we found that in every case there was insufficient water for the needs of those particular water users, and in that I include the needs of the environment. I think there is a basic lack of understanding by a number of people about the difference between secure water rights, which are South Australian rights, and the less secure rights particularly of New South Wales and Queensland.

We visited, among other places, Cubbie Station and found that buying that property would be of little, if any, practical benefit to South Australia, and I concur with that finding. The size and enormity of Cubbie Station is quite breathtaking, but I need to say that it also had less than a third of the water to which it was entitled. As I have said, I think there is a lack of understanding of how their particular water allocations work. They are entitled to take a certain amount of water only when the river is flowing at a certain volume, which means, of course, that in the last four of five years of drought they have taken no water at all—and I refer not just to Cubbie Station but to all those holdings along that particular waterway.

So, the rice growers we met in Deniliquin were just as angry with us as we were with them. They were particularly incensed by a number of the press reports they had seen generated from South Australia. There has been no rice grown in Deniliquin for the last four years. Professor Mike Young put to us at one stage that perhaps we should, in fact, be grateful to the rice growing industry.

It is very easy for people to say that we should not grow rice or cotton in Australia. In fact, we are the most cost effective and least water using growers of rice and cotton in the world, and they are both annual crops. They are opportunity crops that can be sown when the water is available and not sown when it is not available, and that has been the case for some four years. By contrast, of course, in South Australia our plantings are largely permanent plantings, such as grapevines, almonds and citrus trees.

So, the devastating effect in South Australia is much more far-reaching and longstanding. I believe it takes eight years for an almond tree and about the same for a citrus tree to yield a commercial crop, whereas the rice and cotton growers and, indeed, the onion growers, etc., can react to the whims of the river.

As I have said, there are no easy solutions, and our committee does not purport to offer any easy solutions. The only solution, if there is one, is for us to start to understand the problems of each of the users and each of the states that use the water from the Murray-Darling Basin and to recognise that the allocations were granted in what appears to have been the highest rainfall 50 years since white settlement, and I believe they will have to be adjusted downwards from the top of the catchment system to the bottom.

I do not believe that we have the right to dictate who uses the water and what they use it for, provided they use it legally. But a whole of river and catchment management system must be developed without the self-serving and selfish attitudes of each state along the way. I believe this can be done only by the federal government, and it is not likely to happen while any state has the right of veto.

I think there is no more important issue, not just to South Australia but indeed to much of the agricultural lands of New South Wales, Victoria and Queensland. I will just make the comment that, again, while we saw no waste of water within Victoria their attitude towards what they believe is their water, their attitude towards supplying more water for them and to hell with those downstream of them, I found to be in direct contrast to the attitude of those in New South Wales and Queensland.

As I have repeatedly said, I have enjoyed my time working for the Natural Resources Committee, and I have enjoyed learning as much as I have over the past 18 months with regard to the Murray-Darling catchment system and the people whose livelihoods depend on it. I commend the committee, I commend my fellow committee members, and in particular our two staff members Knut Cudarans and Patrick Dupont. I believe they are outstanding examples of parliamentary staff; they are at all times helpful, and Patrick's report-writing skills are quite outstanding. I thank them and I thank the other members of the committee, and I recommend the rapid passage of this motion.

Motion carried.

NATURAL RESOURCES COMMITTEE: UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT ACT

Adjourned debate on motion of Hon. R.P. Wortley:

That the 36th report of the committee, on the Upper South East Dryland Salinity and Flood Management Act 2002, be noted.

(Continued from 28 October 2009. Page 3728.)

The Hon. C.V. SCHAEFER (17:55): This contribution will be even shorter than the last.

The Hon. D.W. Ridgway interjecting:

The Hon. C.V. SCHAEFER: It will be difficult! Again, I thank the members of the Natural Resources Committee. This matter was referred to our committee by the Hon. Sandra Kanck some time ago and, indeed, has been very contentious. I think most of us, over a long period of time, have been lobbied vigorously by both sides of the argument with regard to the South-East drainage system.

I am sure that you, Mr President, who grew up in this region, would be well aware of the benefits of the early drains that were put through the soldier settler blocks and enabled what was otherwise marshy swamp to become some of the state's most productive grazing country. The system of drains that was mooted, from memory, in the late 1990s was to continue that drainage system in order to drain rising saline groundwater and allow the continuation of grazing, in particular. Certainly, the areas where the drain has been completed are great testimony to the success of that system; the increase in production on those properties is quite remarkable.

However, it is a contentious system, and we received a great deal of lobbying from a group of equally committed farmers who believe that the drainage system is not only unnecessary in dry times but in fact detrimental to the environment. In particular, they were people who had wetlands and areas set aside for water birds and other activities.

The committee considered all the evidence put to it and sought yet another independent scientific investigation into the matter. This took some time to complete but its assessment was that the drain should proceed, and in the end the committee concurred with that recommendation. I believe that when this water is eventually drained through to the Coorong it will be beneficial to the

very bird colonies and birdlife that is of such concern to the group of farmers and others who lobbied the committee.

The committee's recommendation that the drain proceed is controversial, but in the end we believe that the science is there to verify that recommendation, and I was pleased to see yesterday that the government introduced legislation to extend the time of the drain so that it can be completed. I am concerned that unless the drain proceeds with some haste then we will have the debacle of neither one thing nor the other—a half finished drain, and goodness knows where it will end up.

I urge the government and the DEH to proceed with the drain and to proceed with the new system, which will save freshwater which runs across the top for the wetlands and drain the saline water out into the Coorong.

It is an ambitious program. It is a program that should, in my view, have been finished some four or five years ago, so I do hope that we will get on with it again. I thank my other committee members, in particular the chair Mr John Rau, and the two parliamentary staff, Knut Cudarans and Patrick Dupont.

Motion carried.

[Sitting suspended from 18:01 to 19:47]

BLUE, MR J.N.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (19:47): I seek leave to make a personal explanation.

Leave granted.

The Hon. P. HOLLOWAY: Earlier today, during Matters of Interest, the Hon. Rob Lucas made a number of allegations relating to the company General Atomics; one of its principals, Mr Neal Blue; and the Rann government. A subsidiary of General Atomics is Heathgate Resources.

The Hon. R.I. LUCAS: On a point of order, a personal explanation is when a member claims to be misrepresented.

The Hon. P. HOLLOWAY: Yes—and I do.

The Hon. R.I. LUCAS: What is the claim of misrepresentation?

The PRESIDENT: The minister might be getting to that.

The Hon. P. HOLLOWAY: As I was explaining, a subsidiary of General Atomics is Heathgate Resources, which operates the Beverley uranium mine. Mr Lucas's contribution concluded with reference to a legal dispute, currently before the courts, between Heathgate and Quasar Resources Pty Ltd, a wholly-owned subsidiary of Heathgate and Alliance Resources Ltd. Firstly, as this matter is before the courts, it is quite improper for Mr Lucas to make any comment on these matters. Until the court has considered this matter it is also inappropriate for me to make further detailed comment; however, I feel the need to put the following on record. Mr President—

The Hon. R.I. LUCAS: Point of order, Mr President. A personal explanation is when a member claims to have been misrepresented. I made no mention of the Hon. Mr Holloway—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I made no mention of the Hon. Mr Holloway at all.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: No mention—and the *Hansard* records it.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: So, Mr President—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —if it is a personal explanation—

The PRESIDENT: Order! Sit down.

The Hon. R.I. LUCAS: —he needs to indicate where he claims to have been misrepresented.

The PRESIDENT: Sit down. There is no point of order.

The Hon. P. HOLLOWAY: Mr President, I—

The Hon. R.I. LUCAS: Hang on, I have a point of order.

The PRESIDENT: I have ruled it: you do not have a point of order.

The Hon. R.I. LUCAS: What is the ruling? On what basis?

The PRESIDENT: The ruling is—

The Hon. R.I. LUCAS: Is what?

The PRESIDENT: —that the minister has the right to defend himself, which he is doing.

Members interjecting:

The Hon. R.I. LUCAS: He was not mentioned!

The PRESIDENT: Order! That is only in your opinion.

The Hon. R.I. LUCAS: Point of order—

The PRESIDENT: What is your point of order?

The Hon. R.I. LUCAS: My point of order is that a personal explanation is when a member claims to have been misrepresented. I made no mention—

The PRESIDENT: The minister is claiming to have been misrepresented.

The Hon. R.I. LUCAS: I made no mention of the Hon. Mr Holloway.

The PRESIDENT: Order! Sit down.

The Hon. R.I. LUCAS: I made no mention of the Hon. Mr Holloway.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: As Minister for Mineral—

The Hon. R.I. LUCAS: Point of order—

The PRESIDENT: Order! Sit down. I am on my feet.

The Hon. R.I. LUCAS: I am asking for a point of order.

The PRESIDENT: Order! I am on my feet.

The Hon. R.I. LUCAS: Well, then, the point of order—

The PRESIDENT: Sit down. The minister has said that he was misrepresented. He is getting to where he was misrepresented.

The Hon. R.I. Lucas: I didn't mention him.

The PRESIDENT: You mentioned ministers.

The Hon. R.I. Lucas: I didn't mention him at all.

The PRESIDENT: It does not matter; you mentioned 'minister'.

The Hon. P. HOLLOWAY: As Minister for Mineral Resources Development, I am responsible for the regulation of the mining industry, and I totally refute Mr Lucas's unsupported allegations that the government has favoured any side in this legal dispute. The government has at all times acted impartially and on Crown Law advice.

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: I am the minister. I am responsible for it.

The Hon. S.G. Wade interjecting:

The PRESIDENT: Order! This should not be debated. The Hon. Mr Wade will come to order.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The honourable minister has the call.

The Hon. S.G. Wade interjecting:

The PRESIDENT: Order! The Hon. Mr Wade will be named if he keeps this up.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: And the Hon. Mr Stephens will be named as well. You will come to order. If you want to behave like the members in the other place, I suggest that you stand for election over there. I will not tolerate it.

Honourable members: He did.

The PRESIDENT: He did, did he?

Members interjecting:

The PRESIDENT: Honourable members might learn to say things outside if they are going to say them in here.

MEMBERS' CONTRIBUTION

Adjourned debate on motion of Hon. D.W. Ridgway:

That this council recognises the contribution of the Hon. Caroline Schaefer and the Hon. Robert Lawson to the parliament and the community of South Australia.

(Continued from 28 October 2009. Page 3743.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (19:51): I rise tonight to speak to the motion recognising the contribution of the Hon. Caroline Schaefer and the Hon. Robert Lawson to the South Australian parliament and to the state. As members are well aware, those two members of our team are retiring at the next election, and I thought it would be appropriate to start congratulatory remarks the week before our last sitting week, because we know that private member's business gets clogged up. We will be here particularly late tonight, I suspect, and probably the last Wednesday of sitting and, on the Thursday night, we often have long valedictories. So, I thought tonight was an appropriate time to outline just a few of the highlights of their careers and then, I hope, other members will make some contributions. Anything that has not been said, I will be able to say by way of summing up at the end so that I get the final say.

Caroline Schaefer was elected to the state parliament on 1 August 1993 to fill a casual vacancy left by Dr Bob Ritson. She faced a general election four months later, on 11 December, and was elected in her own right. Since then, she has been actively involved on a great number of committees and councils both within the parliament and other organisations relevant to her special interests.

In one of the highlights of her career, Caroline was the first and, so far, only woman in South Australia to be appointed minister for primary industries, albeit for a very short time—from 4 December 2001 to 5 March 2002—prior to the election that saw Labor form government in 2002.

Caroline's particular interests are in agri-business and the food industry, and she is especially proud of her involvement in the Premier's Food for the Future Council and the leadership of the Food for the Future issues group which, for the first time, brought together various government departments and commercial business leaders, working to nurture new businesses and increase South Australia's exports, with great success.

The Food for the Future program that she convened was the most entrepreneurial, innovative and successful program for the term of the previous government. It enabled a number of food businesses to develop well beyond their previous capabilities. Many achieved export status, and Caroline was actively involved in the development of that strategy.

Caroline was instrumental in the preparation and initiation of the first aquaculture act, being heavily involved in the formation and passing of the original legislation, which was considered at the time to be the most comprehensive of its type in the world. She was also closely involved with the preparation of the Fisheries Management Act prior to the change of government.

I will mention some of the highlights of how Caroline has served in this parliament. She served as shadow minister for primary industries and regional affairs from 2002 to 2007. She was the government whip in the Legislative Council from 1996 to 2001; the convener of the Premier's Food for the Future Council from 1998 to 2001; chair of the education policy review committee from 1998 to 2000; the South Australian representative of the federal department of transport black spot committee from 1997 to 2000; and she was on the select committee for the penal system of South Australia in 1993.

Of course, there was always the Printing Committee that nearly everyone in this chamber served on at some point. There was also the Select Committee on the Redevelopment of the Marineland Complex and Related Matters, she was chair of the Select Committee on Altering the Time Zone for South Australia, there was the Select Committee on Preschool, Primary and Secondary Education in South Australia, the Environment, Resources and Development Standing Committee of the parliament, the Joint Committee on South Australia's Living Resources, the Select Committee on the Pastoral Land Management and Conservation (Board Procedures, Rent, etc.) Amendment Bill and Coverage of the Principal Act, and the Joint Parliamentary Service Committee.

Caroline was presiding member of the Social Development Standing Committee. She was a member of the Statutory Authorities Review Committee, the Natural Resources Management Committee, the Budget and Finance Committee, and was chair, of course, of the committee that reported today, the Select Committee on Families SA. Caroline was a member of the Select Committee on SA Water, the Select Committee on the Voluntary Euthanasia Bill 1997, the Select Committee on the Conduct of PIRSA in Fishing of Mud Cockles and Marine Scalefish and Lakes and Coorong Pipi Fisheries.

Caroline was a member of the South Australian Farmers Federation Rural and Regional Task Force, ex-chairperson of the Rural Reference Group, and ex-chairperson of the Eyre Peninsula Regional Strategy Task Force. She was also involved with some trade delegations, and led the South Australian trade delegation to Hofex in Hong Kong in 1999 and was a participant in 1997. One can see that Caroline has had a particular interest in rural and regional South Australia, and as a member of parliament has served that sector of our community extremely well.

On a personal note, Caroline has been a great friend and supporter of mine, and is someone who gave me a certain amount of advice early in my parliamentary career—in fact, she still continues to give me advice today. However, I think one of Caroline's great qualities is that she continues to work tirelessly for the Liberal Party. I think the Labor Party calls them duty members; we call them paired members, and Caroline has done a significant amount of work with her paired seats over the years. Often when members reach this time in their career they may not work as hard, but Caroline still busily supports her paired candidates and paired electorates in the lead up to the 2010 election.

I will not say more about Caroline at this stage; I wanted to outline that and then, as I said, allow members to make their comments, and then I will add some other comments by way of summing up at the end before we vote on the motion.

I now move to the Hon. Robert Lawson. Robert was born in Tanunda in the Barossa Valley, and in December 1993 was elected to the Legislative Council in the South Australian parliament. He graduated in arts and law from Adelaide University, and until his election to parliament practised law, first as a partner in a large Adelaide firm of solicitors and then as a barrister at the independent Bar. He was appointed queen's counsel in 1988, and is a former president of the South Australian Bar Association.

Robert was a member of the RAAF Specialist Reserve and, upon entering parliament, retired with the rank of Wing Commander. Upon entering parliament in February 1994 he was made presiding member of the Legislative Review Committee and was later parliamentary secretary for information technology to premier Dean Brown .

He served in a number of portfolios in the Olsen Liberal government between 1997 and 2001, including minister for disability services, minister for the ageing, minister for administrative and information services, and minister for workplace relations. He was appointed attorney-general,

minister for justice and minister for consumer affairs in the Kerin government. From 2002 to 2006 he was deputy opposition leader in the Legislative Council. He has held several shadow ministerial positions in the Liberal opposition, including shadow attorney-general, shadow minister for justice, shadow minister for Aboriginal affairs, and shadow minister for veterans' affairs. He was also the Liberal Party spokesperson on parliamentary reform.

Although invited to continue on the opposition front bench after the 2006 election, he declined on the ground that he did not propose to continue in parliament after the expiration of his term and would not be able to serve in the Liberal government to be formed after March 2010.

On a personal note, I found it a bit daunting when I first came into this place, not knowing Robert before I was elected. As I indicated, he is a queen's counsel and a particularly well-educated man who is very intelligent and provides quite a deal of intellectual grunt to a lot of the debates in this place. I found it a little daunting because I was just a humble farmer from the South-East and I thought that he and I may not have much in common.

The Hon. B.V. Finnigan: You both live in the eastern suburbs.

The Hon. D.W. RIDGWAY: In fact, we live in the same street and, on a very personal note, he takes an interest when I am not at home to make sure my newspapers are not left on my front lawn and that everything is well looked after. So, he does look after me extremely well. I had no knowledge that the Hon. Robert Lawson lived in my street, but thank God he lives there and not you, Bernard Finnigan; it is a much nicer street for it. Certainly, in this place, I have found Robert to be extremely supportive and, when I have needed advice on a range of technical and legal matters, he has been very happy to offer that assistance and we have formed a great friendship.

On that note, I wish Caroline and Robert all the very best in their retirement. They will be sadly missed. Whatever the election result is—of course, we expect to be sitting on the other side of the chamber—it will be a lesser place in one respect because Caroline and Robert will not be here. They both have been here all of my parliamentary career and it will be strange not to have them here. With those few words, I commend the motion to the chamber.

The Hon. R.I. LUCAS (20:02): I rise to support the motion. It is a sad time for members of the Liberal Party to be in the second last week of—

The Hon. B.V. Finnigan: It is such a good example they're setting.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: There is no doubt about it. This is a motion to acknowledge the contribution of two of our members and all we are hearing from the Hon. Mr Finnigan is childish, puerile sniping at two respected members.

The PRESIDENT: Perhaps the Hon. Mr Lucas ought to stick to the motion, as well.

The Hon. B.V. Finnigan interjecting:

The Hon. R.I. LUCAS: He just thinks he is the president already, Mr President, and we are supporting you.

The PRESIDENT: Is that right? God help me!

The Hon. R.I. LUCAS: Well, we are supporting you for the moment, anyway!

The Hon. I.K. Hunter interjecting:

The Hon. R.I. LUCAS: Exactly; yes—until the next best offer comes along. If I could return to the motion from these puerile interjections of the Hon. Mr Finnigan, I will do what the motion suggests, and that is acknowledge the contribution of the Hons Caroline Schaefer and Robert Lawson.

As I endeavoured to say, it is a sad moment for many of us within the Liberal Party to be potentially in the second last week, if the government does not accept the invitation to sit again in February next year as outlined in the Family First bill which is before the parliament at the moment. This is the second last week of sitting and, as the Hon. Mr Ridgway has indicated, this is an opportunity for some of us who wish to acknowledge the contribution of our friends and colleagues to do so. I do not intend (and I am sure my colleagues will not, either) to repeat the detailed

summary of the contributions that the members have made both in a parliamentary sense in their ministerial careers and a Liberal Party sense as well.

First, I acknowledge the Hon. Caroline Schaefer. She entered the Legislative Council a few months before the Hon. Robert Lawson. They were among the members who entered the parliament in the landslide of 1993—some 15 or 16 years ago. It will be sad in another respect from our party's viewpoint that, again, we will be losing the contribution of those members who came in at that time both in this chamber and the House of Assembly. The Hon. Caroline Schaefer has been an outstanding contributor, not just to the party, as I think the Hon. Mr Ridgway pointed out, but she has been an outstanding contributor to the various communities—in particular, country communities, but not only those communities—that she has represented during her period in the parliament.

