HOUSE OF ASSEMBLY

Tuesday 27 November 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 2 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following bills:

Retirement Villages (Miscellaneous) Amendment,

Victims of Crime.

LIVE MUSIC, HOTELS

A petition signed by 303 residents of South Australia, requesting that the House urge the government to secure first occupancy rights for hotels with live music, was presented by the Hon. M.H. Armitage.

Petition received.

GOLDEN GROVE ROAD

A petition signed by 25 residents of South Australia, requesting that the house urge the government to consult with the local community and consider projected traffic flows when assessing the need to upgrade Golden Grove Road, was presented by Ms Rankine.

Petition received.

RADIOACTIVE WASTE

A petition signed by 13 residents of South Australia, requesting that the House prohibit the establishment of a national intermediate or high level radio active waste storage facility in South Australia, was presented by Ms Rankine.

Petition received.

POLICE, TEA TREE GULLY

A petition signed by 202 residents of South Australia, requesting that the House urge the government to establish a police patrol base to service Tea Tree Gully area, was presented by Ms Rankine.

Petition received.

CAMPBELLTOWN SITE

A petition signed by 1 625 residents of South Australia, requesting that the House urge the government to secure the Lochiel Park/Brake Drive site at Campbelltown for sport and recreation purposes, was presented by Mr Wright.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. R.G. Kerin)—

- Capital City Committee—Adelaide—Report, 2000-01
- Operations of the Auditor-General's Department—Report, 2000-01
- South Australian Multicultural and Ethnic Affairs Commission—Report, 2000-01

By the Minister for Primary Industries and Resources (Hon. R.G. Kerin)—

- Pastoral Board South Australia—Report, 2000-01
- Pig Industry Advisory Group—Report to 31 October 2001
- Soil Conservation Boards—Report, 2000-01

By the Minister for Human Services (Hon. D.C. Brown)—

- Radiation Protection and Control Act, Administration of—Report, 2000-01

By the Minister for Government Enterprises (Hon. M.H. Armitage)—

- Regulations under the following Acts—
  - Explosives—
    - Fireworks
    - Miscellaneous
  - Passenger Transport—Taxi Fares

By the Minister for Education and Children's Services (Hon. M.R. Buckby)—

- Police Superannuation Board—Report, 2000-01
- Distribution Lessor Corporation Charter—November 2001

By the Minister for Water Resources (Hon. M.K. Brindal)—

- Commissioner for Consumer Affairs—Report, 2000-01
- Courts Administration Authority—Report, 2000-01
- Evidence Act—Report relating to Suppression Orders—Report, 2000-01
- Legal Practitioners Conduct Board—Report, 2000-01
- Legal Practitioners Disciplinary Tribunal—Report, 2000-01
- Legal Practitioners Guarantee Fund, Claims Against the—Report, 2000-01
- Legal Services Commission of South Australia—Report, 2000-01
- Public Trustee—Report, 2000-01
- State Electoral Office—South Australia—Report, 2000-01
- Rules of Court—
  - District Court—District Court Act—Statutory Jurisdiction
  - Supreme Court—Supreme Court Act—
    - Applications to the Court
    - Criminal Rules—Miscellaneous

By the Minister for Police, Correctional Services and Emergency Services (Hon. R.L. Brokenshire)—

- Correctional Services Advisory Council—Report, 2000-01
- Department for Correctional Services—Report, 2000-01
- SA Ambulance Service—Report, 2000-01
- South Australian Metropolitan Fire Service—Report, 2000-01
- State Emergency Service—Report, 2000-01

By the Minister for Minerals and Energy (Hon. W.A. Matthew)—

- Technical Regulator—Gas—Report, 2000-01
- South Australian Independent Pricing and Access Regulator—Report, 2000-01

By the Minister for Local Government (Hon. D.C. Kotz)—

- Local Government Superannuation Board—Report, 2000-01
- District Council By-laws—
  - Barossa Council—No. 6—Moveable Signs
  - Coorong District Council—Revision.

EMPLOYEE OMBUDSMAN

The SPEAKER: I lay on the table the report of the Office of the Employee Ombudsman for the year 2000-01.

POLICE COMPLAINTS AUTHORITY

The SPEAKER: I lay on the table the report of the Police Complaints Authority for the year 2000-01.

QUESTIONS ON NOTICE

The SPEAKER: I direct that the written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 57, 107, 120, 145, 147 and 148.

FRUIT FLY

In reply to **Ms KEY** (30 October).

