LEGISLATIVE COUNCIL

Thursday 28 July 2011

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

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (11:05): By leave, I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (11:05): I move:

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

Motion carried.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 26 July 2011.)

Clause 37.

The CHAIR: This clause deletes the schedule in the act.

The Hon. J.M.A. LENSINK: Because we sought to report progress after we had deleted the substantive clause of the bill, can the minister advise whether any amendments have been changed? I just want to make sure that nothing has been snuck into this, because this has been tabled today—

The Hon. G.E. Gago interjecting:

The Hon. J.M.A. LENSINK: Just keeping you on your toes; you never can tell with this government, minister. The concern is that—

The Hon. G.E. Gago: I wouldn't renege on an agreement.

The Hon. J.M.A. LENSINK: I would not go there! The concern is that the rights of a number of licence classes that have been made under previous acts are retained. In particular, in schedule 1 of the previously published bill it was that part 1 which I was seeking to delete.

Clause passed.

Schedule.

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

Clause 1, page 14, after line 18—After the present contents of clause 1 (now to be designated as subclause (1)) insert:

(2) However, the trading rights under a special circumstances licence in respect of which a decision was made under clause 3(10(b) of the Schedule of the *Liquor Licensing Act 1997* as in force before its repeal by this Act are not diminished by reason of subclause (1) and to the extent that an extended trading authorisation or other special licence condition would be required to replicate those trading rights, the licence will, on the commencement of this clause, be taken to include such an authorisation or condition.

This amendment clarifies the transitional provisions to ensure that the old trading rights that have continued to date for licensees, previously covered by a general facilities licence that was transitioned into a special circumstances licence, remain preserved. I think that is one of the issues the honourable member was seeking to clarify. The conditions for those general facilities licence

transitioned into a special circumstances licence remain preserved; we will not be changing those conditions.

The Hon. J.M.A. LENSINK: On the basis of that explanation, I am happy to accept that amendment.

Amendment carried.

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

Clause 2, page 14, lines 23 to 25—Delete "(in particular the withdrawal of authorisations to sell liquor between 4am and 7am on any day)" and substitute:

Or, in the case of a licence, to include on the licence a statement of the trading hours or the classification of the licence for the purposes of the Commissioner's code of practice.

This amendment is consequential and allows the commissioner to include a statement clearly identifying the authorised trading hours of a premises on its licence. The amendment provides for a replacement copy of the licence to be issued upon completion of the exercise.

This amendment is also one of the last to delete from the bill any reference to the mandatory break in trade between 4am and 7am. Therefore, I would take this opportunity to reiterate the government's disappointment in the opposition and some of the minor parties and Independents—obviously, Family First supported the government—but the others refused to pass this key component in the package of reforms put forward by the government in withholding support for the proposal to enforce a mandatory break in trade for late-trading hotels, entertainment venues, clubs and premises covered by special circumstances licences. The opposition have shown that they, clearly, care more about traders' interests than the safety and wellbeing of South Australians.

The current functioning of the night-time economy of the Adelaide CBD contributes to financial costs incurred by police and other emergency services, and loss of amenity to the public. Obviously, a number of key community stakeholder groups have supported this mandatory break in trade: the Adelaide City Council, SAPOL, the West End traders, ambulance officers and other healthcare workers—there is large community support. However, it is not to be.

The Australian and international research on the relationship between extended trading hours and their adverse impact on alcohol-related social harm shows that as hours of trading of licensed outlets increase, so, too, does the frequency of problems, such as assaults. There is good evidence to suggest that reducing hours of liquor trading does contribute to reducing these harms.

It has been and it remains the view of the government that if no action is taken in South Australia to address the social problems of alcohol-related crime and other antisocial behaviour it is likely to continue to escalate. Statistics provided by DASSA show an increasing trend in alcohol-related emergency department presentations and hospital admissions as a result of risky drinking, SA Ambulance service attendances and also alcohol-related mortality rates.

As one part of the strategy to deal with this issue, the government put forward proposals to remove and tighten the regulation of licensed premises, particularly those trading 24 hours. The government maintains that the fundamental issue contributing towards alcohol-related crime and antisocial behaviour is extended hours of alcohol availability. In line with this, the government proposed that a mandatory break in trade would be an effective way of helping to deal with these issues, and also helping to assist with the transition between night-time and daytime economy.

Patrons would have the opportunity to disperse during this period and the physical environment could have been restored, cleaned and refreshed. Essentially, patrons would still be able to enjoy a drink for 21 hours of the day. Even New York—as we know, a fabulous clubbing destination by any international measure—has licensing laws which do not allow the serving of alcohol between 4am and 8am, so it is a one-hour longer mandatory closure period.

Nevertheless, it is absolutely clear—through the second reading contributions, the committee debate and other discussions between myself and my officers—that the government does not have support for the mandatory break in trade between 4am and 7am. However, the government hopes that by imposing some additional conditions on licensees who do trade between those hours it will at least afford some increased protection to the general public. As I have already said, the government was very pleased to see that the opposition took up the government's idea of a mandatory set of additional conditions, which we support. With those comments, the government

will withdraw this amendment to delete reference to the 4am to 7am break in trade and it is indeed with a heavy heart.

The Hon. J.M.A. LENSINK: Oh, what crocodile tears, Mr Chairman! If the minister is to have an indulgence on behalf of the government, then I would also like to place some points on this record. The coalition of that great party animal, the Hon. John Darley, Kelly Vincent, the Greens, Ann Bressington and the Liberal Party opposes the 4 to 7 mandatory break in trade because it is a simplistic measure. It is one that the Premier came out with, thinking aloud and thought that it would be a great proposal that would capture the public's attention and perhaps get him some brownie points. Unfortunately it was not thought through.

It completely ignored the submissions that were made to the government's own discussion papers—Safer Night Out and so forth. It came up with a proposal that ignored the reality of what happens on our streets, and I resent the minister's implication in her media release and some of her comments that somehow if there is alcohol-related violence it is going to be our fault. Quite frankly, if there is alcohol-related violence on the streets, the right people to deal with that are SAPOL, and SAPOL, from my understanding, have driven a large part of this as well in that they have resourcing issues.

I am quite happy to stand up for the liquor licensing traders because we have been to their premises. We have seen the measures that they put in place in order to make the place safer and we have talked to hospitality workers who finish at five o'clock in the morning and have no means of getting home through public transport and will be competing with all the other patrons to try to get out of the city. We have seen the taxi venues that have long queues starting at one or two o'clock in the morning and, by four o'clock, when these places would be closed, it would be really difficult to get a cab. Both patrons and hospitality workers would resort to walking home and would be subject to much more danger as they do so.

This has been a measure that has not been thought through. There are better measures that can be included and I am pleased that the government has been dragged into putting an expiation into this bill. It was not initially in the minister's bill. I did ask her office where it was after she had been questioned about it by Leon Byner. We then got an amendment and that has also been amended to improve it to include language, which is a precursor to violent behaviour. There has been so much spin on this. I think the people who will see through this the most are the young people of South Australia, those people who are out at venues who are, in the main, well-behaved and who would have been penalised if this had been put in place.

I think this government has done a great disservice by judging young people and playing into those stereotypes that they are all out there being silly, wanting to fight with each other when, in the main, they are very well-behaved. They just want to have a good time as previous generations have before them and what is wrong with that if they have not been breaking any laws? I just think that this government has really misjudged it and the fact that the minister has used such childish language and tried to use emotional blackmail is to me a fair indicator that she just does not like to lose.

Members interjecting:

The CHAIR: That hotels' Christmas lunch. I think you all should put your hands up if you've been to the hoteliers' Christmas lunch. The honourable minister.

The Hon. T.J. Stephens: Who's running the show? Parliament or the police?

The CHAIR: Order!

The Hon. T.J. Stephens: Because I'll tell you the coppers aren't running the show; we are.

The CHAIR: Order!

The Hon. T.J. Stephens: Parliament runs South Australia, not the police.

The CHAIR: Order! I don't know how many policemen have been to the hoteliers' Christmas lunch. The honourable minister.

The Hon. G.E. GAGO: Thank you for the call, sir. Indeed we do know—

Members interjecting:

The CHAIR: Order!

The Hon. G.E. GAGO: It's important that we—

The CHAIR: Perhaps we ought to declare how many of us went to the hoteliers' Christmas lunches.

The Hon. G.E. GAGO: It is important that we take the emotional hysterics out of this. It is important that we look at the evidence before us and the evidence is quite clear. The evidence shows that alcohol-related incidents particularly around our entertainment areas are on the increase. The evidence is quite clear. The data shows us that alcohol-related incidents, particularly in our entertainment areas, are on the increase and those incidents tend to peak, I think it is between 4am and 6am.

This problem is progressively getting worse. You only have to listen to mums and dads and young people who club to know how unsafe a number of those entertainment environments have become. I have spoken to young people who have said to me that they refuse to club in certain areas anymore and they relay horrific personal stories. I could cite many of them but, as I said, we are not going to go down the emotional path, we are going to stick to the facts and figures.

It is time to do something. The honourable member talks about simplistic solutions. I think it is over-simplistic to think, and to say, that this very complex issue can be fixed simply by policing alone. We know that policing is an important part of the solution, that is why we have doubled the number of police in the Hindley Street area over the last few years and why the police have committed to further increasing police numbers in entertainment areas.

So, we are aware of that and considerable resources are being put in to that, but the problem cannot be fixed by policing alone. It needs a multi-pronged approach. I am not saying that just amending trading hours is going to fix the problem either. I have always said that it needs to be addressed through a suite of different approaches to try to address a number of the drivers that contribute to this significant social problem.

In terms of crowd dispersal—I know this is on the record so I will not labour the point, and it will be a moot point now because 24-hour trading will continue—we did a lot of work around ensuring that crowd dispersal would be safe during that closure period. The data shows us that currently in our clubbing areas the maximum amount of dispersal occurs, if I recall, at about 3am, so most of the crowd have already left before the mandatory closure would have kicked in.

The data also shows us that currently that first train out—I think it is somewhere between 5.30am and 6am—has very few patrons on it. So, we find that people are not hanging around the city because the only way they can get home is that first train.

We have looked at a number of initiatives, such as increased managed taxi ranks, and there are funds that have been maintained in the budget to increase our managed taxi ranks. We know that that alone is not the only solution but we know that the public love them and we know that more taxis are prepared to come out and work during those hours because it is safer using the taxi ranks.

We have also looked at options of better coordination with the hourly bus service and regional and outer suburban taxi ranks and other facilities, and we are also in negotiations around looking at using the Happy Wanderer. So, as I said, there were a number of things in play to assist in crowd dispersal.

I think it is a sad day when the opposition and some minor parties and Independents have lacked the courage to make the really tough decisions to take on these really tough policy areas. They have lacked the fibre and the courage, they have cowered and blinked, and we have lost and missed an incredibly important and fabulous opportunity to have made an even bigger difference with this set of reforms than what we currently will.

The Hon. J.M.A. LENSINK: I am not going to go through all those speeches again because we are at risk of repeating all our second reading speeches. I would just like to say that the only person who does not have any fibre is the minister for not standing up to the Premier on a stupid idea.

Amendment carried.

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

Page 14—

Lines 30 and 31 [schedule 1, clause 3]—Delete 'the gaming operations cannot be conducted on the premises between 4am and 7am on any day' and substitute:

the hours are not outside the hours during which the licensed premises are authorised to be open for the sale of liquor

This amendment is consequential and just ensures that the gaming operations will continue to be consistent with liquor trading hours.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (11:31): I move:

That this bill be now read a third time.

Bill read a third time and passed.

APPROPRIATION BILL

Adjourned debate on second reading.

The Hon. J.M.A. LENSINK (11:32): I rise to make some comments on this matter and also in relation to the estimates process. I have a number of questions that I will put on notice to which I would appreciate a response.

As I mentioned in my appropriation speech last year, the 2009-10 budget saw the greatest wholesale slashing of any environment budget in South Australia's history. The net cost of services for 2009-10 is estimated to be $145.5 million, falling to $135 million in 2010-11, and this is projected to fall further, to $126.5 million in 2011-12. A large part of this is the projected drop in employee expenses from $74.5 million to $66.7 million, a drop of some 10 per cent. The cumulative impact of last year's budget cuts over the four-year period is over $64 million, with the deepest cuts coming in 2012-13 and 2013-14, which will be nearly $28 million a year.

We did have some initiatives in this budget for DENR. I note that, in the ministerial two-page opening statement, the minister referred to national parks, marine parks, botanic gardens, coastline heritage conservation and animal welfare. He did not talk very much about biodiversity. In this regard, I think it is worth noting that the government has changed its target in that it has removed its no-species loss policy. It used to have a strategic plan target to lose no species. In 2008, we discovered that 100 native species had become endangered in the past eight years. That was an alarming statistic which I said at the time the Rann government should be ashamed of.

Speaking on the eve of National Threatened Species Day, I described Mr Rann's 2002 election pledge to 'save South Australia's native animals and plants' as a con. Indeed, the data shows that endangered native animals and species worsened under Labor. The State Strategic Plan progress report showed that the total number of species identified as threatened increased from 1,041 in 2000 to 1,043 in 2008. A closer examination of the data shows that over that period the number of threatened reptiles was up 36 per cent, birds were up by 28 per cent, mammals were up 13.6 per cent, and plants were up 3.7 per cent.

In addition, there were six more amphibian species in South Australia under threat; among the new species included that year were the short-tailed hopping mouse, the long-tailed hopping mouse, the osprey and the yellow-nosed albatross. Instead of being up-front about this alarming jump, the government tried to conceal the trend so that now it has '20 indicative species' to monitor the target, which I think is particularly gutless.

One of the initiatives in the budget was a welcome $7.3 million for the regional fire management program, and we are advised that there are to be some 13 permanent and 43 seasonal firefighters. A prescribed burning program focuses on high-risk areas with high rainfall, that is, Mount Lofty, Lower Eyre, Southern Flinders, South-East and Kangaroo Island. However, there was a statistic in the budget papers that was quite curious, namely, the percentage of DENR staff who are trained and accredited firefighters, which apparently has dropped dramatically from 85 per cent of staff in 2009-10 to 36 per cent in 2010-11.

This issue was raised by the member for Stuart (Mr Dan van Holst Pellekaan), and the minister did not have an answer at that stage. The member for Stuart described it as 'potentially alarming' and said, 'I understand you will get back to us with more detail,' but we did not have an answer provided at that stage. My questions are: can the minister provide an explanation, and has there been exodus of fire capable staff leaving the department?

There are to be park upgrades. The Botanic Gardens ASR, the Lincoln and Seal Bay parks, which are all welcomed. There is also reference to implementation of marine mammals regulations, caution zones and approach limits with coast recovery and compliance, but we have not had a media release on that matter yet, so my questions are: can the minister provide more details, and what is the funding for?

Other key highlights over the year include construction of the Adelaide Botanic Garden First Creek Wetland Aquifer Storage and Recovery Project, which was commenced. Another highlight is the conservation of 57 per cent of South Australia's threatened native plant species within the Adelaide Botanic Garden conservation seed bank. I mention that in passing because I attended the Mount Lofty Botanic Gardens at the suggestion of the CEO of the Botanic Gardens, Dr Stephen Forbes. That was one of the many interesting and commendable activities the Botanic Gardens are undertaking that will help to ensure that we look after our native provenance for decades to come.

Another highlight was that co-management negotiations have finalised over the Flinders Ranges National Park and the proposed new Aboriginal-owned conservation park at the Breakaways north of Coober Pedy. The budget papers also stated that negotiations are also well advanced over Lake Gairdner National Park and the Gawler Ranges National Park. There was reference to the $21 million for the Adelaide Living Beaches pipeline, which is a decrease in scope, which was revealed in last year's budget.

I would like to turn to the matter of park rangers. This was a topic that was also raised in last year's estimates. In last year's estimates, the minister refused to guarantee that field ranger positions would be quarantined from the funding cuts which are going through DENR like a hot knife through butter.

The minister often refers to the 20 additional park rangers, which was a 2006 election promise. However, I think this is quite deceptive. I should say at the outset that the additional new and enthusiastic park rangers being appointed are very welcome. However, I think that needs to be balanced with the fact that there are many experienced rangers who have taken packages, who are fed up with the system and are leaving. As a result, particularly in areas of rare species and fossils, that is impacting on the protection of theft from our parks.

We were also advised that duty rangers in the Mount Lofty Ranges have been told this year that they will no longer be working weekends. So, in that case, if a native animal is injured or a fire breaks out in a park, nobody knows who is responsible for managing it.

On 1 July 2010, there were 108.5 FTEs. It is the same this year. However, I would like to point out that, under the last Liberal government, the number of park ranger positions was 293. So, that is some three times the number of park ranger positions that operated then, than operate now under this Labor government. Yet, this is a government that likes to bang on about how green it is and also talked in this budget and in estimates about additional parks.

The problem is though, there are not enough park rangers to cover all of the parks—those positions having been very severely cut in the last eight to 10 years. There are a lot of problems with feral pests and weeds in our national parks, which the park rangers are not able to cover. It is for this reason, I think, that we see the emerging trend where you have organisations that are actually privately purchasing properties and putting their own private rangers on there, because they know that this government does not have enough of a commitment to public parks to do the job properly.

So, they are taking up that slack and that includes organisations such as the Nature Foundation that have purchased significant properties and put in place their own arrangements because they know that we cannot rely on this Labor government to do that job properly. The park rangers, I understand, have a much bigger focus also on fire management. I have no objection to that but, certainly, the tasks they would have undertaken in the past would have been a lot more diverse and focused on those pest issues and, certainly, would have focused on providing assistance to the Friends of Parks.

I would like to turn to that particular issue now because my colleague, the Hon. John Dawkins, has asked questions on the Friends of Parks organisation before, but I think it is worth putting on the record in terms of the appropriation speech because it is a very, very significant issue across all of the friends groups across the state. They are a bunch of very unhappy people in the main. They do not blame the rangers. The rangers, I think, do the best with what few resources they have, but I would just like to read into the record a letter from Friends of Parks to the CEO of DENR, Mr Allan Holmes. This is dated 3 June 2011 and the president says:

> Last night the Board—

that is, the Friends of Parks Inc. board—

> discussed an increasing number of concerns being expressed by member groups about a decline in availability of liaison rangers and a continuing reduction in district budgets. Obviously we are [all] aware that the government is imposing serious budget restrictions across the board and that DENR is by no means exempt. It has been our clear understanding, however, that Regional Services, and on-ground ranger resources would be quarantined from such cuts. I received such an insurance, admittedly two years ago—

I think this is probably from one of the minister's predecessors, probably the Hon. Jay Weatherill—

> from the then minister. We now understand that voluntary separation packages have been offered to and accepted by a number of rangers, many with several years experience.
>
> Although I have been on the sick list for a few weeks I'm not aware of any advice that the game plan had changed which given our special relationship disappoints me. More particularly the staffing and budget reductions are imposing more demands on member groups and their volunteers and in some cases requiring groups to fund materials previously supplied by the agency. Neither have we yet seen any great improvement in on-ground resourcing flowing from the integration process with NRM. This is all in a context where DENR is seeking to formulate a number of far-reaching strategies—

another word for that is 'ambitious'—

> …that will impose further resource requirements on regional staff.
>
> As I indicated earlier member groups are becoming increasingly disillusioned and even angry about the situation. As a Board we seek to know what the actual situation is in terms of resources and what is planned for the next three or four years. It is then my intention to seek a meeting with minister Caica but before doing so I'd like to be certain of the facts as a matter of extreme urgency.
>
> Regards [etc.]

They are not my words; they are the words of Friends of Parks, who are clearly quite distressed at the situation. One has to wonder if they had an understanding that park ranger resources would be quarantined (their word), and whether the government actually deliberately deceived them or lied to them to try to keep them quiet.

When the minister was asked that question he deflected it, as usual. I will probably make this point several times throughout my speech, because I found listening to minister Caica during estimates a fairly frustrating experience, as did the key questioner the member for MacKillop. He said that he had met the friends, he talked about various Friends of Parks, and in the usual way deflected the actual question. He talked about good relationships, and there was lots of warm and fuzzy language which really did not get to the point. I think the answer should have been just a straight yes, but that minister in particular seems to be unable to give a straight answer to a straight question.

I also note from the budget papers that volunteer days, as a performance indicator, are projected to remain static from 21,000 to about 22,000 per annum, but the Friends of Parks are saying (and I requote from that letter):

> …budget reductions are imposing more demands on member groups and their volunteers and in some cases requiring groups to fund materials previously supplied by the agency

and:

> …member groups are becoming increasingly disillusioned and even angry about the situation.

The reason I say that is that I think this indicates that the government is expecting more from volunteers. I have met with some of the friends groups who feel frustrated. They need the management plans for each of the parks to be updated by the department, and, quite frankly, those management plans need to be done by the park ranger staff, the professionals, who can provide some guidance to the friends.

There are some very dedicated friends who have been involved with a particular park for decades, and those people are really experts themselves, but you can also get new people coming along who may be abundant in their enthusiasm but not so experienced in identifying weeds, indigenous plantings or seeds, and so forth. Those people certainly need some guidance because, as anyone who knows much about native vegetation knows, it is very complex and quite different from what Australians are used to seeing in our plantings in our own suburban gardens. It takes some time for people to understand the look of it and the way the different layers of vegetation interact.

In response to the member for MacKillop's question about the Friends of Parks' letter, the minister said:

> …there will be occasions—and I say this is the nicest possible way—when from time to time the views of the department and how a park might be managed might differ significantly, or at least differ, from the views of some of the friends, and it is a matter of resolving those differences.

I think that is a fairly patronising statement in itself. I think the Friends of Parks have the best interests of parks at heart. They are volunteers, and the reward they get is the reward of going out and trying to restore native vegetation for future generations. Their motivations are the best. However, I think that what we see with the cuts, which are driven by the cuts to the environment department, is that the rationalisation is undermining the management of our parks system, so the government is working through that at the expense of parks. The minister went on to say:

> Nothing has really been brought to my attention as to concerns expressed in the way you have described—

I find it surprising that he might not have been apprised of that particular piece of correspondence, but I would have thought that that message was coming loud and clear. You need to talk to only two or three of the friends group and you very much get the same message. It is certainly the message I have been hearing from them in my travelling when talking to them.

The minister also said that they have maintained the number of ranges we have within the system, which may well be true. But, as I was saying before, I think the loss of experience is indeed a loss to the capital and the knowledge within the department, which is a loss to the management overall of the system. The member for MacKillop said:

> ...minister, you mentioned in your opening statement that there have been 16 new parks and additions to existing parks, yet you have just said that the number of park rangers has basically remained steady. Does that mean that you have not appointed park rangers to look after these new parks? What are the management arrangements?...it seems that your workforce has remained static...[are] they are going to be managed adequately? I say this as a practising farmer...

He then went on to talk about feral animals. I think the minister misunderstood what he said. The point the member for MacKillop was making is that, if you increase the size and number of parks under the reserve system but you do not increase the number of park rangers, how can you say that those parks are being adequately managed. The minister also said that they have provided a greater level of support of those park rangers to the friends groups. So, I think he completely missed the point there and did not answer the question—but that happens many, many times throughout the estimates process.

There has been an anticipated increase in park entrance fees. My question for the government is: what percentage of this will be from previous park fees and on what date will this occur? My advice is that it is 1 April 2012, but I would like that to be confirmed.

In relation to last year's budget papers, which I will refer to extensively because there were so many cuts in so many different programs across the board that they will continue to flow through into this and the next two financial years, we noted that there was some half a million dollars which was expected to be raised through parks in 2010-11, which will rise to $2½ million in 2013-14. We asked whether this target had been achieved for 2010-11. We also asked: what happens if DENR falls short of the targets—will this mean savings have to be found elsewhere? Thankfully, we got a short answer, which was yes and yes.

However, on the topic of setting a strategy to raise $2½ million from parks in the out year, I note that the department, in the last 12 months, sought to engage in its own piece of spin through a strategy entitled 'People and Parks', which was reported in *The Advertiser* on 15 January. I think a lot of us saw red because, really, the department was becoming complicit in this government's strategy of using environmental assets—not just in parks; it does it in many areas—to try to raise money. Some of it I do not necessarily have a problem with it in principle, but I do note that the People and Parks strategy has since been removed from the department's website, which is

bemusing in itself. The consultation closed only on 8 April, but it was whipped off the website fairly promptly, which I think shows that the government has something to hide in that regard.

Given that the government is seeking to increase the number of visits, it is heavily reliant on increasing visitor numbers. However, the performance indicators that are set in the budget do not show that. The Conservation Council were highly critical of People and Parks. They said:

> People and Parks is a potentially dangerous strategy which will place the conservation outcomes of our parks and reserves at risk.