So, I join with my leader in acknowledging her contribution to the Liberal Party. I also acknowledge her outstanding contribution to the West Coast community originally and, in recent years, the broader country community but, in particular, the Mid North community. There are various other community groups which she represented.

There was her tremendous work, as the Hon. Mr Ridgway outlined, in terms of the Food for the Future program or campaign in which she and other colleagues were involved. I am sure that she would be the first to acknowledge the Hon. Rob Kerin and a number of others who were actively engaged in that, as well. However, we, her colleagues, acknowledge her driving influence in a lot of the work that was undertaken by the former government.

Caroline was the driving force, in many respects, behind that; not always the person up front prosecuting the final case or, indeed, attracting the final publicity on behalf of the party and herself but she was an invaluable contributor to the work that the former government, and others associated with it, did in that particular area of interest to her. There are many other areas of interest, and I am sure that other members will acknowledge the various areas of interest that Caroline has had and she will probably touch on some of those, as well, but I just wanted to acknowledge the contribution she made to the broader community.

As the Hon. Mr Ridgway indicated, Caroline has been a longstanding friend to many of us. I do not exactly remember when I first met Caroline but it was many years ago—and perhaps too many to acknowledge. Over the past 15 years or so in the parliament she has been a close friend and a tremendously loyal colleague, in the first instance giving frank and fearless advice, but also participating fearlessly in party room discussions. Ultimately, irrespective of her personal views on a particular issue, she supported the party's position publicly and in the community.

Good parties and good governments are built on that sort of contribution and that sort of loyalty. Today's occasion allows some of us to acknowledge publicly, possibly for the first and last time, that sort of loyalty and that sort of contribution to the party.

The other outstanding attribute which many of us have seen in Caroline (and about which we have talked and many will talk about, I am sure) is her frank and fearless advice and her willingness to honestly and strongly put her point of view whether or not it happened to be popular or whether or not it happened to be part of prevailing opinion.

Over the years there have been a number of committees and a number of discussions—many interminable discussions within our own party, let alone some of the discussions and debates we have had in this parliament—about whether we stay where we are or whether we go to Eastern Standard Time or, indeed, whether we move to Central Standard Time. That is an ongoing debate, and the Hon. Caroline Schafer's views have not changed at all on that particular issue and she continues to put her case, and put her case forcefully.

In all of those contributions, the outstanding attribute I want to acknowledge publicly tonight is an attribute that good members of parliament, irrespective of their political persuasion, have and that is bucket loads of common sense. Life experience, a particular perspective, the way she was 'brung up'—whatever it is—the Hon. Caroline Schaefer arrived at this stage of her life and her career in this parliament with bucket loads of common sense.

Obviously, those within our party saw it much more frequently in the many debates we had on a range of issues but I am sure that other members, in the period of time that they have worked with the Hon. Caroline Schaefer, whether it be on committees or in the chamber, would also have seen that outstanding attribute of Caroline's.

It is with a touch of sadness that we acknowledge Caroline's contribution, but we know that she has a number of irons in the fire in relation to the future and that is for her to discuss and talk about. However, we know that whatever she eventually chooses to do and in whatever order she chooses to do it, she will again make an outstanding contribution in the next stage of her life.

In relation to the Hon. Robert Lawson, as I think the Hon. David Ridgway indicated, new members who come into the parliament and indeed all of us stand in awe, if I can put it that way, of the intellectual grunt in the package of the Hon. Robert Lawson. I think it is a sad day as well in speaking about the Hon. Robert Lawson in that I suspect, certainly from our party's viewpoint, that we are unlikely ever again to attract the calibre of the candidate that the Hon. Robert Lawson was in 1993—a man at the top of his game in terms of legal contribution.

He is acknowledged on all sides of politics now but also on all sides of the legal fraternity back in the eighties and the nineties as an outstanding legal mind involved in many of the big cases and, obviously, involved in the State Bank royal commissions and then the various other legal cases that related to the State Bank in that tumultuous period of the early 1990s. For the Liberal Party at that particular time, through his willingness to contribute to public office, to be able to attract an outstanding legal mind and contributor like Rob Lawson QC into the parliament was a great boost for the party but I think also a great boost for the parliament as an institution.

As I said, now is not the time to discuss the reasons why, possibly, in the year 2009, parliamentary service is less attractive although I am sure that our colleague the Hon. Mr Wortley may well be able to inform us why it is less attractive these days than it was back in the 1990s. That is something to be regretted because I think the parliament has been a richer and more capable institution through the contribution of people like the Hon. Rob Lawson.

Certainly from our viewpoint, speaking as colleagues and friends of Rob's, we were able to have the outstanding legal intellect available virtually on tap, although he did sometimes say that the quality of the legal advice was worth what you paid for it and if we were not prepared to pay, he was not prepared to advise—but that was a throwaway line.

Inevitably, all of us, whether it be on the legislation that was before us or various issues that were being raised, sought legal advice from the Hon. Rob Lawson and he was unfailingly courteous, I suppose, in terms of not only having to undertake all his own work but also providing advice to various leaders and colleagues over the years in relation to all sorts of legal issues when people would pop in at his door and say, 'Hey, what do you think about this particular issue?'

The final point that I want to note in relation to the Hon. Rob Lawson's contribution is that I look on the Hon. Rob Lawson as an outstanding legislator. As I look back over the history of my time observing and being involved in parliament, there are fewer than a handful of people that I would personally categorise as outstanding legislators, and in that fewer than a handful, certainly I and, I suspect, many others in this chamber, would acknowledge that the Hon. Rob Lawson has been and continues to be an outstanding legislator.

You have only to look at the committee stages and the many bills in which he was either involved or had active engagement to know that it was not infrequently that he picked up drafting errors and was able to ask the appropriate question which led to government ministers—and, to be quite frank, it was government ministers of both sides because, in his early days, it was a Liberal government—and their advisers of all persuasions to see the sense of the question that was being asked and the need to get further advice and to seek amendment to the legislation that was before us.

Again as a personal view, obviously the parliamentary process is a combination of the bearpit of politics in terms of the government that is there wants to stay there and the opposition wants to get into government, and the Independents and crossbenchers are desperate either to be re-elected or to have others elected in their stead representing their particular parties or interests. That is an obvious and essential part of the work of the parliament.

However, the other essential part of the work of the parliament is the humdrum of the quality of the legislation that goes through this chamber, and 95 per cent of it is agreed by all parties. In relation to the quality, if there is not a political issue in it, sometimes it is only the outstanding legislators who have the willingness, the time and the commitment to look at it and to try to ensure that it is doing what it is intended to do and will not create grief to the various parts of the community that might be impacted by the legislation of whatever government happens to be endeavouring to pass it.

I think, from that viewpoint, in losing the contribution of the Hon. Rob Lawson, this chamber loses an important participant in terms of its legislative process, and the challenge remains to those who replace the Hon. Mr Lawson and the rest of us each in our small way (because not one of us will be able to replace the contribution that he has made in terms of the legislative process) to try to take up a little of the load that people like the Hon. Mr Lawson have undertaken in the past.

In concluding my remarks in relation to the Hon. Mr Lawson, I also thank him for his frank advice always. I have always respected both the legal and political advice that Rob has given me over the years. We discuss a whole range of things in relation to the impact on legislation, in particular a shared interest in terms of the electoral process and the parliament as an institution, and any of the pieces of legislation that might impact on the operations of the parliament. Certainly personally I will miss being able to continue that sort of discussion with the Hon. Mr Lawson after the next election. I also thank him for his friendship and his loyalty to me during the period when we worked together in both government and our period in opposition.

With that, I am delighted to be able to support the remarks of the Hon. Mr Ridgway and to acknowledge the contribution of both the Hon. Caroline Schaefer and the Hon. Robert Lawson.

The Hon. T.J. STEPHENS (20:18): I thank the Hon. David Ridgway for moving the motion that gives us the opportunity to pay tribute to two of our finer members who are not dying but moving on from this place. I do not intend to make this speech something that you would say at a wake, but obviously we are quite respectful of the service they have both given to the Liberal Party and, indeed, this parliament.

The Hon. Robert Lawson, I think, is one of those rare people who have made a considerable financial sacrifice by gracing us with his presence, and we are certainly richer for the experience. I know that, as a new member of parliament, I was very fortunate to have his shoulder to lean on, and certainly he helped me through the learning process of becoming a legislative councillor. I did not come into this place thinking that I knew everything, and I still do not. I am very pleased that I have had people such as the Hon. Robert Lawson to help guide me through.

One of the good things that I will share with members is that the decisions which are made and which affect the people of this state quite often, I am sure, are made in the Labor caucus room and the Liberal party room in terms of how we approach a particular issue. I can tell members opposite that the Hon. Robert Lawson always adds a fair bit of calm and common sense to any debate we have about any issue within our party room, and I am sure that we make better decisions as a group because of that. I will not repeat all the fine details about the Hon. Robert Lawson's service, given that that has been done. However, I will share with members my experiences sitting next to the Hon. Robert Lawson.

What members would not realise is that this very proper man has an incredibly witty sense of humour. He gets me most of the time when I am not quite ready for it, and at times it is very hard to contain the laughter. As we all know in this place, if you can have a sense of humour it certainly helps during some of the long, dry debates and some of the late hours. That keeps us all going. He has an incredibly good sense of humour. He does not get it right all the time. One of the jokes he told me today was just a shocker. I really did feel for his poor, long-serving wife, Delysia, who I suspect will have more time with him now.

I was going to wish her all the best in Robert's retirement, because she has a fair bit to deal with, I would have said. In all seriousness, I wish Robert and Delysia all the very best, and I hope they have a long and happy retirement. I thank the Hon. Robert Lawson for his friendship and his service. The Hon. Caroline Schaefer and I go back about 16 or 17 years now. I was a naive young fellow who wanted to make a difference, and I put up my hand to stand for the state seat of Giles in 1993 against the very formidable Hon. Frank Blevins. I was informed that my paired member was the Hon. Caroline Schaefer. I had no idea what a 'paired member' was, but I was very happy to take any assistance I could get.

I was very fortunate because, again, I had a good, honest, decent and reliable person who was hard working and who calmed me down and helped me run what was a pretty reasonable campaign at the time under difficult circumstances, given that the seat of Giles, and certainly Whyalla, has always been a very safe Labor seat.

The Hon. R.I. Lucas: You nearly won it.

The Hon. T.J. STEPHENS: There are no prizes for second, as we know, but that was nothing to do with the effort put in by the Hon. Caroline Schaefer. One of the great privileges in life

sometimes is that, out of adversity, you come across really good things. Whilst I was disappointed not to win the seat (and I was probably never going to win the seat), I was lucky enough to have the friendship—which I have maintained—with the Hon. Caroline Schaefer. Roy Schaefer is certainly a driving force in that partnership.

Roy would say that he is the brains behind the operation but, to be fair, the Hon. Caroline Schaefer carries herself very well in all company. She has an incredible work ethic. Again, like the Hon. Robert Lawson, she is absolutely straight down the line in the party room. There are no games. She always says exactly what she means and always, I think, taking account of the best interests of the people of South Australia. I am sure that, again, we come to better decisions because of her common sense and no messing-around attitude.

Again, I am lucky that I have a friend in this place who has a great sense of humour. We laugh during the good times and try to laugh during the ordinary times as well, because, as we all know, you do not win every issue in this place. We constantly pick ourselves up and operate as a team. The Hon. Caroline Schaefer is very much a part of that and a terrific person to be around. Again, selflessly, she has been extremely helpful to me—always with the door open, always happy to give good advice and always happy to give me advice that sometimes she knows I will not particularly like. She does not soften it but gives it to me, anyway, and I am sure I do a better job because of that.

With those few words, I thank the Hon. Caroline Schaefer for her friendship, her service to the parliament, and her service to the Liberal Party (which has been exemplary), and I hope that the Hon. Caroline Schaeffer and Roy Schaeffer have a long, happy and very liquid retirement—because they are making some fantastic wine. My colleagues on the opposite benches should be lucky enough to be able to purchase some occasionally, because it is absolutely magnificent. I commend the motion to the council and thank those who have made a contribution to date. Well done!

The Hon. J.M.A. LENSINK (20:25): These occasions are normally reserved for members posthumously, so it is a privilege for us to be able to let our honourable colleagues know what we really think about them while they are still here to interject and rebut us if they so choose.

My leader (Hon. David Ridgway) has provided the catalogue of all the committees, including the printing committee and other luminary areas in which both those these esteemed colleagues have served. I would like to talk more personally. I have obviously known Robert Lawson for a fair while, having worked with him when the Liberals held the government benches and he was a minister. He was a very thorough minister, and I think the fact that he was such a safe pair of hands meant that additional portfolios kept being added to the list—from disabilities and ageing (which is when I joined him) to a whole range of others and, ultimately, in the Kerin government, being appointed Attorney-General. I think it should be acknowledged that he made a very fine Attorney-General, and it is very unfortunate that he did not get to serve longer in that role because he is very well regarded by the legal community and would have made a great contribution in that regard.

Working for someone who is very thorough is not always good for their staff, however—and I acknowledge his long-serving personal assistant, Raelene Zanetti, who is in the gallery—because it means that we are often called on to rewrite letters for the 17th time. Robert would receive drafts from his department which were never good enough, and the ones that we would draft were never good enough, and the wording had to be precise, exact and accurate, right down to the line.

There would also be a number of occasions when I would accompany Robert to community functions when he had some very dry and brittle speech written on his behalf which he would almost literally throw out the window on the way to the function because it really did not express anything that would be of interest to the listeners. Since I have been here, he has been a great mentor to me; he is very loyal, his understanding of matters is very thorough, and I have always appreciated his advice and the great trust that I can place in his opinion.

Caroline is a member whom I have come to know much better while I have been a member and, while she often describes herself as a conservative country lady, as if that is to be some self-deprecating label, I think Rob Lucas described it very well, that is, that she has bucket loads of commonsense. We worked very closely together in particular during my previous stint with the environment portfolio and, when she said to me that she would be happy to take on some bills if I was overworked, I was completely delighted. With her primary industry background and experiences as former minister for agriculture, food and fisheries, Caroline had a very good

understanding of areas such as animal welfare and the marine parks legislation. She handled those matters in good faith with all parties concerned and did a very good job in terms of seeking amendments that have greatly improved that legislation.

We have joked from time to time that we would form our own faction for people who actually read their briefing papers, and I will not reflect upon any particular members and name anyone who might not belong to that faction, but I have always found Caroline to be a very well-considered member who applies herself, is trustworthy in relation to everything you say, and will do things in good faith.

Both members have made an outstanding contribution. We all have relied heavily on them in our service, particularly those of us who have entered the parliament as newer members. We appreciate that they have been great custodians of the legislation of this parliament rather than choose the option of point scoring from time to time. We wish them both well. They and their spouses, Delysia and Roy, deserve a long and healthy retirement. We will miss their contribution.

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

CONSTITUTION (FIXED SESSION PRECEDING ELECTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 October 2009. Page 3745.)

The Hon. M. PARNELL (20:31): I will speak briefly in support of this bill which seeks to ensure that this parliament sits again in February rather than our having to put up with a five month delay between the last sitting period in December and our return in late April or early May. We expect governments to make systems work to their advantage—and we put up with that. We know in relation to the media, for example, that the government often reserves important announcements until late in the day in order to ensure that only their side of a particular story gets coverage.

When it comes to the sitting of parliament, there is no excuse for us to hide ourselves from the people for a such long time, in this case nearly five months. I am disappointed that we will not be voting on this bill tonight because there probably now will not be time for the other place to consider returning in February, but at least this council will make a clear decision that we think the best thing for democracy and the best thing for the people is to have more parliamentary sessions, not fewer; so I will be voting to come back in February.

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

PETROLEUM ACT

Order of the Day, Private Business, No 21: Hon. J.M. Gazzola to move:

That the regulations under the Petroleum Act 2000 concerning fees, made on 4 June 2009 and laid on the table of this council on 16 June 2009, be disallowed.

The Hon. J.M. GAZZOLA (20:34): I move:

That this order of the day be discharged.

Motion carried.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: PORT BONYTHON DESALINATION PLANT

Adjourned debate on motion of Hon. R.P. Wortley:

That the 64th report of the committee, entitled 'Final Report on Desalination (Port Bonython)', be noted.

(Continued from 9 September 2009. Page 3106.)

The Hon. J.M.A. LENSINK (20:34): I rise to indicate support for this motion. I am very pleased to do so, as the person who moved the original motion to refer the subject of desalination to the Environment, Resources and Development Committee of the parliament. This is our second report, and I believe those reports have been very useful. I think at the time that I moved these motions a few people were a bit curious, given that the Liberal Party had come out first in announcing its support for a desalination plant for Adelaide, about whether this was in any way against desalination. I would like to say at the outset that that is not the case.

However, there are a number of environmental issues related to desalination, particularly as regards the gulfs of South Australia and their unique structure and the fact that they are subject

to dodge tides from time to time. There are also issues relating to more saline water that is heavier and can be noxious for the marine life. Further, there are issues relating to the large quantity of energy that is required to produce desalinated water. So, I would like to reiterate what the Liberal Party's position is, acknowledging that it has been stated previously. While we support a 50 gigalitre plant for the City of Adelaide, our next priority in terms of funding relates to stormwater prior to the 100 gigalitres that this government is pursuing.

This report relates to the Point Lowly desalination plant, which is closely located to the breeding ground of the giant cuttlefish. There are also concerns about western king prawn breeding grounds and a number of other fish and marine floral species. I will not speak at length, because the report speaks for itself. Members here and members of the public can also access information from the ERD website in relation to the evidence that has been provided. However, suffice to say that quite a number of scientists of various disciplines were very cautionary in warning about the location of this site.

I feel somewhat vindicated that the EIS—and, indeed, the government's response to the EIS—identifies that there are a large number of issues, and the government's response to BHP Billiton's EIS describes a number of the reports that have been conducted on behalf of BHP Billiton as being inadequate in a number of ways or not addressing the issues. So, I think this is all-important reading for us. I would urge BHP Billiton to address each and every one of those issues.

The committee unanimously agreed that Point Lowly was probably the worst possible site for the location of this plant, and that is based on the evidence that we received. I commend the motion to the council, and I encourage everyone to read the report and the evidence that was provided to us.

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 14 October 2009. Page 3532.)

The Hon. CARMEL ZOLLO (20:39): The government opposes this disallowance motion. The 2008 scheme review amendment act inserted new section 76AA into the Workers Rehabilitation and Compensation Act. This section gives WorkCover the power to impose a discontinuance fee upon registered employers and/or self-insured employers when they cease to be registered with the scheme, and it is to be calculated in accordance with regulation 16A of the claims and registration regulations. Section 76AA and its supporting regulation commenced on 1 April 2009. The WorkCover scheme's current average levy rate is 3 per cent. This rate includes a clawback percentage to recoup the historical under-collection of levy. This means that employers are currently paying extra levy amounts to make up for the fact that they did not pay enough in previous years, which contributed to WorkCover's unfunded liability.

The discontinuance fee ensures that, when employers exit the scheme, WorkCover can recoup the amount that the employer may have, historically, underpaid. Logic would dictate that otherwise it would incur a greater cost to those who remain. So, this is necessary, as once the employer exits the scheme they will, clearly, no longer be contributing to the clawback part of the levy. The discontinuance fee thus protects the scheme from any adverse financial consequences that can arise from a transfer to self-insured status, or from an employer ceasing to be registered under the WRCA.