The Hon. DEAN BROWN: Fenthion and Dimethoate are approved for use under the Food Standards Code for the post harvest control of fruit fly. Officers from PIRSA's State Quarantine group control the importation of fruit and vegetables from interstate and are responsible for ensuring that imported produce is managed in accordance with requirements of the SA Fruit and Plant Protection Act 1992. This Act requires the application of an appropriate fruit fly treatment to fruits and vegetables from risk areas.

PIRSA advises that monitoring is carried out interstate prior to the dispatch of produce to check that the application of treatments for fruit fly is in accordance with the manufacturers instructions and the Regulations under the Fruit and Plant Protection Act. Correct application ensures that any residues are below the maximum residue limits for these chemicals in the Food Standards Code.

PIRSA further advise that alternative treatments for fruit fly require the application of either temperatures at around 0 to 1 ºC for up to 10 days or else steam heating to a core temperature of around 47ºC for 10 minutes. There are obvious difficulties with these processes including quality issues, marketing and transport considerations and increased processing costs.

PORTS CORP

In reply to **Ms HURLEY** (23 October).

The Hon. R.G. KERIN: The Minister for Transport and Urban Planning has provided the following information:

'Will the rail system go over the new third river crossing?'

In addition to the information already provided, the existing Wingfield to Port Adelaide rail freight line passes around the Port Adelaide business centre using a circuitous route which adds time and costs to freight movement between Le Fevre Peninsula businesses and Outer Harbor.

As part of the Port River Expressway project, the rail freight line will be re-routed via the new river crossing between Docks 1 and 2. The rail distance will be reduced by almost four kilometres and sharp curves and steep grades in the Port Adelaide area will be eliminated, resulting in operating cost savings. Freight trains will no longer need to use the Commercial Road viaduct.

'During the harvest period the grain trucks will need to flow pretty constantly through that rail line in order to get to port and to export as quickly as possible. I understand that there is some difficulty with the bridge having to be opened for shipping traffic up the river. Will the Premier comment on that?'

The opening regime for the Port River Expressway road and rail bridges (Stages 2 and 3) is currently being finalised and the number and timing of openings is still the subject of ongoing discussions with freight and marine operators. Nevertheless, as a general operating principle, priority access will be given to the freight industry, particularly given the time-critical requirements of the grain industry during its peak season. This reflects the fundamental objective of the project, which is to provide an efficient high speed link to the export facilities at Outer Harbor.

In terms of access for shipping, it is not envisaged that shipping will experience difficulties. As with the opening regime for the Birkenhead Bridge, marine operators generally accept the need for 'curfew' periods during peak road traffic times.

Finally, the opening regime will recognise the need for flexibility and special considerations for the Navy, Tall Ships and one-off events, which are important to the life of the Inner Harbor.

GAMMON RANGES

The Hon. I.F. EVANS (Minister for Environment and Heritage): I seek leave to make a ministerial statement.

Leave granted.

The Hon. I.F. EVANS: Soon after my appointment as Minister for Environment and Heritage in February last year, I learnt of plans to mine a magnesite deposit at the Weetootla Gorge in South Australia's Gammon Ranges National Park. When the boundaries to the Gammon Ranges National Park were expanded in 1982, the mining leases held by BHP were preserved but could not be transferred without the approval of the environment minister.

Last year, my approval was sought for an application to transfer mining leases from BHP to another mining company, Manna Hill Resources Pty Ltd. To assist me to reach a decision, I was provided with reports on the environmental considerations by both my department and the Wilderness Advisory Committee. I visited the park and the proposed mine site twice to meet first hand with the representatives of the mining company and the opponents of the project.

In August last year, I announced that, after consideration of the information before me, and having regard to my obligations under the National Parks and Wildlife Act 1972, I would not approve the transfer of the leases. My decision subsequently became the subject of a legal challenge. I am pleased to advise the House that last Wednesday the Supreme Court upheld my decision. This is an important win not just for the Gammon Ranges but for the South Australian environment generally.

The mining leases were located in a special wildlife zone designated in a draft management plan as such because of the presence of significant rare, threatened or unique species and communities. Gammon Ranges springs and creeks support a diverse array of aquatic life in an arid zone wetland, including the endemic Flinders Ranges purple spotted gudgeon, which is nationally listed as a vulnerable species. The park is also home to the yellow footed rock wallaby, also listed as a vulnerable species at state and national levels.

The proposed magnesite mine would have posed a very real risk to the recreational, scenic and wilderness values of the park. The Gammons are a national icon for bushwalkers and all those interested in the environment, providing some of the most rugged and spectacular landscapes in the state. The park has outstanding geological features, including important fossil deposits and significant examples of ancient Aboriginal rock art. It is also clear that the Gammons are of high environmental and cultural value to indigenous people, particularly the Adnyamathanha.