I would like to quote from that because these are fairly serious matters that they have raised. Their letter of 20 April 2011 to the department, in part, says:

> Conservation SA believes that People and Parks should be a serious strategic attempt to balance conservation outcomes with park visitors. The assets protected in South Australia's National Parks and Reserves are irreplaceable and a comprehensive visitor strategy would address how conservation outcomes can be improved and the overall visitor impact reduced.
>
> However currently in People and Parks conservation outcomes—the primary purpose of National Parks and Reserves–are placed at risk. That visitor increases will have positive benefits for Parks is assumed, but concrete evidence of how and why is not provided.

To throw in my two cents' worth on this issue, I understand where they are coming from because we want people to enjoy the natural environment but there can be issues with people bringing weeds, seeds and so forth in as well—that can be hazardous and also disturb some of the native fauna. It continues:

> Strategies to address existing or likely future legal and sanctioned visitor activities that have negative environmental impacts are not properly addressed.
>
> The document references sustainability in principle, but offers no practical measures. There is no landscape scale planning. Conservation SA is concerned that the draft strategy may open up Parks for excessive and potentially inappropriate development, rather than balancing the needs of biological assets with those of park users.
>
> Conservation SA supports many of the concerns expressed in submissions by Friends of Parks Inc and some of its individual member groups. We believe People and Parks in its current form to be a potentially dangerous strategy which is risking our irreplaceable environmental and biodiversity assets for a financial return. There is a lack of clarity as to how the vision, goals and strategies of People and Parks contribute to the legislated aims of National Parks and Reserves. This leaves the document open to suggestions that it is too focused on increasing the appeal of parks as tourist destinations at the expense of implementing the aims of national parks.
>
> These two outcomes may not be inconsistent, but it is incumbent upon the department to make this case with the legislated aims of national parks as the starting point. The draft visitor strategy consistently fails to make this case and is, therefore, flawed from the outset. Finding the right level of protection and standards is vital. More people are visiting parks, especially those close to Adelaide which are most diverse biologically, so mitigating the impact on conservation assets is vital.

As a formal question, I would like to ask the government: why has the document People and Parks been removed from DENR's website, and what is the government's response to the Conservation Council's concerns?

Further on this point, in the highlights for 2010-11 the DENR budget mentions introduction of new extended licence opportunities for commercial tourism in parks. My questions for the minister on that are: how is that going? Has anyone taken up that offer yet? Has it sought expressions of interest or put anything out to tender, and in which parks? Because that is obviously key to it raising these funds and, as the minister agreed, if those funds are not raised savings will need to be made elsewhere.

The Botanic Gardens have attracted considerable interest. The Botanic Gardens are, rightly, very close to many people's hearts, and they are to suffer a loss of some $500,000 in the years 2012-13 and 2013-14. I commend the people who have sought to protect the Botanic Gardens from closure. Indeed, I have mentioned in this place before that the Sustainable Budget Commission's suggestion that we flog off the Mount Lofty and Wittunga Gardens would require a motion from both houses of parliament to accept it, and that is something that we certainly would not agree to.

That issue has been dropped, thankfully, but I think there is still concern for the Botanic Gardens, that they will continue in their glory. Certainly they were looking pretty good when I was there the other day, but some of the people at the public meeting expressed that there were some 4,000 species in the Mount Lofty Botanic Gardens and that has dropped to 3,000 because their

funding has not been there to manage those. I do commend the work of the Botanic Gardens board and its staff for continuing to manage that asset under trying budgetary circumstances.

Somewhere in the budget there was some reference to new levies for 'the beneficiaries of the Upper South-East Drainage Scheme' of $5.4 million per annum to be raised commencing in 2012-13, but the budget papers note that it is subject to changes to the NRM Act. This is an area that I think, again sent a chill down the member for MacKillop's spine. He represents an area that has been subject to increasing levies through the NRM scheme. From my understanding, a large part of the Upper South-East Drainage Scheme has been funded already from landholders and local, state and federal governments, so for the government to be eyeing that off as a potential resource to raise funds to go back to Treasury is something that we will certainly oppose.

In relation to coast protection, looking again at the last budget, the government is seeking to claw back funding—it looks like it is commencing in 2011-12—of $2.92 million, rising to $3 million in 2013-14. Certainly, local government is very alarmed about this because I think the concept is that the government will try to seek that back through NRM funds either across the Mount Lofty Ranges and Metropolitan NRM Board, or indeed through coastal councils, and they are alive to that particular issue.

Again, that is an area where I do not think anybody ever considered we would be seeking cost recovery but, because this government has mismanaged its funds year after year after year, overspent, spent more than it needed to and never held the belt in, now it is looking for creative ways of raising money. So, my questions for the minister in relation to the coast protection cost recovery are: will it indeed be through NRM levies or through direct levies to the local councils and what has been the response from local government?

There is an investing expenditure summary which includes Adelaide Living Beaches. We are aware that the sand pipeline project was already over budget and late based on last year's budget and the item in this year's budget shows that where $30 million was to have been expended, it is just $1.7 million in that financial year. My questions are: does this indicate a further delay; when does the government expect it to be completed—

The Hon. G.E. Gago interjecting:

The Hon. J.M.A. LENSINK: In reference to the sand pipeline, $13 million was budgeted for and only $1.7 million was expended. Does this indicate a further delay; when is it likely to be completed; and is the delay the result of a breakdown in negotiations with local government regarding cost recovery?

On marine parks, the greatest commitment of funds that we saw to the marine parks program was in the 2007 budget and that was over some four years, and we note from last year's budget that there is to be a big cut for the 2012-13 and 2013-14 years of $1.5 million at least. My understanding from my briefings with the project manager is that there are a lot of costs associated with the establishment which is carrying at the moment lots of public meetings and the like, but we cannot seem to get any answer as to how they will be monitored and how compliance will be enforced. I understand that the marine parks team has some 40 members working on the zones and management plans at this stage. One of the targets in the budget indicates that the final marine parks management plans would be approved.

The minister was asked in estimates last year about how the parks were to be managed when the marine parks program was just one of many in the environment portfolio being slashed. The minister was pressed on this and asked specifically how many monitoring vessels and so forth, and after continued pressing he came up with the concept of FISHWATCH. I have talked to many people in the community about that response and it has been met with some hilarity because they say that you cannot even get a fisheries officer when you need one. It was then a question which the member for Stuart pursued in estimates.

I think the minister had forgotten that he had made this reference in the previous estimates. He asked the member for Stuart what he wanted to know about FISHWATCH and then went on to talk about fisheries and marine parks being separate programs. We have heard that ad infinitum, we are well aware of that, but it is something that he raised last year when he was pressed and yet he would not respond to that with any detail.

So, I ask the question, and I hope to get some response: 12 months down the track from last year's estimates when he gave the response that FISHWATCH would be a great initiative to apply for marine parks monitoring, does he have a better idea of how marine parks will be

monitored and compliance enforced? Can we get some idea of whether there will be additional officers, additional monitoring vessels and so forth?

We also have the marine parks displaced effort. In last year's estimates the minister was questioned by the member for Hammond and he said:

> Details of the displaced effort and compensation scheme and any supporting regulations will be confirmed during 2010-11 before the draft management plans with the zoning are released for public comment.

My questions for the minister are: does he stand by this comment or has he broken the commitment, and when can he give us a month (this year, hopefully) when the industry can expect to see some details?

We also have in the expenses program, net cost of services, a tender which has since closed for a DENR customer relationship manager. DENR tendered a CRM project for which expressions of interest closed on 1 March 2011. The tender document outlined some of DENR's deficiencies relating to information management. The document indicates that it expected to sign the vendor contract on 9 May, with the CRM in operation by 27 June 2011. This is probably being a bit cute, but my questions are: does the department think it has a problem with its relationships; have the project dates occurred as expected; and what outcomes are expected from that project?

Natural resources management is an area of acute interest to our regional members. The Local Government Association would like us to obtain from government the following: can you advise on progress with the program (that is, NRM) and in particular what savings have been achieved, what increased programs are being delivered or are proposed to be delivered, and where the savings are shown in the budget papers?

Part of an answer to that is in last year's budget papers where NRM is to lose $12 million per annum by 2013-14 and over a four-year period $26 million is being carved out of it. We know that the commonwealth has also slashed Caring for Country by $81.3 million in 2010-11, which will have a direct impact on natural resources in South Australia, which is a beneficiary of some of that funding. My questions would be: that $26 million over four years, or $12 million in 2013-14, what programs does the government imagine will be cut to fund that saving?

The NRM budget for 2010-11, on my reading, looks shot to pieces because employee expenses have blown out from $62 million to $74 billion. There is also a blowout in supplies and services expenses and, at the same time, a drop in commonwealth funding of over $5 million. That may well be because of the amalgamation of NRM within DENR, but I look forward to receiving the government's answer to that.

Following on from that, if this program has not been able to meet its savings targets in 2010-11, what makes anyone think that it will in the future? This is a separate NRM issue, and I understand that another review is about to take place. How many staff are being recruited to undertake the next round of the review of the NRM Act, and what is the timetable?

We now come to the RSPCA. This falls within the $600,000 grant that DENR provides to the RSPCA. I appreciate the fact that I have had a reply to a question on notice regarding the inquiry into the RSPCA's bungling of the Brinkworth case. I again ask the government: when will those inquiry findings be made public?

I now turn to the EPA. We had an hour of questioning for that particular area, and the minister again chose to read an opening statement upon which the member for MacKillop pondered:

> I wonder why ministers continue to go through the farce of making opening statements when we have already read all of those things in the budget papers. About 99 per cent of what the minister has just read into the *Hansard* is straight out of the budget papers (from the Highlights and Targets).

The committee then proceeded to a fairly straightforward and expected set of questions regarding what the EPA was doing differently in wake of the Edwardstown and South Plympton debacles. We then got a full page in *Hansard* from the minister, including a history of a review of the EPA going back to 2000 and the fact that there is lots of old contamination around all sorts of industrial sites—yes, thank you, minister; we knew that. He went as far as to mention David Wotton, who has not been a member of parliament since 2002.

Just through reading estimates, we can see that the member for MacKillop was clearly getting frustrated at that point. He put the same question that he put at the start of his questioning, about what resources the government is putting into improving its systems in relation to

notifications. The minister responded by saying that he had replied. Search me, but I could not find it. The member for MacKillop then pulled him up, and the minister reverted to his usual modus operandi and rambled for a few paragraphs before making some general comments about temporary increases in resources.

One of the Liberal Party's questions was about the EPA's responsibilities in relation to notifications. The minister then launched into another irrelevant history lesson—going back some 15 years now, talking about samples which took place at that time—and then finally got to the point. He then took three Dorothy Dixers which wiped out half of the time allocated for questioning.

The member for Chaffey asked some fairly direct questions about how long it takes the EPA to license x-ray machines in a timely manner, which was taken directly from the points within the budget, which it defined itself as six months in the metro area and 12 months in the country. The minister then ignored the member's question about how many machines were lying dormant and what the longest period to register one of them was. The left has its share of dud performers even if the right has done its best to be embarrassing over the last two years.

We then get to the omnibus questions. The member for MacKillop had a chance to drop in a quick question about air monitoring and then the EPA questioning was all over, red rover. However, I note that there are more FTE cuts in the 2011-12 budget, which will have a full impact in 2014-15 of $316,000.

We then come to the good old solid-waste levy. The budget commentary states that there is an increase of $7 million from the solid-waste levy revenue, which we know is on the back of the government's decision last year. The question was asked: can the minister tell us, on average, how much more families will be paying per trailer load from July? I will get to his comments to the questions asked on Zero Waste, but I think that that is an important question that the minister needs to answer, so I put that formally on the record.

As to local government, as the minister is aware, the allocation to the Waste to Resources Fund is hypothecated and allocated for expenditure under the authority of the state Treasurer. The revenue collected has now increased the balance of unspent funds in the Waste to Resources Fund to approximately $20 million. Can the minister outline how it is proposed to use these funds, if there is a program for the long or short term; if so, what consultation has taken place with local government and the waste industry for this expenditure? I guess the response to that will probably be minimal.

The ecomapping service was noted in last year's budget papers and, for the benefit of members, ecomapping is a process that was initiated by Heinz-Werner Engel. It is a practice that audits energy, water and other use and looks at a company's footprint, and it is a service that should support South Australian businesses to help them reduce their energy and water usage. There have been companies, such as Taylors Wines in Clare, which have undergone this and found it very useful. It is very involved, so companies that undertake it need considerable support.

Last year's budget papers demonstrated that government intended to raise some $600,000 from 'sustainability licences and other sustainability products, such as ecomapping'. We have been told that some two FTE staffing positions have been cut from the EPA's ecomapping division, so my questions are: is this the case, and where should South Australian businesses now go to find this advice?

I am pleased to see that $814,000 has been budgeted in this budget for a task force to work out what to do about illegal dumping and waste levy avoidance. This is not new; the government has been ramping up the solid waste levy and, as a result, certainly local government has been telling us for some time that illegal dumping and waste levy avoidance have been on the increase. My questions are:

1. If the findings of the task force reveal that the solid waste levy increase has caused this problem, will the task force consider recommending a reduction in the levy?

2. Will the task force actually tackle the problem of stockpiling by utilising existing weighbridges?

3. How does the EPA monitor the volumes of different waste streams, that is, municipal solid waste, commercial and industrial, and construction and demolition to landfill, versus how much occurs in the resource recycling sector, such as through auditing weighbridges?

4. To what extent is stockpiling a problem in South Australia?

5. If the EPA and/or industry do not actually weigh these streams, how can the government determine how much waste is diverted and how much is recycled in South Australia?

6. How does the EPA determine whether there are sites that take materials but are avoiding the levy not being licensed?

7. What resources has the EPA dedicated to monitoring illegal activity to date?

8. I note that one of the EPA's targets is to finalise the Lefevre Peninsula strategy as a pilot for the state air quality plan. On behalf of the member for Finniss, can he tell us what that means?

There is also a highlight in this budget to implement changes 'for responding to new questions under the Land and Business Sale and Conveyancing Act 1994'. Can the minister explain what that means? Another point refers to a sustainable licence program; can we have the name of that program, does it have any outcomes, has it been formally evaluated and, if so, are those results publicly available?

As to Port Pirie air quality, the National Environment Protection Measure standard is .5 micrograms per metre cubed. Given that is the case, why is the target for the Ellen Street monitoring station set at 1.8 micrograms per metre cubed?

In the financial commentary, there is a $2.6 million decrease in income due to a decrease in licence fee revenue of $1.6 million. My questions are: which licence fee categories came in under budget and by how much? Did this include last year's proposals to raise more funds from radiation licence fees and from 'cost recovery of the container deposit scheme'?

Zero Waste: in estimates, this topic was given half an hour and there is one page, which equates to probably five minutes, which was taken up by the minister's opening statement, which again comprised information which could have easily been gleaned from reading budget papers, annual reports and so forth. So, one wonders why this minister, in particular, feels the need to protect himself from genuine questions by padding his opening statement and using Dixers.

The member for MacKillop asked about the contentious increase in solid waste levy revenue of $7 million in this estimates section and how that feeds into costs per household. Quite astonishingly, even though this was his government's decision through the 2010-11 budget when he was the minister, the minister's response was that he could not answer the question and that it should be better directed to local government, as it collects the levy. So, the member for MacKillop responds:

> So, minister, you are telling me that your government mandates that councils pay this fee to your government, yet you have no understanding of the impact that it has on families?

We then get a rave from the minister about the importance of reducing waste to landfill, which no-one disputes. However, most of the reduction in waste to landfill has been undertaken through local government initiatives and, on top of that, another of the many cuts from the 2010-11 budget was one of $430,000 to incentive and grant programs, which kicks in just as councils are having to deal with the effects of that increase in the solid waste levy. The government has proposed another review of the solid waste levy and yet we had one in 2007, which was done by Hyder.

Then we get three Dorothy Dixers which go for a full three pages and red rover again; it is all over. I might say that minister Caica really could take a leaf out of the book of the Minister for Youth, the Hon. Grace Portolesi, who—I am very impressed—did not need any Dixers to prop her up and made very short opening statements. For many of us on these benches, we noted that she gets points for that one.

I have got some questions in relation to Zero Waste. How many companies and sites have the REAP program been extended to? What about the Metropolitan Infrastructure Fund? Why has the government tendered for a review of the solid waste levy when the 2007 Hyder report recommended that the levy be increased to $55 per tonne by 2013-14 and the minister stated in the 2010 estimates that, 'The waste levy will continue to increase beyond current levels to at least $50 per tonne in metropolitan Adelaide'?

Food waste: how many of the 10 councils that took part in the initial food waste trial are still providing food waste collection? How many additional councils have implemented the program since the end of the trial? How many tonnes of food waste have been diverted from landfill since 2010? Zero Waste SA has only one performance indicator and that is how many tonnes less

material is sent to landfill per annum. It is interesting because, just on my reading of it, it is not even a good outcome.

From achieving a reduction of 36,700 tonnes in 2009-10 it has gone backwards and the target for 2011-12, surprisingly, is even less. There is an explanation in the footnotes that points to soil contamination, but I would like a further explanation from the government. What about other waste streams? What is the government doing to target those? I think we all know about e-waste, so he does not need to respond to that if he does not want to.

I would like to refer to some other areas of concern, apart from the environment. One of them is the Women's Studies Resource Centre, which has been the subject of questions in this place before. They are very disappointed. I should say that this is Marilyn Rolls, who is the chair of the board. It is fair to say that she is very upset at what has happened to the Women's Studies Resource Centre.

They have been worried about the axe falling for many, many years, but when the Hon. Steph Key was the minister for the status of women she was able to obtain some funding which kept them going until this recent period when it seems that there are no more funds in the kitty. Yet this unique service has been run on an oily rag. To a large degree, it has relied on volunteers, but it has also had a couple of part-time paid staff, who are all very dedicated and who have fought very hard to try to keep the service going in its current form.

The advocates for the Women's Studies Resource Centre, myself included, would argue with the minister when she said that there is so much more available online that the centre is kind of reaching its use-by date. If you go down to that facility and have a look you will see that it is a very unique collection, and I think, for the amount of money involved, it deserves to continue.

In November last year, after a question in parliament from the Hon. Jing Lee, the minister replied that the Women's Studies Resource Centre:

> …is still symbolically a very important facility, and it holds a certain part of our history which is of great value, as do those women who fought so hard to have that resource centre put together in the first place. As I said, it was the first of its kind and there was no other place for women to go to access that sort of information and material…

I think the minister may well have shifted her position, because it is my understanding that she does not support the continuation of the resource centre in its current form. In response to a question from me in June this year, the minister advised that DFEEST had provided the centre with a final grant of $16,750 to help them develop and implement a relocation plan for their collection.

Apparently the collection, in part, is to move to the Barr Smith Library at the University of Adelaide. Anyone who has ever been to the Barr Smith Library would be well aware that it is a very cramped place, and for good reason. A large number of disciplines are located in that centre and it is a university library, so a lot of people use it. That is a good thing, but I question whether the Barr Smith Library is the sort of place that will have the ability to retain the collection with the respect it deserves.

The minister then said 'We are working towards a solution.' She said that there were people who thought that the resource centre should continue, but she said 'I do not think that is a good idea.' So we have her views there. I would like to quote Marilyn Rolls, who has been in contact with my office. She says she is very upset that:

> we are being forced to close and scatter the collection, and would like an opportunity to inform the Parliament of our side of the story. There has been a lot of spin from the government.

What a surprise. She continues:

> Due to severe financial pressure, resulting from the cessation of funding, the WSRC Board felt it had no choice but to accept the badly-needed funds offered by DFEEST. The minister's response seems very inconsistent—she is in the uncomfortable position of being the Minister for the Status of Women who will go down in history as having actively participated in the closure of the WSRC.

She then goes on to query what the minister's role was in terms of the final decision, and whether she was complicit in the decision being made to turn over parts of the Women's Studies Resource Centre collection to the Barr Smith Library. I must say that there would be collections there that would not fit in well with the Barr Smith Library, and the needs of the Barr Smith Library will certainly be paramount over the needs of that collection.

There is another area in which women's services have been attacked. It relates to the Women in Agriculture and Business (WAB) organisation, which received a letter on 11 March 2011 from minister O'Brien, which they say stated:

> PIRSA will not be in a position to continue financial support to the WAB past the end of June 2012 but I have instructed the agency to assist in the transition to independence through the provision of a grant of $15,000 for the 2011/12 financial year. This grant will allow some flexibility—

blah, blah, blah. WAB, in its media release of June 2011, said:

> It is definitely disappointing that PIRSA-based administration support will cease on June 30 this year...The council felt that with a short timeframe we needed to get on and meet the challenge of changed circumstances head on.

They clearly have decided that that decision has been made and they need to move on. I think that these very, very minute amounts of funding that have been offered as some sort of chip to these organisations, which are, by and large, volunteer organisations, demonstrates how high the support for women's interests is within this Rann Labor government.

I will now turn to the Office of Consumer and Business Affairs portfolio. This is an area where, across the board, whether it is the monitoring of unlicensed traders or any of the matters contained within, because of the decision in last year's budget to roll it together with the OLGC, there is great concern that expertise is being lost and that those statutory roles it contains will be delayed. We have certainly had evidence, and I have raised this in question time before.

I would like to put a particular case. I cannot reveal it publicly yet, but I will certainly write to the minister once I am given permission. This constituent emailed me last month, saying that it was on the topic of 'poor performance of the Residential Tenancy Branch. She said:

> I speak to many property managers and we all feel the same, that the situation of delay in hearings and bond refunds is now quite unacceptable.
>
> On 18 April 2011 I posted by registered mail to the Bond Refund Section of the RTT a fairly large file with evidence so that I could claim the full bond refund...on behalf of the landlords. This information was received by the Hearing Section on 13th May, took 4 weeks to go from the RTT in Pirie St to the RTT in Grenfell St—

That is amazing!—

> The Hearing Section then had to write to the previous tenants (who had to been asked to vacate as the owner wanted to sell, and I as the new property manager was quite concerned with the state of the property) to see if they objected to this. Of course they did object. We were finally notified on 31 May 2011 that a hearing had been set for 23rd June. Nearly 10 weeks since the bond refund was sent off.
>
> The Hearing Section do not see this case as urgent as the tenants have left the premises
>
> On the 15th June I was notified in writing by the RTT that the hearing had been postponed...This will be 16 weeks after the application was sent off. Apparently, the tenant has a note from her doctor saying that she is having trouble with her 7th pregnancy, so they have granted a postponement. By the time we get to the hearing and I get a result it is likely to be near 5 months before we have an outcome. In the meantime, my landlords are having to pay for repairs and repainting of the premises, cleaning, new carpet, water account, replacement of locks as tenants did not return all of the sets of keys, rubbish removal all not covered by insurance as they did not see it as being malicious damage!!!!...[Insurance] would only pay 5 weeks loss of rent (and will not pay any more until the 13 weeks loss of rent is up on 7th of July) minus the $1,000 excess for loss of rent.
>
> We have just started to have opens for the property and having to advertise it immediately to comply with insurance specifications for claims. It has actually damaged the letting process as it has been on the net too long and people now think there is something wrong with it. With a hearing so long away, it has not helped the situation.
>
> My complaint is that the RTT may not see this as a priority but my landlords who have a bill of...[over $6,000] above the bond do see it as a priority. Why should they be penalised in having to wait so long for a hearing? Why are hearing dates taking a lot longer to be assigned, why are bonds taking longer to be refunded? The answer is simple. Just before Christmas 2010, the government cut the staff nearly in half. Now, the staff who are still there are apparently working that much overtime just to keep up with the work that they are becoming ill and stressed.
>
> Since last year we have had to pay $35 if we want a hearing set and then try and get it back from the tenant at the time of the hearing. Why are we paying for this service if this service is getting worse. It is not the people at the RTT that I blame but the government who make these decisions without any logic or knowledge of how things work. When I sent the information to the RTT I also sent 43 pages (average of 9 photos per page) with my documents of damage, rubbish, dirt, etc. This should have been enough for them to say, List a hearing asap. As I have stated, I am not the only property manager who is extremely frustrated with this department. I suppose that I just need to vent my opinion that enough is enough.

We have been advised since that email that there is another cost-saving measure being undertaken by OCBA, which is to hold on to their bond cheques for the purposes of bulk-billing a

number at a time and, as a result, instead of those claiming the bond as directed by the tribunal receiving it within 10 days, it takes three weeks or more.

I have a copy of a letter which has also been sent to the minister. This is in relation to people who wish to have OCBA take action against an unlicensed painting contractor. This couple write, on 25 July 2011:

Dear Ms Gago,

We wish to draw your attention to the conduct of your department...(OCBA) in relation to a matter we referred to them.

In late December 2009 we entered into an agreement with a painting contractor—

I will not mention his name—

to paint some of the interior of our property at the above address, at a cost of $10,000.

By mid January 2010 it became apparent that his workmanship was substandard. Upon investigation his claims to have a Builders Licence Number was false, his proffered Builders Licence Number belonged to another person, and was lapsed. His business was not registered, and he was not a Master Painter.