The discontinuance fee replaces the former balancing payment imposed by WorkCover under its general levy powers. The formula has been simplified and linked directly to the level of underfunding experienced by the fund. Once the scheme achieves full funding, the fee will no longer be applied, as the unfunded liability within the calculation will equal zero.

The Hon. Robert Lawson also spoke about other issues, not strictly related to the discontinuance fees. If I could make some brief remarks relating to the IT system, or Project Harry, as it is known. I am advised that WorkCover is required by legislation to administer the Workers Rehabilitation and Compensation Act 1986. To do this, there are many scheme overheads that

relate to the general administration of the scheme, and these cannot be considered to be either self-insured or registered employer obligations.

I am advised that they are the obligations of the scheme as a whole. Self-insurers do not move outside the scheme when they become self-insured, they become a separate part of the scheme with their own obligations to administer parts of the act under the supervision of WorkCover. They are required to pay a fair contribution to the overhead costs of the scheme. These overheads include the WorkCover computer system, which is essential to the proper administration of the system, the system of dispute through the Workers Compensation Tribunal, and medical panels.

I am advised that, whilst the levy contributions for 2009-10 from self-insurers have increased by approximately 28 per cent, the largest part of the increase was to pay for costs which self-insurers do use. My advice is that, whilst the cost of Project Harry is a component of the increase, it should be noted that self-insurers are expected to pay for 19 per cent of the cost of the project, rather than the 36 per cent of the scheme that they constitute.

The Hon. Robert Lawson then gave another example relating to the components of the application fee structure and alleged that WorkCover has failed to justify the figure. In relation to that, I am advised that the Self Insurers of South Australia (SISA) have been consulted in relation to this proposal, first, in the October 2008 regulation review public discussion paper, which discussed the need for an increase in the fee, and then in the regulation review proposal paper, which was considered by both WorkCover's stakeholder group, the Legislative and Regulatory Consultative Group (LRCG), and the Workers Rehabilitation and Compensation Advisory Committee. Robin Shaw of SISA, I understand, sits on both these committees.

I am advised that the LRCG, the WRCAC and the WorkCover Board Regulations Review Committee have all supported this proposal in their consideration of the regulation review recommendations. As well, I am told that WorkCover has provided significant detail to all stakeholders on the reasons for and the detail of the proposed fee increase. I am further advised that the application fee for self-insurance has not been increased since 1999 and does not reflect the cost of the assessment for WorkCover and is significantly less than the equivalent fees in New South Wales and Victoria.

I have been advised that the proposed fee has been based on a detailed analysis of the costs of assessing an application for self-insurance. It is considered to be a conservative assessment, and even the proposed maximum fee will still not cover the costs incurred by WorkCover for the assessment of large or complex applications.

Mr Lawson contends that WorkCover has refused to justify the fee to SISA. I am advised that this is not correct. SISA has been provided with a range of detailed information, and discussions have also been held with WorkCover staff. I am told that SISA has said that the current fees are probably low due to the lack of indexation since they were first introduced. SISA has stated that, in principle, it does not object to the notion that the fee should cover the actual costs. SISA has further stated that it is in full agreement that the new applicant should bear the full cost of assessing applications, rather than its being an impost on existing self-insurers.

I am advised that SISA also provided an alternative suggestion of a flat base fee, payable up-front, with variable post paid fees based on the actual cost of processing the individual application. However, WorkCover considers that the current proposed model is simpler and more appropriate than the SISA proposal.

This regulation is not about hostility on the part of WorkCover or the government towards self-insurers; rather, it has been enacted as a logical consequence of the changes to the act and, as already placed on the record, replaces the former payment. I urge honourable members not to support the Hon. Robert Lawson's motion. This regulation is simple, fair and, in the light of WorkCover's unfunded liability, clearly necessary. The government opposes the disallowance motion.

The Hon. R.P. WORTLEY (20:48): If this motion is disallowed, there would be a shortfall going into the workers compensation scheme and, one way or another, it has to be made up, either by the smaller employers paying a lot more, which would put a great impost on them as costs, an unfunded liability by the blow-out, or we would probably have to make more draconian cuts to workers' entitlements. So, they are the three options I can see if this motion is disallowed. Does the honourable member agree with those options, or is there another option that would not involve those three?

The Hon. A. BRESSINGTON (20:49): I rise briefly to indicate my support for the Hon. Robert Lawson's motion to disallow the regulations under the Workers Rehabilitation and Compensation Act 1986 concerning claims and registration discontinuance fees. I wholeheartedly agree with the Hon. Rob Lawson's considered assessment. The discontinuance fees as set out in these regulations are extortionate and intentionally so. This intention is seen not only in the fees themselves but also in the recent doubling of the costs to a business to apply for self-insurer status, the recent hike in their annual levies, and in the general hostility shown to self-insurers.

Further typifying WorkCover's hostility to self-insurers is the demand that they pay nearly one-fifth of the cost of Project Harry, WorkCover's IT replacement project. Self-insurers will not have access to the system and will derive no benefit from it, yet, as part of their annual levies, they will have to pay for 19 per cent of it.

As stated by the Hon. Robert Lawson, this is nothing short of highway robbery. Speaking apolitically, the discontinuance fees are, to my mind, a hindrance to the inevitable, that being the eventual decentralisation of employee insurance. Whether this will see WorkCover's demise or just lose its near monopoly status only time will tell, but I cannot see how the present arrangements can go unchanged, given that the corporation continually demonstrates that the present model is unsustainable and delivers such poor outcomes to stakeholders, those being employers and injured workers.

While minor improvements may occasionally be made on the fringes, the stark reality is that WorkCover is failing and will continue to abysmally fail its mandate to both employers and injured workers. That larger employers are seeking to jump ship is not surprising.

I seek to make clear that my support of this motion is not an unquestioning endorsement of companies that presently are self insured. I am aware of several cases in which it would appear that the same complaints levelled at WorkCover are also being made against self insurers, namely, the victimisation of injured workers, it is a denial of the few statutory rights that remain, and the corruption of due process.

It certainly concerns me that such abuses occur even further from public scrutiny than the impenetrable WorkCover and EML, but that alone does not justify WorkCover's hostility to self-insurers, particularly those seeking to become self insured. In fact, to argue this would be most hypocritical. In saying that, I support the motion.

The Hon. R.D. LAWSON (20:52): I thank honourable members for their contribution. I particularly thank the Hon. Russell Wortley for his contribution, where he referred to what he described as 'draconian cuts to workers' entitlements'. These were so-called cuts that his government proposed, that he voted for and that he supported and never once raised a word in this parliament against them; not once. The hypocrisy of the Hon. Russell Wortley is truly staggering.

The Hon. R.P. WORTLEY: Point of order! I asked a question in three parts. The honourable member is misrepresenting the questions I asked. Could he answer the questions before we vote on it?

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley did ask questions, but the Hon. Mr Lawson, whose motion it is, has the right to sum up.

The Hon. R.D. LAWSON: No doubt we will be forwarding to some of Russell's former comrades in the union movement a copy of his intervention tonight when he refers to the draconian cuts to workers compensation, which he supported.

He did pose a question as to what happens if these regulations are disallowed. If these regulations are disallowed, the discontinuance fees that previously applied will continue to apply; so, this is not a windfall loss or gain either way. The existing discontinuance fees will apply, as is entirely appropriate.

I am amazed that the Hon. Russell Wortley would be seeking to resist this, because the fact is that workers who are employed in self insured industries or for self insured enterprises actually receive a considerable benefit. They have better return-to-work rates than those in the WorkCover scheme generally. They have faster recovery periods; they have better outcomes generally.

It really is amazing that somebody who purports to be a friend of the worker would be seeking to prevent employers and enterprises joining a scheme which enables them to provide

better outcomes, which enables them to provide lump sum redemptions and which has provided a better scheme for many years. That is an extraordinarily stupid intervention, but not one that is altogether surprising from the Hon. Russell Wortley.

The Hon. Carmel Zollo's speech would suggest that this change in fees is entirely innocuous and benign. She claimed, for example, in support of her argument, that the application fee has not increased since 1999. That may well be true, but the application fee itself is a very small part of the discontinuance fee. The discontinuance fee proposed to be charged in these regulations is many hundreds of thousands of dollars more than the discontinuance fee that was calculated upon the pre-existing formula.

The Hon. Carmel Zollo said on behalf of the Labor Party that employers exiting the WorkCover scheme to a self-insured status should be required to pay a fair contribution to the scheme. I certainly agree with that. In my view, the existing discontinuance fees—which are quite high, quite substantial and quite a disincentive to actually exit the scheme—did allow for the payment of a fair contribution to the scheme. But what has happened is that that formula has been adjusted and we now have this penal formula imposed in these regulations, which is designed as a positive disincentive for employers to exit the scheme.

The Hon. Carmel Zollo suggested that the self insurers association representing self insurers has acknowledged that the current fee is probably too low. That is simply not the case. SISA, the association, has been vehement in its opposition to the changes that have been made. The honourable member suggested that the fee ought to be simple and fair. We would agree with that motherhood statement, but the fact is that nobody could ever describe the formula for calculating these fees as simple, and this one is certainly not fair at all.

SISA was not apprised of these discontinuance fees. The fact that Mr Shaw might have been a member of an advisory committee does not reflect the fact that he, his association or his members were fully apprised of what the government proposed, either in the legislation or in the subsequent regulations.

I think one of the Hon. Carmel Zollo's final comments was that SISA agreed that the applicant leaving the scheme should bear the full costs. That is not disputed either, but the pre-existing formula did provide for exiting employers to make a contribution and pay a discontinuance fee, which was not only a fair reflection of the actual cost of their leaving the scheme but actually was loaded to be an amount greater than the full cost. The industry is prepared to bear that, although it has complained in past years.

The fact is that this fee, as I have described it in my earlier contribution, is a penal fee designed to achieve a particular result. In those circumstances, I urge members to vote in support of the disallowance motion, the effect of which, as I said, will be to restore the pre-existing fee.

The council divided on the motion:

AYES (12)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Hood, D.G.E.	Lawson, R.D. (teller)
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W.
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.

NOES (9)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Parnell, M.
Winderlich, D.N.	Wortley, R.P.	Zollo, C. (teller)

Majority of 3 for the ayes.

Motion thus carried.

ENVIRONMENT PROTECTION (RIGHT TO FARM) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 September 2009. Page 3298.)

The Hon. J.S.L. DAWKINS (21:03): I rise to speak on behalf of Liberal members in this place and note the input into this matter from the member for Hammond in another place and his interest in this topic. This bill amends the Environment Protection Act 1993 and makes a consequential amendment to the Land and Business (Sale and Conveyancing) Act 1994.

In the face of the advance of the urban sprawl of Adelaide into farmland, this bill seeks to provide additional protection for farmers against complaints from residential neighbours arising from the carrying on of normal farming activities. It also provides that prospective purchasers of residential land in the vicinity of farms be advised of that fact prior to formalising the purchase.

The amendment introduces the expression 'protected farming activity' through which a defence can be made against prosecution. Regulations will prescribe a code of practice for some farming activities while others can be carried on to generally accepted standards for that activity. As long as farming is conducted within these parameters, farmers should not have to defend themselves against complaints of this nature. Further, the amendment to section 130 of the EPA Act 1993 requires that, if the authority or agency believes that to be the case, they will inform the complainant accordingly and advise him or her not to proceed with court action.

My colleague the member for Hammond discussed this bill with a number of real estate agents who operate in peri-urban areas, particularly in the eastern Hills region. Apparently, in those discussions, those agents all agreed with the purpose of and the need for these changes. They also felt that it would not affect the market or land values to any marked extent, if at all. I would say that I know a number of real estate agents in my own area who deal with a lot of sales of rural living blocks and they would have particular experience in the hopes and aspirations of the people who buy those blocks and also of the people who wish to pursue genuine farming activities around those areas.

I think we would all be aware that some people purchase land in these peri-urban or metropolitan fringe locations because it is less expensive than prime suburban land and part of the compromise is distance to commute, while part of it may be accepting that it is near farmland with all the incumbent characteristics. Obviously, some developers will talk up the location as providing a green change lifestyle, therefore increasing its appeal. In the end, the individual chooses. This bill facilitates an informed choice and provides a mechanism for minimising misunderstandings and complaints that lead to expensive court proceedings.

In saying that we support the bill, I think a lot of the issues that this bill is designed to overcome could otherwise be overcome by a fair degree of common sense; however, as I have already mentioned, I think that some people move into peri-urban or semi-rural areas with a view that many things that occur in the metropolitan area should be the case in their new location, and that does cause some problems.

Certainly, having farmed in the Gawler River area, which was adjacent to rural living localities such as Lewiston and also the Gawler Belt and Ward Belt areas, I can speak of the problems that arise for both the people who have moved to those areas to live and also those who have been there a long time in a genuine farming occupation. I had the misfortune a number of years ago to have a large number of probably the best crop of young ram lambs that I ever bred destroyed or maimed by two dogs that had come off a neighbouring rural living area. It was a devastating experience for my family and me. Despite that, I felt some sympathy for the owners of one of the dogs (we never found the owner of the other dog) who I think was just ignorant of the responsibilities that you have if you live next to livestock.

There are a number of other things that I can relate to my own experience. I can recall a farming neighbour of mine being reported for having a dead sheep in his paddock. I think the dead sheep only remained in the paddock for 24 hours but, because it was a rather fat sheep that had gone onto its back and had its legs sticking in the air, it was something that was well recognisable to many people who drove past. That person was reported to the RSPCA, I think. I know that that person was very good at livestock husbandry and it was an unfortunate thing. The person who reported the farmer did not realise that he had other occupations and may well have been shearing at the time. The animal was removed as soon as possible.

There was also an occasion when someone who had moved into the area near me (who had come from the middle of suburbia) reported me to the RSPCA for having what was termed 'a skinny horse'. They said I was starving the horse to death. We knew the people who had bred that horse as a trotter and it had been used by my children. It was getting beyond that but we kept it on. We knew that the horse was over 30 years of age. Most people in this place would know that that is

a very great age for a horse. The person, who meant well, put some hay over the fence for the horse but my rams came along and ate it before the horse got to it.

Those of us who understand genuine farming practices would also recognise that there are people who have been very good with intensive farming practices, such as poultry and pigs, who have had some difficult incidents with people who just do not understand the management practices of those exercises and, of course, the fact that sometimes there are odours that come out of those places. If the bill allows for people selling these blocks to understand those facts, it would be better.

There are other issues which relate to the spraying practices employed by farmers, the fact that people use tractors and headers into the night hours, and there are many others that people who move into what are farming areas do not understand as well as the people who have been there all their life. With those words, I indicate that the Liberal Party will be supporting the bill.

The Hon. M. PARNELL (21:13): The Greens have some sympathy with the objectives of this bill but we believe that this is the wrong tool for the job. The effect of this legislation is to put farming practices beyond the reach of pollution and waste laws under the Environment Protection Act.

The method that the honourable member has used is to provide a defence for certain protected farming activities from criminal and certain civil charges under the act. The effect of the amendment is basically to require the Environment Protection Authority to come up with rules and regulations for each type of farming activity. The bill provides that if an activity is confined to those codes of practice—as they are described—then they will be protected from any criminal or civil action.

However, if the EPA does not have a code of conduct for every type of farming, then the test is generally accepted standards and practices for that particular farming activity; in fact, that imposes no obligation on the farming sector to ever improve its performance, and we all know that generally accepted standards change over time.

I was in the position as an environmental lawyer of having to advise a great many people in relation to urban-rural interface issues, and I have to say that, in some of those cases, my advice to the clients was, 'Get over it. You're in the country; it smells like the country,' but that does not mean that every farming activity is operating under best practice and that every activity is minimising its pollution.

One example (and it is one of the classic interface issues) is gas guns used to frighten birds from orchards. Most operators use them responsibly. One case I saw was a gas gun aimed at the neighbour's bedroom window 20 metres away, and it fired every 45 seconds. That smacked of vindictiveness, rather than best farming practices, but under this regime, unless the EPA had a code of conduct for that farming activity, the generally accepted standards and practices for that activity would be the test and the person behaving in that way would be protected from our pollution and waste laws.

I am sympathetic to what the honourable member is trying to do, but this is not the right tool. The question is: how do you best protect the right to farm? I think the answer to that is fairly clearly through our land use planning rules. We have provisions for block sizes; we can have provisions for buffer zones as well.

Another case I remember was a chicken composting facility in Kanmantoo, and it was where the dead chickens from the battery hen farms were taken to be processed into mainly fertiliser. At one level you can think, 'Well, that's great. They're re-using this waste product and turning it into a useful product, as opposed to just putting it in a hole in the ground,' but it stank to high heaven, and the neighbours all complained.

The problem was that the buffer zone for that activity was the neighbours' land. If the land use planning rules had been applied more thoroughly, that operation would have been found on a big parcel of land in the centre of that parcel of land and the operator would be responsible for their own buffer, not creating a buffer out of all their neighbours' properties.

I think we do need to consider in this place how to properly protect our rural industries and how to protect the right to farm, but I do not think that this blanket approach, which locks our farming activities into their status quo operations, is the way to proceed, so the Greens will not be supporting this bill.

The Hon. R.P. WORTLEY (21:18): I rise to speak briefly on the private member's bill, the Environment Protection (Right to Farm) Amendment Bill 2009. The government does not support the bill in its current form. I would like to make it clear to the council that the government does support farmers having a right to operate and farm their lands. However, this proposed right to farm bill is not the best mechanism for achieving this outcome.

The bill proposes to amend the Environment Protection Act 1993 to exclude all protected farming activities from the operation of the offences and penalties under the Environment Protection Act. This would have the effect of diminishing the Environment Protection Authority's capacity to prosecute for any noncomplying activity under the Environment Protection Act defined as protected farming activity.

Protected farming activities are defined in the bill to include activities that conform with any code of practice especially established under the act or, if no code is established, generally accepted standards and practices. This broad definition potentially allows for the entrenching and the validating of unsatisfactory practices.

It means that a range of offences that apply generally across the community and to all other industries covered by the act, ranging from causing serious environmental harm to breaches of environment protection policies, would not necessarily apply to farming. It would also prevent administrative enforcement through environment protection orders insofar as the penalty for noncompliance, which underpins the validity of the order, would also be subject to this new defence.

As the honourable member points out, some North American jurisdictions have tried to address this issue in legislation, but not in the sweeping way that this bill proposes. This bill goes further than right to farm laws in Canada and the US, which generally exclude common law nuisance actions and which are subject to the requirement that the farmer is complying with relevant public health and environmental laws.

It is also important to note that the 1999 Premier's roundtable report revealed that this type of legislation has a variety of shortcomings. The unanimous view of the Premier's roundtable in 1999 (which originally was set up in response to the South Australian Farmers Federation's concern at the time) was that formalising a right to farm becomes unnecessary when land use planning and associated policy settings are correct. The use of right to farm legislation will not do anything practical to help resolve existing agricultural land use disputes.

It is our view that it is more important to focus on progressing ongoing work on designating primary production areas and buffer policies under the auspices of the 30-year plan and a primary industries land strategy than to implement amended legislation. Actions likely to flow from the 30-year plan will seek to promote supportive local conditions for primary producers by addressing factors that generate land use conflict. The particular initiatives proposed in this bill may be better dealt with in that context. Therefore, the bill is opposed.