As the mining leases have now expired—and last week's Supreme Court decision upheld my decision—I am now in a position to seek to provide greater certainty for the special environment of the Gammon Ranges National Park. Clearly, its special features justify complete protection from mining. The park supports a diverse range of species, some of which are not found anywhere else in the world. For example, there are 37 significant plant species, including 27 rare, six vulnerable and four endangered. Biological surveys reveal significant fauna species—birds and reptiles—and, as I have mentioned, the yellow footed rock wallaby and the purple spotted gudgeon. Mountain wilderness in South Australia is particularly rare, and this 124 000 hectare park contains some 45 000 hectares of high quality wilderness.

I wish to advise the House that the state government has decided to permanently prohibit mining in the Gammon Ranges National Park. I am advised that this is the first time in the state's history that a government has moved to reproclaim a whole national park to prevent mining. This decision will give the park greater protection than it has ever had before, and ensure that it remains in a pristine state for future generations to enjoy. In order to achieve this outcome, the proclamation made in April 1982 must be varied, and this

requires the concurrence of both houses of parliament. The government will be moving motions tomorrow to this end.

There is overwhelming support for such a move from the community generally and organisations, including the Conservation Council of South Australia, the Wilderness Society, the Nature Conservation Society, the Nature Foundation and the Adnyamathanha Traditional Lands Association. As the Minister for the Environment, and on behalf of the government, I am very proud to have delivered this decision for future generations.

QUESTION TIME

WESTERN DOMICILIARY CARE SERVICE

Ms STEVENS (Elizabeth): My question is directed to the Minister for Human Services. What allegations about the management of Western Domiciliary Care Service were referred to an inquiry by Mr Ian Dunn, a senior officer of the Department of Human Services? After allegations by staff at the Western Domiciliary Care Service in February of this year about theft, misappropriation, abuse of clients and staff harassment, separate inquires were ordered by a private investigator and then the Employee Ombudsman.

On 31 August 2001, the Chief Executive Officer of the Queen Elizabeth Hospital wrote to staff informing them that a third inquiry would be conducted by Mr Ian Dunn to review allegations which arose during the earlier investigations. The opposition has been told that the allegations referred to the Dunn inquiry included the misappropriation of up to $2 million relating to the theft or misappropriation of supplies, drugs and goods purchased for personal use, unauthorised higher duties and overseas travel.

The Hon. DEAN BROWN (Minister for Human Services): I am certainly aware of the issues raised by the honourable member, although the direct responsibility for that comes with the Minister for the Ageing and Minister for Disability Services.

Members interjecting:

The Hon. DEAN BROWN: The minister in another place has full responsibility for domiciliary care services. He has discussed the matter with me on a number of occasions. The honourable member needs to be very careful about some of the allegations, because I think some may be somewhat exaggerated. However, I will get Minister Lawson in another place to bring down a detailed reply as soon as possible.

BUSINESS CONFIDENCE

Mr WILLIAMS (MacKillop): Will the Premier inform the House of the government's response to the latest *Yellow Pages* survey of business confidence in South Australia?

The Hon. R.G. KERIN (Premier): I thank the member for MacKillop for the question. Today's release of the *Yellow Pages* business survey shows that nationally there is a drop in confidence, which is quite understandable after what happened on 11 September and with Ansett. That has been showing in some of the other figures. Importantly, for the second successive quarter South Australia is leading the states in business confidence. That is to the great credit of the business people in South Australia. Nationally, small and medium business has an optimism level of 36 per cent, and South Australia is 11 per cent above that at 47 per cent.

With the way things are going internationally at the moment, there is a watching eye on that, but with our export figures South Australia can pretty much look with confidence at being able to weather the situation that is coming out internationally at the moment. Compared to the other states, strong sales and profit growth is being shown by South Australian businesses, and that is important at the moment.

The survey shows an increase in employment within business in South Australia, and that is up against a national decline, which shows in the *Yellow Pages* figures. Again, that is a very good figure and backs up the figures released by the Minister for Employment recently. We are now within .1 per cent of the national average—something that has been a goal for a long time. We hope that what is coming through in these figures will allow us to cross that line. Many people thought that that would not happen for many years in South Australia.

Much of this has been fuelled by business investment. Confidence is making the business community reinvest, and that is extremely important and is about confidence. You can either put the money in the bank or under the bed or back into business, and we are seeing a lot of that at the moment. There is a lot of talk about some of the takeovers, say, within the wine industry and some of those areas, but importantly what you are seeing is that many of the people receiving funds are reinvesting and that is causing a lot of growth. Much of our growth has been fuelled by exports. The very latest figures on exports indicate that last year we achieved a 34 per cent growth, compared with 23 per cent nationally. The September quarter saw a bit of a slowdown. For the 12 months to the end of September, we achieved 28 per cent versus 19 per cent nationally. We are still 9 per cent ahead, which, when members look at what has happened over the last couple of years, is quite an exceptional effort.