The contract broke down, and we contacted OCBA on the 24th of January 2010. We were initially told to fax his quote, business card (which had the false Builders Licence Number on) and the Enforcement Branch would contact us. We did as instructed and followed up. During this time we were given several different telephone numbers and contacts with multiple different scenarios of the procedures OCBA would undertake.

Eventually we were told that all this information was wrong and we had to submit a 'Request for Assistance–Building Work'. We submitted this with supporting documentation. In late March we received a letter from OCBA informing us that [unnamed painter].'disputed this' and OCBA would not be able to provide us with any further assistance. We were then referred, amongst other things, to the Magistrates Court.

We knew this would be the outcome; our intent was to make sure that [unnamed painter] could not continue his misleading and deceptive conduct and garner further victims.

In concert with the aforementioned action we were in contact with Frank Galletta of the Enforcement Branch of OCBA. In late March he informed us that 'OCBA does not have sufficient resources', they 'cannot process tasks in an expeditious manner as they would like', the matter was 'currently in "investigation phase" (but not really progressing)', our case was of 'low priority' as OCBA investigators were focused on the 'Pink Batt Fiasco', 'will get to it when they have time' and the 'Fair Trading Act prevents him from disclosing any details'.

We were very frustrated but not surprised by this outcome as OCBA has an atrocious reputation for successfully pursuing enforcement actions.

Unexpectedly in June we were contacted by Peter Jellings, an Enforcement Officer from OCBA who wanted to take a statement from us regarding [unnamed painter], as he had another victim in his case file, and he intended to pursue an action against [him]. On the 16th of August 2010 Mr Jellings attended our property to inspect the paintwork and record statements. During the course of our conversation we mentioned that the Master Painters Association of Australia were recognised as experts by the Courts, and a report from them would strengthen our claim. Mr Jellings stated 'OCBA did not have the resources to commission such a report'. In furtherance of the claim we commissioned a report at our expense, which was forwarded to OCBA on the 2nd of December 2010.

Around December 2010, January 2011, we were informed by Mr Jellings that he was going to have a formal interview with [unnamed painter]. In a later telephone conversation Mr Jellings stated amongst other things [that he had] admitted painting our house without a Builders Licence Number, but denied or mitigated all else.

We continued to follow up on a regular basis with Mr Jellings, and during this time it became increasingly obvious he was averse to continuing the action against [the painter]. We were again frustrated with the indecision and inaction of OCBA, and contacted Ben Cunningham, President of the Master Painters Association as we realised that if this action was not pursued, it would give tacit authority for painting contractors to operate without training or a Builders Licence, and we felt we needed a trade body to add weight to our case. Mr Cunningham contacted Mr Jellings, and subsequently Mr Jellings contacted us and informed us that once the other party had completed their statements, the file would be forwarded to the Crown.

In April we attempted to contact Mr Jellings again by phone and left messages and there was no response. By May we had lost faith in Mr Jellings pursuing this matter and contacted your office, spoke to Tom Poole, explained the situation, and he promptly contacted Mr Jellings. On the 20th of May, we were contacted by Mr Jellings and told that the file would be forwarded to the Crown within two weeks. Over a month later, on the 22nd of June, we sought confirmation that the case had been forwarded to the Crown, and once again this had not occurred.

A month later, on the 20th of July, we contacted Mr Jellings again via email, and received a response the following day. We have been told in no uncertain terms that this is an OCBA matter, and made obvious that our involvement was no longer required. It was suggested that we could sue [unnamed painter] independently.

Ostensibly we are now no further along than we were 18 months ago, except the clock is ticking on the statute of limitations.

We contacted Mr Poole again and was told to commit this to writing. We once again contacted Mr Cunningham so he could inform your office that his trade association was apprised of the conduct of OCBA in relation to this matter, and he spoke to Mr Poole on the 21st of July 2011.

We are concerned about;

1. Inaction and indecision by OCBA as a whole.
2. The conduct of Mr Galetta and Mr Jellings in particular.
3. Lack of knowledge or understanding of the relevant legislation.
4. The inability of the Enforcement Branch to effectively investigate breaches of the Act.
5. That unlicensed builders can operate with impunity in this state.

They go on to say:

We are fully aware that you are unable to intervene on the facts of the dispute between ourselves...but you are able to examine the conduct of your department. We therefore request your intervention to investigate the ineptitude that has been proffered by your own department.

On another matter we find that your reception staff would benefit from some form of customer relations training, as we found them to be quite rude.

It is signed 'David and Michelle Woolford' and it is CC'd to my leader—the local member, the member for Heysen—myself and the President of the Master Painters.

This is just another case among many that have been brought to our attention with increasing red tape and extended times for things to be processed. That particular case I think is one of the more outrageous and I think that couple, through sheer frustration, has taken that step of writing to us, because they have done the right thing; they have tried to go through all the channels and, after all of that, they fear that nothing will be done and that some poor consumer further down the track is going to end up in the same situation as a result, which means we have a lot of very vulnerable consumers because these actions are not being taken.

I will not talk about licence processing, given the time. It is a matter that I have raised in this place before, but I think it is of great concern that the cuts by this government are making our environment vulnerable and consumers vulnerable and destroying services which have existed within our community—those services specifically directed towards assisting women in particular areas—just because they have not managed to keep their spending in check after some nearly 10 years in office which has been to great detriment because, once those sorts of services are gone, we will really struggle to bring them back. I just make those remarks in relation to the Appropriation Bill and my great disappointment at the way this government is managing our state's finances.

The Hon. J.S.L. DAWKINS (12:43): In supporting the passage of this bill, I recognise its importance in providing finance to the various programs incorporated in the 2011-12 budget of the government. It is, however, my intention to focus on some particular areas that have come to my attention as they relate to some of the priorities of the government and the manner in which the public servants carry out those wishes, a number of which, of course, bring concern to members of the community, and I wish to outline some of those today.

Initially, I would like to talk about an issue that I did raise in this chamber earlier in the year, and that is about the inability, I think, of the government—and I am not just having a go at this current government, because I think previous governments have also not acted in the area—in relation to the ability of pastoralists in the north-east of this state and other people in that area to have a much more reliable road network.

The Birdsville and Strzelecki tracks have suffered significantly with all the wet weather that has come through the outback in the last 18 months or so, and that has been compounded by the amount of tourists driving through the area. So, because we have no bitumen roads in that area between Lyndhurst and the Queensland border, the ability of pastoralists up there to get their cattle down to the lucrative southern markets has been firmly shut by the floodwaters and by the lack of a secure and reliable road network.

It is a matter that has been raised over a period of time by a number of people in that part of the state. There has been significant criticism about the reaction to the need to have a reliable crossing of the Cooper, but it also goes to the fact that other causeways along that road and other sections of the road are quite often undriveable, sometimes just because of wet weather but also

exacerbated by the actions of some people who are inexperienced in driving on unsealed outback roads.

I have made a plea in this place before to the government that it is a matter that we need to look at. Certainly, in opposition, we are aware that it is a significant challenge to upgrade the outback road network but if there is no plan to do that then it would seem it would never happen.

The member for Stuart in another place, Mr Dan van Holst Pellekaan, has been very outspoken about the need for some action in this area and highlighted the fact that the situation I have just described has meant that many of the pastoral properties in that far north-east corner of South Australia, as well as across the border in Queensland, have been unable to deliver their cattle to the southern markets, which has, in many ways, been their preference.

In reality, a lot of those cattle have been forced to go out through the bitumen road networks in Queensland, and although a number of those roads are very narrow roads, they are all-weather roads. It is something that I think the government needs to take notice of. I am aware of the fact that the Outback Roads Action Group met with minister Patrick Conlon about these matters a couple of months ago, but in last week's edition of the *Stock Journal* the spokesman for that group said they had not received a reply.

Last year, when the Natural Resources Committee of the parliament visited the Arid Lands NRM board, we also met with the outback lakes cattle producing group, which is a group that does a very good job in marketing their beef as a niche product, and they have been working very hard on that in the period that they have not had much beef to sell. They are also keen that, when they do have the cattle to take to the market, they are able to do so when they need to.

I sincerely take that matter up with all members of this place because we all represent the outback, and I think we all like to visit the outback from time to time—as often as possible in my case. However, I think we need to look at these matters as a parliament because the inability of those people to access not only stock markets but also other facilities that we all take for granted is limited by the lack of all-weather roads.

I was impressed earlier this year when the new Presiding Member of the Arid Lands NRM Board gave evidence to the committee here in Adelaide. That lady had driven some 10 hours from her property in the far north-east corner of South Australia to Port Augusta just to chair that board. You, sir, would well know the state of those roads. To travel on them for 10 hours to chair a meeting and then subsequently come to Adelaide to front a parliamentary committee is tough.

I now wish to move on to an area within the Department of Environment and Natural Resources, particularly relating to the national parks network and the concerns of Friends of Parks volunteers. I will be somewhat shorter in my remarks about that because of the very good comments made by my colleague, the deputy leader and shadow minister, a little while ago.

In her role, she obviously hears a lot of concerns from those wonderful people who make up Friends of Parks. I think the honourable member mentioned the fact that there is so much work done by Friends of Parks volunteers that it allows the department—the old national parks and wildlife service—to do many other things with its funds.

Unfortunately, we now have a situation where the old national parks and wildlife service has come under a section of DENR. The shadow minister might correct me if I am wrong, but I think it is now just a division of regional services in that department, which means that the identity of national parks staff—something they have been proud of for many years—has largely been lost. It also comes under regional managers for DENR, and those regional managers are also responsible for the NRM boards.

I am concerned about the issues that have been raised with me by a number of Friends of Parks volunteers. They are concerned that in many cases now, where they are prepared to continue to provide the voluntary effort, some of the plant and equipment required to do that work (which was provided by the old national parks and wildlife service) is no longer provided through government funding. That is a concern.

My colleague mentioned the fact that there was a commitment to Friends of Parks from the previous minister that the number of positions held by rangers would be quarantined from the redundancy scheme. That commitment appears to have been broken, because a number of valued rangers have apparently been lost to the system.

I am aware that in a number of other cases the number of available rangers is very low because of the build-up of annual leave and long-service leave and the inability of the organisation to replace those people. Many of the rangers are forced to look after a large number of parks on their own, and that is a dangerous matter, particularly when we get into the bushfire season and look at the number of those parks in the Adelaide Hills.

The one I am most familiar with is the Para Wirra national park and, of course, the new Humbug Scrub area, and I congratulate the government on finally annexing it to that park. It took us some years of lobbying, and I must say that I raised that issue in this house before we got that to happen. Those are high fire risk areas, and I think that if the government continues to value these assets it needs to continue to make sure that the National Parks and Wildlife Service, as it now exists as a division of regional services within DENR, needs to be able to coordinate the efforts to protect them.

I move on briefly to an area that concerns many of us who represent the whole of South Australia but particularly areas in the peri-urban area of Adelaide that have been affected by the decision of the state government's process regarding school bus contracts. It impacts on communities further afield, but I am very well aware of a number of family bus operators, some of whom have been providing those services to the education department for more than 50 years, who have been frozen out of these negotiations.

In fact, one such person told me that he had been told that he would have a good chance of regaining his contract for providing school bus services if he met the benchmark. The big problem is that that contractor, and many other similar contractors, were not provided with the details of the benchmark. If you are out in the marketplace trying to meet a benchmark, it is pretty hard to do so if that detail is not provided.

The PRESIDENT: Townsend's met it.

The Hon. J.S.L. DAWKINS: It was not that one, sir; it was one that has been around for as long or nearly as long, but I appreciate your interest. This issue disturbs me and reminds me of a situation a couple of years ago when, in its wisdom, the government decided that the procurement for all supplies for all country hospitals would be taken away from local suppliers and given to a government-based centre in Camden Park.

While there has been an element of backdown, it has still been a concern to country communities who are serviced by those suppliers— those suppliers who can make sure that goods are delivered from Whyalla to Leigh Creek either the same day or the next day and act in a much more timely fashion than a centre in Camden Park. I turn to the fact that those businesses support local communities, support sporting clubs and other aspects of those communities and that these bus contractors are people who support their communities as well. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

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

STOCK THEFT SQUAD

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 32 residents of South Australia requesting the council to urge the State Government to reinstate a stock squad specially trained to investigate, prosecute, liaise with local and interstate agencies, and bring to justice perpetrators of stock theft.

PAPERS

The following paper was laid on the table:

By the Minister for Regional Development (Hon. G.E. Gago)—

Electoral Commission of SA—Report of the State Election, 2010

STANDING ORDERS SUSPENSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I move:

That standing orders be so far suspended as to enable to me to move a motion without notice in lieu of question time.

The PRESIDENT: Is that seconded?

An honourable member: Yes, sir.

The PRESIDENT: The question is that standing orders be suspended.

Motion carried.

MINISTER FOR STATE/LOCAL GOVERNMENT RELATIONS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I move:

That this council has no confidence in the Minister for State/Local Government Relations in light of his incompetent management of the Burnside council investigation.

As members would be aware, these types of events usually last an hour. Mr President, I suggest today that the opposition use 20 minutes of that hour, the cross-benchers and the Independent parties have available 20 minutes of that hour, and of course the government have 20 minutes available. I ask if the clock can be started just to keep people on track for time.

The PRESIDENT: There is a clock up there. If you cannot tell the time I am happy to tell it for you.

The Hon. D.W. RIDGWAY: Thank you, Mr President, if you are not prepared to have the clock switched on. This is the first time in almost 30 years that this house of parliament has moved a motion of no confidence in a minister, either a Liberal minister or a Labor minister. The Hon. Russell Wortley has been a minister for just over a month; in fact, this is only his fifth day in this parliament as a minister. In fact, it has taken only four days of his performance for this parliament and this Legislative Council to arrive at a decision that we have to have a no-confidence motion here today.

What sort of a minister is it that is not game to read a report—cannot trust himself to read a report for fear he might leak the information out of that report? We know that cabinet ministers are faced with a whole range of confidential documents—cabinet documents, documents that are commercial in confidence and other confidential information that goes to cabinet—yet this minister has publicly said that he cannot trust himself to read any document for fear of letting information out. He is clearly not fit to be a minister.

The evidence shows that the minister is guilty of grave misconduct—of behaviour totally unacceptable to any government of whatever political persuasion, Liberal, Labor or any mix of coalition. He stopped the legally-constituted inquiry into the serious allegations involving the Burnside council and, as members would know, at least one senior QC has an opinion that there is nothing in the Local Government Act that gives him the power to do so. An eminent legal opinion is that the minister does not have the legal authority; that is, Kevin Borick QC says that it is illegal to stop this inquiry, but the minister does not think so.

We cannot have a minister—any minister in any parliament—who puts himself above the law. The minister claimed in parliament that he has his own legal advice that he could stop the inquiry, but what sort of advice is it? Is it written or oral, was it formal and will it hold up in court? He does not even have the courage to table that opinion in this place. He has told this house that it was his decision and his decision alone.

He confirmed yesterday, or earlier this week, that he did not talk to the Premier, the Deputy Premier or the Attorney-General. He did not even speak to the other cabinet members, some of whom, Mr President, as you would know, have had more than 10 years' experience of being ministers. You would think that anybody worthy of their job would have sought some advice.

He did not even speak to his own leader in this place, the Hon. Gail Gago. Of course, as we can all recall, she was the minister for state/local government relations who instigated this report. They are only a matter of a metre and half apart, yet he has not even spoken to her. Quite surprisingly, he did not even talk to his close factional colleague, the former leader of the government and also the former minister for state/local government relations in this place, the Hon. Bernard Finnigan, who is only a metre or so behind him.

Most shamefully, he has not spoken to the Burnside community and the Burnside residents, the people who are most affected by a poorly performing council. The decisions around the Burnside council will impact on the local residents in Burnside, and shamefully he has not

spoken to the residents of Burnside—a disgraceful decision taken for political reasons to end the inquiry.

The Attorney-General fears that it may have been political motivations that were involved. The Premier and Attorney-General said that it should go to the Director of Public Prosecutions, but the minister did not send it—he knew better. The minister told the parliament in the last sitting week that all the information had been sent to the Anti-Corruption Branch, yet this week he said, 'Oh, no, actually that didn't happen; the police commissioner invited me to send it to him.' Really, what has been going on: a minister who has been in the job four days and he does not even know what day it was.

Interestingly, on Tuesday he could not remember that he had signed a letter on Monday to the police commissioner. It is a joke that a minister has reached a point where, after four days of his performance in this place, the Legislative Council feels that it is compelled to move a motion of no-confidence in him.

The minister has made unsubstantiated, very serious allegations against members of this chamber. He has accused them of criminal acts. On Tuesday he accused the shadow attorney-general (Hon. Stephen Wade), the Hon. Ann Bressington and me of breaking a suppression order. That would be contempt of court—a gaolable offence. He accused me of criminal behaviour. He has not withdrawn, he has not apologised for calling three MPs guilty of criminal behaviour. He should produce the evidence that I am in contempt of court and that the others are in contempt of court or immediately resign, without even waiting for the result of this motion.

The honourable thing for him to do would be to leave this ministry voluntarily. But, Mr President, as you know—and you have known the Hon. Russell Wortley for some time—he has not got the strength of character to do that. The Labor Party knows what sort of man it appointed. That is why it took the government so long to replace the Hon. Bernard Finnigan when he resigned some months ago. What sort of character is the Hon. Russell Wortley? What sort of man is he?

I said at the time when the Hon. Bernard Finnigan become leader—and he would remember from his old farming days down on the dairy farm in the South-East—that the thickest cream eventually rises to the top. The Hon. Russell Wortley is minister because, as we all know, he is the Steven Bradbury of the Labor Party. He was the last man standing—there was nobody left. You can see why. This is a man who has a $10,000 phone bill in just one month.

It was interesting that on Tuesday the minister started to mock the Hon. Ann Bressington for being too preoccupied with Lord Monckton. I am reliably informed that on 4 February 2010 the Hon. Russell Wortley took his personal assistant out to lunch with Lord Monckton.

Yesterday he revealed that he did not even know the name of the Local Government Association president. This is an organisation which is the third tier of government, an organisation which is a large part of the minister's responsibilities, in fact, an organisation with some 10,000 employees and which is responsible for about $4 billion in rate revenue. Clearly a minister who is not capable of doing the job or being across his portfolio.

The Westminster parliament must have standards of accountability. On Tuesday he falsely claimed in this chamber that three MPs, including me, had broken the law. He said, 'You can laugh, scream, call me a bitch if you wish.' Nobody finds that funny; in fact, it demeans the parliament. We do not call him the bitch, we call him unworthy of the holding a commission from the Crown to be a minister.

The public must have trust that the ministerial legal processes are not thwarted for political reasons or to protect their mates. The community must have confidence that a minister will discharge their duties with integrity. The real question here is parliament and the public's trust. This minister has broken that trust. He has clearly demonstrated in just a few short weeks that he does not have the capacity or the integrity to do this particular job.

On behalf of the more than one million South Australian voters and the 700,000 or thereabouts voters who did not vote Labor at the last election in the Legislative Council, and on behalf of decency, honesty and Westminster democracy, we have no choice: we must vote one way. I urge all members in this chamber—and that includes members of the ALP—to support a motion of no-confidence in the Hon. Russell Wortley.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:29): I rise to oppose what is clearly a

political stunt organised by the opposition, and a disgraceful waste of taxpayers' money. Nevertheless, I briefly want to start with a little bit of history about the investigation, particularly during the period of 24 July 2008 to 7 February 2011, when I was the state/local government relations minister responsible for administering the Local Government Act.

Members would be aware of the disquiet around Burnside council during that time, which resulted in calls or howls for investigation. There was widespread support for the call for an investigation of the Burnside council. In fact, demands were made by members opposite me, and other members in this chamber—strident demands—and insistence that an investigation take place. In the face of these demands the government would have been negligent if it had failed to take heed of the disquiet expressed by residents and members of parliament.

The responsible agency, the Office for State/Local Government Relations, provided advice and sought information from the council—all of those things are already on the public record. As the responsible minister at the time, I received legal advice and advice from my agency and carefully considered that advice and, indeed, followed that advice in my actions in relation to the Burnside council.

Of course, the Minister for State/Local Government Relations clearly does not have untrammelled power in relation to matters of council. We must act, obviously, in accordance with the relevant acts. I certainly did take all reasonable steps required by the Local Government Act, particularly in relation to section 727. I considered the submissions of the council and took advice from my agency. I had genuine reason to believe that the council had failed to fulfil its obligations under the act, and on the basis of that belief I instigated an investigation. I took those steps in good faith and I continued to seek legal advice from the Crown Solicitor's Office, which I received and acted on.

As an aside, there have been calls in this place for this type of ministerial legal advice to be released and publicly tabled. However, my understanding is that all legal advice sought by the government is, obviously, privileged; and the purpose of legal privilege is to ensure that the client (in this case, the government) receives full, frank and fearless advice. Therefore, the advice should not be made public as it could have the effect of censuring lawyers' advice or, in the worst case, preventing a client from being frank about their circumstances to their lawyer. That, indeed, would hinder the proper administration of justice and I do not believe any members here would want to do that.

In July 2009 I appointed Mr Ken MacPherson to conduct an independent investigation into the City of Burnside. I asked him to look at whether the council had contravened or failed to comply with, or failed to discharge, a responsibility under the Local Government Act (under which this was undertaken, as you are all well aware—it is all on the record). In response to the investigator's draft report, the matter was then taken to court by a number of the then Burnside councillors, seeking a judicial review of the establishment of that inquiry.

Since then, I have handed over the state/local government relations portfolio. That review process is being conducted by the Full Bench of the Supreme Court. This has resulted in a finding in relation to the terms of reference, and some of those references were found to be invalid and the suppression of the draft provisional report was made. As we know, a suppression order means that the draft report cannot be circulated, referred to or published. To do so would contravene an order of the highest court.

That is all history now, Mr President. All said and done, the good news is that the problem which the investigation set out to examine no longer exists. This is because the electors of Burnside voted for an entirely new council and those involved in the complaint are no longer on the council. The council is new and the feedback to date indicates that they are indeed operating extremely well and need to be congratulated for that.

The lessons of the Burnside matter have also been addressed through the government's public integrity review process. The Attorney-General and the minister have said that work through the new Office for Public Integrity will address issues around local government and will streamline and improve many of those processes.

Minister Wortley now as the Minister for State/Local Government Relations has advised this chamber of his deliberations in relation to the Burnside council matter. The minister has made the decision to disband the inquiry based on legal advice, the facts as they stand and the work done so far. He has made this decision in good faith. He is making sure that we do not expend further moneys unnecessarily in a retrospective, academic exercise, and that is what a responsible

minister should do: take account of the facts and advice, make sure that public moneys are not spent unnecessarily, and that is indeed a prudent and proper thing to do.

In summary, the problem that was under investigation no longer exists. Steps are being taken to improve processes through our public integrity mechanisms and we are avoiding unnecessary future spending of public money. The minister has confirmed that any matters that might be of a criminal nature will be examined by the Crown Solicitor's Office and, if any material requires further action, referred to the DPP.

The Minister for State/Local Government Relations has acted in good faith and, based on legal advice, made decisions based on the best public interest. That is what a responsible minister should do and has done in this case. This motion before us today should be a motion of congratulations, not condemnation.

The Hon. S.G. WADE (14:37): Let us pause for a moment to reflect on the extraordinary position we are in today. Today is extraordinary because the Legislative Council rarely passes judgement on a minister. Today is extraordinary because we are reflecting on the confidence in a minister who was only recently appointed. This motion expresses a lack of confidence in a minister who has been a minister for merely 35 calendar days. He is only halfway through his second sitting parliamentary week.

It is unprecedented for a minister to face a vote of no confidence on his fifth parliamentary sitting day. You might say, well, 'Are we being fair? Has he been there long enough for us to pass judgement?' I say, yes, we can make a judgement, because every member of this council knew that he was not appointable before he was appointed. Everything that has happened since lies testament to that fact.

When Labor was looking to replace the Hon. Bernard Finnigan, I had a chat with a Labor member. I said that if the Labor caucus appointed the Hon. Russell Wortley as a minister, I would move a vote of no confidence against him on the first day. The member responded, 'Not if I do first.' I apologise to this council that I am four days late.

This is the man who allowed his taxpayer-funded mobile phone to be used to run up a $10,000 phone bill downloading games. This is the man who continually disrupts the chamber because he has not learned how to turn off his mobile phone. This is the man who was the chair of the Atkinson-Ashbourne select committee when a dodgy draft was leaked to the media.

The Hon. Russell Wortley was a retiring union leader looking for a pork barrel. His first and greatest policy interest in this place has been parliamentary superannuation, but the plan for a quiet life went belly up when he was the only member of the right left standing after a string of resignations. The ALP caucus knew that he was not worthy of being a minister. It left the Hon. Bernard's Finnigan's vacancy unfilled for 63 days as it frantically explored every conceivable alternative to appointing the Hon. Russell Wortley as a minister. Rather than appoint on merit, the right appointed the unappointable.