The Hon. R.L. BROKENSHIRE (21:21): I am disappointed to hear that the government will not support this bill, because one of the most important issues facing South Australia at the moment, next to water, is food security—national food security and sustainable agriculture. When it comes to our future economic opportunities, whilst the government is pretty focused on mining—and Family First and I know other colleagues support mining—the fact is that mining is not sustainable. At some stage in the next few generations, we will run out of mineral wealth, but we have very good farmers in South Australia. Irrespective of our beliefs about climate change, the fact is that we will adapt as farmers, and we will continue to provide opportunities for the state.

We have one problem, and that is, over the years, more and more of our best agricultural land has been encroached on by concrete slabs. It is not only what we see in the Greater Adelaide Plan, but if members look at exit strategies in the Riverland at the moment, whether or not you agree with them, they will bring the right to farm into question. Even in regions remote from Adelaide like the Riverland, people will retire and build on vacant blocks that have been cleared, and the ability of longstanding family farms to do their work will be threatened. You do have grape harvesters at night; you do have to spray; you do have to run tractors and machinery.

We have other issues as well when it comes to right to farm. I can tell members that, on numerous occasions, people have utilised the EPA, which is limited in its resources. As soon as any member of the community rings and makes a complaint, the EPA must treat that complaint with absolute seriousness and it has to investigate. That becomes a huge impost on the right to farm. It makes it difficult for farmers to concentrate on their core business, and often it becomes a

situation where they are focused on complaint after complaint simply because they have moved into a rural area and they did not know that there were issues to do with rural situations.

At harvest time right now, they do not necessarily reap grain just in the daytime. They reap grain at night; they bale hay at night. Our own family has been baling all night this summer because of the conditions. They are out on the tractor baling all night. If someone moves into a 10 acre block next door and rings the EPA complaining about our tractor and baler noise, then we will have the EPA—and I am using my own family as an example, but it can happen to any family—coming the next day and saying, 'What were you doing operating that tractor at night?' What they were doing was producing food—an economic opportunity for South Australia. We have a government that wants to shut that down.

Why have they done this in North America? Why is the Victorian Farmers Federation looking at this? Because they are focused on the economic sustainability of their states and family farming. That is what this is all about. I will not hold up the council any longer, because we do have other very important legislation, but I appeal to my colleagues to look at this. Yes, it could be broadened. I have tried to make this a reasonably simple bill to lift the debate. I conclude with these remarks. Let us remember this: in his remarks the honourable member said that, in 1999, the Premier had a roundtable conference that involved the South Australian Farmers Federation. Well, I remind you, Mr President, that was 10 years ago. The premier at that time was John Olsen. That is a long time ago. Things have moved on. Much more development and subdivision has occurred.

I finish with this: yesterday I had a phone/teleconference with SAFF members from right across the state—from the South-East to the West Coast. I had people representing the poultry and pig industries. We have done away with horticultural research and we have taken our eye off the ball when it comes to the Riverland. We are removing from the dairy industry in this state and relying on other states for that. The minister for agriculture said that we are going to focus our opportunities on R&D and growth in pig, poultry and wine.

That is what this government's agenda is yet, as recently as yesterday with that teleconference, SAFF representatives said to me (and I am happy to put this on the public record), 'We strongly support this legislation. Not only do we support it but also we want it broadened.' This is an important piece of legislation. I commend this right to farm bill as a start to protecting economic sustainability. What we have done since 1836 in this state is to grow food. Let us have the opportunity to continue to do it. I commend the bill to the council.

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

NATIONAL PARKS AND WILDLIFE (BAN ON HUNTING PROTECTED ANIMALS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 June 2009. Page 2497.)

The Hon. T.J. STEPHENS (21:29): I am pleased to rise to speak on this bill on behalf of the Liberal Party, and I say at the outset that we will not be supporting the Hon. Mark Parnell's bill. I want to quickly touch on my own life experiences with regard to that evil subject of duck hunting! I was fortunate enough some 30 years ago to be introduced to the great feast of wild duck by my father-in-law. I was lucky enough to be invited to a number of dinners—maybe when my father-in-law was actually checking me out to see whether I was suitable to become his son-in-law. Fortunately, I managed to pass that rigorous process. After a couple of great dinners I started to develop an appreciation for wild duck—I must say, usually complemented by good wine—and it was not long before my father-in-law suggested that enough was enough and now I could go and assist in procuring the same. I thought, 'I will be in for anything'—and, again, remembering that I was still trying still to win favour—

An honourable member: The wine, or the duck?

The Hon. T.J. STEPHENS: No, the duck. It was easy enough to buy a bottle of wine from any of the local Whyalla bottle departments. So, away I went, really not prepared for what is actually quite an arduous task. Anyone who knows anything about duck hunting would know that nobody who participates would call it a sport. It is not a sport: it is actually a hunting activity. For every wild duck that is eaten, because of the amount of time and effort and hours travelled, and the inconvenience of laying in wait before dawn because of the rigorous rules and procedures that are in place, if you could go to a restaurant and sit down and be served wild duck, I would happily do that rather than go through the process of procuring the same.

Whilst it became probably one of my two favourite foods, I quickly learnt the disciplines and expectation with regard to hunting, and the responsibilities that all the people I have come into contact with over the years feel with regard to the conservation aspect and respect for the bird itself. Certainly, with a fair amount of glee, I have seen some of my fellow duck hunters (and I have had to do it myself) waist deep in a dirty, muddy dam chasing a wounded bird, because there is respect for the animal. Whilst it has been reported to the contrary, I have only ever seen people act in a most honourable manner with regard to the way these events are conducted and the disciplines you must obey to participate—apart from safety issues.

I can speak from experience. This is not one of those areas where I have had to weigh up different evidence and submissions from different people because, over the years, I have been duck hunting a number of times. One of the excellent aspects of the experience was the training that senior people would put into us younger people to show that we could prepare a really good meal. I guess one of the better things I have learnt to do as a husband and father is prepare meals that are a little bit out of the ordinary, and it is very satisfying to have the family sit around at the table and enjoy something that you have worked pretty hard to prepare.

A couple of people who did take the trouble to contact me are obviously quite experienced with regard to this particular issue. I have had an email from a Mr Matthew Godson, who has spent some time trying to make sure that I had a reasonable understanding of where he was coming from. He is tied up with the Sporting Shooters' Association of Australia. I will read the email rather than pull it apart into bits and pieces, because I think it gives a pretty fair explanation as to where responsible duck hunters are coming from. It states:

Dear Hon. Terry Stephens

I write this email in response to the Hon. Mark Parnell's bill to ban duck hunting. I see myself as a law abiding citizen and a valuable community member. I'm not a brutal barbaric murderer that the animal rights groups like to label me and my hunting companions.

I have hunted and fished for many years and I find it alarming that these small minority groups are trying their best to prevent me from spending quality time with family and friends in an activity which results in food for the family dinner table.

These animal rights groups always try to portray duck hunting as a 'blood sport' and that hunters 'kill for fun'. This is definitely not the case. The fact is hunting is a pastime that allows me and thousands of others to spend quality time with other people out in the natural environment. I see this activity no different than fishing. The result of obtaining food is the same.

We are continually being told to buy both free-range and organic foods. Duck hunting provides organic, free-range food. Surely it is not right to prevent someone with a capability to harvest their own healthy food?

Duck hunting has no negative environmental impact. I and many others would prefer a regulated open season based on seasonal conditions where we can take a small percentage of the wild duck surplus that is destined to die off each year. This is much better than managing ducks as pests.

The Hon. Mark Parnell's bill should not be allowed to pass through. After reading the detail I make these following points:

- The Hon. Mark Parnell's party is aligned with extreme animal rights groups. All information provided is biased and should be treated as questionable. He ignores the involvement of other stakeholder groups in the consultation process that made recommendations that supported an open season.
- He fails to understand that native ducks are in tune with the environment and adjust to changing environmental conditions, especially Australia's unpredictable rainfall. Ducks are migratory and, with the recent flooding in large parts of Queensland and New South Wales providing ideal breeding conditions, ducks from South Australia have taken flight to take advantage of these conditions to breed.
- He states that very few ducks are here in South Australia but just the other day in *The Advertiser* (29 July) it was reported that a Department of Environment and Conservation wetland ecologist had counted 60,000 grey teal in the Coorong area alone. This surely shows that populations have been unaffected by this year's hunting season.
- Duck hunting groups are committed to conservation through the sustainable use of wildlife. This model of conservation is supported and has been successful worldwide. Wetland restoration work not only provides habitat for the limited number of duck species we choose to hunt but also hundreds of other species of water birds. Those that ideologically oppose duck hunting have no desire to do this or fund such conservation programs. The introduction of this bill has the potential to reverse the conservation gains created by hunters and this will certainly lead to habitat loss and neglect.
- He points out that duck shooting is banned in Western Australia, Queensland and New South Wales. This is totally incorrect. Ducks are still shot in these states as pests under destruction permit arrangements. In New South Wales for example many more ducks are now shot and poisoned under pest permits than were previously harvested by hunters for food during past regulated open seasons. In what I can only term as

bizarre he even states that his bill will allow ducks to be destroyed as pests. This makes no sense to me. He wants to stop me and other hunters harvesting ducks as a food resource which provides conservation benefits, but is happy for them to be killed as pests and left to rot. Surely it is better to treat ducks as a valuable natural resource.

- He makes the point that the RSPCA oppose duck hunting on the grounds of cruelty. This view is emotive because cruelty is fundamentally avoidable when a person takes the effort to reduce 'unnecessary pain and suffering'. Hunters do take the welfare of animals into account. Hunters work hard to provide habitat to enable ducks to live as wild animals free from constant human-animal interactions that has the potential for pain and suffering. I like many other hunters put much effort into sharpening our skills by practising clay target shooting to ensure a quick and clean shot is delivered.

- The wounding rates that he relies heavily upon in this bill have been scrutinised and dismissed by scientists in 1998. They were found to not accurately predict wounding rates and it was stated that they should be ignored in discussions regarding real wounding rates. If on the rare occasion a duck falls wounded I would always quickly collect and dispatch it. The retrieval usually takes only a matter of seconds. I believe that to view this situation in perspective, one should compare this brief moment to the life of a livestock animal. These animals are bred, caged, transported and held in yards before being slaughtered. Livestock are constantly subjected to human-animal interactions which result in some degree of pain and suffering across their whole life. I believe that livestock animals have a much worse fate than a wild duck. Even Peter Singer who is credited as the philosophical founder of the modern animal rights lobby asks…'Why for instance is the hunter who shoots a deer for venison subject to more criticism than the person who buys a ham at the supermarket? Overall it is probably the intensively reared pig who has suffered more.'

In summary I would like to say that duck hunting in South Australia should remain and continue to be managed under the principles of adaptive management and sustainable use where there will never be an impact on overall duck populations.

Duck hunting provides a free-range organic food source for the family. Hunting fees and restoration activities provide conservation benefit far beyond the duck species we choose to hunt. Hunters inject much needed funds into our country economies when they travel and purchase items within those communities.

Allowing ducks to be devalued and treated as pests is unacceptable. The Hon. Mark Parnell's rationale behind this bill is clearly not what he has stated. It's solely about animal rights over human rights, not conservation and animal welfare. The bill is intended to prevent people from having a 'right to choose' to harvest a sustainable food resource. Understandably, duck hunting like fishing, is not for everybody but that's not a good enough reason to ban it.

Even if no duck was wounded in the process, the animal rights groups behind the bill would still want duck hunting banned. I believe that this fact alone reveals the truth behind this bill that doesn't fit well in mainstream society. These groups want to prevent people from all walks of life from hunting, fishing, farming, consuming and utilising any animal for food or product. It should not be allowed to be pushed onto our community.

There are many aspects and points that Mr Matthew Godson has made with which I concur. I do not necessarily subscribe to the fact that the Hon. Mark Parnell is beholden to any particular group, but I certainly agree with the points that are made with respect to hunting for food.

I have received a briefing note from the Conservation and Hunting Alliance of South Australia (CHASA), and I would like to read some points that it made. The document states that CHASA is an alliance of conservation and hunting associations in South Australia, comprised of the South Australian Field and Game Association, Wetlands and Wildlife, Hellenic Shooting Sports Association of South Australia, Sporting Shooters Association of Australia, South Australian Ferret Association and Working Gun Dogs Association of Australia. CHASA is supported by the International Coalition for Women in Shooting and Hunting. It further states:

The National Parks and Wildlife (Ban on Hunting Protected Animals) Amendment Bill introduced on June 3, 2009 by the Hon. Mark Parnell MLC, Australian Greens (SA):

CHASA strongly oppose the bill.

- Does not contribute to wildlife conservation
- Will eliminate the Environmental, Social and Economic benefits of hunting to the State and its regional communities
- Ignores efforts undertaken by the South Australian Government and South Australian hunters to implement sustainable hunting in the state.

It goes on to talk about conservation benefits of hunting and states:

Hunting provides incentive for ongoing involvement in environmental restoration and rehabilitation projects, research monitoring and survey programs...Hunters play a vital role in South Australia's conservation effort providing essential support for our natural resources.

It lists:

- Protection and conservation of Bool Lagoon (Ramsar-listed wetland of international importance)
- Creation of the Water Valley Wetlands complex
- Restoration of Woolenook and Loveday wetlands and the Noora Evaporation Basin
- Restoration of Banrock Station wetland (Ramsar-listed)
- Operation Bounceback [participates in] (feral animal control in the Gammon, Gawler and Flinders Ranges, and in the Riverland Biosphere Reserve)

In South Australia, politicians investigated the costs and benefits of duck hunting. Duck hunters were clearly identified as the most significant community group in the state contributing positively as perceived by all key stakeholders to 'wetland and waterbird conservation'.

It talks about the social benefits of hunting and states:

Hunting is highly valued by a large cross-section of the community.

- Promotes a healthy active lifestyle.
- Improves understanding of the natural environment.
- Builds social diversity.
- Participation is not limited by age or gender.

Hunting has significant traditional and cultural meaning which is an intrinsic part of the complex overlay of views and values held by individuals within our society.

It talks about the economic benefits of hunting and states:

Hunting generates significant financial benefits to many regional communities in South Australia. Hunters contribute substantial amounts of time and resources to pest animal control efforts and save local and state government agencies and agricultural industry millions of dollars every year. 2000 open season endorsed permits are purchased by hunters in years when duck hunting is declared. A policy which under values the benefits of hunting would be detrimental to South Australia...Partnerships such as this ensure that we get it right.

It goes on to talk about how the hunting community works with the Department for Environment and Heritage. The view that hunters are cowboys and have no conscience or do not make any effort is totally unsupported. With respect to the time and effort that you have to go through to procure a hunting licence, these days you have to sit for a water fowl identification test. People constantly have to purchase a licence and make sure that they have the landowner's written permission to participate. It is not something that is taken lightly at any stage, and I think that the rights of the hunters should be protected. So, with those few words, I indicate that the Liberal Party will not be supporting the Hon. Mark Parnell's bill.

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

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

In committee.

Clause 1.

The Hon. A. BRESSINGTON: I move:

Page 3, line 4—Delete 'Voluntary Euthanasia' and substitute:

Nominated Care Options—Voluntary Euthanasia.

The amendment standing in my name is that the name of the bill be changed from Consent to Medical Treatment and Palliative Care (Voluntary Euthanasia) Amendment Bill to Consent to Medical Treatment and Palliative Care (Nominated Care Options—Voluntary Euthanasia) Amendment Bill. I will take a very short time to explain this.

Over the past three years, I have heard negative things about voluntary euthanasia, and I was convinced that this was a procedure that could not be contained. I am still not convinced that, over a period of 25 years or less, this bill will not change, but let us look realistically at the legislation we have passed in this place. This is all legislative review and, as far as I can see, a number of slippery slopes have already occurred with the approval of the majority of members in this place, and members know very well the legislation I refer to, such as WorkCover.

I have not allowed myself to be lobbied at all on this particular issue. I have refused to meet with the pro lobby group, and I have refused to meet with the against lobby group, because at the

very onset of this the Hon. Mark Parnell made it very clear that this was going to be on the paper for a long time and that it was a conscience vote.

However, when we talk about nominated care options for voluntary euthanasia, I believe that we need to be very clear that that is exactly what voluntary euthanasia is: it is a nominated care option for the very small percentage of people who cannot be assisted by going through that process of palliative care and getting to the point of double effect.

There are some people like that. I have spent time, over the period since this bill has been on the *Notice Paper,* speaking to people who are not involved in any lobby. I have spoken to palliative care workers, and they have identified that this small group of people do exist. The dilemma for us is: what we do about that? Do we ignore the fact that they exist, or do we put legislation in place that can relieve the pain and suffering of people who cannot or do not respond to conventional medical treatments?

I have also had concerns about the double effect and how that is being proposed as the only option for people who have a terminal illness. Doctors who have spoken to me have told me that the double effect is a procedure that is above scrutiny and that there is no way of monitoring whether that is being administered, because who can be inside a doctor's head at the time of administering that ongoing pain relief of morphine? I have had doctors admit to me that sometimes that process is hastened a little over a three or four day period, because it is the kind thing to do. I was not aware until last weekend, when my sister, who has been a nurse for 40 years, identified to me that there is a code.

We can argue all we like that doctors can be trusted with the double effect, and I agree. I am not saying that the double effect should be eliminated or anything else because of this bill. I am just saying that all the arguments relating to voluntary euthanasia about the potential for abuse and the potential for a slippery slope really do exist already with the double effect, yet doctors are trusted with that procedure. As I have said, there is no accountability. Death is listed as death from the terminal illness. There is no need to record that a doctor has had any input into the pain relief of that person or even note doses or anything else. It is not referred to the Coroner; it is not questioned.

If we trust doctors enough to administer the double effect in an ethical manner, which I do, why do we believe that the introduction of voluntary euthanasia for the terminally ill will turn our doctors into Dr Jekyll and Mr Hyde and that they will all of a sudden become killing machines? It is a better option. This is about consent to voluntary euthanasia. This is about people choosing, in the terminal phase of a terminal illness, whether or not they want to prolong their suffering.

It is all very well for us to sit here in our chairs and debate the whys and wherefores of how much pain and suffering a person should endure, and it is all very right and well to leave that decision up to medical practitioners and perhaps family members, but nobody else knows what an individual is going through. Pain tolerance is a relative matter. We all know that some people have a higher tolerance of pain than others.

The other thing I would like to get clear is that survival is a basic instinct of human beings. We do not opt out of this world at the drop of a hat. There is an argument that, now that VE could be made available, we will see hundreds of people flocking to doctors asking to be put down. That is a huge decision for an individual to make, and I believe that an individual will make that decision only when enough is enough for that person. We know that the sick and dying—those who are suffering—are actually committing suicide. How dare we turn our back on that? How dare we pretend that is not happening?

How dare we say that all will be well as long as we have a double effect when we know that people are killing themselves because of intolerable suffering. We are here to do a job. We are here to revise legislation that is put before us in the here and now, and we are here to amend that legislation and to make sure that it is the strongest possible legislation we can have.

The reason for the title 'nominated care' is to make it very clear that this is nominated by the person. It is not nominated by family members, it is not nominated by the medical practitioner but by the person who is actually going through that pain and suffering themselves. Voluntary euthanasia is what it is. This is a highly emotive issue, it is a highly divisive issue, and none of us is ever going to please all the people all the time.

Let me just make it very clear: this has been my conscious decision, it has been my conscience vote. It has not been influenced by any side, left or right. I have not been promised any lurks or perks for voting on this in a certain way, and I most certainly—

The Hon. R.P. Wortley: Are you saying that we have?

The Hon. A. BRESSINGTON: No.

The Hon. R.P. Wortley: If you haven't taken a lurk or perk, does that mean that we have?

The CHAIRMAN: Order!