When government and business work together they can make things happen. This has been evident across South Australia over the past few years. It has occurred both in the city and in the regional areas. What we have seen happen on North Terrace, Rundle Street East, in North Adelaide and the fantastic development at Glenelg, which has been transformed over the last few years in several ways, is terrific. We are seeing not only commercial development but residential, restaurant and industrial development right across the board. That investment is fuelling jobs which creates growth and which then flows on to people and to families and impacts on their lifestyle, which is very important.

Once again Christmas shopping figures also show the confidence in South Australia at the moment. As I have said many times in this House, some of the confidence shown in our regional areas is exceptional. We congratulate South Australian businesses for again showing the confidence to reinvest: they are making things happen in this state and we are way ahead of the national figures on almost all indicators.

WESTERN DOMICILIARY CARE SERVICE

Ms STEVENS (Elizabeth): My question again is directed to the Minister for Human Services. Did the Dunn inquiry consider allegations of Medicare fraud, nepotism, the misuse of contract staff, the conversion of a bequest and theft that arose out of earlier investigations into the management of Western Domiciliary Care Service, and what were the findings? The opposition has been informed that allegations arising out of earlier investigations included claims that medical staff paid by Western Domiciliary Care were requiring clients to sign Medicare slips to claim on Medicare; that a senior manager engaged contract staff without due process; that another senior manager purchased drugs and a

wetsuit for his personal use, and required contract staff to repair his personal bird cage; that a $10 000 bequest left to the day centre was converted into an office fit-out; and that a mantelpiece valued at $2 000 was stolen by a senior manager when the day care centre was renovated.

The Hon. DEAN BROWN (Minister for Human Services): Minister Lawson made a statement in the other place during our last week of sitting, and the report to which the honourable member refers has not yet gone to Minister Lawson, but I will get a more up-to-date report. As I said, Minister Lawson made a statement to the parliament just over a week ago about this matter.

DRUGS

Mr HAMILTON-SMITH (Waite): Will the Minister for Police, Correctional Services and Emergency Services update the House on the government's illicit drug strategy such as drug diversion programs; and is he aware of any alternative policies in relation to drugs and law enforcement?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I am delighted to be able to answer the honourable member's question and to update the House on some of the most recent information that has come through as a result of this government's comprehensive policy and strategy in dealing with the illicit drug issue, and I speak specifically about the police drug diversion program. I acknowledge to the House that it is very early days and that we will have to work through an evaluation—and we want to get more wide-ranging figures to obtain a more accurate picture. However, the important thing is that, in the short time that drug diversion has been operating, we have seen a situation where, in the juvenile area, 195 young people have been diverted as part of the drug diversion. What alarms and concerns me about that is that 169 (or 86.2 per cent) of the 195 are in the 14 to 17 years age group. Another interesting aspect is that, on a gender basis, 156 (or 79.4 per cent) of the 195 who were diverted were male. Outcomes involved educational material, brief intervention and assessment.

In the adult area, 46 have been diverted through police drug diversion and, again, a common picture emerged, with 78.3 per cent of the gender being male. Interestingly enough, about 62.5 per cent of the 195 juveniles were from the metropolitan area, and about 37.5 per cent were from the country. When one looks at the adult figures, one will also see that 69.5 per cent (or 32) of the adults were from the metropolitan area and 30.5 per cent were from the country.

So, in that short time, we are already seeing a picture that will help the government and the agencies to further comprehensively combat the illicit drug issue. As I said, it is early days yet, but I believe that the drug diversion programs, together with the drug courts, the drug action teams and a range of comprehensive issues and strategies that the government has in place are certainly paying off.

In answer to the second part of the question, an alternative policy has been put up. I was interested to see that, this morning, the Democrats (or the Democrazies, as I often call them—and no wonder I call them that: they will never be in office; they will never be an alternative government, yet they come out with some of the most bizarre plans and policies that I have seen in my 44 years of life) said that the government—and I, in particular—was taking up the issue of illicit drugs as a Tampa type issue.

There are two comments that I would like to make about that. First, the fact of the matter is that the Prime Minister has been very much committed to and concerned about the refugee and asylum seeker situation for several years—and I happen to know that through some briefings that I have had over that period of time as police minister—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: —and the member for Mitchell should realise that that is why he is an opposition member and not the Prime Minister. I think it is appalling for the member for Mitchell to say that the Prime Minister is a racist, because he is far from that, and it is time that the member for Mitchell recognised the facts and the truth.