On 24 June, the Hon. Russell Wortley was inevitably appointed as a minister. Even the appointment showed the government's lack of confidence in the decision. The Premier gave him industrial relations, but rescued workers compensation and WorkCover. Now the Attorney-General is talking about taking back the Burnside council. Industrial relations without WorkCover; local government without Burnside—where will it end?

The appointment of the Hon. Russell Wortley is a defining event in the nine-year span of the Rann Labor government. It shows the lack of authority of the Premier; it shows the shallow talent pool in the Labor team, particularly in this place; and it shows that factions matter more than merit.

So, what of the Hon. Russell Wortley's performance since becoming a minister? We know that the minister will claim that he inherited a mess. That may be true, but he did not have to make the situation worse. In one short month, the honourable minister has taken the Burnside council case from being a complex, sensitive one, to being a disaster zone, where the public no longer trusts a word this minister says.

We should honour the judgement of the South Australian community and express our lack of confidence too. I ask the Legislative Council, based on his performance thus far, can the council have any confidence that he will be able to discharge the duties of a minister of the Crown? I ask the council, can we have any confidence in this minister that he will be able to find a way to de-strand the mess that he has put us in?

We should not have any more confidence in this minister than his ministerial colleagues. Answers in question time yesterday indicated that the Premier did not consult the minister before announcing on Friday that the MacPherson inquiry report would go to the police commissioner and the Director of Public Prosecutions, in addition to the ACB. The Attorney-General is openly speculating about taking the Burnside issue off the minister.

One of the key reasons to appoint a second minister in this place was to help carry the legislative load, yet the minister has not even been trusted with a single bill since he was appointed. The fact is the public does not have confidence in this minister, the government does not have confidence in this minister, so the council cannot have confidence in this minister.

I would like to reflect now on aspects of the minister's performance to show that he is not fit to be a minister and why he lacks the confidence of this place. Firstly, the minister is recklessly arrogant. On his first parliamentary sitting day, nearly 13 days after his appointment, he announced his decision to terminate the investigation into the Burnside council.

The minister has asserted repeatedly that the decision to terminate the Burnside council investigation was his decision and his decision alone. What has now become clear is that it was not only taken alone, it was taken in isolation of the facts and without advice. The arrogance of the minister is breathtaking.

The minister decided the allegations were petty and the investigation should be terminated without even having read the report. The minister decided that the investigation could not be salvaged without even having spoken to the investigator, Mr MacPherson. He decided the allegations of criminal conduct should be disregarded even though the investigation into them had not been concluded.

He was so arrogant that he did not even consult any of his cabinet colleagues before making the decision. He was so arrogant he asserted that: no-one cares about Burnside, in or out of Burnside. He was effectively saying, 'I don't care about Burnside, therefore no-one does.' There is a sense of tragedy when a person overestimates their own abilities, but we are the fools if we allow them to continue to operate beyond their competence.

Secondly, the minister lacks judgement. Let us for a moment imagine that the decision to terminate the MacPherson investigation was the right one. What if he did have the legal authority to terminate? Still, the way the minister undertook the termination of the investigation showed a complete lack of regard for proper process and planning.

When he announced the termination of the investigation on 6 July his only next step, the only step that he said he would take, would be to engage the Local Government Association on lessons to be learnt for the reform of local government. It is not clear what they are going to talk about considering that they do not have a copy of the report and he will not read his.

There was no sign of an exit strategy to manage the range of other unresolved issues. It was only last Tuesday 19 July, a couple of hours after a grilling on ABC radio, that he belatedly announced he was going to refer the draft MacPherson report to the Crown Solicitor's Office. He had not spoken to the Attorney-General about the plan. For his part, the Attorney-General had not informed the minister that he had already had Solicitor-General advice on the same issue.

The minister intended for the DPP to prepare a case for a prosecution on a partially completed investigation when there is a question mark over the admissibility of the evidence. The minister's lack of judgement in this situation has made a bad situation worse.

Thirdly, the minister has a lack of regard for accountability and for this parliament. The minister's parliamentary performances thus far have been characterised by rambling statements which show a reckless indifference as to whether the statements are true or misleading. For example, in his first two sitting days he made a number of inconsistent statements on whether or not the Anti-Corruption Branch of SA Police had received a copy of the draft investigation report.

I am willing to accept that, amongst the range of statements the minister made, he might have got one right; I just do not know which one. Not only did he fail to return to the council to provide a personal explanation but, in the two weeks since then, he has not corrected the record. It was only last Thursday after the police commissioner revealed that the report had not gone to the Anti-Corruption Branch that the minister saw fit to make a public statement on this issue. He had time to do a photo shoot in Rundle Mall but he could only manage a press release on this issue.

The press release focused on one narrow statement but failed to take the opportunity to correct the other statements on the record and clarify the central issue of what in fact has gone to the ACB. At a parliamentary level I consider that the minister has shown his disdain for this parliament by the casual way he approached parliament this week. Let us remember the context. A week ago, after a week of stunning revelations, there was a widespread view that the minister had a case to answer. Five days before parliament resumed, *Ten News* journalist Adam Todd tweeted:

> Mr Wortley facing calls to resign over handling of Burnside affair. Facing possible censure motion for misleading parli.

I was fully expecting that the minister would come into this council and provide a long and carefully worded ministerial statement to put his case but, when the council sat, it was as though the minister had only just noticed the sitting day in his diary. The minister stumbled and stammered through one of the worst parliamentary performances I have ever seen. The minister's lack of preparation was an insult to the people of South Australia, this council and the parliament. He has no right to our confidence.

Fourthly, the minister has a lack of regard for public integrity. The fact that the minister was happy to close down an investigation without any exit strategy or any strategy to deal with the outstanding elements of the allegations shows the low priority that he puts on maintaining adequate standards of public integrity and administration. He is not alone in the Rann Labor government in that regard, but today's motion is about this minister. He needed an exit strategy.

There are at least 26 copies of the draft investigation report in circulation. We do not know how many copies of those copies have been made. We know that both major newspapers in this state have indicated they have copies. There have been threats of release of the material on WikiLeaks. Did the minister seriously believe that the report would stay out of the public domain if he failed to effectively deal with the allegations? The level of frustration amongst stakeholders is acute. The minister's failure to act risked exposing innocent people who have been named in the report being faced with allegations made public without the investigation being concluded.

The minister has described the allegations as petty and minor. He bragged that he knew from his local government experience that the Burnside allegations were normal. Reportedly, the investigator recommended criminal charges. The police commissioner thought the matter serious enough that it should be referred to the Anti-Corruption Branch, yet the minister was happy to bury the report. This speaks volumes of the low standards of this government and this minister.

Fifthly, I say that this council can have no confidence in this minister because he has shown that he is incompetent. His incompetence is shown by the fact that he does not know his responsibilities and those of other key stakeholders. He purported to close an investigation when independent legal advice suggests that he did not have the power. He decided to refer an unfinished investigation to the DPP when the DPP is a prosecutor, not an investigator.

He is incompetent because he cannot trust himself with confidential matters. A minister who week after week would be entrusted with confidential cabinet submissions cannot trust himself with confidential material. How does he expect other people to trust him when he does not even trust himself? Is he going to warn people as they come in to meetings with him, 'I'd rather you didn't tell me anything confidential; that way it won't be in my head'?

He has shown his incompetence because he cannot manage simple tasks. Last week, the police commissioner suggested that he refer the draft report and associated material to the Anti-Corruption Branch because the commissioner felt that he was constrained from doing it. The minister has told the council that he referred only the draft report without the associated material and that he sent it to the commissioner, not the Anti-Corruption Branch. He cannot follow a simple request. The reason the police commissioner requested that the minister give it to the Anti-Corruption Branch was that the commissioner was of the view that he could not, yet the minister sends it to the commissioner. The commissioner requested that the report and the associated material be referred; the minister only referred the report.

Yesterday, the minister seemed oblivious to the Premier's commitment on Friday, reiterated in the House of Assembly on Tuesday, that the draft investigation report be referred to the police commissioner and the Director of Public Prosecutions. Yesterday, he could not even name the President of the Local Government Association, the peak body in his portfolio, in spite of the fact that he issued a press release welcoming him to the post a month earlier and in spite of the fact that he had met personally with the president the day before he made the statement.

On Tuesday, he could not even remember that he had signed a letter to the police commissioner the day before. Yesterday, in response to a question of the Hon. John Dawkins on audit committees for local government regional subsidiaries, he gave a commitment to expedite the matter. He seemed blissfully unaware that he had signed letters on this very issue the week prior. The minister is also lacking in competence in his ability to make decisions.

Earlier this week, the Local Government Association met with the minister and vigorously conveyed its frustration at the lack of a decision on the Local Government Disaster Fund. Recent disasters are likely to strain the fund, and yet the minister has failed to deal urgently with an urgent situation. He has time to do photo shoots; he does not have time to do his job.

I have put five strong arguments, five strong grounds, as to why this council should have no confidence in the Minister for State/Local Government Relations: firstly, the minister is arrogant; secondly, the minister lacks judgement; thirdly, the minister has a low regard for accountability and this parliament; fourthly, the minister has a lack of regard for public integrity; and, fifthly, because he is incompetent.

This chamber is a respectful place. We are tolerant and patient to the point that our colleagues in the other place often accuse us of being timid. The opposition is not moving this motion lightly, and we know that members will not support it lightly, but we need to ask ourselves: if we have lost confidence in this minister, if the people of this state have lost confidence in this minister and there is no reasonable prospect of that confidence being recovered, we fail in our duty to the wider South Australian community if we do not speak the truth—and the truth is that this council can have no confidence in this minister.

Honourable members: Hear, hear!

The Hon. I.K. HUNTER (14:52): I rise to of course oppose this very silly motion which, I must say, is completely farcical in its underlying motivation. We all know why we are here today discussing this motion. We all know why we are going through the motions: because the Liberals have had two days of question time absolutely wiped out in this place and did not get on the television news on Tuesday and Wednesday night.

The Hon. Ms Bressington stole their thunder on both nights—first of all with her expletive-laden performance on the first day and, on the second day, with a little stunt, 'My lawyer is bigger than your lawyer.' She got on the news on both nights and the Liberals got nothing, not a skerrick. That is why we are here today—because they are desperately trying to get their faces back in the paper and on the TV news and to get themselves back into the driving seat in this chamber. We should be having instead a motion of no confidence in the Liberal opposition.

Mr Wortley has come into this ministry and has been immediately handed an extremely complex issue bedevilled by Supreme Court judgements, suppression orders and a history of controversy. As the immortal bard would say, 'Who would fardels bear?' Just because he has only been a minister for a short time does not mean that he cannot draw on a wealth of experience to deal with this issue.

He became the Minister for Industrial Relations and the Minister for State/Local Government Relations and a member of Executive Council in June, but he has been a member of this place since 2006—as long or, indeed, longer than most members in this chamber today. He can bring to the important role of minister the experience of having worked—

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

The Hon. I.K. HUNTER: Well, nearly most. He brings to this role of minister the experience of having worked as a tradesperson, a workers advocate, a community representative and a committee chair in parliament. I understand that he was elected successfully in 1987 as a councillor in the Fitzroy ward in Prospect city council, which he served on until 1993. His service as a councillor has no doubt given him an acute insight into local government at a grassroots level. Taking all this into consideration, he has become a minister and immediately handed this thorny issue.

What does he do? First, he decides that it is in the public interest not to continue to spend millions of dollars of taxpayers' money on an inquiry that had been made fraught by a Supreme Court decision. Secondly, he seeks legal advice on what to do with the material gathered by the investigation and the draft report, which continues to be covered by a suppression order. Considering that legal advice, he determines that the material should be examined by the Crown Solicitor's Office and any evidence of wrongdoing brought to the attention of the Director of Public

Prosecutions—an eminently sensible course of action. It is a logical course of action. Then, having received a letter from the Commissioner of Police inviting him to consider providing a draft of the report, the minister tells us that he decided to take up that invitation. What minister would take this course of action without carefully considering legal advice?

The accusations that have been hurled at him by the Leader of the Opposition over there, the spear carrier for the Opposition, the man who makes the key points in this debate: what have they been? Have they been about corruption? No. Have they been about a dereliction of office or of his duties? No. Did he provide any evidence that he misled the parliament? No. All there have been are accusations of his casual approach, his arrogance. Well, if arrogance is a hanging offence members of the opposition should be very careful. He has been accused of being reckless, he has been accused of being indifferent, he has been accused of not turning his phone off. Are they grounds for a no-confidence motion? I would not have thought so.

Minister Wortley quite clearly told this place that the allegations concerning the Burnside council were considered by the Anti-Corruption Branch prior to the establishment of the inquiry. Now, some people in here may have thought they were misled because they misinterpreted what he said; they misinterpreted it is a suggestion that the draft report was provided to the Anti-Corruption Branch. That is not what he said. It is quite clear that Mr Wortley said no such thing.

Members interjecting:

The CHAIR: Order!

The Hon. I.K. HUNTER: Next time, before you make these allegations, you should listen a little more carefully—or at the very least, read the *Hansard*. This leads us to the remaining accusation hurled across the chamber, that Mr Wortley acted unlawfully by terminating the inquiry. What does the Opposition rely on to make this claim? An opinion sought from a QC by the Hon. Ms Bressington. No-one has suggested that Mr. Wortley acted without carefully considering the legal advice provided to him by the Crown Solicitor's Office, as far as I can tell. As I said before, this is simply a case of 'my lawyer is bigger than your lawyer'. If you pay a QC enough money you will get exactly what you want.

Let us look at the track record of members opposite. First, during this whole process of debate, they incessantly complained about the cost of the inquiry. Day after day I sat in this chamber and heard them hurl insults across the chamber about rising costs. Then, when the decision is made to terminate it, they have the hypocrisy to demand that even more taxpayer money is spent on pursuing the issue. They want to have their cake and eat it too, of course, as oppositions always do. This is even after the people of Burnside cast their verdict and threw the council out.

This place should not be wasting any more time on these weak and, frankly, farcical slurs against a minister who, at all times, has acted in the best interests of both the residents of Burnside and, indeed, all South Australians. In closing, I say that hurt feelings of the opposition are not a proper cause for a motion of no confidence.

The Hon. A. BRESSINGTON (14:58): I want to make it clear, and put on the record, that I support this motion, because, in my view, the Hon. Mr Wortley has not delivered on his responsibilities as Minister for State/Local Government Relations on the Burnside council investigation. This is not just my opinion, but the legal opinion of Kevin Borick QC that the minister's decision to terminate the Burnside investigation was unlawful, and, of course, those people in Burnside who have been adversely affected by the minister's rash and unwarranted decision to terminate this investigation.

If the minister had simply consulted with Mr MacPherson on how long it would take and how much it would cost to produce a final report, he may have made the decision to continue. Let us remember, the investigation is over and what we are now looking at is the final report. He literally made the statement that it could take millions more and years to complete, based on no information from the actual investigator. He has ignored the judgement of the Supreme Court that it is in the public interest that the investigation be completed.

He has then tried to look as though he was prepared to take action and, in my view, tried to dupe the public by referring the matter to the DPP, who cannot use the evidence in court because it is inadmissible. It has not been investigated; it has not been tried and proven. He ignored requests from the police commissioner to forward the report to the Anti-Corruption Branch—all of this without reading the report.

This is absolute incompetence, coupled with an arrogant attitude that he and he alone could whitewash this entire matter and then bury it. I do care that he makes careless accusations in this place about myself and other members being in breach of the law. They are serious accusations, and he had nothing to back them up with. That is not just hurt feelings: that, I believe, could actually be in violation of standing orders, but it was not picked up.

With the Supreme Court ruling, he cherrypicked. He has also done the parliament and the people of South Australia a huge disservice by cherrypicking one aspect of the Supreme Court ruling, and that is the suppression order on the report until the terms of reference that were deemed to be invalid had been removed and the evidence removed in relation to those terms of reference.

This is a political decision, which he admitted himself, and I believe a decision that was made based on party politics and not in the public interest and, let's face it: it is the public who pay his wages and ours. I am pleased that the Legislative Council is at last starting to be proactive in assessing and evaluating the performance of government ministers. My office sought the opinion of a prominent QC, for no cost, and the police commissioner, something the minister could have and should have done himself.

The Hon. D.G.E. HOOD (15:02): My contribution will be brief. I put on the record that, in supporting this motion today, Family First wants to send a message very clearly that we are not pleased with the way in which the Burnside council situation has been handled, not necessarily just in the last few weeks since we have had a new minister but for a long period of time. This is a very serious issue and, frankly, the people of Burnside deserve better. From that perspective, we put on the record that we would like to see this matter resolved in the most open and transparent way possible from here on in.

Turning to the questions of competence with respect to this particular minister, it is my sincere view that this minister has not been in the position long enough for a genuine judgement to be made of whether or not this minister is competent. I think it is early days, frankly, and because of that, our party is not seeking his resignation. We are, however, saying to him clearly: this situation needs to be resolved, and it needs to be resolved to the satisfaction of all and particularly to the satisfaction of the people of Burnside.

The Hon. K.L. VINCENT (15:03): As many members are already aware, I will be abstaining from the vote today. However, I will be adding my vote to allow the vote to go ahead, obviously. I am obviously someone who believes wholeheartedly in the power of a vote and therefore not someone who takes their decision to abstain lightly. I hope very, very much that this will be one of the very few occasions, if not the only occasion, where I make this decision, so I would like to take a moment to clarify why I have come to this decision today.

I believe, of course, that there are several motivations for this motion, only one of which is the mess that has been made of the Burnside inquiry. I wholly believe that what has happened with the Burnside inquiry is not right, and I will be supporting all direct parliamentary action which seeks to rectify that. Any motion which comes before this council which looks into the scrapping of this inquiry will have my support.

Of course, the decision on Burnside was made by Mr Wortley himself, but I am not convinced that a motion of no-confidence in him will reverse or make any real difference to that decision. What this motion is really about is attacking the Hon. Mr Wortley and the government, not helping the people of Burnside to see a good outcome. It is about the Liberals trying to get one up on Labor, not about what is right for the people of this state.

While I am comfortable with attacking the government and its ministers when they do something wrong—in fact, it forms a large part of my job—I am not comfortable attacking them when there is not a useful outcome from that attack. I will attack when I think we can get a better outcome for South Australians. I will do that in the future and I have done it in the past. But, to be honest, I know that we need at least two ministers in this house, and if Mr Wortley does not take the place of that second minister I do not know who will do a better job.

Members interjecting:

The Hon. K.L. VINCENT: Let me continue please. If we shame Mr Wortley out of this position, who will give it and us a better performance? I personally do not think anyone in this house will, and that is a sad reflection on the lack of faith I and many people in this state have in

this government. It is, I believe, an opinion which many, if not most, South Australians presently share.

Mr Wortley is not doing a good job now. He needs to do a better job in the future. The government needs to put more supports and resources toward taking its role in the upper house more seriously. This is, after all, the house of review, so I am happy for any measures to be taken for the government's processes to be reviewed so that we in the house of review may do a better job of serving South Australia effectively.

It would be easy for me to support this motion, but that would be playing media politics and ignoring the real complications of this motion. I do not want to use my vote to make people like me; I want to use my vote to make a really beneficial difference for the people of South Australia. Voting for this motion would leave the government scrambling to make their ministers in this place effective, and that is not good for our state.

Voting against it would tell the government that the shabby job it is doing is good enough, and it is not good enough for our state. Therefore, my only option is to abstain. I will leave old tactics to the old parties. I am using my abstention to highlight not so much my lack of faith in the Hon. Mr Wortley but my lack of confidence in this government as a whole.

The Hon. R.L. BROKENSHIRE (15:07): Just a few words on this matter after deliberation with my colleague the Hon. Dennis Hood. There are two or three key issues that need to be addressed: $2 million or more of public money has been spent on an inquiry that has now be put in the drawer with a lock and key. We also have a situation where, in a democratic society, people who have been named and shamed and slurred have a right to be able to find out whether or not the allegations and innuendo are accurate, and at this stage we have been told in this chamber that that is not to occur over and above any issues with respect to any suppression orders, etc., from the court.

Personally I would have much rather supported a privileges committee, even if there has not been a privileges committee in this chamber since 1846. Most times, when an issue is around a minister and a government, it is with a privileges committee. With a privileges committee you get an opportunity to subpoena people in camera and for selected members of parliament on that privileges committee to have a thorough and forensic look at the matters, and that is what the community really needs and that is the way I personally would have preferred this to have occurred.

Having said that, a vote of no confidence in a minister is really a censure motion against a minister, as well as a censure motion against a government. I support this motion not so much with respect to the minister, as I think he was hung out to dry by the government, even as late as Friday by the Premier, quite frankly. Let us just look at a couple of the facts. He is a new minister. Clearly anybody in government with any intelligence and experience would know that the one or possibly two really concerning issues with respect to the minister would have been WorkCover and the issues around the appalling situation regarding the whole management structure for two years of the Burnside council inquiry by Mr Ken MacPherson.

When minister Koutsantonis become a minister, because there were issues over Roxby Downs, that was removed from his responsibility. When minister Wortley as a new minister was given his portfolios, they removed WorkCover because that is a mess and a concern, so they gave it to an experienced minister. I did not even see any mentoring offered to this minister. They knew this was a delicate issue and, frankly, in the middle of this we now have the Attorney-General saying in the media publicly that he feels perhaps that he should take over this matter.

I say that if the government did that—and they had plenty of weeks to deliberate on who was going to be the replacement minister—then they should have done their homework. What it says to me is that there is ineptitude, lack of vision, energy and drive now in the whole government. The reason I am supporting this vote of no confidence is because I believe there needs to be a vote of no confidence censure motion against the government.

This minister happens to be in the middle of copping it, which is what happens in political life, particularly when you are in a ministry—I have been through some of it myself. I want to reinforce on the *Hansard* that, in supporting this, this is a censure motion and a vote of no confidence in the government more than a vote of no confidence in the new minister.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:10): I rise to oppose this motion in the earnest belief that the moving

of such a motion reflects far more on the political nature of this place than it does on me personally. This motion is completely spurious and without substance. As minister, it has been my responsibility to deal with a very complex legal matter with a controversial history.

By way of background, I made the decision to terminate the investigation after the full bench of the Supreme Court delivered a judgement that made three of the terms of reference invalid and continued the suppression order on the draft provisional report. The outcome of the court's decision created a series of legal impediments which made continuation of the investigation very difficult, to say the least. Nevertheless, I have at all times respected the Supreme Court's decision when considering the best course of action on this matter.

Furthermore, I made the decision based on legal advice and knowing that I acted lawfully in deciding to terminate the inquiry. The decision as to whether the investigation should continue was a decision that rested with me as the minister responsible. I made that decision mindful of the advice I had received from crown law. I want to make it clear that it has never been my intention to overlook any allegations of criminality associated with the previous Burnside council.

Having again sought legal advice about the best course of action, I decided that the material gathered by the investigator should be examined by the Crown Solicitor's Office to determine whether there was any evidence that could be referred to the Director of Public Prosecutions for further action. Subsequently, I received a letter (which is the only correspondence I have had with the commissioner) from the Commissioner of Police, inviting me to make available to him a copy of the draft provisional report, and I did that.

After considering that invitation, last week I made the decision to refer the draft provisional report to the Commissioner of Police, and I instructed my department to make the arrangements for that to happen at the earliest opportunity. Throughout this debate, some members have made statements to the effect that the Supreme Court judgement determined that it was in the public interest for the investigation to continue. However, I ask the chamber to look at the judgement in its totality and to put this statement into context.

The court was not asked to comment on the merits of whether the investigation should continue. What the court's judgement did contemplate was whether it was in the public interest to begin the investigation again with new terms of reference, or to continue on by attempting to disentangle the parts of the draft report obtained using the invalid terms of reference. It has never been my intention to try to conceal anything or to protect anyone from prosecution.

I have clearly stated in this place that some of the allegations investigated were previously referred to the Anti-Corruption Branch before the inquiry, with no further action arising. Some members in this place may be confused in their own minds about this issue; however, throughout, I have been consistent in my statements to this place.

Local government elections occurred across the state in November last year. Not one of the previous Burnside councillors was re-elected at the 2010 election. Democracy has brought to an end the dysfunctional relations that plagued the previous council. Every decision I have made has been with the best interests of South Australian taxpayers and the residents of Burnside at the forefront of my mind. I have acted with the support of my cabinet colleagues and in the public interest.

I understand that this is an emotive issue for people. Indeed, it has certainly inflamed passions, and people feel upset about the course of action that I have taken. Nevertheless, I have not and will not pander to the interests of a small group of people who have sought to politicise this issue to suit their own agendas.