The Hon. A. BRESSINGTON: I am making a point of comments that have been made to me over the internet and by telephone calls from some who did not expect me to vote in this way. I am putting it on the public record. I am not accusing other members of not putting as much thought into this, and I am certainly not condemning anybody for the way they are voting on this, because it is a tough issue.

I feel it is important that everybody knows that this has been my conscience vote, and there has been no inducement, there has been no lobbying—I have not accepted any lobbying. I have, however, taken into consideration the numerous emails that I have received about the concerns for this, and hence my amendments to try to make it easier for people to bear.

I know that those against will not be swayed by these amendments, and that is fine, but I have done my best as a legislator to put in place a solid piece of legislation. That is my contribution on this. This one amendment—amendment 1, Bressington 2—is not one of those amendments that is referred to as part of the package whereby, if the amendments failed, I would vote this bill down. This was a late amendment that I put up to clarify in the title what the bill actually stands for. I will leave it at that.

The Hon. S.G. WADE: The Hon. Ann Bressington in her comments repeatedly focused on that aspect of the active request, which is clause 19(1)(a) and which provides:

> an adult...who is in the terminal phase of a terminal illness.

I think it would be fair to say that in the general community that is what people are talking about when they answer surveys about voluntary euthanasia. I acknowledge that the vast majority of the community, who consistently respond to public opinion polls, would allow that. But I think it would be wrong for this committee to see this bill in that context. It does not stop there. Clause 19(1)(b) provides that euthanasia is also available to:

> an adult...who has an illness, injury or other medical condition that—
>
> (ii) irreversibly impairs the person's quality of life so that life has become intolerable to that person.

That is not the terminal phase of a terminal illness. As I said in my second reading contribution, almost all people with a disability in Australia would fall into that category of clause 19(1)(b)(ii). I think that if you ask the average Australian, do you believe that people with a disability should have the right on demand to receive assisted suicide, they would say no.

The Hon. A. BRESSINGTON: I would just like to respond to that. I wonder how the Hon. Stephen Wade can then explain the fact that there was a representative of Dignity for the Disabled at the rally out the front of this building. We all know that Dr Paul Collier is a highly intelligent, able person. His issue with that was, 'How dare anyone make an assumption on behalf of disabled people; you are not in our skin, and you are not in our position. If we decide that life has become intolerable then we have a right, just like everyone else.'

Now let us just stop and think about this. This requires psychiatric assessment. I do not believe that any psychiatrist or any VE board worth their salt would grant voluntary euthanasia to a person who has just been in an accident and has not had the time. Other parts of this bill provide that where there is no hope of medical treatment, where all possible medical treatments have been pursued—

The Hon. S.G. Wade interjecting:

The Hon. A. BRESSINGTON: Listen!

The Hon. S.G. Wade interjecting:

The Hon. A. BRESSINGTON: If the Hon. Stephen Wade has such little faith in psychiatrists and other medical professionals, and in the VE board itself, making a judgment on this, on an individual's right to choose that life is intolerable after a period of time, then, as I said, it would not matter what amendments, what safeguards were put in place, because they would not please him.

The CHAIRMAN: Just before we continue, we should establish some ground rules, because there are 53 clauses to this bill and a number of amendments. I will not tolerate it being debated in committee. There are amendments, and honourable members can ask questions on the amendments and on the clauses, but I will not tolerate people repeating their position—everyone has had a chance to make a second reading contribution—and then someone else getting up and arguing with that position. We have gone through that.

It will be a long night. I address both sides on this. I want to be as fair as I possibly can in this debate, so I will be tough on both sides. I think that if we stick to the rules of the committee and ask questions on the clauses, and question the mover of any amendments, we will get along just fine.

The Hon. B.V. FINNIGAN: I do not wish to revisit the second reading debate, but I would like to respond to something the Hon. Mr Parnell said in relation to my criticisms of the provisions of the bill. He said that I do not want the bill to work and so, I suppose, my criticisms should be taken with a grain of salt.

It is true that I will oppose the third reading, and I have not suggested otherwise, but it has been my understanding that one should approach legislation on a conscience issue on the basis that it would succeed, and you should therefore do your best to try to make it a good piece of legislation, even if you ultimately oppose it. I certainly do not think that means that I or anyone else who opposes the bill should sit out the committee stage.

Having said that, a number of amendments were filed a couple of weeks ago by the Hon. Mr Parnell, and we have had a large number of amendments filed today by the Hon. Ms Bressington. I commend her for the thought she has obviously put into the matter and on the safeguards she thinks are necessary but, given that a lot of us have not had an opportunity to study them in detail, I make the point that—speaking for myself—whatever contribution I make on amendments this evening and how I vote should not be taken to necessarily represent how I might approach the bill in the future should I be here next year—God and the people of South Australia willing.

I think a lot of honourable members would be in that position, because we all know that it is extremely likely that, even if this bill does pass, it will need to be reintroduced in the next parliament. I place on the record that, from my point of view, I do not see my position on any amendments as setting a precedent as to how I would vote in future, should I have the good fortune to serve.

The Hon. R.D. LAWSON: I briefly state my opposition to the honourable member's amendment No.1, which is to alter the title of this bill by deleting the words 'voluntary euthanasia' and inserting 'nominated care options—voluntary euthanasia'. I believe the title of legislation is important and that it should reflect the contents of the legislation. I think for the first time in my period in this parliament the Labor government has been putting titles to bills, some of which the Legislative Council has rejected and amended, which are designed to send a particular political message or to put some spin on a measure. For example, there was the Children's Protection (Keeping Them Safe) Amendment Bill which the Legislative Council, with the support of the Hon. Ann Bressington, quite rightly rejected. We call a spade a spade; we are not going to allow legislation to carry a title which is not truly reflective of its contents. I believe that the insertion of the words 'nominated care options' would be to create, to my mind, something of a spin on what this legislation actually contains.

To describe voluntary euthanasia as a care option, I think is truly remarkable. Voluntary euthanasia is not about caring for one's life. Care is to preserve life. Voluntary euthanasia is about a nominated termination of life. I simply do not believe that it is appropriate to have this legislation dressed up as providing a care option. It does not provide a care option: it provides an option for termination of life.

The Hon. M. PARNELL: I support the amendment and I thank the Hon. Ann Bressington for putting it forward. While this is her amendment, the reason I support it is that it adds emphasis to what it is we are talking about today which is voluntary euthanasia. I have made the point before

that the V-word (voluntary) is the one most missing in all of the contributions that have been made by those who have opposed this legislation. The whole reason for putting these voluntary euthanasia provisions within the Consent to Medical Treatment and Palliative Care Bill is to make that point: that this is one of a range of measures that a person can choose for themselves.

I think this amendment just makes it crystal clear that that is what we are talking about. I think it does not represent spin, but clearly it is necessary because so many people have refused to recognise this as voluntary euthanasia. It has been referred to so many times as 'euthanasia' which, as I have said before, is when you take your dog to the vet. The dog does not ask to be taken: you choose to do that as an act of kindness. 'Voluntary euthanasia' is a voluntary act of an adult individual.

The Hon. S.G. WADE: Like the Hon. Bernard Finnigan, I would like to respond very briefly to a suggestion the Hon. Mr Parnell made in his second reading speech which indicated that he misunderstood a point I tried to make in my second reading speech. My whole second reading speech was focused on how I did not want a bill that discriminates against people with disability. I would like to associate with a quote of Mr Parnell in which he said:

> We need to have a system which applies to everyone and which treats everyone with dignity and as an individual.

I agree with that and I think that, therefore, there are two options for a non-discriminatory bill that I would be willing to consider. One is where VE could only be available in the terminal phase of a terminal illness—therefore, a person with a disability without a terminal illness would not be able to access VE—or we could be looking at a bill which offered VE for anybody who has found their life intolerable. They are two non-discriminatory options. This bill is not that: it says that, if you do not have a disability, you can only have a terminal phase of a terminal illness and, if you have a disability, you can have it on demand. I believe this bill is discriminatory and should be opposed.

The Hon. B.V. FINNIGAN: I rise briefly to say that I oppose this amendment. Like the Hon. Mr Lawson, I think it is extraordinary that we would use the term 'care option' to describe voluntary euthanasia because it would precisely be that there would be no further medical care of a person who was euthanased voluntarily.

I think it is a bit of a furphy that the Hon. Mr Parnell has referred to a couple of times, that there is some sort of Orwellian attempt by opponents of voluntary euthanasia—active voluntary euthanasia as opposed to physician-assisted suicide—to refer to it as euthanasia in some sort of way. We all know what we are talking about but I and others have expressed concern that with voluntary euthanasia will come, inevitably, some involuntary euthanasia, and I think that is a point worth making.

Where does this end? We could put 20 words in the title to try to say what it is we are saying. I admire the Hon. Mr Parnell's front in supporting the amendment because, of course, he wants to ensure that the suite of amendments gets up. However, I think even he would recognise—

An honourable member interjecting:

The Hon. B.V. FINNIGAN: Yes, he will speak for himself but it is a rather extraordinary proposition. If I could just respond to the Hon. Ann Bressington's interjection that it is happening now, as I said—

The Hon. A. Bressington: It may be happening.

The Hon. B.V. FINNIGAN: It may be happening now. As I said in my speech, if we believe that was the case and the current potential penalty is imprisonment, why would we think that with this framework in place it would mean doctors would be more law abiding? If the Hon. Ms Bressington wants to suggest some sort of regime where the deaths of people with terminal illnesses are reported in some way to monitor how they are dying, then that is certainly something I would be happy to talk about.

If we are concerned that there is abuse going on—I am not convinced there is widespread evidence of it—surely there are other ways in which we ought to try to monitor and get a handle on that rather than go down the route of legalising active voluntary euthanasia.

The committee divided on the amendment:

AYES (8)

Bressington, A. (teller)	Darley, J.A.	Gago, G.E.
Gazzola, J.M.	Hunter, I.K.	Parnell, M.
Winderlich, D.N.	Wortley, R.P.	

NOES (13)

Brokenshire, R.L.	Dawkins, J.S.L.	Finnigan, B.V.
Holloway, P.	Hood, D.G.E.	Lawson, R.D.
Lensink, J.M.A.	Lucas, R.I. (teller)	Ridgway, D.W.
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.
Zollo, C.		

Majority of 5 for the noes.

Amendment thus negatived.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. A. BRESSINGTON: I move:

Page 4, lines 9 to 14 [clause 6, inserted paragraphs (a) and (b)]—Delete paragraphs (a) and (b) and substitute:

(i) who are in the terminal phase of a terminal illness; or

(ii) who have an illness, injury or other medical condition (not being a treatable psychiatric illness) that—

(A) results in permanent deprivation of consciousness; or

(B) irreversibly impairs the person's quality of life so that life has become intolerable to that person,

This amendment refines the present eligibility criteria by stating that a treatable psychiatric illness cannot be the basis of an application for voluntary euthanasia under clause 19(1)(b)(ii). This will be reflected in both the objects of the act and clause 19(1)(b)(ii).

I am advised that the wording of the amendment will restrict access to the mentally ill claiming intolerable suffering, while still recognising that those suffering from an intolerable physical and terminal illness may suffer a form of depression as a result of their pre-existing illness.

It is a great concern of mine that people with a mental illness, particularly young adults, may seek access to voluntary euthanasia as a means of ending their suffering. I will be very brief, but I did see a TV documentary about 18 months or two years ago about voluntary euthanasia in the Netherlands. A group of people was asked, 'What if you've got a depressed 15 year old who just can't keep going?' Their response was, 'Well, if they're sick of being here, then who are we to tell them that they should be?'

That has been a big concern of mine. It played on my mind and it has obviously been an issue for a lot of people who have been emailing. I move this amendment to deal with that, to make it very clear that this bill and access to voluntary euthanasia would not apply under those circumstances.

The Hon. D.G.E. HOOD: This amendment is a step in the right direction, I think, for the reasons outlined by the Hon. Ms Bressington, but in my view it does not go nearly far enough. The reason for that is quite clearly, as I think the Hon. Mr Wade outlined in his contribution on clause 1, that the provisions of the bill—that is, voluntary euthanasia—would be available to people who find that their life has become intolerable 'to that person'. We are not dealing only with the terminally ill in this bill. Let us be very clear about that. We are dealing with people who may not be terminally ill.

In fact, a number of cases overseas spring to mind of people who have not been terminally ill, yet have qualified for euthanasia provisions overseas. A couple I will mention quite quickly. One

of them was a gentleman by the name of Daniel James, a 23 year old rugby player from Worcester in England who was paralysed after being crushed in a rugby scrum during training. He decided that he did not want to continue to live his life in a wheelchair, and he was euthanased last year. My reading of this bill is that he would qualify under this bill. He was not terminally ill. He simply believed his life was intolerable.

I also note that, in the Netherlands in 1991, a court accepted a claim that a physician should not be convicted for administering a lethal dose to a 25 year old woman who was suffering anorexia. Again, I believe that she would qualify under this bill and, for that reason alone, it certainly will not have my support. I think the problem is that this is a very broad net to cast, indeed. As the Hon. Mr Wade said, when people think of euthanasia, they think of people who are at the absolute end stages of their life; that is, they are clearly terminally ill. We often hear the phrase 'the terminal phase of a terminal illness'. This bill is cast much broader than that.

The Hon. S.G. WADE: I have already indicated that I have a fundamental objection to discriminatory legislation, and the Hon. Ann Bressington's amendment would compound discrimination with further discrimination. Let us say I agreed with the Hon. Ann Bressington and felt that people with a disability who found their life intolerable should be able to terminate their life. Why would I then exclude those whose disability was a psychiatric one? It is discrimination on discrimination.

I agree with the Hon. Bernard Finnigan's comment that, having received these amendments only at 10 to 12 today, it has been extremely difficult to unpack them and understand them. However, in the limited research that I have been able to do, I think that excluding treatable psychiatric illness is both discriminatory and also, if you like, denies the right of medical self determination for people who have mental illness and who may be completely lucid and rational at the time they are making that decision. In that regard, I would like to quote not from a voluntary euthanasia or an anti-euthanasia document but from a document from an organisation that focuses on suicide prevention. Let us remember that euthanasia is often referred to as assisted suicide. It states:

> Estimates of the percentage of people who suicide that is related to mental illness vary considerably from study to study ranging from 30 per cent to 90 per cent of all suicides.

This is the 19(1)(b)(ii) category. These are the people who are finding their life intolerable and who are actively, at this stage, pursuing a suicide without assistance. Later in the same document it states:

> While mental illness is linked to suicide, this does not mean that everyone who takes their own life is mentally ill or is emotionally or intellectually disturbed when they make that decision.

I think that is a fundamental point. The Hon. Ann Bressington's position apparently is that she supports the right of people to make decisions about whether or not they can tolerate their life, except for people with a psychiatric disability. The document goes on to say:

> For some suicide may be an impulsive and irrational act but for others it may be a carefully considered decision, particularly where the person believes that his or her death will benefit others.

As I said, I cannot support discriminatory legislation. I certainly cannot support doubly discriminatory legislation.

The Hon. M. PARNELL: I support this amendment, and I note that the Hon. Dennis Hood acknowledges that it is an improvement. In fact, it falls into that category of all the amendments—that is, the ones I have moved and the ones that the Hon. Ann Bressington has moved—which have resulted from discussions with people about concerns that they had that could be alleviated by improvements through the wording of the bill. The important thing to note with this is that the inclusion of the words 'not being a treatable psychiatric illness' is designed to ensure that the intolerable suffering of a person is in fact the result of some illness, injury or condition other than a treatable psychiatric illness. If it is the treatable psychiatric illness that means that someone's life is intolerable, you fix the psychiatric illness; you treat it. As the Hon. Ann Bressington pointed out, it is not designed to exclude someone who might have some terrible disease that causes them suffering they cannot put up with and they might be depressed as well.

Well, if you can cure their depression and they still find the suffering intolerable, they qualify. I do not understand at all that this is some form of double discrimination: it is basically a form of protection to make sure that people we can help through the medical system are helped. It is only those who see no help that would be entitled to apply for voluntary euthanasia.

The Hon. B.V. FINNIGAN: We are now looking at the wording of this clause, which refers to the objects of the act rather than that which deals with active requests. Perhaps the honourable mover could offer some guidance if he does not want this to be the test provision as we do seem now to be debating it. I share the concerns raised by other members, as I indicated in my second reading contribution, about paragraph (ii) of this amendment to clause 6 in relation to conditions which irreversibly impair the person's quality of life so that life has become intolerable.

Indeed, that could apply to paraplegics or people suffering from shingles in their later years, which can be incredibly painful, or whatever. I think it would be very unfortunate if they were considered the sorts of conditions that could be considered eligible for voluntary euthanasia. I would like to raise a couple of questions with the mover. Is there any definition of 'terminal phase of a terminal illness'? How is that assessed? Is there some point? I know that some jurisdictions refer to a prognosis of six months to live. How does the honourable member see that being defined or working? I could not see a definition of it.

I have a question of the Hon. Ms Bressington in relation to her amendment. In relation to a treatable psychiatric illness, who will make that judgment? It appears from my reading of the bill, including all the amendments (and correct me if I am wrong), that if the Hon. Mr Parnell's amendment is accepted you would need potentially to go to the same specialist twice to get him or her to sign off on your request for active voluntary euthanasia. You would not be required to see a psychiatrist, as such. I am interested in who makes that assessment. If you have cancer and you go to your oncologist to request voluntary euthanasia, and you do that twice in accordance with the provisions of the bill, is he or she the person who makes a judgment about whether or not you have a treatable illness. I am sorry; that would apply in other medical conditions. So, it would not be an oncologist, assuming that the cancer was terminal.

Anyway, let us say that you are going to your specialist or treating physician in relation to whatever condition it is that irreversibly impairs your quality of life. Is that the person who makes a judgment about whether or not you can be considered to have a treatable psychiatric illness? What happens—and the Hon. Mr Parnell touched on this possibility—if someone has led a very active life and they become paraplegic or quadriplegic? They may well then be suffering depression or anxiety of an advanced kind. How do you distinguish? Is it their condition of disability that irreversibly impairs their quality of life? How do you separate that out from the psychiatric illness which may be as a result of such a sharp change in their life circumstance?

The CHAIRMAN: Does the Hon. Mr Parnell intend to answer the questions?

The Hon. M. PARNELL: I will answer on behalf of the Hon. Ann Bressington. The honourable member asked questions of both of us. There were quite a few questions there and I will do my best. In this bill there is no definition of 'terminal phase of a terminal illness'. The honourable member knows that the bulk of this bill is the insertion of a new part into the Consent to Medical Treatment and Palliative Care Act 1995, which contains two definitions: the definition of 'terminal illness' and the definition of 'terminal phase of a terminal illness'.

A terminal illness means an illness or condition that is likely to result in death, and the terminal phase of a terminal illness means the phase of the illness reached when there is no real prospect of recovery or remission of symptoms on either a permanent or temporary basis. So that is where those definitions lie.

The other questions that the honourable member asked were a mixture of both medical, if you like, and personal—medical in terms of who is to say what is the medical condition or the treatable psychiatric illness and who makes that assessment; and then you have the other part of the definition which talks about suffering becoming intolerable. Clearly, the second part, the intolerable suffering, is to that person. That is their judgment. That is not the doctor's judgment: that is their own judgment. But, in terms of the rest of the honourable member's question—the illness, the injury, the medical condition, the treatable psychiatric illness—as you work through the flow chart of how the bill would work, you have the treating doctor, the specialist and referral to the psychiatrist, if that is required. You also have all the paper work lodged with the voluntary euthanasia board, so there is another doctor: there is a palliative care expert.