I also want to highlight out of this whole issue that, when it comes to illicit drugs, our government has been looking at strategies for years—and, in my portfolios, I have been working on some of these strategies for three years. I think it is outrageous behaviour on the part of the Democrazies. Really, when I look at what they have said today, I would now call them the Democrackpots, because that is what they are when it comes to their position on the issues around illicit drugs, and particularly the issues around cannabis.

I have highlighted to the House the fact that we have seen 169 (or 86.2 per cent) young people aged 14 to 17 being diverted. It correlates, interestingly enough, with the figures from the national drug strategy, where 46 per cent of 14 to 19 year olds in South Australia have recently tried cannabis; that is 11 per cent above the national average. That is why the government has a tough on drugs strategy; that is why the government has a comprehensive strategic policy, an initiative and a significant budget, together with support from the commonwealth government, when it comes to tackling all these issues around illicit drugs.

In South Australia, we have a situation where cannabis is sold at approximately $200 an ounce dry matter equivalent, whereas in New South Wales and Victoria that figure is more like $320 or $350. That is why the 1987 Labor Party policy failed. I am delighted today to finally see, after kicking and screaming for a long time, that the Leader of the Opposition has at last come out and stated his public position, and that he supports the government.

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: It took him a very long time, but I guess he has finally come to see that the government is right on this issue. It is a pity that he would not come out and support the government, in a true bipartisan sense, on a range of other issues, such as economic management and letting the community know how much of a commitment this government has to the rebuilding of South Australia.

The fact of the matter is that the Democrackpots are absolutely wrong when it comes to their policy on illicit drugs. We know what is happening and, as a government, we will continue to be very strong on the law enforcement side, as well as on a range of issues on which I would like to congratulate the Minister for Human Services and the Minister for Education. I was amazed when the Democrats leader said today that he did not see drug strategies in our schools. Where has he been? He must have spent most of his time in the upper house, because the Minister for Education and I know full well how comprehensive drug strategy development is in our education system. Finally, I would like to reinforce one point: 20 per cent of all the crime being committed in South Australia is directly related to illicit drug

use and that is why our government will continue to be very tough in its Tough on Drugs strategy.

WESTERN DOMICILIARY CARE SERVICE

Ms STEVENS (Elizabeth): Will the Minister for Human Services give the results of the Dunn inquiry into the management of the Western Domiciliary Care Service and, given that 60 staff were interviewed and required to sign statements made by them to the inquiry, will the minister immediately release the report and its findings? The Opposition has been informed that the Dunn inquiry report was delivered to the Chief Executive Officer of the Queen Elizabeth Hospital in October 2001. Staff who were required to sign their statements because of the potential for future legal action have not been given access to the report or told of the findings.

The Hon. DEAN BROWN (Minister for Human Services): The honourable member for Elizabeth does not listen to what I have already said. Firstly, Minister Lawson made a statement about this in another place in our last sitting week and, secondly, the minister has not yet received the report.

An honourable member interjecting:

The SPEAKER: Order! The member has asked her question.

The Hon. DEAN BROWN: I am sure that when the minister receives the report he will look at it and decide what is appropriate. It may well be not appropriate. If someone is about to be charged with a criminal offence, I hardly believe it would be appropriate for it to be released publicly. Minister Lawson happens to be a QC. I am sure he would be aware of those sorts of issues and will handle it very capably indeed.

HOUSING, LOW INCOME

Mr SCALZI (Hartley): Will the Minister for Human Services advise the House how the government is ensuring that people and families on low incomes have access to affordable housing?

The Hon. DEAN BROWN (Minister for Human Services): The record of this government when it comes to housing is very good indeed.

Members interjecting:

The Hon. DEAN BROWN: Let me outline to the House some of the key performance indicators of what this government has done in terms of housing. Firstly, take the South Australian Community Housing Authority (SACHA), which is a major thrust of this government. If you go back to 1993, you see there were 1 500 homes: there are currently 3 300. So we have more than doubled the number of community houses here in South Australia in the last eight years.

Members interjecting:

The Hon. DEAN BROWN: You sound a bit like a group of parrots.

Members interjecting:

The Hon. DEAN BROWN: I'm sorry, galahs. Identifying birds is not my strong point: galahs, I am told. It is interesting to see how this government has been able to focus public housing on those people with the highest needs. Let me highlight what we have achieved. For instance, back in 1995-96, about 16 per cent of the people with high or complex needs were receiving public housing. Those going into public housing were in that category. In fact, by last financial year, that 16 per cent had increased to almost 69 per cent. We have become very focused at making sure that public housing goes to those people with the highest needs within our community. They are people with complex needs, people who are aged and frail and people in wheelchairs—areas such as that.