This motion does absolutely nothing to help the residents of Burnside move forward from this issue. It displays the enormous hypocrisy of those opposite who have no interest in respecting the court's decision on this matter. Today's motion is a desperate attempt by those opposite to drag this out for yet another day in the vain attempt to grab a tawdry headline in the few remaining hours left in this session of parliament. The accusations against me have not been proven, and any vote taken in this place will simply reflect the political reality of this chamber that takes any opportunity to display its hostility to the government.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:15): I thank members for their contributions. The case that this minister is incompetent and no longer has the confidence of this chamber has been clearly put. We have heard the government try to rewrite history. It must have

sickened the Hon. Ian Hunter to have to come and defend his factional enemy, the Hon. Russell Wortley.

They have reinvented history and the Hon. Russell Wortley talks about the community in Burnside, yet that is the very community that he has shamefully not bothered to speak to. Ladies and gentlemen, I thank you for your contributions and I urge you to support this motion of no confidence.

The council divided on the motion:

AYES (11)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Hood, D.G.E.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W. (teller)
Stephens, T.J.	Wade, S.G.	

NOES (7)

Finnigan, B.V.	Gago, G.E. (teller)	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Wortley, R.P.
Zollo, C.		

Majority of 4 for the ayes.

Motion thus carried.

CUNDELL, CAPT. R.G.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:20): I table a copy of a ministerial statement relating to Captain Roger Geoffrey Cundell made earlier today in another place by my colleague the Premier Mike Rann.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

The Hon. J.S.L. DAWKINS (15:20): In returning to the important appropriation debate can I turn to another issue that I have raised in this place before and that is the Branched Broomrape Eradication Program, one that I know is close to the heart of my colleague the Hon. Mr Lucas.

I previously raised in this chamber my concern that a federal review of this program was likely to find that branched broomrape is now ineradicable and that would significantly threaten the amount of money that would come into that scheme from the federal government. Unfortunately, that seems to be the case.

I will quote from some correspondence that was provided to the Murray Mallee Local Government Association, which takes in pretty well all of the area affected by branched broomrape. The letter is from Mr Philip Warren, Manager, Branched Broomrape Unit, Biosecurity SA. I quote:

> The report from a national technical review of the Branched Broomrape Eradication Program that was conducted during March 2011 is released. The review panel's findings have important implications for agriculture in the Murray Mallee. As an organisation with an interest in agricultural development in the region, this note is to inform you of recent developments in the Branched Broomrape Eradication Program.
>
> The technical review panel concluded that the beneficiaries of the program are widely distributed across industries, but could not identify significant public benefits that support the need for continued government investment in the absence of an industry partnership.
>
> The report notes that the program is being conducted in a professional and diligent manner by all its participants. However, when the current technical situation is matched against international protocols for successful eradication it is concluded that the feasibility of eradication is very low. A move to another management structure is recommended with 'Containment plus the pursuit of product and property free status' as the first option to consider.
>
> It is likely that the current eradication program will continue while a future management plan for branched broomrape is developed at the national level for implementation from July 2012. A key factor will be the support provided by the range of industries affected by this weed. After 11 years of an eradication program, it is important to

re-establish the status of branched broomrape as a weed that will reduce production and can destabilise national and international marketing of a wide range of commodities.

A new management program must be crafted with industry and community input in order to optimise the benefits of the program and balance contributions from beneficiaries. Regional risks include additional costs of quality assurance for local producers, adjustments in capital values, changes in regional employment and flow on affects for the health of those affected.

I read that correspondence in because I believe it is important that the state government—while minister O'Brien has continued to commit funding to the program, along with local government and landholders—makes sure that the commonwealth meets its commitment to this program. This program should continue to have the status that it has had over the last 10 years. We should work to continue to eradicate this threat to our horticultural industries across this state.

It is a significant problem and one that I would hope members in this chamber would take seriously in that it could be a threat to a much broader area of the state. I have previously indicated the number of properties affected—some farming, but many that are situated in inaccessible areas of the Murray River flood plain. I urge minister O'Brien to continue to put pressure on the federal government to make sure that, from the middle of 2012, it continues to fund this program in a manner that is suitable to the risk involved.

I will move on to matters relating to local government. I note that this chamber has already spent some time this afternoon on matters in the local government area, however—

An honourable member interjecting:

The Hon. J.S.L. DAWKINS: Well, I am not going to pick any council. I think this government has demonstrated a total disdain for the local government sector. The fact that we have had four different ministers this year and a minister who this afternoon had a vote of no confidence moved against him just shows that this government holds local government in contempt, as people that they have to deal with but do not really want to.

The fact that the current minister yesterday in this council demonstrated that he does not even know the name of the President of the Local Government Association, having met with him the previous morning, I think, encapsulates that disdain. I take offence to it, as many members of local government do.

Earlier this year, one of the four former ministers this year, then minister Bernard Finnigan, and the Premier, the Hon. Mike Rann, signed an agreement with the then president of the Local Government Association, Felicity-Ann Lewis. They signed an agreement to communicate and to do all these good things together. What happened only a matter of weeks later, before the Hon. Mr Finnigan had to stand aside? He brought in through the *Gazette*—he did not announce it, he put it into the *Gazette*—all these increases in car parking fines (that local government had to bring in) without any consultation. Where did that fit in to the agreement that they signed?

I have highlighted in this place the disdain that the four government ministers have held in their dealings with local government associations, those regional subsidiaries that do not own any equipment or buildings or employ anybody directly. Generally they have a budget of about $100,000 a year, and they were expected to go through all the audit processes that the new Local Government Act had brought in for councils across the state, particularly large entities.

As an opposition, we did not object to those provisions. However, for a small regional subsidiary to be made to do that is silly. I raised that during the committee stage of the bill. The first out of the four ministers (minister Gago) eventually agreed with me and agreed to do something about it. Thirteen months ago in this chamber she told me she was doing something about it. Only this week has a letter gone out—even though the minister yesterday did not remember he had sent it—to these subsidiaries telling them what has happened.

Until very recently, we have also had a lack of representation from departmental officers responsible for local government relations at meetings of these regional local government bodies, and there has always been an opportunity made in the agenda for departmental officers, whether it be called the office of local government, the office of local government and regional development, or the Department of Planning and Local Government, as it is known now.

Whatever the title has been, departmental officers have always been given an opportunity in the agenda of those local government bodies to bring relevant matters to the attention of delegates at those meetings. For some considerable time, officers of those departments or agencies ignored them. I am pleased to say that that has changed and that they are now being

sent along. I think that is a good thing, but I am not sure why the commitment was not there for those officers to be at those meetings on a regular basis.

Finally, I think many local government bodies in the regional areas have in good faith participated in the Regional Coordination Networks; along with senior officers from many of the government agencies and departments, they have participated in those bodies. There has very recently been no commitment from this government, particularly from the various local government ministers, for those bodies to work effectively or even work at all. I know that a number of them have had no meeting for months. It is a lack of respect, I think, for the time that local government officers and elected members put into these bodies which they feel can work towards advancing their own particular area of South Australia.

I appreciate the opportunity afforded to me in this debate to bring those matters to the attention of the council but particularly to the attention of the government. I would be grateful if, as a result of the debate in here, we get some idea that the ministers actually take these complaints with a measure of respect and seriousness. I do not appreciate it when I raise these matters and find ministers laughing and carrying on with no regard for the people who are impacted by those actions and decisions.

In conclusion, as I said, I appreciate the opportunity this debate has given me to note the funds appropriated in the budget to various agencies and raise particular issues relating to the services that arise from the appropriation, and I support the bill.

The Hon. J.S. LEE (15:33): I rise today to contribute to the second reading of the Appropriation Bill 2011. It is the 10th Labor budget and the people of South Australia are very upset. They have the right to be upset because this budget has delivered more bad news after bad news. It has delivered more debt and more deficits for the people of South Australia. Everywhere I go, whether it is visiting a community group, attending a meeting with businesspeople, or having a conversation with workers, parents, students or retirees, I have found that households and small businesses are struggling to pay their bills and make ends meet.

This state government is so out of touch with people and seems to be living on a different planet. Whether it is on radio, in *The Australian* or in other newspapers, there is a strong indication that the government is on the nose. Premier Rann and the government are unpopular not only because are they tired, arrogant and disinterested but also because of their poor economic management of this state, which is causing pain and problems, causing businesses to close down and causing people to leave the state.

In a recent report one of the state's largest business membership organisations, Business SA, predicted that South Australia's economy is facing a perfect storm of adverse conditions. 'It is the worst I have seen in my 12 years here,' the chief executive of Business SA has said. He continued:

> I have never had so many members come and see me with tales of dismay, concern and fear. And frankly, there is no light at the end of the tunnel.

South Australian business confidence has suffered the largest fall of all mainland states, according to a National Australia Bank business survey in June 2011. Businesses in South Australia are feeling the pressure, according to these survey results. Costs of labour, materials and overheads are all rising, and profitability is falling. Employment levels are stagnant, and more businesses are reducing capital expenditure than are increasing it. While there has been an exploration boom in South Australia, there has yet to be a mining boom.

This Labor government is putting pressure on households by increasing everything from water bills, motor registration, drivers licences, bus tickets and utility costs, etc. Our shadow treasurer in the other place, the Hon. Iain Evans, has articulated how South Australian families will feel the pain of the Labor budget. Since Labor was elected to office in South Australia, cost of living pressures have exploded: water bills have almost trebled, and other utilities, including electricity and gas have almost doubled, while overall state taxes under Labor have increased by 88 per cent.

We are now the highest taxing state in Australia. High taxes mean that people cannot afford to run businesses in South Australia, and hence the 22 per cent of businesses nationally moving to another state are coming out of this state. Businesses and families are suffering under a Labor budget because of the bad decisions that this government has made year after year in its term of office. The debt to this state was at about $4.5 billion, and the government intended it to go out to about $7.5 billion. Believe it or not, is going to take it out even further to $8.2 billion.

The Hon. R.P. Wortley: Don't look at me; I've been accused enough today. Look at Carmel.

The Hon. J.S. LEE: You are the only minister in this place right at this moment.

The Hon. T.J. Stephens: Give it to him, Jing. Turn up the heat!

The PRESIDENT: Order!

The Hon. J.S. LEE: With the new hospital to be built on the rail yards site there is an additional $2.7 billion-plus to the $8.2 million debt, so we are looking at $11 billion in debt. But that is not all. What about unfunded superannuation, WorkCover, public sector workers compensation liabilities, public sector long service leave and all those major projects that Labor has promised? The total debt and liabilities for this state will become $24 billion.

With that amount of debt, can anyone in the right frame of mind say that this government has been a good economic manager? I do not think so. I recall that the new Treasurer said, on his first sitting day, 'I will not allow this state to run up a credit card debt that will be left for our children to pay.' Wow; what a noble thing to say! But that is exactly what he is doing. Treasurer Snelling is the one who has signed us up for enormous debt and we, our children and their children, will have to pay for it.

The Labor government has got the state into this cash-strapped situation. Premier Mike Rann promised that there would be no more privatisations under Labor. However, I have seen a copy of the pledge card that Premier Rann circulated, and I noticed it has authorisation from the Hon. Ian Hunter on the bottom of that pledge card. Yet treasurer Snelling has broken Labor's promise not to privatise government assets. He is going to forward sell the state's forests—and we heard from the Hon. David Ridgway, in his Appropriation Bill speech this week, that the forward sell would destroy the economy of the South-East.

Furthermore, in this budget, the Labor government announced that it is going to sell the Lotteries Commission. The state forests produced an income for the state last year of about $40 million, and the Lotteries Commission produced an income for us last year of about $86 million. The reasonable question to ask is: why is this government selling assets that are producing an income for the state? The only reason the government would sell an asset that is producing an income is that it is cash strapped.

Not only has the government privatised things such as the hospital, the schools, the state forests and now the Lotteries Commission but it is doing this with little consultation with the community and going against the wishes of the community being affected and putting the people of South Australia at risk. For instance, Labor's privatisation of South Australian Lotteries will put at risk the $90 million per year contribution to South Australian hospitals, the $25 million per year commission that newspaper agencies and other outlets earn from selling lotteries, the $200,000 per year that South Australian Lotteries contributes to sporting clubs across the state, and the $8 million per year that South Australian Lotteries spends on purchasing local goods and services.

The new Treasurer makes out that he is a family man—as if he understands life on struggle street—and that this is a family-friendly budget. Unfortunately, there is nothing family-friendly about this budget. If you catch a bus, drive a car, consume water or electricity, pay insurance and you are looking to help your kids to get into their first home, you are worse off under this budget.

Average water bills have tripled under this government and, on top of that, sewerage charges are going to go up by 12 per cent this year, when you include the property prices. Add to that property taxes, which have more than doubled, primarily due to increased stamp duty and land tax. South Australia is one of the most expensive places for stamp duty. This explains why Adelaide's commercial and residential property markets are struggling severely.

In a report in a local newspaper, Todd Brown, the CEO of Urban Construct, one of the state's leading property developers, said, 'Everyone is in survival mode at the moment.' He said that the state government received 44 per cent of its revenue from property-related activities, yet seemed blind to the problems pressing down on the sector. He said:

> They've taxed the buggery out of the industry and they need to realise that if you start choking the golden goose, it stops laying eggs.

Mr Brown also mentioned that, while the state government is focusing on the redevelopment of Adelaide Oval and the Riverbank, those projects are not going to help the sectors that are struggling. The government forgets that it is the small to medium operations that build houses and small buildings in this state, and home builders have revealed that they are 30 to 40 per cent down. The property sector is really hurting.

Land tax has increased hugely, by 346 per cent. It has more than quadrupled since the Labor government has come to office. We have by far the worst land tax regime of all the states and it is not just the tax paid by the wealthy. So many business associations and community groups have come to see me, raising concerns that high land tax and property taxes are impediments for investors who buy properties in South Australia. Does the government understand that this affects the availability of rental properties?

In this budget, of course, the $8,000 first homebuyers' subsidy on newly-constructed home purchases has been slashed. It affects the people who are the most vulnerable and who have not managed to get into the property market themselves. Many of the people looking for places to rent are disadvantaged individuals and families. They are ones who are renting, and they are the ones who will pay the price for this government.

Taxes overall are up by more than double the rate of inflation. In each year of the forward estimates there is more than double the rate of inflation. It will amount to $1.1 billion in extra tax revenue, and the government wonders why people, especially young people, are going interstate. They are getting out of South Australia. It is very sad to see that our share of the national population is declining, and when businesses and good people leave our state it causes our share of the national economy to decline.

Under this government our share of the national economy has gone from 6.8 per cent to 6.3 per cent. We have gone backwards under this government. Our national population has declined from 7.75 per cent to 7.35 per cent. If we kept pace with national growth we would actually have in this state at this time 38,000 more jobs than we have now. What is more, given the direction we are taking, Access Economics have forecast that jobs, economics, exports and population will all grow at less than the national growth rate for the next five years.

In conclusion, there is no doubt that South Australians are hurting and feeling the impact of a high taxing, high spending Labor government. After nearly 10 years of Labor government in South Australia Treasurer Snelling must explain to the people of South Australia why South Australia is underperforming the rest of Australia. I reassure all honourable members that the people of South Australia will be waiting for the Treasurer's answers and explanations in anticipation.

The Hon. R.I. LUCAS (15:47): I rise to support the second reading of the Appropriation Bill. In doing so I went back and looked at the contributions of all members to last year's Appropriation Bill debate to see what, if anything, had changed in the last less than 12 months. Sadly I think the conclusion that many commentators have made—and I certainly agree with it—that this government is the most incompetent, most secretive and most scandal-prone government in this state's history has again been proved correct over the last 12 months or so.

We only have to look (and I will not detail them all) at the problems, scandals and issues surrounding Premier Rann; former treasurer Foley; former attorney-general Atkinson (who seems to be involved in an almost countless number of defamation cases these days); minister Conlon; the former leader of the government, Bernard Finnigan, in this place, who resigned, after a very short period of time, from his position in mysterious circumstances; and the well-known problems now of the newest minister, the Hon. Mr Wortley, who now has the ignominious record of being only the second minister in the 168-year history of the Legislative Council to have had a successful no-confidence motion moved against him.

He joins the controversial Dr John Cornwall from the period of the mid-1980s and the then Bannon government in that dubious distinction. Further, we have the well-known problems of the welsher from the west, as you would know him, Mr President, minister 'Turbo Tom' Koutsantonis. The problems of minister Rankine and minister Conlon are well known.

I guess we saw the set of circumstances just over a couple of months ago where, when one set of unfortunate-for-the-government opinion poll results came out and minister Kenyon said, 'Oh well, at least it can't get any worse,' and 'At least we don't have the scandals of the former New South Wales Labor government.' Of course, soon after that the problems of the unnamed Labor member of parliament facing criminal charges hit the media airwaves, and we have had more

recently the problems with minister Wortley. That is the problem we have with the government as we look at the Appropriation Bill debate.

Each minister, and some former ministers, are too worried about their own personal problems, issues or scandals, and are not concentrating on what they have been elected to do; that is, to govern the state in the public interest and to manage the state's finances in a conservative and businesslike fashion. As debate on appropriation in this place and the other place has well demonstrated that certainly cannot be demonstrated by this government, the former treasurer or the current Treasurer who has continued the task after former treasurer Foley.

I seek leave to have incorporated into *Hansard*, without my reading it, a purely statistical table numbered 1.5, from Budget Paper 3.

Leave granted.

Table 1.5: Summary of key general government sector budget indicators

	2008-09 Actual	2009-10 Actual	2010-11 Estimated Result	2011-12 Budget	2012-13 Estimate	2013-14 Estimate	2014-15 Estimate
Budget balances							
Net operating balance ($m)	-233	187	-427	-263	114	80	655
Net lending ($m)	-872	-1 092	-1 821	-1 252	-489	-56	542
Cash surplus ($m)	-721	-1154	-1 840	-1182	-421	-3	608
Revenue and expenses							
Revenue real growth (%)	1.8	12.4	-5.7	1.2	-0.1	-1.3	3.4
Expenses real growth (%)	7.4	9.1	-1.9	0.1	-2.4	-1.1	0.0
Interest ratios							
Net interest to revenue (%)(a)(b)	0.2	0.4	0.8	1.2	1.4	1.5	1.4
Net interest plus nominal superannuation interest to revenue (%)(b)	3.1	3.4	3.7	3.9	4.0	4.0	3.8
Balance sheet indicators							
Net debt ($m)	475	1,402	3,217	3,825	4,098	4,213	3,615
Net debt to revenue (%)	3.5	9.0	21.3	24.3	25.3	25.7	20.8
Unfunded superannuation ($m)	8,939	9,478	8,734	8,742	8,732	8,703	8,652
Net financial liabilities ($m)	11,562	13,182	14,237	15,029	15,492	15,784	15,379
Net financial liabilities to revenue (%)	85.5	84.9	94.4	95.6	95.8	96.3	88.5
Net worth ($m)	24,146	36,231	37,456	37,713	38,791	39,512	40,743

Note: Real-terms calculations use the Adelaide Consumer Price Index.

(a) Net interest does not include nominal superannuation interest cost.

(b) Revenue does not include interest income.

The Hon. R.I. LUCAS: This is an adaptation of table 1.5 in Budget Paper 3. The only change is that I have added in the previous year's results—the year 2008-09 actual results from last year's equivalent budget paper—so that we now have a spreadsheet record of the financial performance of the treasurers and the government from 2008-09 estimated through to 2014-15.

What the table shows is that, after almost a decade of the rivers of gold flowing into state coffers from the GST deal negotiated by the former Liberal government—a GST deal which was attacked by Premier Rann and former treasurer Foley at the time as a lemon of a deal for South Australia—what this government and, in particular, the failed former treasurer Foley, has left the state is a budget in deficit over a period of four years. On the best measure of deficit, the net operating balance in three of the four years—2008-09, 2010-11 and in this current year's budget, 2011-12—are all in significant deficit, and there is a modest surplus in 2009-10 if you use that particular measure of the surplus or deficit in the budget.

We see a $233 million deficit in 2008-09; a $427 million deficit last year; and we estimate a $263 million deficit for this current year. We are looking at almost $1 billion in deficits over a four-year period—if you want to net off the $187 million, perhaps $700 million or $800 million in net deficit over that four-year period—at the end of a period when we had the rivers of gold flowing into the state from the GST financial deal negotiated by the former government.

We have often heard from members in this and the other chamber about how this government has delivered perennial surplus budgets, that this government is a magnificent financial manager and that this government was not delivering deficit budgets. Wrong, wrong, wrong on all counts. What treasurer Foley has done after the rivers of gold is left a budget in such a weakened condition that, even on the best measure of deficit, three out of the four years record deficit budgets.

I turn to the measure that former treasurer Foley, when he was first elected, said was the one true measure of whether a budget was in surplus or deficit—that was not the net operating balance which he now uses.

What he said in 2002 is that the only true measure of the health of a budget is an accrual measure called net lending. This Budget Paper 1.5 shows that, for all four of these years from 2008 through to 2012, the budget is in deficit. In fact, for all seven years from 2008 through to 2015, it has been or will be in deficit. That is not a bad record from the former failed treasurer Mr Foley and now failed Treasurer Snelling: seven years of deficits under the net lending measure which Mr Foley said was the one true measure of whether or not a budget was in surplus or in deficit.

Under this net lending measure, in 2008-09 there was an $872 million deficit in that year alone. In 2009-10, there was a $1,092 million deficit in that particular year; in 2010-11, the year just gone, a $1,821 million deficit; and, in 2011-12, a $1,252 million deficit. So, on this one true measure that measures the health of a budget, we see over a period of four years some almost $5 billion—that is $5,000 million—worth of deficits imposed on the state in the state's budget by Mr Foley and Mr Snelling. That is a tragic set of circumstances.

If it were a government coming out of the calamities of the State Bank disasters of 1992-93, there would at least have been an explanation. Certainly, the opposition will concede that, in 2008-09 with the global financial crisis, there were particular problems in that year rolling over into the following year, but we do not see the situation improving since then. We see it actually getting worse. As I said, there was an $800 million deficit in the global financial crisis year of 2008-09 and a $1,821 million deficit in this last year 2010-11, so a couple of years after the global financial crisis, the situation has markedly deteriorated in terms of the state's finances.

Sorry, I stand corrected: this particular table shows that six of the seven years under the net lending measure will be in deficit. In the final year, 2014-15, the Treasurer is predicting that it will finally turn into surplus if one believes those figures so, rather than seven years of deficit, it is six years in a row and then, in 2014-15, they finally predict a surplus.

Similarly, when one looks at the cash measure, which is the third measure of whether a budget is in surplus or deficit, which is the way the federal budget is reported—the headline either surplus or deficit figure as a cash measure under the federal budget arrangements—if we look at it on a cash basis, we had a $721 million deficit in 2008-09, a $1,154 million deficit in 2009-10, in this last year a $1,840 million deficit and, in the coming year for 2011-12, a $1,182 million deficit and, again, deficits right out to 2013-14 with finally a surplus in 2014-15.

That is a stunning indication of the state of the state's finances. Using the measures that the former treasurer and the current Treasurer said are the most accurate measures of whether or not we have been managing our budget well, clearly those figures demonstrate in an independent way that the treasurers past and present are not managing the state and the state's budgets well. I seek leave to have incorporated into *Hansard* table B.7 from Budget Paper 3 without my reading it.

Leave granted.

Table B.7: Non-financial public sector key balance sheet aggregates ($million)

As at 30 June	Net debt (a)	Unfunded superannuation(b)	Net financial liabilities	Net financial worth	Net worth
1988	4,397				
1989	4,197				
1990	4,457				
1991	5,418				
1992	8,142				
1993	11,610				
1994	10,550				
1995	8,844				
1996	8,432				
1997	8,170				
1998	7,927				
1999	7,657	3,909	13,099	-12,256	10,624
2000	4,355	3,543	9,914	-8,986	12,445
2001	3,223	3,249	8,151	-7,109	14,816
2002	3,317	3,998	8,973	-7,902	14,721
2003	2,696	4,445	9,096	-8,811	15,288
2004	2,285	5,668	10,031	-9,550	15,760
2005	2,126	7,227	11,511	-11,004	16,359
2006	1,786	6,146	10,451	-9,889	19,703
2007(c)	1,989	5,075	9,518	-8,795	22,128
2008(d)(e)	1,611	6,468	10,208	-10,487	23,741
2009	2,872	8,939	14,302	-14,921	24,146
2010	4,487	9,478	16,626	-16,997	36,231
2011	6,872	8,734	18,274	-18,284	37,456
2012	7,922	8,742	19,465	-19,381	37,713
2013	8,175	8,732	19,857	-19,583	38,791
2014	8,170	8,703	20,021	-19,581	39,512
2015	7,553	8,652	19,582	-18,996	40,743

(a) Net debt data for the years before 1999 is sourced from Australian Bureau of Statistics, Government Financial Estimates 2003-04 (Catalogue no. 5501).

(b) There is a structural break in the methodology used to calculate superannuation liabilities between June 2003 and June 2004. This accounting change, which involved the adoption of Commonwealth Government bond rate for valuation purposes In line with AASB119, Employee Benefits, resulted in a significant increase In superannuation liabilities.