I think that any of those people who see any issue or difficulty or hear alarm bells ringing have an obligation under this bill to make appropriate inquiries, particularly in relation to things such as duress where, if you take the examples that people have used before of very slight injury and the person just insists that their suffering is intolerable, that is certainly going to trigger further inquiries about why it is that the person is lodging an application for voluntary euthanasia. So, the

answer to the honourable member's question is that all those professionals involved in the process have some role in determining that the person is eligible under section 19.

The Hon. S.G. WADE: I would like the Hon. Mr Parnell to continue his illustration. He mentioned that, if someone had a minor condition and they went through the process, the board would look to see whether there was duress. If the board found there was no duress and they still met the criteria under 19(1)(b) because they had a medical condition that they found intolerable, even if that medical condition is minor, can the Hon. Mr Parnell show me where in the bill they would become ineligible because of a judgment other than their own subjective judgment—and I refer to section 19(1)(b)(ii)?

The Hon. M. PARNELL: I think the reality of what the honourable member is saying is that in those what you would call extreme cases, where a person is seeking to bring themselves within the operation of the bill and they look at all the criteria and find that they do not apply, the answer is that, if their state of mind is such that they want to end their life, they will probably just end it themselves, anyway. They are not going to persevere with the paperwork and wait until they have gone through the whole process of the doctors, the psychiatrists, the specialists and the board. I am not sure what else the honourable—

The Hon. R.D. Lawson: And the Statutory Authorities Review Committee.

The Hon. M. PARNELL: The Hon. Rob Lawson says 'and the Statutory Authorities Review Committee' as well. I think old age is the greatest threat to that person rather than any condition that they are facing. Basically, this bill is about putting in the safeguards and the checks and balances so that those who are most deserving of our compassion will obtain it.

I understand, and I always knew, that a big part of the debate over this bill would be from people who only want it to apply to that proportion of the population who are in the terminal phase of a terminal illness, full stop. But we know from the evidence that there are people suffering from terrible conditions that, in fact, do make their life intolerable to them. It is not about to kill them any time soon in terms of weeks or months, but they still find that there is no cure and there is no alleviation of the pain. They have been through this whole process with doctors. They have had their diagnosis, they have had their prognosis and they have had all the options explained to them. They have explored all the latest options for palliative care. When all those things fail, yes, they become eligible under this bill.

I guess the desire of members—and I appreciate it is an honestly held desire—to have this law apply to as few people as possible is a reasonable position to take. I want it to apply to those who genuinely need it.

The Hon. DAVID WINDERLICH: I will be supporting the amendment. As has been previously expressed by the Hon. Mark Parnell, the inclusion of 'treatable psychiatric illness' simply does focus on eliminating those who can be treated from consideration for voluntary euthanasia—and that makes sense.

The other key point is that this eligibility criteria is only the start of the process. After that safeguards come into play. In particular, clause 19(3)(c) provides:

> if the medical practitioner suspects that—
>
> (i) the person intending to make the request is not of sound mind; or
>
> (ii) the decision-making ability of the person is adversely affected by the person's state of mind,
>
> then before making the request, the person must obtain a certificate from a psychiatrist...

If someone came with a minor condition that would not meet a normal understanding of what constitutes suffering, it would be a trigger for psychiatric assessment, so that safeguard is built into it, as well.

The Hon. B.V. FINNIGAN: I think the Hons Mr Parnell and Mr Winderlich highlight the weakness of the second part of the definitions provision.

The CHAIRMAN: The Hon. Mr Finnigan is debating it.

The Hon. B.V. FINNIGAN: In response to my question about who is to determine it, the Hon. Mr Parnell said that it is not for the doctor but, rather, the person because life has become intolerable to that person, so it is the person seeking the euthanasia who makes the decision, not the doctor.

Yet the Hons Mr Parnell and Mr Winderlich said that all these medical opinions and the approval of the board need to be obtained before euthanasia can take place. If it is not a sufficient reason why they want to access voluntary euthanasia they will not be able to do so. It seems to me to be entirely contradictory to say that it is up to them to judge whether their life has become intolerable but all these others can stop them.

I do not think the 'treatable psychiatric illness' issue has been addressed sufficiently. The Hon. Mark Parnell seems to be suggesting that people have to see two doctors, but it is my understanding that they can see the same doctor or specialist twice, if the amendment is carried. The Hon. Mr Parnell seems to be suggesting that they have to see two medical professionals, but that is not my understanding of the bill. Perhaps the honourable member could clarify that.

While a medical practitioner can refer someone to a psychiatrist, there is no obligation on them to do that. It could be a specialist with almost no knowledge, apart from what they have learnt as a trained doctor. Obviously, they have done a—

The Hon. J.M.A. Lensink: Which is significant.

The Hon. B.V. FINNIGAN: They have a medical degree and they have an understanding of mental illness. I am not suggesting they know nothing; they certainly know a lot more about it than I. They are not a psychiatric specialist, so there is nothing to stop them making the judgment, ultimately, that a person is of sound mind. They can refer the person to a psychiatrist, but they are not obliged to do that if it is their medical opinion that the person in question is of sound mind. I wonder whether the Hon. Mr Parnell could clarify the procedure. It is my understanding you could see the same doctor or the same specialist twice rather than having to see two different ones.

The CHAIRMAN: I remind members that there might be 22 consciences in here, all with a different opinion on the bill, and the various amendments, etc. I am not going to tolerate debating. You had your chance in the second reading debate and you had your chance on clause 1. We will stick to the amendments and stick to questions on the amendments and the clauses so we can get through this bill and allow the 22 consciences to exercise a vote.

The Hon. M. PARNELL: Thank you, Mr Chairman. The number of doctors involved will vary according to the circumstances of the individual person. The type of situation we were discussing was the person about whom you would think, 'They can't possibly fit within the definition of a person entitled to apply.' I am saying that for people in that category there will be a lot more doctors having a look at their situation. For example, there is the first doctor that they go to. If they have some condition that is not normally associated with an application for voluntary euthanasia there will probably be the specialist, and that is my amendment that we will get to later.

If it is a condition that would not normally give rise to suffering that is unbearable there is the option for the psychiatric assessment and, in fact, I think that is pretty well assured in those circumstances. If a person has a minor condition that would not normally have them regarded as an applicant then there is a psychiatrist involved. Then I mentioned all the other medical professionals that are involved as well, including on the voluntary euthanasia board, and they will ask the same questions. So, there are a number of doctors involved.

However, the point for me is not ticking the boxes, and the more doctors the better. We could have built into this bill, 'You have to see five doctors; you have to get 10 second opinions.' We could have done all sorts of things that would just add hurdles to a person's exercising their right. However, the safeguards that were built into this bill are that the people who are the most deserving cases, the clearest cases—and if we take for example the terminal phase of a terminal illness, in most cases, it is likely to be their treating doctor. It can be that same doctor they go to twice if they also happen to be a specialist in that field, and if there is no question or issue around their psychiatric condition then there might not be a psychiatrist.

I do not think that that devalues this bill, simply because they so clearly comply with a person eligible under section 19 that they do not need all those other doctors to assess it. In any case, there is still the palliative care; the other doctor on the voluntary euthanasia board.

The Hon. R.D. LAWSON: I indicate that I will not be supporting this amendment. The Hon. Dennis Hood suggested that the insertion of the words 'not being a treatable psychiatric illness' improves the clause. I do not believe that it does improve it. I think it creates uncertainty.

These objects, which are then brought forward in a later provision in the bill covered by the mover's amendment No. 3, create two classes of persons entitled to euthanasia. One is those who are in the terminal phase of a terminal illness and the other is those who have an illness or other

medical condition that becomes intolerable; roughly speaking, two classes. What the mover proposes to do is to insert into one of those clauses the words 'not being a treatable psychiatric illness'—so, to bar one of those classes from being eligible for voluntary euthanasia.

However, the very insertion in one class of a disqualifying condition means that, by inference—and very strong inference—that excluding provision does not apply to the previous. So, a person who is in the terminal phase of a terminal illness, not being a treatable psychiatric illness, would be eligible, and I believe that creates uncertainty. I also believe the expression 'treatable psychiatric illness' is one of indefinite meaning. It is interesting to see that the Hon. Mark Parnell when he was describing this was talking about psychiatric conditions. We usually do talk about psychiatric conditions, because some psychiatric conditions might be classified as illnesses and others not, and there is a whole range of conditions that might or might not amount to illness. I believe there is also uncertainty in that expression 'treatable psychiatric illness'.

There might be some psychiatrists who say that every psychiatric condition is treatable by some pill or other. There will be others who might say, 'You can take the pills and the potions and the lotions and have the therapy but, ultimately, it will not make any difference to the psychiatric condition.' For those reasons, I will not be supporting this amendment.

The Hon. B.V. FINNIGAN: I have to concur with the Hon. Mr Lawson. While I appreciate that the Hon. Ms Bressington is trying to ensure that people who are suffering from severe depression or some psychiatric condition are not able to access voluntary euthanasia on that basis alone, I think this amendment makes the clause worse. So, I will be opposing it.

I think the Hon. Mr Lawson just made a very good point. The phrase 'treatable psychiatric illness' could mean anything in the Diagnostic and Statistical Manual, fourth or fifth edition, or whatever it is up to. A whole range of things can be considered to fall into that category. I do not think anyone seriously addressed the issue I raised at the beginning of the debate on this amendment; that is, if you are suffering from a treatable psychiatric illness because of whatever condition that has led to your life being intolerable, how do you sort out that problem?

On the question of paragraph (ii), generally, the mover said that it is up to the person seeking voluntary euthanasia to decide whether life has become intolerable for them. To say that various doctors along the way somewhere can intervene I think places a large burden on them to make an assessment, when the mover has indicated that it is up to the person making the active request to make the judgment as to whether life has become intolerable for them.

The Hon. D.G.E. HOOD: For the sake of clarity, I ask the Hon. Mr Parnell to respond to this scenario. My understanding is that it is possible that the minimum number of doctors a person would see in order to qualify for voluntary euthanasia under this bill, if they found their situation intolerable, is one doctor. For instance, a person who is a paraplegic—that is, they have no need to see a specialist, obviously—could consult their GP and say, 'My life is intolerable. I can't live as a paraplegic any further.'

The GP would not refer them to a specialist because, obviously, it is not necessary: they are a paraplegic and there is no treatment. Some GPs would make an assessment of their mental state that they did not suffer from any particular medical condition, so there is no need for a psychiatrist; therefore, they could request euthanasia that day and be euthanased the next day. Is that correct?

The Hon. M. PARNELL: I do not think what I said before necessarily resonated, in that this is about the individuals more than about the doctors. It is the individual's choice, or their right, to make a request, and we have built that request-making process into a medical framework. The honourable member asks: how quickly could it happen, and is it true that you could see just one doctor?

The alternative is all those people who see no doctors. What they do is take their own life, and often they take it in terrible ways, to be found by their families. So, the answer to whether it could be just one doctor in terms of the direct consultation is: yes, it might just be one doctor; in other cases, it will be more doctors.

It seems to me that we are missing the point if the test for the success of a bill is a doctor count. The test is whether the person is eligible, whether they are acting voluntarily, or whether they are suffering from a treatable psychiatric illness, in which case let us treat them. I think we can get too hung up in thinking that the only good system is one that has as many doctors as possible involved because this is the person exercising their free will. We should not lose sight of the fact

that we have many people in Australia every week ending their own life, and many of them are doing so because there is no help for them in the medical profession because no-one is allowed to help them.

The CHAIRMAN: Order! I think all that has been said in the second reading contributions. We do not have to repeat that.

The Hon. D.W. RIDGWAY: I rise to indicate that I will be supporting this amendment proposed by the Hon. Ann Bressington. I draw on some advice the Hon. Caroline Schaefer gave me early in my political career: regardless of whether the same number of people vote for this bill at the third reading or against it, as did at the second reading, along the way you should look to make improvements. I think that supporting this amendment does make an improvement to the bill. As I said, drawing on the Hon. Caroline Schaefer's early advice, I think that because this improves it I will be supporting the amendment.

The Hon. J.S.L. DAWKINS: I could say ditto, but I will be supporting this because I believe that it does improve the bill.

The CHAIRMAN: That is the way I like to hear it: quick, incisive and to the amendment.

The committee divided on the amendment:

AYES (10)

Bressington, A. (teller)	Darley, J.A.	Dawkins, J.S.L.
Gazzola, J.M.	Hunter, I.K.	Lensink, J.M.A.
Parnell, M.	Ridgway, D.W.	Winderlich, D.N.
Wortley, R.P.		

NOES (11)

Brokenshire, R.L.	Finnigan, B.V.	Gago, G.E.
Holloway, P.	Hood, D.G.E.	Lawson, R.D.
Lucas, R.I. (teller)	Schaefer, C.V.	Stephens, T.J.
Wade, S.G.	Zollo, C.	

Majority of 1 for the noes.

Amendment thus negatived; clause passed.

Clauses 7 and 8 passed.

Clause 9.

The Hon. A. BRESSINGTON: I move:

Page 5, after line 15 [clause 9, inserted section 18(1)]—Insert:

> *Statutory Authorities Review Committee* means the committee of that name established under the Parliamentary Committees Act 1991;

In moving this amendment, I indicate that amendment No. 25 is consequential to this amendment. These amendments seek to actively involve the Statutory Authorities Review Committee in the oversight of the voluntary euthanasia board and, in turn, the application of voluntary euthanasia and the compliance with this act. As a statutory authority, the voluntary euthanasia board will fall under the purview of the Statutory Authorities Review Committee. This is appropriate, and I am confident that SARC will conduct its inquiries into this legislation in a forensic and impartial manner to ensure that voluntary euthanasia remains an active inquiry of SARC, and, in doing so, provide constituents with a consistently active forum to report any concerns or abuses to that board.

My amendments require SARC to conduct a biannual review of the act and any associated regulations. This is intended to provide a healthy level of scrutiny and, given that each inquiry is to have a specific focus upon compliance with the act, it will provide this parliament with a continually updated report on the application of voluntary euthanasia and issues that may arise.

Additionally, SARC will be given the power to direct the voluntary euthanasia board to inquire into any matter that SARC thinks fit, which complements a subsequent amendment of mine,

to the investigative powers of the voluntary euthanasia board. A report of SARC will be required to be provided to the minister as well as the parliament, and the minister will in turn have a maximum of 28 days to respond to the parliament with details of which recommendations will be implemented and the reasoning underpinning those that will not.

Much of this mirrors conventional practice, except for the 28-day period in which the minister must respond, which would otherwise be four months. However, while all acts are deserving of scrutiny and most reports deserving of implementation, I can think of no other that demands the attention of the minister in this parliament like this legislation. To prevent abuses, all levels of oversight will need to be vigilant, and when an issue is identified we need to be responsive.

The Hon. P. HOLLOWAY: I suggest that this be made a test clause for the later amendments that relate to the role of the Statutory Authorities Review Committee. That would at least save the time of the committee. I wish to oppose this clause, because I really think it is one of the more absurd amendments that has been moved in a committee.

The Statutory Authorities Review Committee has been in operation now for some years, and it has a particular role and function. I have never been a member of the committee, but I am sure there are those who have. One would be well aware that one of the things you would not expect the Statutory Authorities Review Committee to do is to basically examine individual cases of requests for euthanasia.

Really, if one looks at the subsequent clause—new clause 52A, the function of the Statutory Authorities Review Committee—if this packet of amendments is carried, it would be getting down to a situation where this parliamentary committee may refer a matter, in relation to a particular request, or a particular class of requests, for voluntary euthanasia to the board for inquiry under section 38. The clause then overrides the Parliamentary Committees Act in relation to directing the minister and gives the minister 28 days to respond.

As if that is not bad enough, it should be remembered that the Statutory Authorities Review Committee is a committee of the Legislative Council only. When we have had reports in the past on voluntary euthanasia they have come through the Social Development Committee, which, of course, represents both houses of parliament. I would have thought that, if you were to have a role for a parliamentary committee in looking at this legislation, that would be the obvious committee to do it. In any case, I am not sure that you would get any parliamentary committee down to the detail of looking at individual requests. Certainly, I would have thought that it would be the appropriate committee to look at it.

The fact is that it is a committee of both houses of parliament. I suppose in a way, if you wanted to sink this bill, this is the clause guaranteed to do it. I am sure that members of the House of Assembly, if they ever get to debate this bill—and we know they will not anyway because there will not be time to do it in this parliamentary session—would not permit the supervisory function to be done by a committee of the Legislative Council only.

If one thinks through what that might mean in terms of membership of the committee and the like, it really is a completely unworkable proposition. As I said, I suppose if you wanted to sink the bill this is guaranteed to do it. However, I certainly will not support this clause because I believe it is an absurd proposition that a committee of this parliament, established to look at statutory authorities, should be given the incredibly detailed task of getting down to almost individual requests for voluntary euthanasia.

One could say much more about the absurdity of the proposition but, given the hour, I will not take up any more time of the committee. As I said, this really should be a test clause for later amendments.

The Hon. R.I. LUCAS: I agree with the position put by the leader that this ought to be a test clause.

The Hon. B.V. Finnigan: Stop the presses!

The Hon. R.I. LUCAS: Well, that is untrue. The Hon. Mr Holloway and I have agreed on many things over the years; it is just that we tend to be quite vigorous on the things on which we disagree. However, on this occasion I think it is sensible that it be treated as a test clause; it is a critical part of the package of amendments being moved by the Hon. Ms Bressington in relation to the legislation (there are other critical parts as well).

I have to say that in my experience in parliament this is one of the more bizarre and outrageous amendments I have seen—and I have seen a fair few over my years—to a critical piece of legislation. I think that to actually involve the Statutory Authorities Review Committee—

The Hon. A. Bressington interjecting:

The Hon. R.I. LUCAS: No; I understand that it is a statutory authority, but to actually involve the Statutory Authorities Review Committee, or indeed any parliamentary committee, in the sort of detailed package of amendments being suggested here would, I think, appal even some of the supporters of the legislation. They would be appalled at the prospect of people such as myself, the Hon. Ms Zollo and the Hon. Mr Finnigan—because I suspect that, if the legislation passed, the Hon. Mr Hunter would be off the committee in a flash and the Hon. Mr Finnigan would be on it again pretty quickly—with the views that we hold in relation to voluntary euthanasia, controlling what is in effect a de facto appeal court. It is like, and I use the term, 'stay of euthanasia' appeal provisions being given to a group of members of parliament.

Put aside the argument of whether it is a Legislative Council or joint house committee; frankly, my view is any parliamentary committee. This package of amendments is saying, when we get to 52A, that the committee may refer a matter in relation to a particular request for voluntary euthanasia to the board for inquiry under clause 38B. This is a particular case, so if there is a particular case being considered by the board in relation to an application for voluntary euthanasia, and someone complains about that particular issue, the Statutory Authorities Review Committee can get involved in that specific case if it chooses. Clause 38B provides:

> The Board must inquire into the following matters:
>
> (a) a report received by the Board under section 38A;
>
> Note—
>
> The Board must also postpone the administration of voluntary euthanasia if a report is made to the Board—see section 38C(2).
>
> (b) a matter referred to the Board for inquiry by the Statutory Authorities Review Committee.

When you look at 38C(2), relating to orders of the board, without going through all the detail, it provides:

> If the Board receives a report under section 38A, the Board—
>
> (a) must, before inquiring into the matter, make an order postponing the administration of voluntary euthanasia pursuant to the relevant request…

That is the point the Hon. Mr Holloway was making; in relation to an individual case for voluntary euthanasia, we will involve the Statutory Authorities Review Committee.