It is also worth noting that when we came to government we inherited a commercial debt in the Housing Trust of $350 million. We were using something like $35 million a year of our commonwealth-state housing money just to pay the interest on this high debt: the first $35 million every year of commonwealth-state finance had to go into paying the interest on this debt, which was created by the previous Labor government.

We have completely eliminated the commercial debt. As a result, we are paying no interest in terms of our commercial debt. All of it goes towards new housing and improving existing housing. As a result of that, we have been able to substantially increase the number of new builds, which was in the low 30s but which is now up to 270 new homes this year—a very substantial increase indeed.

Perhaps the most telling thing of all is the extent to which we have been able to reduce the waiting list. When we came to government, over 41 000 people were waiting for a public house in South Australia. The number is now down to 24 000—a very substantial reduction indeed. In the first four months of this year, of those people who received public housing, 80 per cent were category 1 applicants and had waited for less than six months. So, of those who were housed, 80 per cent were in the top priority, highest needs area and had been waiting for less than six months. In fact, of all applicants housed in the first four months of this year, 58 per cent had waited for less than six months.

That is a vast improvement by comparison, where people would wait for eight, nine, 10, 11 or 12 years to get into public housing, irrespective of what need they had. There were people with very high needs who just could not get into public housing. Now, we are focusing on making sure that those with the highest need, who are in the priority 1 category, get housing first.

I also point out that, in 1991, 74 per cent of tenants received the rent rebate. Now, 84 per cent of tenants receive the rent rebate. In fact, last year we put $125 million into reducing the debt for those people with very low incomes on pensions or low part-pensions within our public housing system to make sure we were able to reduce the rent that they had to pay.

The extent to which we have used HomeStart to purchase new homes for people who otherwise had no hope whatsoever of purchasing them is also worth noting. It has been this government that has continued to strengthen HomeStart. HomeStart has now financed over 36 000 people into their own home—an injection of $2.3 billion into home ownership here in South Australia.

I also point out how we have been able to link HomeStart to the First Home Owners Scheme. The First Home Owners Scheme was introduced last year by the federal government and supported very strongly by the state government. In that period, 19 300 approvals have gone through for the scheme: 2 220 of those represent people moving into new builds and just over 17 000 are buying existing homes. So it can be seen that, together with the federal and state Liberal governments, we have made a huge effort towards helping home ownership, particularly for young people or people on low incomes here in South Australia.

One of the great initiatives that we have taken with the Housing Trust is to encourage people who have been good tenants with the Housing Trust for many years to use the First Home Owners Scheme, together with a HomeStart loan, which is a very low interest loan, to help them buy the public housing that they are currently in. So, many people have suddenly realised a dream that they have never had previously. The record of this government in public housing is very good indeed, and we will keep that effort going.

WESTERN DOMICILIARY CARE SERVICE

Ms STEVENS (Elizabeth): When was the Minister for Human Services first—

Members interjecting:

The SPEAKER: Order! Members on my right will come to order.

Ms STEVENS: —made aware of the allegations about the management of Western Domiciliary Care, and have any matters been referred to the Fraud Squad?

The Hon. DEAN BROWN (Minister for Human Services): Minister Lawson in another place, as my assistant minister who handles domiciliary care, brought it to my attention some months ago. I cannot remember the exact month but it was quite some time ago, and he indicated to me what action he was proposing to take.

The Hon. M.D. Rann: Fraud Squad? Police?

The Hon. DEAN BROWN: Every time there is any suggestion of a breach of the law, we ensure that appropriate action is taken.

Members interjecting:

The SPEAKER: Order, Leader of the Opposition!

The Hon. DEAN BROWN: We have previously had claims when we brought in the police, the Fraud Squad and others, and I can assure the honourable member that we make sure that those claims are thoroughly investigated.

Members interjecting:

The SPEAKER: The honourable leader will remain silent.

The Hon. DEAN BROWN: I can assure the member for Elizabeth that Minister Lawson is fully aware of the criminal law in South Australia. He is a very competent lawyer: he happens to be a QC. I think that his knowledge of the law might be better than that of the honourable member.

An honourable member interjecting:

The Hon. DEAN BROWN: And mine, yes; I do not mind admitting that one iota. He has a very good understanding of the law and is making sure that an appropriate investigation is being carried out.

EDUCATION, SERVICES

The Hon. G.A. INGERSON (Bragg): Will the Minister for Education and Children's Services advise the House how well South Australian services compare with those of other Australian states and specifically refer to the brilliant educative material we have had placed in our boxes today?

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I thank the member for Bragg for his question.

The SPEAKER: Order, members on my right! The displays are completely out of order.