(c) There is a structural break in 2007 reflecting the amalgamation of the South Australian Government Financing Authority (SAFA) and SAICORP on 1 July 2006. The transfer of SAICORP assets and liabilities from the general government sector to the public financial corporations sector resulted in an Increase in non financial public sector net debt of $99 million at 1 July 2006 and an increase in net financial liabilities of $90 million at 1 July 2006.

(d) There is a structural break in 2008 reflecting the amalgamation of the South Australian Community Housing Authority (public financial corporation) with the South Australian Housing Trust (public non-financial corporation). This results in an increase in net debt and net financial liabilities and a decrease in net financial worth of $98 million in 2007-08, with no impact on net worth.

(e) There is a structural break in 2008 reflecting the first time recognition on the general government balance sheet of South Australia's share of the net assets of the Murray-Darling Basin Commission. This has no impact on net debt, however results in a reduction in net financial liabilities of $615 million in 2007-08, and increases in net financial worth and net worth of $615 million.

The Hon. R.I. LUCAS: This touches on some of the issues that my colleague the Hon. Jing Lee has just referred to, but it provides a list of the net debt figures in fact going back to 1988. What it shows this year is that it peaked (the net debt figure) at $11.6 billion in 1993 at the height of the State Bank problems. Under the stewardship of the former Liberal government it reduced to $3.2 billion; from $11.6 billion down to $3.2 billion, an $8.4 billion reduction by the period of 2001, just before the change of government.

That is the measure that the Hon. Jing Lee has referred to. That figure is now estimated to jump to $8.175 billion in 2013. So, in simple terms: from $11.6 billion down to $3.2 billion, and now jumping back up to a peak estimated of $8.2 billion in 2013. That table also shows the unfunded superannuation figures, the total net financial liability figures of the state, where one just adds the net debt and the unfunded superannuation figures together.

It is a pretty damning indictment of the former treasurer, the failed former treasurer who had to be dumped from his portfolio by his Premier and colleagues, but also a stunning indictment of the current Treasurer, supposedly part of the future direction of this Labor government. One can see that the budget that he has brought down just continues the misery; continues the poor performance; continues the financial incompetence of the former failed treasurer and the failed Labor government.

During the last few years, one of the claims by the government, in particular the former treasurer and now the current Treasurer, is the impact of the global financial crisis: the reason why we are having problems is the global financial crisis. For a period of a year or so, Mr Foley claimed that as a result of the global financial crisis the state budget was going to lose well over $3.4 billion, but during last year that claim came back to: we are going to lose $1.4 billion to $1.5 billion as a result of the global financial crisis.

Through the work of the Budget and Finance Committee, we sought advice from Treasury, and it took some time because the government would not provide the answers. We actually said to Treasury, 'We want a detailed breakdown of this claim about a $1.4 billion to $1.5 billion loss.' What we found was, and I seek leave to have incorporated into *Hansard* without my reading it a purely statistical table listing the Treasury estimate of the impact of the global financial crisis on the state budget.

Leave granted.

Treasury estimate of impact of GFC ($m)	
08/09	$439.2
09/10	$510.3
10/11	$148.9
11/12	$160.8
12/13	$96.1
	TOTAL $1,355.4

The Hon. R.I. LUCAS: This information was provided to the Budget and Finance Committee and what it shows is that this $1.4 billion figure that has been claimed, most of that was actually in past years. In 2008-09, there was a $439 million impact, in 2009-10, there was a $510 million impact, but in the current circumstances, 2010-11, it was $148 million, in 2011-12, $160 million and in 2012-13, $96 million. That adds up to the $1.35 billion that the government had been talking about.

As you can see from that, almost $1 billion of that occurred a number of years ago. It is in the past tense. It has nothing to do with the current budget situation in terms of the impact on the current budget. So, if we actually look at the impact in the financial years 2010-11, 2011-12 and 2012-13, the average impact on the budget is about $135 million a year, or less than 1 per cent of a $16 billion to $17 billion budget.

So, in real terms, we are talking about a modest hit or a modest impact on the health of the state budget. It is not insignificant—we accept that—but it is a modest estimated impact as opposed to the headline figure which has been trumpeted to the media for some time of a $1.4 billion impact. It is a deceptive figure because it refers to five years. It is a deceptive figure because the bulk of that—almost $1 billion—has occurred in the past and does not impact on the current budget circumstances.

There is no doubt that this claim from the government and the former failed Treasurer, Mr Foley, is a fraud designed to conceal from South Australian voters the main reasons for the state budget crisis and savage budget cuts. Those main reasons are the financial incompetence of the government and the financial incompetence of the ministers in the government.

The Budget and Finance Committee has commenced doing some work—and will continue this work in the coming week when Treasury revisits the committee—on trying to get behind the detail of the Royal Adelaide Hospital public-private partnership deal. What we have established in our first discussions with Treasury is that, when one looks at the fine print of the PPP for the Royal Adelaide Hospital, the state of South Australia, in particular the taxpayers, will be exposed in a number of significant ways which have not been highlighted or publicised. We will explore this in further detail with the Under Treasurer and senior Treasury officers next week.

The Under Treasurer Brett Rowse has confirmed to the Budget and Finance Committee that taxpayers would be exposed to additional costs for interest rate movements and to some contamination costs. Taxpayers will be responsible for 80 per cent of the cost of remediation of unknown pre-existing contamination—whatever that is—and 100 per cent of contamination caused by the state. In relation to the latter case—contamination caused by the state—Mr Rowse's view was that it would only relate to the period of the hospital project, but he has taken that question on notice and will come back to the committee.

The reason that is highlighted is that it is contrary to the earlier evidence that had been given to the Budget and Finance Committee that the private sector bidders would be responsible for all the contamination cleanup costs at that particular site. Treasury has also taken on notice to ascertain who will be responsible for the costs of cleanup of any possible contamination of the underground aquifer.

The Under Treasurer also confirmed that taxpayers will be exposed to interest rate risk in certain circumstances. The fine print of the deal shows that taxpayers will take base interest rate risk from the refinancing of the deal, which is likely to be as early as about 2018. So, in simple terms, this means that, if there are significant interest rate increases when the first refinancing of the whole deal occurs, the cost to taxpayers will be significantly increased.

We already know that average annual repayment costs are estimated to be about $391 million per year, or about $1.1 million a day. That is an average figure. The Under Treasurer has taken on notice what the peaks and troughs in that particular repayment schedule might be, but he did concede that in some years it might be higher than $500 million a year.

If we take additional interest rate risk and if interest rates move in an unfavourable way during the refinancing period, those particular estimated repayment costs of $391 million a year on average, peaking at over $500 million a year, will obviously increase significantly as a result of the state taking on that additional risk. Treasury has also confirmed that taxpayers will be exposed to the costs for any legal challenges to the development planning consent and also native title or heritage claims.

We have called on the Treasurer and Minister for Health to be transparent and accountable in relation to this PPP deal, although I have no great expectation that they will be. I would hope that as we move into the period when the Auditor-General is preparing his annual report he will cast a close eye over the project documentation for the PPP deal and look at not just the risk exposures (some of which I have highlighted) but also at whether or not in his judgement it is a good deal for the people of South Australia.

An issue we are exploring in the Budget and Finance Committee is that the former government and this current government for a number of years had a set of guidelines, called Partnership SA guidelines, which are up on the Treasury website and which were obligatory for all departments and agencies of government to follow if they were to look for any PPP project or any private financing of an infrastructure project. One of the many requirements in the Partnership SA guidelines document is that any proposed PPP had to pass the value for money test (VFM test). In doing that, it had to construct what is called a 'public sector comparator', which was the cost of doing the project in the traditional way, through debt financing, through government departments and agencies.

One of the guidelines was always that it could only go ahead as a PPP if it was value for money and if it was demonstrated to be cheaper to the people of South Australia by going down the private financing route; that was always the guideline. When the first PPP under this government was done, which was a small PPP in relation to country courthouses and police

stations, the government proudly proclaimed that it passed the value for money test and that it was cheaper than doing it in the traditional way, and it went ahead as a PPP.

However, when it came up against the super schools, what happened was that, when you applied the test, it actually failed. It was about $9 million to $10 million more expensive than if it was done in the traditional way. It was at that stage that the government threw the rule book out of the window—that was the start of the process—and said, 'We're going to go ahead and do it anyway, even though it's more expensive than if we did it in the traditional way.'

The rule book was torn up—and it is something which has been little reported on by the Auditor-General—and the government proceeded with the project. At that time, we asked the then under treasurer, 'What's going to happen with the Royal Adelaide Hospital PPP, because here we are talking about a $1.7 billion project,' which was the claim at the time, 'and are you going to insist on a value for money calculation?'

What we have established—and we are interested in some answers from Treasury on this—is that mysteriously in the last few months the Partnership SA guidelines, which have been up there until recently, all of a sudden disappeared and some new guidelines, called the national infrastructure guidelines, have now been listed. When the Under Treasurer was asked about this, he said, 'Well, that must have been an oversight because the government for some time now has got rid of the Partnership SA guidelines, and we moved to these new national infrastructure guidelines some time ago. If the Partnership SA guidelines were still up on the Treasury website until recent times, that was an oversight or a mistake.' I find that hard to believe, but we will nevertheless explore that with the Under Treasurer when he returns to the Budget and Finance Committee.

The important point with this is that the reason the government has jettisoned the public private partnership South Australian guidelines—the ones they previously said they would adhere to, and the ones the former Liberal government had adhered to—is that it was getting too hard for the government to pass the test, like the super schools. It was continuing to fail the test when you did draft calculations.

The Under Treasure has been steadfastly trying to deny that Treasury officers have done any calculations. I know that is not correct; I know that Treasury officers had done calculations under the old public sector comparator guidelines, and it is an issue that we will pursue. What they were finding on their rough calculations was that, as with the super schools, it was almost impossible for the arrangements to pass this test. They would therefore be stuck with having to go back to the traditional way of financing or, each time a deal was done, having to publicly justify why it did not pass the value for money test.

So what do you do? What you do—and there is now this agreement at the national level, and every government is obviously interested in this—is you change the guidelines. You make the test easier; you incorporate an additional or more generous component for a calculation of risk, which makes it an easier calculation for the private sector financing option to pass the test. Of course, as a state you also accept back increased risks or exposures, such as the risks I referred to earlier in terms of reducing the risk for the private sector investor and leaving additional components of risk with the public sector payers of the particular project.

This is an important issue, because it is being used by the government to justify this particular deal. The Budget and Finance Committee does have important work to do; no-one else is going to do this sort of work. It will require hard work, forensic questioning and persistence in terms of asking the questions of the Under Treasurer and Treasury officers, and of the Treasurer and government ultimately, and getting on the record the history of how this particular test has been changed, the impact of the changed test and how it has made it easier for the government to ensure that these PPPs are passing the test.

Why is it critical for the budget? It is critical for the budget because, if the government has to do it the traditional way (this is the hospital), then this year and over the next five years—and depending on whose figures you want to believe, whether it is the $1.8 billion figure that the government is talking about, which no-one really believes, or a figure somewhere in the low $2.1 or $2.2 billion, or as high as $2.7 billion—the government would have to find that amount of money to build the project and take it out of the next five or six years' budgets.

As I said earlier, the budget is already in a power of trouble in terms of deficits, and debt in particular. If you have to add to it, over a period of five years, over $2 billion worth of borrowings and expenditure on budget, then those figures of the net operating balance and the net debt would

increase, and they would increase significantly. The attraction for the government with the PPP for the hospital is that virtually nothing goes on the budget until 2016, long after the government probably expects to be booted out of office in 2014.

The first impact will probably be the first PPP payment in 2016-17 of about $400 million a year. Each year after that, for 30 years, an average payment of nearly $400 million will be made out of the budget to the private sector operators.

So it is a critical issue for the health of the budget, it is a critical issue for transparency and accountability, and it is a critical issue in terms of judging the financial competence of the government as to whether or not it has been able manage this RAH PPP project efficiently and effectively on behalf of the taxpayers. It is critical that the Auditor-General applies the forensic capacity that is available to him in the audit office to this particular deal so that the details are exposed for all of us who are interested to see—members of parliament, economic commentators and members of the public.

I now turn to a number of specific issues in terms of budget cuts and measures and also examples of waste within the budget. The first one I want to refer to is a recommendation in the Sustainable Budget Commission draft report, on page 121, under the heading 'Unroadworthy vehicle fines'. The measure states:

> This measure proposes additional revenue of $7.9 million across the forward estimates due to the introduction of a fine for the detection of unroadworthy vehicles. DTEI proposes that this fine will accompany the issue of a standard defect notice which does not have a direct penalty.

This indicates that the budget impact in a financial year is estimated to be around about $2.5 million a year. So, this is an additional potential impost of $2.5 million.

I have been informed that there is a raging dispute going on within the government at the moment with government departments and agencies in relation to this issue. That dispute, essentially, involves DTEI bureaucrats but also South Australia Police and, obviously, bound up in this are Treasury officers as well.

I am told that the current arrangements in relation to defect notices are that, if you are pulled up in the street by a police officer with, for example, your tail lights out or bald tyres, or whatever it might happen to be—but let's take the easiest one: your tail lights are out—the police officer places a yellow sticker on your screen which is, in essence, a defect notice.

The police officer has a couple of options. He or she, firstly, can issue you with an expiation notice at that time or can issue you with a caution. I am told that, if the police officer issues you with a caution, he or she must fill out a form which indicates that you have been cautioned. That way, I am told, police can monitor whether a person's car has been cautioned three or four times in a six-month period, or whatever it might happen to be.

The police officer has that option or discretion at that stage to issue an expiation notice and a fine or just a caution without a fine. The yellow sticker goes on the window, and the person is told, 'You have to fix this and then go to a police station and have the defect notice removed.' If you do that for a tail light, for example, you just jam in a globe and you fix it. You go down to your local police station, they remove the defect notice and you make a small payment, I am told (I think it is about $20) as an admin fee, at that time.

I am told that what is occurring at the moment (and I refer to that Sustainable Budget Commission recommendation) is that the government is looking at a significant increase, in essence, for the management of this process of defect notices; that is, DTEI is seeking to take away from police their discretion in that there would be an expiation notice issued in virtually all circumstances rather than, in many cases, the caution. Clearly, that increases the revenue flow to government because, currently, the police officer has the discretion to issue a caution, and many of them do.

Then when the car owner goes to have the defect notice removed, there is to be a significant increase in the level of the payment the car owner has to pay. As I said, at the moment, it might be $20 or so. The original suggestion was that, for a small defect, it goes up over $100, I think, to about $125. So, you go to your local police station, you might have already been pinged for your expiation notice for having your tail-light out and then you might be pinged for the removal of the defect sticker at the local station, maybe with another payment of up to $125. I am told that with the original proposal for the more serious defects—a suspension problem or something where

you have to go down to Regency Park—the removal of the defect might be as high as up to $250, which was deemed to be a major defect as opposed to a minor defect.

In my discussions with people who are actively engaged in this at the moment—a couple of whistleblowers—I am told in the latest discussions that those particular numbers, other options, have been reduced to about $50 in the first instance in relation to removing the sticker at the police station, and maybe $100 or a bit above that in removing it from your windscreen down at Regency Park. I am told that a submission has been considered by cabinet in the last fortnight, and the furious debate continues between police in particular and transport bureaucrats in relation to this proposal.

Police are furious that the discretion of the police officer is being either removed or significantly reduced under these particular proposals. They believe they will be the ones at the forefront attracting the ire and anger of car owners, when in the past they might have issued a caution, whereas under these proposed arrangements that discretion would either be removed or significantly reduced. This is and will be a significant issue.

There has been a lot of discussion already on talk-back radio about this particular issue. As I said, the debate is raging within the bureaucracy at the moment. It is taking on a life of its own in the community in terms of this particular debate. One can trace it back now to this recommendation in the Sustainable Budget Commission, and the government needs to come clean and be accountable in relation to what would appear again to be another revenue-raising grab initiative by the government on, in this case, car owners.

No-one of course supports somebody clearly driving an unroadworthy vehicle on a continuous basis, but there are any number of occasions when your tail-light might be out when you do not realise it, and in those circumstances a caution with not significant costs for fixing the problem is the sensible way of policing it. Massive increases in fines, penalties and admin payments for those sort of circumstances will not only cause grief for the police officers and the image of the police force but also cause further grief for a government and its ministers who sadly are blissfully unaware of the impact of many of the decisions they take.

We discussed earlier ministers in this government being blissfully unaware of the impact and ramifications of decisions they take. Sadly, in the budget issues we see exactly the same, and this issue of defect notices is just one further example where, in this case, minister Conlon, and a distracted minister for police, Mr Foley, are blissfully unaware of what is going on at the pointy end of decisions that their bureaucrats and others are recommending to be taken.

We have seen, through the work of the Budget and Finance Committee, and in other forums as well, many examples of waste and financial incompetence by the government. There are too many to list, but I want to raise just a handful to highlight, because we often get the question from the Hon. Mr Holloway and others: what would you do and what would you do differently? We can highlight in many cases the problems of this government where it could be done and done better.

Shared Services is an unmitigated disaster. All who have been exposed to Shared Services now realise that it is an unmitigated disaster. We have seen that the new governments in Queensland and Western Australia, at considerable expense to taxpayers, are unwinding their shared services initiatives or putting them on ice and not further expanding them. We have seen, in recent evidence to the Budget and Finance Committee, that a $60 million cost of implementation of this project has now blown out by more than 100 per cent—by $68 million.

Brett Rowse and Damian Bourke told the Budget and Finance Committee at its last meeting that the $60 million cost was now $128 million—a mere $68 million blowout on a $60 million budget—not a bad effort when one looks at the implementation cost of any project. The Auditor-General has already reported that the actual savings from this shared services project are nowhere near the claimed level of $60 million.

What is blissfully unreported, because I guess it is a difficult issue, is that even the claimed savings of about $30 million a year that they have achieved have nothing to do with the shared services project. Shared services was essentially about payment of accounts across government departments, managing payrolls in bulk in one centre and reducing costs. The major part of this $30 million claimed saving was the Future ICT project, which was a centralised arrangement in relation to information and communication technology purchases across the board.

That was something which was going on separately to Shared Services but is now being lumped in with the claimed shared services savings to try and give them at least some degree of credibility. Sadly, the Auditor-General has not drawn the public's attention to this particular deceit by the government. We took evidence from the health department a couple of years ago and they said, 'Look, Treasury told us that we are saving $5 million from Future ICT and they just reduced our budget by $5 million and said, "There's your saving."

'When we reported to them, and then to the Budget and Finance Committee, that it was actually costing $50 million more over a period of four years—not a saving, but Future ICT was going to cost the health department more money rather than saving it—Treasury said, "Too bad. We've made the saving. We are reporting that to the Auditor-General. The fact that it is actually going to be an increased cost is something you have to manage within your budget anyway."' So far, this fraud on taxpayers has been perpetuated and continues to be reported as a claimed saving under shared services, when clearly it is not.

The latest fraud masquerading as a shared services saving is procurement reform. Every agency, even going back to the former Liberal government, has been making changes—modest for some and significant for others—in terms of procurement reform. This is rationalising the number of suppliers, rationalising the number of warehouses; all these sorts of things are being tackled by various departments and agencies.

This was going on long before shared services, and Shared Services now does have some role in relation to this, but the savings from procurement reform, warehouse reform and so on, are separate to the original notion of shared services. Nevertheless, those savings are now being incorporated into the claimed shared services savings—as I said, another fraud being perpetrated on the people of South Australia through that particular claim.

We can pick out one or two of the agencies—starting at the top, the Department for Premier and Cabinet—to see rotting from the very top in terms of wasting public money. We found, with the Premier's own department, that his own CEOs had wasted $246,000 on remodelling the chief executive officer's office. One chief executive wanted to have an open plan office and spent a bucketload of money; the next chief executive came in and said, 'No, I don't like that. I'm now going to go back to the old way,' and spent a bucketload of money.

Altogether, they spent a quarter of a million dollars returning it to virtually the same state it was in three years ago. It just went full cycle, and a quarter of a million dollars of taxpayer's money was spent under the nose of the Premier. The Boston Consulting Group was paid half a million dollars for a consultancy on megatrends without advertising and without going to competitive tender. When we asked the former chief executive officer of the department how on earth you can go to a $500,000 consultancy without advertising and competitive tendering, he said he knew them to be a specialist group in this area and they had given a special cut-price deal.

We said, 'Well, how do you know that a lot of other reputable companies wouldn't have given you a cut-price deal as well if you didn't go to competitive tender?' There was no answer to that at the Budget and Finance Committee. It was just a lazy $500,000 going to the Boston Consulting Group for this consultancy without any pretext of advertising or competitive tendering.

We have smaller examples just to show that it is not just in the millions and the hundreds of thousands that this department and government departments are wasting money. The Department of Premier and Cabinet spent $40,000 on the cost of a master's degree program at a Melbourne university for a public servant in the CEO's office—the total cost of the course.

In some cases, employers will contribute to the cost of professional development or further course development. The person who undertakes it makes some contribution to it, not just the taxpayers, but, in this case, we the taxpayers spent $40,000 to send a person to a Melbourne university for a master's degree program with no contribution from that individual, and of course, no commitment—no bond, as you would call it—to lock that person into the public sector for any period of time to see some sort of return on the investment that the taxpayers were making.

In essence, we could spend the $40,000 and soon afterwards that officer—heaven forbid, he or she took a package and was helped to leave—could leave and go off to the private sector or somewhere else and seek other employment with a master's degree paid for by the taxpayers of South Australia. We are still trying to find the cost of a new ministerial office for minister Portolesi to try to find out what the costs are.

We are still paying $23,000 a year for Mr Rann's friend Bob Ellis supposedly for speech-writing purposes, yet those payments were not revealed in the department's annual report. Why weren't they revealed in the annual report? We still don't know. It is not as if the Premier does not have a speechwriter. He already has a full-time speechwriter earning almost $100,000 a year on his staff, yet we are still paying his mate Bob Ellis up to $23,000 a year supposedly for speech-writing purposes.

There are innumerable examples of waste right across the board in small projects and in big projects within all government departments and agencies. I refer to the South Australian police department. Evidence given to the committee by the business services director, Denis Patriarca, revealed that hundreds of officers have been underpaid workers compensation payments over a number of years. He confirmed that SAPOL had budgeted up to $1 million to meet the total cost of the underpayments.

However, even though it was not revealed in the SAPOL annual report, SAPOL revealed to the committee that the consultants Deloittes were paid $227,000 in the period leading up to 30 June 2010 to help sort out the mess. Eight months later in February 2011, Deloittes was still working with SAPOL to fix the bungle. When one looks at that, given that they earned $227,000 in the period up to 30 June and they were still working eight months later, it is possible that the total payments to Deloittes to help fix up this bungle would be about $400,000 or more, and we have obviously asked the question.

The question we put to the Minister for Police and to SAPOL is: why couldn't SAPOL fix up this bungle themselves rather than spending $400,000 on expensive consultants such as Deloittes to calculate and organise the payment of underpaid workers compensation?

Surely, that is not beyond the capacity of the South Australian police force. Surely, if they have made a mistake of about $1 million in terms of underpaying workers compensation, we do not then have to spend another $400,000 on consultants to try to work out the extent of the problem and how we are going to go about fixing it.

The final broad area I touch on in terms of waste and, I guess, examples of financial incompetence, is brought to mind by a headline today of Adelaidenow which refers to the potential for compensation payments to Marathon Resources for the government's Arkaroola decision. It was not that long ago that the government had to pay, I think it was—I do not have the figures with me—up to $10 million or so, and I stand to be corrected on that figure, as compensation for the prisons.

The Hon. T.J. Stephens interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Stephens says it was about that number, about $10 million. Because of an incompetent management process, because of incompetent decision-making by ministers, the Treasurer and the government, we ended up with an exposure—the government said it did not have any legal exposure but in the end it needed to make these payments ex gratia to the bidders as compensation for the mess that had been devised by the government, or imposed on them by the government.

So, the taxpayers of South Australia not only did not get the new prison that they had been promised, they ended up paying almost $10 million in compensation because the government had stuffed up. Now the headline in Adelaidenow is, 'Taxpayers could pay $15m to Marathon Resources for mining ban at Arkaroola'.

I hasten to say that I am not aware whether that particular sum is correct, but clearly we are talking about many millions of dollars. Clearly, Adelaidenow would not be making the number of $15 million up, someone from within government has suggested a particular number to them.

This particular story quotes 'Turbo Tom' Koutsantonis, the mineral resources minister, as agreeing that he had had a meeting with the Marathon Resources people—I think it was today—and he concedes:

> ...we're working towards a settlement...In the interests of fairness, we will look at their costs incurred in exploration and look at that.

I notice he is very generous with taxpayers' money in paying compensation. He still has not paid me my $50 for welshing on a bet 10 years ago.

The Hon. J.S.L. Dawkins: He's got a fair bit of form in that area.