As I said, I suspect that some of my friends who are supporting this legislation would be appalled at the prospect that I, Rob Lucas, would be placed in the position of making a judgment that may influence a decision in relation to the voluntary euthanasia board. Whether it is me or anyone else in this chamber, whatever their views are on the legislation, I think it is a bizarre prospect to have the Statutory Authorities Review Committee getting involved in a range of activities, but in particular in relation to particular requests for voluntary euthanasia. There are other provisions in the bill and the amendments which refer to the fact that a person who believes that someone who has made a request for voluntary euthanasia may have been acting under duress or inducement can report that belief to the board. So, you might have somebody who is complaining that voluntary euthanasia may well be as a result of duress or inducement, but that is part of the Hon. Ms Bressington's amendments and it is also part of the package that we are considering.

If someone raises the issue of a particular case with the Statutory Authorities Review Committee—and the Hon. Ms Zollo is the current chair—what is the committee to do? Do we say, 'Sorry, our next scheduled meeting is in two weeks? We will consider it in due course.' What if you do not have a quorum for a meeting? Members of parliament would be placed in an invidious position where, if there is something obviously critical in relation to a particular decision and someone is raising a particular set of issues and concerns, and if the members of parliament on the committee were to say that they cannot meet until Monday or for two weeks or that they cannot get a quorum, one could imagine the publicity in the media in relation to the people who are raising the particular case saying that members of parliament are not prepared to cut into their holidays or their weekend or stop what else they are doing to have an urgent meeting of the Statutory Authorities Review Committee in relation to whatever the matter is that has been raised.

There is a variety of other reasons that the Hon. Mr Holloway has hinted at or referred to in his contribution as well. I can concur with those. I do not concur with the suggestion that it ought to go to the Social Development Committee. I am not sure that he is actually suggesting that, either. This is a critical part of the package of amendments that is being proposed by the Hon. Ms Bressington. As I said, I trenchantly oppose this provision as part of the package of provisions that is being suggested.

I guess my final comment in relation to the issues is a comment to the Hon. Mr Parnell, and that is this. The bill as you introduced it was a bill that you genuinely believed in and all I can see in this package of amendments is potentially your agreeing—and I will let you speak for yourself—to something to try to get the legislation through. I think you ought to stay true to the principles that you introduced to the council in the legislation and, as I said, people would be appalled at the prospect of having me, the Hon. Ms Zollo and potentially the Hons Mr Finnigan and Mr Brokenshire sitting in positions of decision-making as would be envisaged as part of this package of amendments.

The Hon. B.V. FINNIGAN: Perhaps I could ask a question of the honourable mover of this amendment. We have not had these amendments long but my reading is that, as the Hon. Mr Lucas has indicated, basically the Statutory Authorities Review Committee would essentially be able to instruct the board to hold somebody's active request. If someone had a complaint with the way the voluntary euthanasia board was acting, they could complain to the Statutory Authorities Review Committee, which would ask the board to review it.

The Hon. A. Bressington interjecting:

The Hon. B.V. FINNIGAN: It sounds to me as if the board would be reviewing its own decisions on the instructions of the committee. Can you clarify those two points?

The Hon. A. BRESSINGTON: This is obviously an example of why ministers have parliamentary counsel sitting beside them to clarify pieces of legislation. The point of this amendment was not for the SARC to make decisions on active requests at all. That is what the board is there to do.

The board is there to go over and make sure all the procedures are followed, all the boxes are ticked, that there is no duress being placed on the person, and that psychiatric evaluations have been done—that is the board's responsibility. It does not come anywhere near what the responsibility of the SARC is under this amendment.

The SARC is there to review statutory authorities. The VE board is a statutory authority. Now, I might be crazy but for the past two years the SARC has been reviewing the conduct of WorkCover, of the Housing Trust, of the Office of the Public Trustee—all on their conduct and all based on complaints from constituents about how they are operating and how they are upholding the legislation. This is no different. It is just ensuring that, when a complaint is made about the fact that procedure may not have been followed and people are not getting anywhere with the VE board, they have a road to the SARC to call for that inquiry.

This was one of my main concerns about how the system works—departments investigating departments. This was a way of ensuring that people who had a complaint that the process had not been applied and followed, had a road to politicians' ears to say, 'Guess what? This isn't being carried out properly. My mother was euthanased against her will, my brother forced her, and the VE board has not responded to my concerns.'

Then the SARC can call the VE board in—as we do with WorkCover and every other statutory authority. This was a safety mechanism. I do not agree that this particular amendment should be made a test case for the others because the absolute interpretation of this amendment has been twisted and turned. I am sure, on the request of the draftsman, that I made very clear the intention of the SARC and that he would not be drafting it exactly opposite and have it as a useless amendment in order to get this bill thrown off the table. My wishes to the draftsman were very clear and he did not see a problem with them.

We take our advice from legal draftsmen, as we are supposed to, or we give them advice about what we want and they draft it. He was very clear and double-checked on what the intention was. I say that this is a deliberate attempt by some people in this place to absolutely misrepresent the intention of this amendment. Again, I say thank God for parliamentary counsel.

The CHAIRMAN: And thank God for consciences, because they see things in all different lights.

The Hon. CARMEL ZOLLO: I think the Hon. Ann Bressington has clearly attributed to those members who have already spoken in relation to the SARC, something which they certainly have not said. Even from what the Hon. Ann Bressington has just placed on the record, it would appear to me that she would foresee the role of SARC to be looking at things on a case-by-case basis—individual cases. Clearly, that is not SARC's purview, and I have to place that on the record.

The Hon. A. Bressington: To look into the conduct of the board?

The Hon. CARMEL ZOLLO: On a case-by-case basis that is not really our role, the Hon. Ann Bressington. I really do think this would be totally unworkable.

The Hon. B.V. FINNIGAN: I do not wish to frustrate members or prolong the committee but this is a pretty important matter and I think we are entitled to debate it.

The CHAIRMAN: Those other consciences have been sitting pretty quietly. They have already made up their mind, I take it, as to what they are going to do with it. Those who have already spoken have clearly made up theirs.

The Hon. B.V. FINNIGAN: The only contribution I made was to ask a couple of questions of the mover.

The CHAIRMAN: And indicate you would not be supporting it.

The Hon. B.V. FINNIGAN: I asked a couple of questions of the mover. The mover has indicated that indeed the SARC would be looking at individual cases. Under her amendment No. 25, the committee may refer a matter in relation to a request or a particular class of requests for voluntary euthanasia to the board. Also, proposed new subsection (1) is very broad as to what it can inquire into. I understand what she is trying to achieve here, and I am not doubting her understanding of the clause, but—

The Hon. A. Bressington: But you would draft it better than a draftsman, would you?

The CHAIRMAN: Order!

The Hon. B.V. FINNIGAN: The clear reading of proposed new subsections (1) and (2) of amendment No. 25 would allow SARC to look at individual cases.

The Hon. A. Bressington: As you interpret it.

The Hon. B.V. FINNIGAN: It is pretty clear to me.

The CHAIRMAN: If you already understand it, there is no necessity to ask the mover a question.

The Hon. B.V. FINNIGAN: I think it is fair that I give the mover a chance to respond to my concerns. I will oppose this clause because it is clear to me that it would mean SARC having a role in looking over individual cases, and I think that would be a very invidious position to put honourable members in. I understand what the mover is trying to accomplish. I think there might well be some role for a parliamentary committee in relation to overseeing voluntary euthanasia in the sense of how it operates or in the way that parliamentary committees oversight certain things.

However, the notion that a parliamentary committee composed of honourable members of this council would be scrutinising individual cases of voluntary euthanasia to see whether they were correctly carried out or, indeed, to potentially stop them being carried out (if somebody were very quick off the mark in asking for review of a board decision), I just cannot support that as a notion that would be appropriate for a committee of this parliament.

The CHAIRMAN: My conscience says that, if a parliamentary committee is looking at it, I would be a long time dead waiting for them.

The Hon. R.D. LAWSON: I am generally in favour of parliamentary committees and other parliamentary mechanisms having oversight of the operation of policy and the implementation of policy, and I began by thinking that this perhaps was a case where parliamentary counsel had not recorded in the draft what the mover intended.

However, by way of explanation, she said that, for example, the issue, 'My mother has been euthanased without her consent,' was the sort of question that could be referred by the committee to the board. If you allow the committee to become involved in the question, 'My mother has been euthanased without her consent, and the board has not allowed it,' you also become involved in the question, 'I want to be euthanased, but the board won't allow it and therefore I want

you, SARC, to intervene on my behalf with the board and say that I should be euthanased as I wish to be, but the board is frustrating me.'

So, I believe that the draftsman has correctly reflected what the member intended, and what the words actually say is that SARC will have an involvement in individual cases and, for reasons given by others, I think that is undesirable.

The committee divided on the amendment:

AYES (7)

Bressington, A. (teller)	Darley, J.A.	Gago, G.E.
Gazzola, J.M.	Hunter, I.K.	Parnell, M.
Winderlich, D.N.		

NOES (14)

Brokenshire, R.L.	Dawkins, J.S.L.	Finnigan, B.V.
Holloway, P.	Hood, D.G.E.	Lawson, R.D.
Lensink, J.M.A.	Lucas, R.I. (teller)	Ridgway, D.W.
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.
Wortley, R.P.	Zollo, C.	

Majority of 7 for the noes.

Amendment thus negatived.

The Hon. A. BRESSINGTON: I will not be moving any further amendments. I made it very clear at the beginning to all voting members that it was a matter of my amendments going through as a package. I would just like to express my absolute disappointment at the misrepresentation that occurred with the last amendment.

The Hon. M. PARNELL: I move:

Page 6, after line 25 [clause 9, inserted section 19(3)]—

After paragraph (b) insert:

(ba) if the medical practitioner is not registered under a law of this state as a specialist in respect of the kind of illness, injury or other medical condition that the person intending to make the request has, the person must—

(i) consult with such a specialist and obtain a report from the specialist containing—

(A) the information specified in paragraph (b)(i), (ii) and (iii); and—

(B) any other information required under the regulations; and.

(ii) provide the medical practitioner with a copy of the report prior to the preliminary appointment referred to in paragraph (b);

My amendments fall into two categories. One relates to the situation where the doctor who is approached to grant a request for voluntary euthanasia is not a specialist in the field in which the person is suffering, and the other stream of amendments relates to people who might be acting under duress and how we can ensure that such people are not able to access euthanasia.

My first amendment relates to the specialist. It is a simple amendment, which basically says that if the medical practitioner who has been approached is not a specialist in the kind of illness, injury or other medical condition that the person intending to make the request has, the person must go to a specialist to get a report. This is to cover the situation where the doctor who is approached does not have the expertise and an additional opinion is sought so that a proper diagnosis, prognosis and explanation of palliative care options can be given.

Amendment carried.

The Hon. D.G.E. HOOD: I have a question of the mover. I may be mistaken here, and forgive me if I am, but I want to clarify something, not on the amendment just on the clause.

Looking at the definitions in clause 9, obviously the term 'medical practitioner' is used a number of times. It seems to me from my reading of the bill—and indeed the act which the bill seeks to amend—that a dentist would be able to perform euthanasia. Section 4 of the Consent to Medical Treatment and Palliative Care Act defines 'medical practitioner' as follows:

> Medical practitioner means a person who is registered on the general register under the Medical Practitioners Act...and includes a dentist;

That section is not amended or specifically excluded anywhere in this bill as far as I can tell, and therefore my understanding is that, should this bill pass, dentists will be able to perform euthanasia. Can the mover comment?

The Hon. M. PARNELL: I would have thought that, unless a person's suffering was as a result of some dental condition—and I am not in any position to know whether that is likely to be the result—although we did see circulated a picture of a woman who suffered the most terrible cancer of the face which ate her jaw, made her go blind, and there was a range of horrible disfiguring and painful conditions—the clause we are discussing kicks in and they have to go to a specialist in that field in relation to the illness from which they are suffering, a report has to be prepared and the prognosis, the diagnosis, the explanation of options and all that stuff will be provided by the specialist.

That has covered the situation about whether the person is entitled to apply. The honourable member's concern is that, having clearly been found to have qualified, there is some prohibition on dentists giving drugs. There is not much I can say about it other than that I am not sure whether dentists are entitled to prescribe the full range of drugs, including those that are likely to end a person's life. At the end of the day it does not matter because the person will have gone to a specialist and have been found to qualify.

In any event (and we will get to a clause later), the doctor is entitled to supply the drugs for self-administration provided the doctor stays in the area. I do not see that it makes a great deal of difference, but I do accept what the honourable member says, that the definition of 'medical practitioner' does include dentists. I would be most surprised if any person who was not suffering from an intolerable dental condition would in fact go to a dentist; and if I was on the voluntary euthanasia board and I saw that it was a dentist who had signed off on all the paperwork, I would be asking some pretty serious questions. I do not see that, at a practical level, it makes any difference.

The Hon. D.G.E. HOOD: Just to be clear, under this bill a dentist will be able to administer euthanasia. The Hon. Mr Parnell makes the point that, in many cases, they would see a specialist, and I accept that, but not in all cases. It will be possible under this bill for a dentist to euthanise a patient. Let us be clear about that.

The Hon. M. PARNELL: I move:

Page 6, after line 30 [clause 9, inserted section 19(3)(c)]—After subparagraph (ii) insert:

or

(iia) the person intending to make the request is acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person),

This falls into the second category that I described previously. This series of amendments, Nos 2, 5, 6, 7 and 8, followed my discussions with the Hon. John Darley. It was to make it as clear as possible that there was an active obligation to ensure that a person was not making a request under some form of duress, including forms of duress that might be imagined in the person's mind. The words are whether the person making the request 'is acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person)'. That is to cover the situation where the person believes that they are a burden to their family and are putting duress on themselves, even though that may well be a mistake or perception—as it mostly is, as we know, in families.

This series of amendments, and I am happy to use this as a test, makes it clear that there is an active responsibility to inquire into and ensure that such duress does not exist, as opposed to the original wording, which was if a person believed they were suffering from duress. So this makes it a more active request.

Amendment carried.

The Hon. D.G.E. HOOD: For the sake of clarity, I point out that in section 19(3)(c), as the honourable member has said and acknowledged, there is not a specific requirement for a patient to go to a psychiatrist—it is only if the initial doctor feels it is necessary—but that is not really the point I want to make. The point I want to make is with respect to section 19(3)(d), and that section outlines a cooling off period of 24 hours before the euthanasia can take place. I make the point that this is an extremely short cooling off period given that, under current South Australian law, we have a two day cooling off period to buy a second-hand car and a three day cooling off period to buy property—land, a house, or whatever it may be. I feel strongly that this cooling off period is, to say the least, terribly inadequate.

The Hon. B.V. FINNIGAN: I have a question in relation to subdivision 2, advance requests, whereby section 20(5) provides:

> The validity and legality of a certification of a psychiatrist that a person is of sound mind, or that the person's state of mind is unlikely to adversely affect the person's ability to decide to make an advance request, cannot be challenged or questioned in any proceedings (other than proceedings under this Part).

Is the meaning of that that a psychiatrist could find themselves in proceedings before the Medical Board in relation to a certification that they had made?

The Hon. M. PARNELL: That is not the case. In fact, one of the Hon. Ann Bressington's amendments made it clear that they were still subject to disciplinary action. I am not sure whether we will be seeing that amendment. The purpose of that clause is basically to prevent the situation where the medical judgment of a psychiatrist is disputed and we find people hopping from doctor to doctor until they get the result they want. I do not believe there is anything in here that prevents a person from being disciplined, if the discipline relates to misconduct. Just the fact their judgment call in relation to the purposes of this act cannot be questioned does not mean that any other misconduct or malpractice they commit would not still be subject to medical discipline.

The Hon. B.V. FINNIGAN: The words 'cannot be challenged or questioned in any proceedings' would seem to indicate that the Medical Board could not have an oversight in relation to it. A lot of the proceedings before the Medical Board are about a diagnosis, so I am not sure whether it fits in. I understand what the mover is saying—that we want to avoid doctor shopping—but I think the clause needs further examination.

The Hon. D.G.E. HOOD: I refer to new section 31 and the specifics around the quorum for the board. The honourable member has set up a board of five members but new section 31(1) provides that three members could constitute a quorum of the board. It is important to note that in relation to two of those members required under the bill one is a medical practitioner and the other is a palliative care specialist. Given the quorum is only three members, there could be a situation where a quorum is composed and no medical people are present in the board meeting when the decision is made. The palliative care specialist and the medical practitioner may not be there because only three are required to form a quorum.

The CHAIRMAN: We are jumping ahead a bit because the next indicated amendment is to page 6 and that question related to page 13. If the Hon. Mr Parnell were to answer that question now it might help.

The Hon. M. PARNELL: The answer I would give is to say two things. First of all, amendments that may no longer be before us removed one of the ministerial nominees and replaced it with the Public Advocate. The other point is that decisions of the board must be unanimous so, whichever way you look at it, if only three out of the five attended a meeting and they are unanimous, it is still a majority of the board. If five of them are there, then the five of them have to be unanimous.

The CHAIRMAN: I ask the Hon. Mr Parnell to move the next amendment because both those questions—one from the Hon. Mr Finnigan and the other from the Hon. Mr Hood—were up the track a bit.

The Hon. M. PARNELL: I move:

Page 6, after line 37 [clause 9, inserted section 19(3)(c)]—After subparagraph (iv) insert:

and

(v) the person is not acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person);

Amendment carried.

The CHAIRMAN: I ask the Hon. Mr Parnell to move amendment No. 4, page 6, line 7.

The Hon. M. PARNELL: I move:

Page 7, after line 6 [clause 9, inserted section 19(3)(d)]—After subparagraph (iii) insert:

(iiia) if a copy of a report from a specialist is required to be provided to the medical practitioner under paragraph (ba)—must be accompanied by a copy of the report; and

This amendment is consequential because it provides that if a specialist is involved the specialist report has to form part of the paper trail for voluntary euthanasia. It is consequential to accepting that a specialist might be involved where the doctor agreeing to help with voluntary euthanasia is not a specialist in that field.

Amendment carried.

The CHAIRMAN: We will now deal with amendment No. 5. If anyone has any questions on these amendments, they can jump in. I do not want to be seen not to be giving members an opportunity to ask questions on the amendments. This is the amendment to clause 9, page 7, after line 34.

The Hon. M. PARNELL: All the rest of my amendments relate to that question of duress, so I will move them one at a time but I will not speak to them all individually.

The CHAIRMAN: You can move them all together, and if anyone has any questions on them they can ask them.

The Hon. M. PARNELL: I move:

Page 7, after line 34 [clause 9, inserted section 19(5)]—After paragraph (b) insert:

and

(c) in any case—that he or she, after making reasonable enquiries, formed the opinion that the person was not acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person).

Page 8—

After line 24 [clause 9, inserted section 20(2)(c)]—After subparagraph (ii) insert:

or

(iia) the person intending to make the request is acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person),

After line 31 [clause 9, inserted section 20(2)(c)]—After subparagraph (iv) insert:

and

(v) the person is not acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person);

Page 9, after line 31 [clause 9, inserted section 20(4)]—After paragraph (b) insert:

and

(c) in any case—that he or she, after making reasonable enquiries, formed the opinion that the person was not acting under any form of duress or inducement (including duress or inducement due solely to a perception or mistake on the part of the person).

As I have said, these amendments impose a positive obligation on a person to make reasonable inquiries as to whether someone is acting under duress.