The Hon. M.R. BUCKBY: I could stand up in this House and boast a little about education services in this state but, given that I am a man of modest disposition, I will refrain from doing so. In the twin interests of modesty and credibility, I will put to the House some objective views of respected commentators in research houses about education. First, a little history. Members would recall this headline: 'SA school system fails the test of time,' from the *Advertiser* of 18 August 1992; or 'Schools on a time bomb', in the *Sunday Mail* of 6 June 1993. What about this one: 'Educational disaster fears in SA', from the *Advertiser* of 23 December 1992. They are the sorts of headlines that education had in the days of Labor.

Even those members opposite with long memories will no doubt have blanked out those headlines—all apart from the honourable member who is the Leader of the Opposition, the self-proclaimed 'education Premier', who was right at the heart of those very decisions and sitting in a cabinet that looked over an education system in that sort of disarray back in the early 1990s. That was a bare decade ago, and the member now wants another go at government. I have to say to him, 'You must be kidding.' Let us come forward 10 years and look at this government's education ratings compared to those of the other states. So that I cannot be accused of any bias, let us look at the findings of one of Australia's pre-eminent research houses, no less than that of the heart of Labor philosophies—the Evatt Foundation—which is the curator of all that is sound in Labor thinking. The Evatt Foundation is sanctioned by the true believers—Whitlam, Hawke, Keating, Hayden and Rann. What does the Evatt Foundation say about the performance of South Australia's Liberal government? That is a good question. I know that members opposite do not want to hear the answer, but here it is, anyway. The Evatt Foundation rates South Australia's education performance as No. 1. It is top of the class—the best in the country. This comes not from a Liberal foundation but from the Evatt Foundation, the think tank of the Labor Party.

The Hon. M.H. Armitage: They are not so bad after all.

The Hon. M.R. BUCKBY: That is right. What a delicious irony: five Labor states rejected, and the only one that is given a tick is the bastion of Liberal education policy, and chosen as No. 1, is South Australia. I should say that the Evatt Foundation rates the South Australian Liberal government as providing the best social services in the country as well. This South Australian Liberal government—

The Hon. M.H. Armitage: No doubt the CEO will be changing shortly.

The Hon. M.R. BUCKBY: Undoubtedly—the only Liberal state government—has stolen the march on every single Labor government in this state on education and social services, and they are the two very areas that the Labor Party claims to be its own.

The Hon. R.L. Brokenshire: Claim!

The Hon. M.R. BUCKBY: Yes, 'claim' is the important word. What an irony. But it does not stop there. I know that the Labor Party on the other side of this place does not like hearing these sorts of things. Today's *Australian* identified its list of the 10 best schools in the nation which have shown sustained and dramatic improvement. The *Australian* stated that the schools:

> . . . achieved a sustained and dramatic improvement and in some cases turned around their fortunes and [that] of their students.

That is a very important quote. No less than half of those 10 schools come from South Australia: five out of the nation's top 10 schools are here in South Australia. Those schools named by the *Australian* are Salisbury, Glenunga

International, Le Fevre and Mount Gambier High Schools, as well as the East Murray Area School. As with the *Australian*, the self-proclaimed would-be education Premier might one day get it right about South Australian education. Here we are judged by the Evatt Foundation as being No. 1 in the country, and today the *Australian* comes out and says that five out the nation's top 10 schools are here in South Australia.

An honourable member interjecting:

The Hon. M.R. BUCKBY: Well, he still cannot get it right on retention rates, either, because he is not really sure what this is and what this government is already doing about it. In fact, we would all be impressed if he actually did something; it would be nice for a change if he actually got it right. This government knows that we have 97 per cent of our 15-year-olds who are at school, are undertaking further study, or have a job; and 74 per cent of our students continue on from year 10 to year 12, which is well above the national average. Parents already have involvement in their schools, particularly through Partnerships 21; there are basic skills testing, which parents strongly support, early year strategies and a range of other flexible initiatives that are right here in our schools now. In fact, 90 per cent of all our preschools and schools have voluntarily come into Partnerships 21. They have not been forced into it.

Members interjecting:

The Hon. M.R. BUCKBY: Labor is into nothing: it offers nothing, it has no policy, it has no ideas and it has no hope. It is no wonder that the member for Ross Smith has finally seen the light.

TELETRAK

Mr WRIGHT (Lee): My question is directed to the Premier. Why did the government provide $250 000 of taxpayers' money to an organisation which the member for Bragg, former racing minister and deputy premier, labelled as a group of crooks and the biggest single scam that he has seen carried out on the South Australian community in all his political life in this place? Just over a year ago, the government introduced and passed special legislation to allow operators of the TeleTrak proposal to raise finance for their private racing scheme, on top of $250 000 of taxpayers' money which the Government Enterprises Minister recently admitted was provided by the state government owned TAB.