The Hon. R.I. LUCAS: He has a bit of form in that area, but he is generous with the taxpayers' money. So, we are clearly looking at another example of a significant compensation payment because this government had a flawed process where, for whatever reason, over a period of time it allowed Marathon Resources to continue to believe that it could go ahead and mine and so it continued to explore that area. We know that the government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, you have actually been in government for almost 10 years now, so I do not think the former failed mines minister, the Hon. Mr Holloway, ought to squeak too loudly on this particular issue. The soon to be retired former minister should not continually interject out of order. We have a situation where the government, for 10 years, has continued to encourage Marathon Resources to explore and led it to believe that at the end of that—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, you do not explore unless you are going to do something with it. I do not know anybody who spends money on exploring if they do not think they are going to get something at the end of it. Just the knowledge is not of much value in the marketplace. My experience, limited as it is, is that if you cannot actually mine it, then it is not worth too much in the marketplace. If you know it is underground then not too many people would give you money if you cannot get it out. That is my limited experience of the market. I am not sure whether the Hon. Mr Holloway—

The Hon. T.J. Stephens: A mining legend.

The Hon. R.I. LUCAS: —a mining legend, I am reminded—knows much more about this particular industry than I do, but that is my limited experience. My experience is that it really only has a bit of value if you can actually get it out. If you know about it, if you can look at it or if you know it is there somewhere, I am not sure there is much value in that.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Have a look at that now. We also know that the government paid money to it under the PACE scheme. The government will not tell us how much—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Don't shake your head, Paul, because—

The Hon. P. Holloway: That was somewhere else, I think.

The Hon. R.I. LUCAS: Well, we know Marathon Resources—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Budget and Finance Committee—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Why don't you kick him out, Mr President. Ask him to leave, thank you. He is interjecting out of order. I would have been finished hours ago if it had not been for the Hon. Mr Holloway's persistent and virulent interjections.

The Budget and Finance Committee was told that Marathon Resources received a PACE grant. As the Hon. Mr Holloway infers, we do not know what Marathon used that for—whether it was for that particular lease in that area, or elsewhere. We also do not know, because the government will not tell us, exactly how much Marathon Resources was given under the PACE grant. We do know that Marathon was given money but we do not know how much.

So, we have a situation here where this company has been encouraged to continue to explore—it has been given money by the government to continue to explore potentially in this area, or perhaps in other areas as well, I am not sure—and the government makes a decision in the end which we are now told could cost us up to $50 million in compensation. It could cost us up to $50 million because of the flawed decision-making process that this government has gone through.

It is but one further example of the financial incompetence—on which I am sure you would agree with me—that has been seen from virtually every minister in this government and the government as a whole. I indicate my support for the second reading of the Appropriation Bill and highlight the fact that, hopefully, the Auditor-General will pursue some of these issues with some

vigour in the future. Hopefully, the Budget and Finance Committee will continue its task of highlighting some of the waste and inefficiency of this government and its ministers.

The Hon. T.J. STEPHENS (16:47): I rise to make a brief contribution on the Appropriation Bill. I commend the Hon. Rob Lucas on (a) his speech and (b) the fine work that his Budget and Finance Committee does in keeping this government, at best, remotely honest.

I just want to highlight a couple of disturbing things before I touch on a couple of areas in my various portfolios. Access Economics has reported statistical information that I think most South Australians would find extremely disturbing. Whilst I do not want to be the bearer of doom and gloom, I think that, over the next few years under this government, we are going to face an incredibly rocky road.

The government has thrown out some numbers at us and also some statements, which include: South Australia's economic growth will be below national growth in each of the next five years; South Australia's share of the national economy will continue to decline from 6.8 per cent in 2001-02 (it is 6.1 per cent now) to only 5.8 per cent in 2014-15—it is a marvellous legacy that the Rann government leaves us—South Australia's export growth will be below the national growth in each of the next five years; South Australia's population growth will be about half the national growth in each of the next five years; South Australia's employment growth will be below the national growth in each of the next five years; and South Australia's unemployment rate will also remain above the national rate in each of the next five years.

It is a record that you could hardly be proud of, and it is certainly nothing to look forward to. I will just touch on the budget and sport. The Rann government's budget made savage cuts to sporting programs at the South Australian Sports Institute. Some of the sports that have been cut include the men and women's soccer programs, basketball, baseball, aerial gymnastics, sailing and tennis. By cutting these seven programs, the Rann government has cut short the future of South Australian sport in each and every one of those sports.

Labor has neglected grassroots sport. We have seen the passing of the bill today (and I, sir, I believe you have the message in front of you) in which the government agreed to the 40 or so amendments passed in this place about the Adelaide Oval. There is nothing in the Adelaide Oval for grassroots sport, other than in the amendment we moved to make sure that there was up to $1 million for grassroots sport—and of that one feature, I am incredibly proud.

One of the things that worries me about the cutting of the funding to SASI and to our elite athletes is that it is becoming more and more expensive for young people to participate in sport. It has been explained to me by coaches and parents who have young people involved in these elite sporting programs that now, if you do not come from the right side of the tracks, if you are not from a family that is reasonably well heeled, your ability to participate and perhaps grow to become a star for South Australia, or indeed a national champion, is extremely limited. That is not the South Australia I grew up in, and am extremely proud of. The fact that we are getting to a point where unless—

The PRESIDENT: Order! I am having difficulty hearing this very important contribution by the Hon. Mr Stephens.

The Hon. T.J. STEPHENS: Thank you for your protection, Mr President. He has been doing it for years, and I think you should throw him out. I was saying that I am really disturbed—

The Hon. J.M. Gazzola: That's true.

The Hon. T.J. STEPHENS: —yes, I am very disturbed—that a basic thing like sport, something that should not depend on the size of your parents' wallet or where you live, a basic necessity is fast disappearing from the reach of many South Australian families. It is not just the sporting component we are losing; there will be a cost to society if those young people, out of frustration, turn to other things—and they could well be things that involve crime and certainly rob those young people of discipline and opportunity. The cost to us in law and order I think will grow exponentially.

The government has left its commitment swinging in regard to the Campbelltown sports hub, which is one of those promises I think it will never deliver because its federal colleagues have shown no interest in the project. Whilst that part of Adelaide and South Australia is desperate for this type of sporting hub, it is obviously going nowhere fast. We are still waiting to see the Port Augusta project, which we still hold great hope for. The member for Stuart (Dan van Holst Pellekaan) has done an outstanding job trying to make sure that project stays on the table.

I have touched on Adelaide Oval and what it will do for grassroots sport, and I must say that over the last few weeks I have had a number of quite productive meetings with SACA officials and those who provide services to them. They have been very good in regard to how much information they have been prepared to share, and I am very grateful to them.

I will move onto tourism, and I am extremely concerned about this real income earner for this state. What we have seen is the flow-on effect from last year's horror budget, when $12.5 million was taken out of the tourism budget. Typically, what we have seen is the regional areas suffering. The first thing this government did, because it had to save money, was cut jobs out of the regions. Sir, being from the country, you know that in a small community any job is prized by that community because it could well mean that a family is attached to that job and it could mean people playing sport in that community. Every job is cherished.

The first thing this government has done is cut 23 positions out of regional South Australia. So, 23 positions that it funded to the tune of about $40,000 per position, and the best it has come back with is, 'Well, we're actually going to provide 11 positions', and they are going to fund those positions to the tune of $10,000 each. I ask: how serious is the government about regional tourism in this state? I have argued long and hard about the fact that regional people will sell their own area better than anyone else; they will cross-sell, they will make sure that tourists have the best possible experience in a region—and, to be fair, spend the money they are prepared to spend in that particular region.

You do not usually find out about the little restaurant, tucked away around the corner, which gives a great experience, from a website when you are looking at something else. Those are the sorts of on-sales that only a person in a regional area will do, and they really do maximise the experience. Of course, then you get into word-of-mouth; a tourist will go back to where they come from and talk about the great experience they have had. So I think that particular act deprives tourists of the full experience.

The minister knows that I was very unhappy about the way this government has privatised the visitor information centre. It has broken another core Labor promise of no privatisation, so we now have the trifecta of the forests, the lotteries and now the visitor information centre. The fact that the minister did not even bother to look at the premises that the new privatised visitor information centre was going to just smacks of absolute neglect. The fact is that South Australia's visitor information centre will be housed in a basement, with no disabled facilities. How could you sign off on something like that?

Much has been said about that, and I know that the chairman has fallen on his sword. I am not suggesting impropriety but I will say that the communications on that whole thing, and the minister's oversight of it, were really quite appalling. That should put a warning across the minister's bow with regard to how much hands-on attention he needs to pay to this incredibly valuable industry.

We have heard the Premier over the last couple of days—and hello, hello; it is fantastic. He has actually worked out that Kangaroo Island is a very important tourist destination. He has been the Premier for 9½ years and he has worked out that Kangaroo Island is a very important tourist destination. My goodness! It beggars belief to think that the community of South Australia will actually applaud him for waking up to what the rest of us have known for many years. We have had a promise of a spend on Kangaroo Island; I welcome that promise and look forward to it being delivered because, as you know Mr President, it is certainly way overdue.

The Hon. J.S.L. Dawkins: A couple of members put a significant investment into the Ozone, I believe.

The Hon. T.J. STEPHENS: The honourable member interjects, but I cannot comment because I would not know; I never comment on what members do in their own private time. Moving on from tourism, I will briefly touch on correctional services. As you would be aware, sir, we have a select committee looking into correctional services, and we are incredibly concerned about many areas: luxury TVs, escapes, shipping containers, drugs in prisons and bullying of officers. That will continue to unfold, and I look forward hopefully to being part of the solution and bringing that department back into some sort of reasonable shape.

Aboriginal affairs can be challenging, and I know that the work will be ongoing. One of the things that worries me with Aboriginal affairs is that we seem to have so many different silos of government supposedly taking responsibility for their own private area. I think that trying to coordinate that is almost unworkable, and I would like to see the minister have control of everything

to do with Aboriginal affairs in that particular area. Certainly on the lands, when we have problems with power or with food pricing, it never ever seems to be the minister's fault; it is always a different scenario. It is very hard to pin them down on it.

Until we put up our hand and take some responsibility in that particular portfolio, I do not see the life of Aboriginal people improving. Hopefully, the Substance Misuse Centre in Amata is finally going to be put to good use. We have millions of dollars worth of infrastructure, which seems to have been wasted for a number of years. We are suggesting a haemodialysis facility; the Amata centre is totally underused, and this is something that would be fantastic for Aboriginal people on the lands. If you can have dialysis facilities on small communities in the Northern Territory, I do not see any reason whatsoever why we cannot provide those sorts of facilities on the APY lands.

I will now touch on gambling. We are still in a state of limbo with regard to the federal government and what it may or may not do. I have taken some comfort from the gambling minister's statements, which have been reasonably consistent with regard to believing in voluntary pre-commitment, and I applaud the minister for those comments. I know that, in relation to industry in this state, in particular, the hotel industry and, to a degree, the club industry, many important investment decisions are being put on hold at the moment because of the uncertainty in gaming.

I do not want to see anybody hurt with gaming. I will keep hammering the point that I believe the money from the Gamblers Rehabilitation Fund that goes to minister Rankine's Families and Communities would be better spent being farmed out to the NGOs to have people on the ground providing education, counselling and support. Until we do that and show that we are genuine about the fact that we as a parliament and we as a state believe in choice but we believe that those who are harming themselves should have the opportunity to be looked after—I will not rest until that is a reality.

I know that, in these economic times, the state is drifting. I know that people would be prepared to invest money in facilities and equipment, thereby employing people and providing a safe and attractive environment for South Australians to enjoy themselves. I know that that investment is on hold at the moment, and it is hurting many people. So, if you, sir, as President, or any of the ministers, can use any influence on your federal counterparts to try to get some certainty into that industry, it would be appreciated. The sooner they do it the better and the sooner they do it the right way, the better off we will all be.

The PRESIDENT: I influenced you yesterday to invest.

The Hon. T.J. STEPHENS: I would like to thank you that for hot tip, sir, for the nag yesterday. It is still running, I believe. But that will not be the last time we share a wager and a bit of fun, I hope, because I do believe in choice. I believe in responsible gambling, and I believe that those who cannot look after themselves in that scenario should be provided with support.

This Premier has run his race. For a number of years, he has skated through, making statements without follow-up and got away with it. His time is well and truly passed. The economic indicators show that this state is going nowhere fast. The sooner the Premier puts on his pyjamas, heads out to the steps of Parliament House, feigns illness like a previous premier and gets out of the way, the sooner, hopefully, we can get on with running this state and resurrect it. With those few words, I support the bill.

Debate adjourned on motion of Hon. S.G. Wade.

ELECTRICAL PRODUCTS (ENERGY PRODUCTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 July 2011.)

The Hon. A. BRESSINGTON (17:05): I rise briefly to indicate my position on the bill. This is a relatively straightforward bill—a good thing for the minister carrying it in this place—that seeks to extend the minimum energy performance standards and the star rating of the energy efficiency regime that currently applies to certain electrical products, gas and, in future, other energy products, such as solar hot water heaters and the like.

The bill gives effect to the decision of the Ministerial Council on Energy to incorporate the existing industry sponsored gas labelling scheme into the statutory regime for electrical appliances, and does so by amending the Electrical Products Act 2000 to cover these appliances and consequently renaming the act to the Energy Products (Safety and Efficiency) Act.

As I understand it, only minimum energy performance standards for gas water heaters have so far been developed, with gas water heaters and cooking appliances to follow in due course. I indicate to the council that I support the existing regime being extended to gas and other energy products. The bill also makes significant changes to the powers of the authorised persons charged with ensuring compliance with the scheme and to ensure the safety of electrical and gas products being offered for sale.

Consistent with other acts—a point I shall return to—authorised persons are to be redesignated as authorised officers, and will be empowered to stop and inspect vehicles; to require persons reasonably suspected—not 'expected' as the minister's second reading contribution suggests—to have committed a contravention of the act to identify themselves; to seize energy products reasonably suspected of contravening the act; as well as the power to demand information about the chain of ownership and invoices and other documents to that effect.

I also indicate to the council that I am supportive of the aforementioned extension of authorised officers' powers. However, the bill also seeks to modify the privilege or right against self-incrimination. While natural persons shall retain the right to silence, bodies corporate will be required to answer questions, whether or not the answer may be self-incriminating.

Following the introduction in this council of the Natural Resources Management (Review) Bill which, as members would be aware, proposes also to remove the right against self-incrimination, I spent much time in considering my view in relation to the power to compel answers, a power which (prior to it is roll-out across statutes establishing myriad authorised officers) traditionally resided with royal commissioners and those exercising similar powers, such as the Ombudsman or the investigator inquiring into the former Burnside council.

Not even our police are given the power to compel answers that may be self-incriminating, yet authorised officers responsible for ensuring the compliance and safety of energy products will be so empowered. The minister, in justifying the bill, relied upon other acts which similarly empower authorised officers, the rationale being—and I quote the shadow minister in the other place, the member for MacKillop:

> It is in this piece of legislation, therefore, we can justify putting it into another piece of legislation, and so it flows on.

However, this council has shown that it is no longer willing to blindly invest these powers in authorised officers. As members may be aware, the Minister for Environment and Conservation has indicated that he will be withdrawing the clause removing the privilege against self-incrimination from the Natural Resources Management (Review) Bill, simply because the minister has recognised that the majority of members of this place are not comfortable with authorised officers in that context having such a power.

Yet, in this bill a nearly identical power is being extended to another class of authorised officers and, while the shadow minister in the other place raised these concerns, the provision would have seemingly passed without debate. I cannot justify the inconsistency. So that the debate can proceed, I indicate to the council that I will be moving an amendment to delete the proposed section, specifically section 11(7), and making consequential changes to section 11(6).

Whether we refer the issue to the Legislative Review Committee, as the Minister for Health did in relation to national legislation, or simply have the debate here when I move the amendment, I believe it is time that this council adopted a consistent approach to the protection of the right to silence. That said, Mr Acting President, I support the thrust of the bill and, hence, the second reading, and I look forward to the committee stage.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:10): As there are no other indicated members who want to make a second reading speech, I would like to sum up, if I may. I thank honourable members for their contributions to this debate. The purpose of this bill is to amend and rename the Electrical Products Act 2000, and make consequential amendments to the Gas Act 1997, to enable minimum energy performance standards to be applied to gas and other energy products, thereby reducing greenhouse gas emissions.

On Tuesday, the Hon. Mr Ridgway made some comments. I will deal further with the issues he raised whilst dealing with the Hon. Ms Bressington's amendment at the committee stage. There is just a quick point of clarification I would like to make. The Hon. Mr Ridgway stated that the removal of privilege against self-discrimination may be justifiable where there is an imminent threat

to public safety. However, this bill would remove the legal right in the investigation of any product quality assurance issues and is not justified on public interest grounds.

I wish to clarify that the bill does not, in fact, modify the privilege against self-discrimination in respect of quality assurance issues: it modifies the privilege with respect to safety issues only. As the issue that the relevant clause, section 11(7), intends to address is the location of unsafe appliances and the removal of privilege against self-incrimination, in this instance it is entirely justified on public interest grounds.

Bill read a second time.

In committee.

Clause 1.

Progress reported; committee to sit again.

SUMMARY OFFENCES (TATTOOING, BODY PIERCING AND BODY MODIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 July 2011.)

The Hon. CARMEL ZOLLO (17:16): I add my support to this legislation and I congratulate the government on bringing this bill to the parliament introducing measures to better regulate the tattoo and body modification industry. It is pleasing to see that key recommendations from the Select Committee on the Tattooing and Body Piercing Industries have been addressed, including the proposed ban on invasive piercing and tattoos for minors. Additionally, it picks up on the concerns raised regarding body modification carried out on individuals suspected of being intoxicated or under the influence of prohibited substances.

It shows the government's commitment to reforming the industry and protecting vulnerable elements within our society. The tattooing and piercing industry in South Australia (and indeed most states) over the years has operated with minimal regulation with only brief references in the Summary Offences Act 1953 relating to the tattooing of minors and the Public and Environmental Health Act 1987 concerning the ability of council to regulate unsanitary premises.

It has been an issue that the government attempted to address previously. If my recollection serves me correctly, when I introduced a private members' bill on behalf of the then member for Enfield I think in November 2002, it did not receive the support of this chamber that we had hoped it would have received with members of the then crossbenches seeking to introduce measures which it was felt at the time really undermined the proposed legislation. I think the Hon. Dennis Hood also mentioned during his contribution his attempts in relation to a similar bill.

Due to the increasing popularity and increased range of tattooing and piercing options available such as ear lobe stretching, body branding and scarification, the government feels that it is imperative that there be increased oversight of the operators carrying out these procedures. These procedures have the ability to inflict a great deal of harm and potential disfigurement to the individual receiving them. This is especially true for body branding and scarification.

For example, body branding, as its name suggests, is apparently quite a painful procedure as it requires the use of superheated metal which is used to burn an impression into the skin. In the case of scarification, razor blades are used to cut the design into the skin, which is then allowed to scar, causing permanent disfigurement. These piercing and tattooing procedures in many ways probably equate to minor surgery.

According to evidence given by plastic surgeon and past president of the South Australian Society of Plastic Surgeons, Mr Timothy Edwards, to the Select Committee on the Tattooing and Body Piercing Industries back in 2005, the complication rate is not high for tattooing procedures, whilst complications of piercing procedures run at a rate of 20 per cent, which I believe is quite high.

Mr Edwards informed the committee of the wide range of complications associated with piercing procedures, including bleeding, infection, scarring and metal allergies, as well as the possible contraction of hepatitis C. Tattooing complications while less in number, are, I believe, no less dangerous, with evidence suggesting the potential for the transmission of bloodborne viruses.

This issue has attracted some media. We recently saw media relating to the issue in both the *Sunday Mail* and I heard some similar comments on ABC radio. The *Sunday Mail* article of the weekend of 3 July, entitled, 'Body-mod alert, Doctors warn on backyard surgery' reported by Heather Kennett, states:

> Medical professionals say they are dealing with a surge of backyard 'body-modification' surgeries gone wrong, with two people needing intensive care treatment after they became badly infected. Many of the modification procedures carried out in South Australia are performed by international professional 'skin artists' during fly-in visits. RAH staff said they were alarmed at a 'surge' in cases at its emergency department from extreme modifications.

AMA state president Dr Peter Sharley is also quoted as saying:

> These are unnecessary and dangerous procedures with risks of haemorrhaging, infection and disfigurement. Surgeons are highly trained and would not be involved in this sort of destructive surgery.

I think it was Dr Sharley who I heard on ABC radio with Ian Henschke making similar comments. With the potentially serious ramifications of these procedures, it reinforces the need for regulation, which this bill seeks to do, to protect those not in a position to properly assess the risks, such as minors and those under the influence of alcohol, of the procedure that they desire to have performed on them.

As well, in relation to implications for the tattoo/piercing industry, the bill before us seeks to introduce measures that will clearly define the rights and responsibilities of those engaged in the business of providing tattoo and body piercing, along with those consumers who engage in body modification treatments. It acknowledges the inadequacy of the legislation as it stands and the need to provide proper regulation of the industry. It greatly expands on the current laws specified in section 21A of the Summary Offences Act 1953 regarding body modification, which currently only prohibits the practice of tattooing minors.

It broadens the coverage of the act to include body scarification, lobe stretching, implantations and branding, significantly improving the protection provided to consumers, including those under the influence of either drugs or alcohol. It extends the ability of law enforcement to properly police the industry. The Attorney-General, as to be expected, has taken on board the concerns raised by members of the public in the consultation process, such as proposed age restrictions, and has incorporated their recommendations into the bill.

When young people, and some older ones for that matter, are out drinking there are occasions when the evening is getting on a bit and they are looking for ways to kick the evening along and they may often take part in activities they would not have otherwise engaged in when they were in a more sober state. Tattooing is often one of those activities and one that I think they may often regret when they are in a better frame of mind. I certainly know some people now in their 60s who wish they had never had body tattoos and, indeed, some people—

An honourable member: Lou?

The Hon. CARMEL ZOLLO: No, not Lou—not likely. Some people are now having laser treatment for the removal of these tattoos. While it can be seen as a bit of fun, there may be unwanted consequences resulting from such actions, whether it be a danger to health or sometimes the possible jeopardising of employment.

It should be stressed that the purpose of the protections proposed in the bill do not seek to limit the discretion of reasonable adults to obtain tattoos but to protect them from operators who may seek to exploit their present condition for their own gain. This will put the onus on operators to provide a proper duty of care to their customers. I recognise that society has changed and that a lot of people find tattoos an art and prefer to see them on their body but, nonetheless, I think it should be with proper regulation.

The government is seeking to extend a protection to a particular vulnerable element in our community, which is our young people, in particular those aged under 16 years. It is the government's view—and I would like to believe it is one that the wider community also holds—that the use of intimate piercings and body modification techniques should be restricted for young people. As the Attorney-General in the other place has stated, 'Minors should not be subject to inappropriate or indecent contact, and the law protects them by prohibiting these procedures, regardless of whether parental consent has been given.'

Additionally, in an effort to provide comprehensive protection to those under the age of 16, the government has proposed a ban on the sale of products that could be used for body modification purposes. This is a move that should be commended, as the potential for some

dangerous side effects that result from self treatment, such as infection, will be substantially diminished.

It is important to note, however—and it is a fact that the Attorney-General has previously alluded to—that, through community consultation, it has been concluded that these restrictions will not be extended to those over the age of 16 when having non-intimate procedures such as lips, nose and eyebrow piercings. It is widely felt that, when teenagers reach this age bracket, they have the ability to make informed decisions in regard to their body. As I mentioned previously, society has certain values at different times, and we should certainly respect those values over a certain age.

One of the key elements of this legislation, and essential to its success, is improving the ability of police to regulate the body modification industry. This was cited as one of the key concerns by the Select Committee on the Tattooing and Body Piercing Industries, which felt that the current system relies too heavily on aggrieved customers—after the fact, as it were—coming forward and making complaints. I feel that it is unacceptable for any industry, let alone the tattoo and body piercing industry, to be regulated in such a manner.

There is a need for a proactive system of oversight which will allow law enforcement to target businesses it believes to be conducting underage body modification treatment. Police will now have the ability to inspect premises and demand that they produce records of all procedures to show that they are in compliance with the law.

The police will also be granted the ability to ask for proof of age from those engaging in body modification if they reasonably suspect them of being underage. While there are those who may believe that the government has afforded the police too great a power in regulating tattoo and piercing operators, I think that line of thinking undermines the faith in the professionalism of our police force in carrying out their duties. These powers are not designed to harass the industry; they are about ensuring that the most vulnerable in our society are protected from rogue operators.

Additionally, I support measures to increase the penalties for performing under-age body modification procedures. The current penalty of $1,250 or three months' gaol is not an effective deterrent to such behaviour. It is effectively a slap on the wrist. The substantial increases proposed by the government include fines of up to $5,000 and 12 months' imprisonment and I believe will send a strong message to those carrying out illegal under-age procedures that they must discontinue this practice which is simply unacceptable.