Amendments carried.

The Hon. R.D. LAWSON: We have a final question on clause 9. Given the honourable mover's concession that, because the definition of medical practitioner includes 'dentist', a dentist could initiate or be part of the authorising process for voluntary euthanasia, can the member indicate how that can possibly be justified?

The Hon. M. PARNELL: The honourable member's question basically is to take the situation where a person's medical skill applies to a particular area and, therefore, say that that training is inadequate for them to be part of this process. As I have pointed out, the ability of a

dentist alone to be part of voluntary euthanasia would be very unlikely unless, as I said, the person suffering intolerably was suffering from a dental condition.

The point that I would make is that the alternative that is practised every day is that people take their own lives—no dentists, no doctors, no tinkers, tailors, soldiers or sailors. To suggest that a medical professional whose primary area of practice is in dentistry is somehow ineligible to be involved at any stage, I think, is to devalue that profession and to overstate the likelihood that they would ever be the sole medical practitioner involved.

The Hon. B.V. FINNIGAN: I am not sure I would agree with the honourable mover that a large number of suicides are terminally ill people, but we will not go into that for the moment. I refer to page 10, subdivision 3, section 22, 'Variation of requests'. It is my understanding that section 22 refers to both active and advanced requests; is that correct?

The Hon. M. PARNELL: I think the answer is probably yes. It refers to section 19, which is active requests, and section 20, which is advanced requests. The point is simply made that people are allowed to change their mind, and we need to make sure that we have recorded whenever that occurs.

The Hon. B.V. FINNIGAN: I am just wondering how that interacts with section 23, 'Interaction between requests', which suggests that if two or three requests were made by the same person, a bit like a will, the latest one is valid. How do you square that off with the ability to vary requests?

The Hon. M. PARNELL: It is exactly the same as a will. A subsequent will revokes a prior will but you can execute a codicil to a will, which varies it. I think the point would be that someone might still want to be able to access voluntary euthanasia but some small component of a precondition might change, or some other desire as to how it was to occur might change. Those changes should be able to be recorded in the register. If a person wants to go back to square one and commence the process again, they can, and the latest request is the one that would be the current one.

The Hon. B.V. FINNIGAN: So, if two requests existed and someone tried to vary the earlier request, the board would say, 'Well, that request has been nullified by your subsequent request'?

The Hon. M. PARNELL: I think this would be an administrative matter for the board. The board is the custodian of the requests, and if there are multiple requests from one person, and maybe from different doctors, the whole nature of a board is that you can keep track of that. I suppose the honourable member might think of a situation in which a person uses 10 different aliases and goes to 10 different doctors and 10 different specialists, and that might cause a problem. Ultimately, one of the values of having this board is that there is that central repository of requests, unlike wills, where you find half a dozen law firms holding half a dozen wills in relation to a person, and you have to find the latest one. This is a far safer system than that.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): The Hon. Mr Finnigan, I think we are getting to the stage where I am going to put the question. I will allow you—

The Hon. B.V. FINNIGAN: Mr Acting Chairman, the mover did, essentially, put words into my mouth, so I would like to respond. I was not suggesting that someone with lots of aliases and lots of doctors would be putting in multiple requests. I certainly would not like anyone to trust me with the filing system for this. I am sure that we are all aware that there are problems with records management on occasion and that these situations will arise.

The Hon. D.G.E. HOOD: I am jumping ahead quite a bit, but I would like to make some comments on sections 41 and 42 in clause 9. Correct me if I am wrong, but section 41 in clause 9 appears to provide that no appeal is possible against a decision of the board if it approves euthanasia, but section 42 in the same clause, the very next section, talks about there being a right of appeal if it does not approve euthanasia. So, if I am correct, what we have is that the bill allowing an appeal when euthanasia is denied, but not allowing an appeal when euthanasia is approved. Is that correct?

The Hon. M. PARNELL: The situation that was sought to be avoided is one you often find in controversial legal issues such as this in which organisations seek to interfere in every case. We see it in relation to abortion and matters such as that. You see it, too, with people in hospitals wanting the machines turned off. You often get organisations—not always religious, but often—seeking to interfere, not because they have any particular relationship with the person, or even

know them, but just because their moral values are that they do not want the thing to happen that has been approved.

The section has been deliberately worded because the entire object of the bill, and, in fact, one of the guiding principles for all people making decisions under the bill, is to give effect, as far as possible, to the wishes of the person. The wishes of the person must prevail against anyone else who is trying to stop them exercising what I am saying is a basic human right. So, that does stop people from saying, 'I know my brother or my mother is suffering intolerably. I know they want to die, but my particular moral values say they shouldn't be allowed to do that, so therefore I am going to appeal,' and this section prevents that. On the other hand, a person who is denied their human right should be able to challenge that decision.

The Hon. R.L. BROKENSHIRE: Further to that, I have a question of the mover of the bill because it appears that, at least in looking at the way this is drafted, it is totally wrong. In fact, one might argue that it is an illegal provision within the bill, because what I see from this is that this is actually making the board higher than probably the highest court in the land and is certainly making the decisions of this board higher than those of any court in this state.

The board is dealing with matters of life and death; we know that. With a novel law on which there is no Australian case law and little law in any jurisdiction, it is extraordinary to deny any right to appeal a declaration of the board to a higher court. I have never, in my years in parliament, seen a clause that does that and, frankly, I cannot see how it could be done in this case.

I acknowledge that the board is permitted, under section 38(2)(d), to refer a matter of law to the Supreme Court. However, when you drill into it, the problem with this and the fundamental flaw, which I have never seen before in any legislation in my time in parliament, is that, whilst that provision is there, it appears that the board could proceed to ignore the ruling of that court and make a declaration contrary to that ruling knowing that its declarations cannot be appealed.

A government appointed panel making life and death decisions that cannot be appealed is a serious threat, in my opinion, to the vulnerable and undermines the base parameters of the jurisdiction of the Supreme Court, which exist to protect adults who may be lacking legal capacity. I ask whether the honourable member can categorically guarantee that this clause will deny any of the base principles of an appeal to the Supreme Court or a higher court. In any case, because of the way in which it is drafted, would the honourable member agree that the board could just dismiss and ignore those court recommendations?

The Hon. M. PARNELL: The situation the honourable member describes is virtually impossible to imagine. He is saying that there will be court orders and that this board will be able to ignore them. Well, why will there be court orders? Clearly, people who do not want anyone to have the right to voluntary euthanasia will take whatever steps they can to make sure there are opportunities to stop it happening.

The honourable member says how outrageous it is that we might have decisions that cannot be subject to court action. I have not brought my records, but I wonder whether in fact the honourable member may have voted for such clauses, or at least not supported me in my attempt to remove them. They are called privative clauses; they exist all over legislation and provide that certain decisions are beyond judicial review. If it were not for the lateness of the hour, I would get on my hobbyhorse of section 48E of the Development Act, which basically provides that no decision made by anyone can be challenged in any form whatsoever, amen.

I just make the point here that this is a human rights bill. What I am saying in this clause is that I do not want the ability for people who have no real interest in it to be able to deny a person their human right by frivolous, vexatious or whatever legal challenges. It is a shame, but there are some people who would rather someone die in agony than allow them to use this clause and, if they could use the legal process to achieve that end, they would. Do not get me wrong, but there are people in society for whom that is the way they operate: they would rather the person end their days naturally in agony rather than be able to access this law. So, I am going to deny those people that right, but I do not believe we should deny the people who believe they do qualify the right to test that decision.

The Hon. D.G.E. HOOD: I will not delay the committee. Obviously, it is getting late. I had possibly 10 or 12 more questions, but I will use this as my last question. It skips right ahead to section 51 of Division 9, titled Insurance. This section seems to me to be quite unfair to insurers. It would allow a person to take out a hefty life insurance policy just days before requesting voluntary euthanasia and, because the previous section requires the death certificate to record the condition

as causing their death, rather than euthanasia causing their death, it means that under many life insurance policies, according to an email I have from the industry itself, they would still qualify for a life insurance payout.

Of course, in this country, we have a lot of life insurance policies that do not require any particular preconditions. If you are under a certain age, you qualify; it is as simple as that. I am advised that, if euthanasia were to become legal in South Australia, that would change quite rapidly. Premiums would rise substantially in some cases, and also the availability of life insurance would become much, much more restrictive. In fact, I have an email from Holly Dorber from the Investment and Financial Services Association saying that the industry is confused about this section and wants me to note their concern. I will read a very short snippet from it, as follows:

> As currently drafted, there are a number of aspects of the bill on which IFSA's—

which is the body itself, the Investment and Financial Services Association—

> Life Insurance members would seek clarification regarding practical application. In particular clause 19...clause 50...and clause 51 contain wording which is confusing, difficult to understand and which may be contradictory in parts.

It goes on to say that essentially it is unworkable in their view.

I think the other aspect that is important here that has not yet been touched on is the financial aspect. There is a life insurance industry out there which of course will be affected by this. The fact is that the bill requires the death certificate to be essentially falsified, because it will require a condition to be put on the death certificate rather than euthanasia as the cause of death.

How would you write down, for instance, shingles if someone decided that they wanted euthanasia because their shingles were intolerable, or their paraplegia was intolerable to them? Then, presumably, on the death certificate it would say 'paraplegia', which I think is unacceptable, and, apparently, so does the life insurance industry.

The Hon. B.V. FINNIGAN: If I could just come back to the point about the Supreme Court appeals. I understand what the Hon. Mr Parnell is saying, that he does not want people who have no connection to the person seeking voluntary euthanasia to be able to hold it up in court. But, I really think the Supreme Court is well able to prevent that from happening, or to recognise it. We all know that there are plenty of occasions when organisations and individuals try to get in on court cases, and the courts are well able to decide whether or not they have any proper standing.

I am sure we are all familiar with cases in the US of capital punishment, where there are lots of organisations that devote themselves to trying to stop things in the courts, and they are not usually that successful, because generally the court says, 'Well, you might have a passionate view about this, but it's not really your concern.'

I will briefly make a general point, which I will make in my third reading contribution, in that I think the committee stage has highlighted that there are a lot of issues that we need to work through with this bill, or any bill like it. Given the lateness of the hour, and we know that this is very unlikely to be dealt with before the election and will need to be reintroduced, I am happy to not delay the committee further, but I place on record that I think that those of us who will still be here, and I hope to be one of those, will need a lot of time to deal with this when it is reintroduced.

The Hon. R.D. LAWSON: On the question about the right of appeal to the Supreme Court, the Hon. Mark Parnell said that his clause, a privative clause, as he correctly described it, prevents organisations and other what might be termed busy-bodies appealing to the court, and that this was a human right, and that if a person wanted to have themselves euthanased it is their right to do so and not the business of anybody else to appeal against that decision.

However, his clause 42 provides that an appeal may be instituted by a person to whom section 38 applies. Section 38 applies not only to the person who is to be euthanased but also to the treating medical practitioner or the registrar. So, here you are: you give these third parties the right. You do not give the parents, the guardian or the person who might be living with the person to be euthanased any standing to appeal, but you give these what might be termed neutral persons a right to intervene by this appeal process. I do believe that the honourable member misstated, no doubt inadvertently, as I understand it, the effect of clause 42(2) of the bill.

The Hon. M. PARNELL: The honourable member is correct in that the class of persons who can appeal are these other people, but I would strongly disagree that these are somehow people who do not have a direct role. These are people, whose decisions, if incorrect, or if there is

something wrong with them, are fundamental to whether or not voluntary euthanasia can take place. What a person's brother, uncle, cousin, mother or father thinks is not.

However, there is the medical practitioner, the person who has to certify that they have actually interviewed the person twice, that they have explained the diagnosis and prognosis—I will not go through all that again—and, if that is a different person, the registrar. The reason for those people being included is an exercise in caution for something terrible that could go wrong where something urgent needs to be done, such as an urgent Supreme Court injunction. It makes sense for these people to be able to do that; if, for example, they decide that there has been some fraud involved, or something, you need to have a mechanism for them to get involved. The main people we are trying to keep out are those the honourable member described as busybodies.

I come back to the fact that this is overwhelmingly the person's right. If there is some flaw in the exercise or administration of their right, in the paperwork or whatever, it makes sense for the medical practitioner who is likely to administer voluntary euthanasia, or the treating medical practitioner, or in fact the registrar, whose sign off is critical, for them to be able to urgently approach the court if they need to do so.

The committee divided on the clause as amended:

AYES (11)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Gago, G.E.	Gazzola, J.M.	Hunter, I.K.
Lensink, J.M.A.	Parnell, M. (teller)	Ridgway, D.W.
Winderlich, D.N.	Wortley, R.P.	

NOES (10)

Brokenshire, R.L.	Finnigan, B.V.	Holloway, P.
Hood, D.G.E.	Lawson, R.D. (teller)	Lucas, R.I.
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.
Zollo, C.		

Majority of 1 for the ayes.

Clause as amended thus passed.

Title passed.

Bill reported with amendments.

The Hon. M. PARNELL (00:06): I move:

That this bill be now read a third time.

I take the opportunity now to make some brief third reading comments and I will not keep members long, given that it is already late. I acknowledge that this has been a difficult bill for many members but I think overwhelmingly we have handled it in a spirit of democracy. Reasonable questions have been asked; I think reasonable answers have been given, but I think it will be important for this house to pass this bill finally, not because finally passing it will bring it into law—clearly, it will not. Clearly, it would be unlikely that we will have time for it to go through the House of Assembly. So, there is every likelihood that passing this bill tonight will see us debating this issue again next year.

But the reason why I think it is important for us to do this tonight is that it will give incredible hope to those dozens of groups around Australia and those thousands of people who have been working for decades to have a house of parliament in Australia recognise that the right to voluntary euthanasia is an important human right. We know that 10 years ago the Northern Territory took this step but, in terms of the six foundation states of our nation, we have not had a house of parliament pass a bill through all its stages. For those people who I know are not going to support the third reading, we will be back—I am fairly confident of that. We will need to debate these issues again. But for those who have been supportive, I thank you for your support. The vast majority of Australians who consistently say they support voluntary euthanasia with safeguards I think will thank you as well, and I think this will be an important day for South Australia and, in fact, an important day for our nation.

The Hon. B.V. FINNIGAN (00:08): If I could briefly put on record again that, bearing in mind some of the Hon. Mr Parnell's remarks, this bill will need to be reintroduced (or any bill would need to be reintroduced) in the next parliament after the election. As I wrote to honourable colleagues, I think the fact that this was being dealt with late in the session means that we did not give the consideration to the proposition that we might or should in relation to a select committee or a parliamentary inquiry, with a more extensive opportunity for briefings and community debate that I do not think really happened on this occasion. So, I encourage honourable members to think about that when they are not campaigning for re-election: how that would be achieved or how they might see that being achieved after the election if this bill is reintroduced.

I disagree with the Hon. Mr Parnell in relation to what the passage of this bill would mean because I think I would caution supporters and opponents alike that whatever happens this evening is not going to set a particularly valid precedent, given that 11 members of the council will be elected afresh in March and at least some of them will be new members. So, it is something that I think members will need to reconsider next year—and I hope to be one of those.

We spent a couple of hours (or perhaps a little more in the committee stage) but I suggest it will take a lot longer than that. There was a whole range of issues that certainly I intended to raise that we did not deal with and I think there are a number of things we need to look at very carefully.

This is very important legislation and, if it were to pass both houses of parliament, I think that, even though I oppose the concept and the principle and will continue to do so, we certainly need to take care to ensure that we get it right, as much as we are able. I think this evening's debate has demonstrated that there are a few areas in this bill which you can drive a truck through and it would need some serious work if it were to become law.

I conclude by reiterating that I believe legalising active voluntary euthanasia is bad law and that this proposition is perhaps the worst variant that has been put before this parliament, and I urge honourable members to oppose it.

The Hon. D.G.E. HOOD (00:11): The question for us tonight is not whether or not people are in favour of or against euthanasia. That is not the question before us tonight. The question before us tonight is: is this the correct model of euthanasia to be legalised in this state? There will be some members in this chamber who, by and large, are happy to support euthanasia with safeguards and the like. The question for those members is: is this the model they are willing to put their name to?

I would like to reiterate some of the things that came out of the committee stage tonight. This bill does not require somebody to receive euthanasia who has a terminal illness. Under the definition, a dentist or any GP can actually administer euthanasia and, therefore, end someone's life. The referral to a psychiatrist is optional and not required. There is a shorter cooling-off period for euthanasia under this bill than there is when buying a second-hand car or a piece of property in this state.

The quorum arrangements for the board are such that no medical person or palliative care specialist is required to be present when the board makes its ruling. There is no appeal against a decision of the board to allow euthanasia. A patient can be seen by only one doctor and, indeed, will be seen by only one doctor—a GP in some circumstances, or possibly a dentist.

The insurance industry does not want this bill, according to the communication I have had from their peak body because it does not think it is workable. Indeed, something we did not get to debate tonight is that much of the finer detail of this bill will be decided by regulation.

I reiterate that we are not debating on what people's feelings are about euthanasia tonight; we are not voting on that at the third reading. We are voting on the specifics of this bill. The question for those considering supporting the bill is: are you happy to put your name to a bill that has those provisions? I certainly will not be.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (00:13): I rise to make a few brief comments at the third reading of this bill. I should start by indicating a change of position for myself in that I will not be supporting the bill. I know that will be a disappointment to some of those who are supporters, and probably those who are opponents of the bill will be pleased.

In the past four or five days my mother has passed away and I suppose I am drawing on some personal experiences. Over that period I have spoken to a number of people who are medical practitioners and people who deal at the coalface.

This is a conscience decision. The Hon. Caroline Schaefer has often said to me, at times a bit flippantly, that she does not think I have a conscience and therefore I should not participate in conscience debates. It is probably unfair of me to bring her into it at this stage.

I was a little offended in the second reading debate when my very good friend, the Hon. Terry Stephens, had a crack at me because this is a conscience decision. I do not come here with any great religious disposition, as do some members who are opposed to the bill, or any other real position. At this point in time I just do not feel comfortable supporting the bill. There are some parts of it that my conscience just will not allow me to support. With those few words, I indicate that I will not be supporting the bill.

The PRESIDENT (00:15): As Chair and President, I would like to say a few words because I sit and listen to everybody else's conscience and debate in the council and, you never know, I might get the casting vote or I might not. However, I do want to put on record that I do support the bill and I will support the bill if I get the casting vote.

I also want to challenge some who have said that this is not the correct model, because those who have said that have not moved any amendments to make it the correct model. So, I appreciated everybody's point of view and I certainly appreciated the way members conducted the debate. I thought it was a credit to this council the way individual members conducted themselves and the way they appreciated other people's votes and conscience and contributions to the bill. I want to thank members for that.

The council divided on the third reading:

AYES (9)

Darley, J.A.	Dawkins, J.S.L.	Gago, G.E.
Gazzola, J.M.	Hunter, I.K.	Lensink, J.M.A.
Parnell, M. (teller)	Winderlich, D.N.	Wortley, R.P.

NOES (11)

Brokenshire, R.L.	Finnigan, B.V.	Holloway, P.
Hood, D.G.E.	Lawson, R.D.	Lucas, R.I. (teller)
Ridgway, D.W.	Schaefer, C.V.	Stephens, T.J.
Wade, S.G.	Zollo, C.	

Majority of 2 for the noes.

Third reading thus negatived.

LIQUOR LICENSING (PRODUCERS, RESPONSIBLE SERVICE AND OTHER MATTERS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

At 00:21 the council adjourned until Thursday 19 November 2009 at 11:00.