In summary, this bill is not about legislating away the discretion of individuals to have a tattoo or piercing. It is about protecting those in the community at risk of exploitation by unscrupulous operators. There is a view in the community, which the government shares, that the legislation as it currently stands does not provide adequate protection. I am of the belief that the measures that have been outlined in the bill before the parliament will go a long way to providing the protection that is required.

While some may argue that these measures that have been introduced, such as the increase in fines and the maximum terms of imprisonment, may seem somewhat heavy-handed, there must be effective deterrents in place to ensure that children in our communities remain safe, which I believe is especially important.

Overall, the bill before us has addressed the key concerns that were raised by the select committee on tattooing and body piercing and balances the needs of both the consumer and the body modification industry. It provides a consistent and reasoned regulatory framework that will allow the industry to move into the future with, I believe, greater certainty. I am pleased to add my support to this legislation.

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

COMMERCIAL ARBITRATION BILL

Adjourned debate on second reading.

(Continued from 7 July 2011.)

The Hon. S.G. WADE (17:32): I rise to indicate that the Liberal Party will be supporting the Commercial Arbitration Bill 2011, which was introduced in the House of Assembly by the Attorney-General on 4 May. It updates the Commercial Arbitration and Industrial Referral Act 1986 to reflect amendments in 2006 to the United Nations Commission on International Trade Model Law on International Commercial Arbitration.

In April 2009, the Standing Committee of Attorneys-General noted the model law and that it could form the basis of uniform domestic arbitration law in Australia. In May 2010, the committee agreed to a draft model law. It also includes elements of a commonwealth act. The model bill has already been adopted the New South Wales and Tasmanian parliaments, and this bill is similar.

I note the verbose comments by government and opposition members in the other place in relation to this bill. I do not intend to follow their lead. Having been briefed and undertaken consultation with stakeholders in South Australia and interstate, I am persuaded that this is a well-founded bill. I note that the House of Assembly, having timed speeches, often feels the need to fill the time allocated to them. I am thankful that this house has the freedom to be brief when there is no need to be anything other than brief, so I commend the bill to the house.

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

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

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

ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATUTES AMENDMENT (BUDGET 2011) BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (17:36): I move:

That this bill be now read a second time.

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

Leave granted.

Labor's 2010 Serious Crime election policy stated that 'This proposal will amend the *Criminal Assets Confiscation Act* to target persistent or high level drug offenders to provide for total confiscation of the property of a "Declared Drug Trafficker"'. The policy details were:

New powers will be given to the Director of Public Prosecutions to allow criminal drug dealers who commit three prescribed offences within a span of 10 years to be 'declared a drug trafficker.

Under this proposal, which targets high level and major drug trafficking offenders, all of a convicted offender's property can be confiscated, whether or not it is established as unlawfully acquired and whether or not there is any level of proof about any property at all. Property and assets could also be restrained pending prosecution of matters before the court.

The legislation will attack repeat drug offenders. The offences that will attract the declaration if committed three or more times within a span of 10 years include:

- Trafficking in controlled drugs;
- Manufacture of controlled drugs for sale;
- Sale of controlled precursor for the purpose of manufacture;
- Cultivation of controlled plants for sale;
- Sale of controlled plants; and
- Any offence involving children and school zones.

The Bill, with a modification, fulfils this election pledge.

Prescribed Drug Traffickers

The idea that all of the property of certain drug traffickers (described in the Bill as prescribed drug traffickers) should be confiscated, whether or not it has any link to crime at all and whether or not legitimately earned or acquired, originated in the Western Australian *Criminal Property Forfeiture Act 2000*. If a person is taken to be a declared drug trafficker under either s 32A(1) of the *Drugs Misuse Act* of that State or is declared under s 159(2) of the *Confiscation Act*, then, effectively, all of their property is confiscated without any exercise of discretion at all,

whether or not it is lawfully acquired and whether or not there is any level of proof about any property at all. The two situations are a convicted drug trafficker of a certain kind and an absconding accused. The first category is the most general.

An absconding accused aside, there are two situations catered for. The first is the repeat offender. The second is the major offender (whether repeat or not).

The repeat offender is caught if he is convicted on a third (or more) offence for nominated offences within a period of 10 years. The nominated offences are: possession of a prohibited drug with intent to sell or supply, manufacturing or preparing; or selling or supplying, or offering to sell or supply, a prohibited drug; possession of a prohibited plant with intent to sell or supply, or selling or supplying, or offering to sell or supply, a prohibited plant; attempting to commit these offences; and conspiring to commit these offences.

The major offender is caught if the person commits any one offence at any time about a prohibited drug or prohibited plant that exceeds a prescribed amount. Those amounts are prescribed in Schedules to the Act (not regulations) and list, for example, 28 grams of amphetamine, three kilograms of cannabis, 100 grams of cannabis resin, 28 grams of heroin and 250 cannabis plants.

Section 159(2) says that a person will be taken to be a declared drug trafficker if the person is charged with a serious drug offence within the meaning of section 32A(3) of the *Misuse of Drugs Act 1981* and the person could be declared to be a drug trafficker under section 32A(1) of that Act if he or she is convicted of the offence, and the person absconds in connection with the offence before the charge is disposed of or finally determined. A serious drug offence within the meaning of section 32A(3) of the *Misuse of Drugs Act 1981* means a crime under section 6(1), 7(1), 33(1)(a) or 33(2)(a) of that Act. The content of these crimes has been outlined immediately above.

The Northern Territory *Criminal Property Forfeiture Act* contains very similar provisions, obviously modelled on the Western Australian Act. However, the Northern Territory Act contains only the repeat offender version of the first category and the second category (death and absconding). It does not contain what is described as the major offender category described above. No other Australian jurisdiction has anything like either of these Acts. The provisions fall to be considered on their merits.

Under the WA scheme and its counterpart in the Northern Territory, all of the declared drug trafficker's assets are subject to forfeiture. Absolutely everything. Baby clothes, washing machine, garden hose, children's toys—the lot. The Government has taken the view that, under the current attitude of the High Court, such a scheme is, if challenged, likely to be held unconstitutional. So, in order to ameliorate the harshness of the scheme, it is proposed that the prescribed trafficker forfeit everything except what a bankrupt would be allowed to keep. These are to be found in r 6.03 of the Commonwealth *Bankruptcy Regulations 1996*. The lists are extensive, but the general principle is:

Subsection 116 (1) of the Act does not extend to household property (including recreational and sports equipment) that is reasonably necessary for the domestic use of the bankrupt's household, having regard to current social standards.

High Level or Major Traffickers

Whether or not a person can be presumed to be, in common usage, a high level or major trafficker will depend largely, but not wholly, on the amount of the drug with which he or she is associated. The table below illustrates various amounts for the purposes of comparison. The SA amounts listed are those prescribed as a result of a national consultative process fixing amounts.

1. Drug	2. SA Trafficking Amount	3. SA Commercial Amount	4. SA Large Commercial Amount	5. WA Declared Drug Trafficker Amount
Amphetamine	2 gms (mixed)	0.5 kgs (mixed)	1 kg (mixed)	28 gms
Cannabis	250 gms (mixed)	2.5 kgs (mixed)	12.5 kgs (mixed)	3 kgs
Cannabis Resin	25 gms (mixed)	2 kgs (mixed)	10 kgs (mixed)	100 gms
Heroin	2 gms (mixed)	0.2 kgs (mixed)	1 kg (mixed)	28 gms
Cannabis Plants	10 plants	20 plants	100 plants	250 plants

It can be seen at once that the WA amounts do not correspond to any nationally agreed amount nor to any fixed proportion of them. The nationally agreed amounts were settled on the basis of research across Australia on the actual activities of the illicit drug markets informed by police expertise. The basis on which the WA amounts were fixed is not apparent, but given that the national exercise was the first of its kind, they are not likely to have a logical basis. The obvious way to proceed is to fix on the amounts already settled in the SA *Controlled Substances (General) Regulations* as indicating commercial activity.

Repeat Offenders

The legislation also attacks repeat offenders. The key to this category is settling the offences to which it applies—that is, what offences will attract the declaration if committed three or more times within a span of 10 years. It is suggested that the offences to which it should apply are any serious drug offences that are indictable. These are those offences listed in that part of the *Controlled Substances Act 1984* under the headings 'Commercial offences' and 'Offences involving children and school zones'.

The Fund

The proceeds from the existing criminal assets confiscation scheme must be paid into the Victims of Crime Fund (after the costs of administering the scheme are deducted). It is proposed that funds raised by the application of this new initiative be devoted to another fund, to be called the Justice Resources Fund. This Fund will be devoted to the provision of moneys for courts infrastructure, equipment and services and the provision of moneys for justice programs and facilities for dealing with drug and alcohol related crime. Disbursements will not overlap with those made from or eligible for moneys from the existing Victims of Crime Fund. The Government does not believe it to be proper that money from the Fund be spent on law enforcement or criminal investigation purposes.

Other Aspects of the Scheme

The Western Australian scheme has also been modified so that a court has a discretion to ameliorate the inflexible application of this scheme if the offender has effectively co-operated with a law enforcement agency relating directly to the investigation or occurrence or possible occurrence of a serious and organised crime offence. For these purposes, a serious and organised crime offence is defined in a way that mirrors the definition in the *Australian Crime Commission (South Australia) Act 2004*. Every encouragement should be given to serious criminals to inform on their co-offenders and any criminal organisations to which they belong or are party.

As is the case with the WA and NT legislation, a person is a prescribed drug trafficker where there is sufficient evidence to conclude that a person would have been liable to be a prescribed drug trafficker and the person either absconds or dies.

The Bill also adopts the Northern Territory innovation that the time period of 10 years in relation to the repeat offender does not run if and while the offender is imprisoned.

Pecuniary Penalty Provisions

The necessity for this amendment arose directly from the decision of the Full Court in the case of *DPP v George* [2008] SASC 330. The appellant George was convicted of an offence of producing cannabis. The subject of the charge was 12 mature cannabis plants and 20 seedlings with roots attached. The plants were being grown hydroponically in a shed on his residential property in Seacombe Gardens. He was also convicted of knowingly abstracting (stealing) electricity. He was fined $2,500 for both charges. Under the law applicable at the time the maximum penalty for this offending would have been 25 years imprisonment. Under current law, 10 plants is a trafficable quantity and he was over that, not counting seedlings, so there would be a presumption of sale.

The DPP intended to pursue the defendant under the *Criminal Assets Confiscation Act*. Accordingly, a restraining order was placed over the residential property. After conviction, the defendant applied for an order excluding the property from forfeiture. In the meantime, the DPP applied for a pecuniary penalty order forfeiting a sum of money equivalent to the defendant's interest in the property. The house was valued at $255,000 with a mortgage of $164,731. It follows that the pecuniary penalty would have been about $90,000. It can be accepted that the defendant would have to sell the property to pay the pecuniary penalty.

The question then arose whether the court had a discretion whether to impose a pecuniary penalty order or not. On the face of it, the legislation seemed to say that there was no discretion. The legislation says that the court must make a pecuniary penalty order about the proceeds of a crime or an instrument of crime. All had assumed hitherto that 'must' meant 'must' and that was that. The magistrate below had threaded a way out of what he thought to be an injustice by holding that the house and land were not instruments of crime. That was an ingenious argument and the Supreme Court on appeal flirted with it. In the end they divided 2/1 on the facts, holding that the property was an instrument.

But White J, with whom Doyle CJ and Vanstone J agreed on point, said that must did not mean must. There was a discretion after all. The key passage was:

Moreover, the construction for which the DPP and the Attorney-General contend has the potential to bring the administration of justice into disrepute. This is likely to engender a lack of respect for such proceedings and the authority of the courts conducting them is likely to be undermined. The DPP could, for example, take the attitude before a court hearing an application under ss 47 or 76 that its decision will be immaterial, and conduct the proceedings accordingly. It is inimical to proper respect of judicial authority for one party to an application before the court to be able to take such an attitude.

I referred earlier to the absence of any provision in the CAC Act which would enable a court to take account of, or to ameliorate, the harsh consequences of a PPO or the interests of others in the subject property. Nor is there any provision enabling the court to take account of the public interest in the way in which s 76(1)(c) requires in relation to statutory forfeiture. The absence of such provisions is stark if s 95(1) is construed as obliging a court, upon satisfaction of the specified matters, to make a PPO. It is difficult to identify any reason why Parliament should have considered provisions to that effect to be appropriate in relation to forfeiture orders, but not in relation to PPOs. Similarly, it is difficult to identify any reason why Parliament should have intended consideration of the public interest to be relevant in relation to applications for exemption from statutory forfeiture, but not in relation to PPOs. The absence of provisions permitting a court to ameliorate the harsh consequences of a PPO, or to consider the public interest, loses much of its significance however if s 95(1) is construed as vesting a discretionary power, rather than imposing an obligation. (emphasis added)

The lesson was plain. 'Must' does not really mean 'must' because of the harsh, arbitrary and unjust consequences it would bring. 'Must', said the Court, really means 'may'. The Act is amended to fix this. This state should not have on the books a law that is thought to be so unfair and unjust that a Court has to strain the ordinary use of language in that way in order to bring about a fair result. The amendment gives the court a discretion to impose a pecuniary penalty in relation to instruments of crime, just as it does in relation to the forfeiture of

instruments of crime. That discretion is informed by an inclusive list of factors identical to those legislated in relation to the forfeiture of instruments of crime.

Restraining Orders

In the course of deciding the main issue in *DPP v George*, the court, (particularly the contribution of White J) points out another technicality that poses problems. In summary:

- The Act contains provision for what is known as 'automatic forfeiture'. The essence of the scheme is that property subject to a restraining order will be forfeited by operation of law after the expiry of a certain time period after conviction.
- The only way for a defendant (or any other interested party) to escape this process it to apply for and win an order excluding property from the restraining order.
- White J pointed out that a literal reading of the Act could say that the property will be automatically (and irretrievably) forfeited even though an application to exclude that property is on foot and has yet to be resolved. He regards such an outcome (with considerable justification) as unfair and unjust.

White J held that this problem deserved the attention of the Parliament. His Honour did not observe that the legislation permits a person in this position to apply to the court for an 'extension order', which has the effect of postponing the automatic forfeiture. But that omission is in itself telling. The system is just too complicated. And the necessity for a separate extension order is not obvious. If the applicant for an exclusion order knew about it, he or she would surely apply for it and, equally surely, a court would grant it routinely in order to avoid the injustice to which White J referred. But if, like White J, neither the applicant nor the court could work out this additional layer of complexity, an injustice could well be done.

The problem is fixed in this Bill. The way in which it is done is to abolish what used to be called extension orders as a separate phenomenon and instead provide that any person may apply for the exclusion of property from forfeiture and, when that application is made, the forfeiture of property is subject to an extended period terminating when the application for exclusion is finally determined.

Other Amendments

South Australian Police and the DPP asked for an amendment to the Act so that a person who is the beneficiary of a discretionary decision to discount a sentence because of the consequences of forfeiture cannot also be the beneficiary of an amelioration of forfeiture for the same reason. In other words, the defendant cannot get the same benefit twice. This has been done, except for those who have co-operated with law enforcement in cases of serious and organised crime, who may get a sentence discount for their co-operation and also a discretionary form of relief from total forfeiture under the prescribed drug trafficker scheme contained in this Bill. The reason for that is good public policy—every encouragement should be given and every lever should be applied to those who are in a position to inform on serious and organised criminals.

The Bill makes minor amendments to clarify the provisions relating to the forfeiture of a security given by a defendant or other person on the making an application for an exclusion order.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

4—Amendment of long title

This clause amends the long title of the principal Act to reflect the changes made by this measure.

5—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act to include, or to consequentially amend, definitions of terms used in respect of the amendments made by this measure. Of particular note is the insertion of new subsection (2), providing that a reference in the principal Act to an *indictable offence* includes an indictable offence of a kind that is required to be prosecuted, and dealt with by the Magistrates Court, as a summary offence under a provision of *any* Act, rather than the current limitation of an offence under Part 5 Division 2 of the *Controlled Substances Act 1984*. The definition of *extension order* is deleted consequentially to clause 20.

6—Amendment of section 6—Meaning of effective control

This clause makes an amendment of a statute law revision nature, to ensure consistency of language.

7—Insertion of section 6A

This clause inserts new section 6A into the principal Act. It sets out what is a prescribed drug offender, namely a person who is convicted of a commercial drug offence after the commencement of the proposed section, or who is convicted of another serious drug offence and has at least 2 other convictions for prescribed drug offences, those offences and the conviction offence all being committed on separate occasions within a period of 10 years. However, the 10 year period does not include any time spent in government custody. The proposed section makes procedural provision in respect of the convictions able to be used in the determining whether a person is a prescribed drug offender. The proposed section also defines key terms used in respect of prescribed drug offenders, including setting out what are commercial and prescribed drug offences.

8—Amendment of section 10—Application of Act

This clause makes a consequential amendment to section 10 of the principal Act.

9—Amendment of section 24—Restraining orders

This clause inserts new subsection (5a) into section 24 of the principal Act, which prevents a court from specifying protected property (the definition of which is inserted by this measure) in a restraining order unless there are reasonable grounds to suspect that the property is the proceeds of, or is an instrument of, a serious offence.

10—Amendment of section 34—Court may exclude property from a restraining order

This clause amends section 34 of the principal Act by inserting new subparagraph (ia), adding to the list of matters a court must be satisfied of before it may exclude property from a restraining order. The subparagraph is divided into parts dealing with where the suspect has, and has not, been convicted of the serious offence to which the restraining order relates.

The first such matter is that the court can only exclude property where the suspect has not, or would not, become a prescribed drug offender on conviction of the serious offence. Alternatively, the property may be excluded if the court is satisfied it is not owned by, nor under the effective control of, the suspect in the circumstances spelt out in the provision (even if the suspect is, or will be upon conviction of the relevant offence, a prescribed drug offender).

The power to correct an error in respect of the inclusion of the relevant property when making the restraining order is given to the court because the property restrained in respect of prescribed drug offenders is not necessarily proceeds nor an instrument of crime.

Subclause (2) makes a statute law revision amendment consistent with clause 6.

Subclause (3) prevents property being excluded from a restraining order on application by a person convicted of the offence to which the restraining order relates where the convicted person has had the possible forfeiture of the property taken into account in sentencing for the offence.

11—Amendment of section 46—Cessation of restraining orders

This clause amends section 46(4) of the principal Act to reflect the fact that restrained property may vest in the Crown under an Act other than the principal Act.

12—Amendment of section 47—Forfeiture orders

This clause amends section 47(1)(a) of the principal Act to include the fact that a person is a prescribed drug offender as a ground for the making of a forfeiture order under that section (provided that the relevant property was owned by or subject to the effective control of the person on the conviction day for the conviction offence).

13—Amendment of section 48—Instrument substitution declarations

This clause makes a minor amendment to section 48 of the principal Act to distinguish between forfeiture orders made under section 47(3) and those made under section 47(1).

14—Amendment of section 57—Relieving certain dependants from hardship

This clause makes a consequential amendment due to the amendment of section 47(1)(a) by this measure.

15—Amendment of section 58—Making exclusion orders before forfeiture order is made

This clause amends section 58 of the principal Act to provide that property sought to be excluded from a forfeiture order must not, in the case of a forfeiture order to which section 47(1)(a)(ii) applies (ie a prescribed drug offender order), at the relevant time be owned by, or under the effective control of, the prescribed drug offender (unless it is protected property of the person).

16—Amendment of section 59—Making exclusion orders after forfeiture

This clause amends section 59, consistent with clause 15, to provide that property sought to be excluded from a forfeiture order must not, in the case of a forfeiture order to which section 47(1)(a)(ii) applies (ie a prescribed drug offender order), at the relevant time be owned by, or under the effective control of, the prescribed drug offender (unless it is protected property of the person).

17—Insertion of section 59A

This clause inserts new section 59A into the principal Act. That section allows a person to apply for property to be excluded from a restraining order because the person has cooperated with a law enforcement authority in relation to a serious and organised crime offence, be it one that has occurred or may occur in future.

The mechanisms and procedures in relation to an order excluding the property are similar to other such provisions in the principal Act.

18—Insertion of section 62A

This clause inserts new section 62A into the principal Act. That provision provides that, if a court has taken a forfeiture of a person's property into account in sentencing the person, the person cannot then apply for an exclusion order or compensation order in respect of the property (unless the cooperation provision in proposed section 59A applies).

19—Amendment of section 74—Forfeiting restrained property without forfeiture order if person convicted of serious offence

This clause is consequential to clause 20.

20—Substitution of section 75

This clause substitutes a new section 75 of the principal Act, replacing the current 15 month extension orders with an extended period which will apply automatically when an application to exclude property has been made, but not finally determined, at the end of the period of 6 months after conviction (when automatic forfeiture would otherwise occur).

21—Amendment of section 76—Excluding property from forfeiture under this Division

This clause amends section 76 to broaden the range of people who can apply for an order excluding property (currently only the convicted person can apply), to ensure the provision works properly in relation to securities given under section 38 or 44 and to prevent exclusion of property owned by or under the effective control of a prescribed drug offender (other than protected property).

22—Insertion of sections 76A and 76B

This clause inserts a provision similar to the provision in clause 17 allowing for exclusion from forfeiture based on cooperation with a law enforcement agency and a provision similar to clause 18 providing that, if a court has taken a forfeiture of a person's property into account in sentencing the person, the person cannot then apply for exclusion of the property under this Division (unless the cooperation provision in proposed section 76A applies).

23—Amendment of section 95—Making pecuniary penalty orders

This clause substitutes subsections (1), (2), (3) and (4) of section 95 of the principal Act. New subsection (1) ensures that mandatory pecuniary penalty orders relate only to benefits derived from crime while new subsection (2) provides the court with a discretion to make such an order in relation to an instrument of crime. New subsection (3) sets out matters the court may have regard to when determining whether to make an order under subsection (2). Proposed subsection (4) ensures that the court is not prevented from making a pecuniary penalty order merely because some other confiscation order has been made in relation to the offence.

Section 95(7) is consequentially amended to apply only to benefits.

24—Amendment of section 96—Additional application for a pecuniary penalty order

This clause makes minor statute law revision amendments to simplify section 96.

25—Insertion of section 98A

This clause inserts new section 98A into the principal Act, which provides that, for the purposes of the Division, a court may treat as property of a person any property that is, in the court's opinion, subject to the person's effective control.

26—Amendment of section 99—Determining penalty amounts

This clause clarifies references in section 99 of the principal Act.

27—Amendment of section 104—Benefits and instruments already the subject of pecuniary penalty

This clause amends section 104 of the principal Act to include reference to instruments.

28—Repeal of section 105

This clause repeals section 105 of the principal Act and is consequential upon the insertion of section 98A into the Act by clause 25 of this measure.

29—Amendment of section 106—Effect of property vesting in an insolvency trustee

This clause amends section 106 of the principal Act to ensure it applies in relation to instruments as well as benefits of crime.

30—Amendment of section 107—Reducing penalty amounts to take account of forfeiture and proposed forfeiture

This clause amends section 107 of the principal Act to insert new subsection (2), setting out reductions to penalty amounts under pecuniary penalty orders that relate to instruments of crime where the instruments have been forfeited in relation to the offence to which the order relates, or where an application for such forfeiture has been made.

31—Amendment of section 108—Reducing penalty amounts to take account of fines etc

This clause amends section 108 of the principal Act to ensure it encompasses instruments of crime.

32—Amendment of section 149—Interpretation

This clause amends the definition of *property-tracking document* in section 149 of the principal Act, to refer, for the sake of consistency, to property owned by or subject to the effective control of a person, rather than simply the property of the person.

33—Substitution of section 203

This clause amends the structure of section 203 of the principal Act to reflect the changes made by this measure.

34—Amendment of heading

This clause is consequential to clause 36.

35—Amendment of section 209—Credits to Victims of Crime Fund

This clause is consequential to clause 36.

36—Insertion of section 209A

This clause provides for the establishment of the Justice Resources Fund, to be administered by the Attorney-General, and for the proceeds of confiscated assets of prescribed drug offenders to be paid into the fund.

37—Amendment of section 219—Consent orders

This clause makes a consequential amendment to section 219 of the principal Act to reflect changes made by this measure.

38—Substitution of section 224

This clause substitutes section 224 of the principal Act to reflect the changes made by this measure as they relate to prescribed drug offenders, and to include forfeiture, or pecuniary penalty orders, under the law of other relevant jurisdictions as matters to which a sentencing court must not (under new paragraph (b)) or must (under paragraph (c)) have regard to in determining sentence.

The clause also inserts new section 224A which regulates the release of sensitive information relating to cooperation with law enforcement agencies.

Debate adjourned on motion of Hon. S.G. Wade.

At 17:38 the council adjourned until Friday 29 July 2011 at 11:00.