An honourable member interjecting:

Mr WRIGHT: No, we did not. The opposition has been informed that the former Liberal Party President, Mr Corey Bernardi, was in charge of raising money for the Teletrak deal and, according to weekend newspaper reports, the well-known Michael Hodgman is also a TeleTrak director. When the legislation was voted on in this House, the member for Bragg joined the opposition in voting against the proprietary racing legislation and was reported as saying at the weekend that the project was an absolute bloody nonsense from the start and, in all his political life in this place, the biggest single scam he had seen.

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN (Premier): The member made a number of wide-ranging accusations there which I will have to follow up—

Members interjecting:

The SPEAKER: Order! The Premier has the call. The member for Peake will come to order.

The Hon. R.G. KERIN: The money that the member referred to relating to government investment in the project was actually a purchase by the TAB of the licence to run the betting, if and when the proposal got up. The other point worth making is that the company to which the TAB paid the money is still a solvent company.

The SPEAKER: The member for Stuart.

Members interjecting:

The SPEAKER: Order! The member for Stuart has the call.

YOUTH CHALLENGE

The Hon. G.M. GUNN (Stuart): Can the Minister for Youth provide the House with an update on progress concerning the active8 Premier's Youth Challenge and, in particular, can he advise the House on what progress has been made by the member for Ross Smith in his dealings with the Leader of the Opposition, as depicted in the pamphlet put in our letterboxes today?

The Hon. M.K. BRINDAL (Minister for Water Resources): I can understand why the member for Stuart links the question as he does. In both instances, the answer is 'Spectacularly well'. The member for Ross Smith is, indeed, the favoured candidate for the Leader of the Opposition and is widely proclaimed to be so in various publications circulating around the House. Active8 is one of the true success stories of this government and is much under publicised. It has been a highly successful program providing a great focus for young South Australians. Active8 is about promoting leadership—

An honourable member interjecting:

The Hon. M.K. BRINDAL: I remembered the Whip's business this morning—team work, community service, individual responsibility, self-reliance and confidence. It is also about having respect for others—

Members interjecting:

The SPEAKER: Order! The Minister for Youth.

The Hon. M.K. BRINDAL: It is also about having respect for others and developing young people's communication skills. I was talking to my friend and colleague the federal member for Adelaide, who constitutes 75 per cent of the Liberal seats in this state. She was commenting on how good it was to be re-elected so that she could take part in this program. The government has invested $4.4 million over four years in this program, and it takes its name from the eight key values: trust—

Members interjecting:

The SPEAKER: Order! I warn the member for Peake for disrupting the House.

The Hon. M.K. BRINDAL: It takes its name from the eight values that are implicit in the program: trust, honesty, integrity, respect, fairness, courage, enterprise and excellence. South Australia is the first program in the nation for young people to include the 15 to 19 year old age group who are not involved in formal education, to include a youth arts organisation as a service provider and to provide an advisory reference group comprising young people from all parts of the state to influence the execution of the program. Our initial program, when announced, targeted 15 programs with 600 people taking part, and with hindsight that was quite modest. The target was soon exceeded, and in the first year 28 programs, involving 1 192 young South Australians, were taking part.

Twenty service providers with schools and other host organisations deliver active8. As of today we have approved 56 programs—18 in the country and 38 in metropolitan schools—and other organisations have taken up the program. Active8 is presently offered in such geographically diverse locations as Mount Gambier, Loxton in the Riverland, Streaky Bay on the Far West Coast (in the electorate of the member for Flinders), Coober Pedy in the Far North (I think that is still in the member for Stuart's—

The Hon. G.M. Gunn: Member for Giles.

The Hon. M.K. BRINDAL: That's a pity: you were a much better member than she could be. It is also, of course, in the metropolitan area. A broad range of service providers includes the State Emergency Service, the Red Cross, the police, the CFS, Conservation Volunteers Australia, Carclew Youth Performing Arts Centre and the traditional Army cadets, Air Force cadets, Naval cadets, Scouts, Guides, and the Royal Life Saving Society. This financial year the government will provide an opportunity for more than 1 700 young South Australians to take part in active8.

On 3 September this year, in an Australian first, 50 young people from across our state met to discuss active8 and develop the charter for an advisory group or committee. Although the formal assessment of this program is yet to be completed, a preliminary survey at Adelaide High School found that young people were saying, 'I would not be at this school today if it wasn't for active8.' Also on the internet, students at Norwood Morialta High School are saying things like, 'active8 is brilliant; it has changed me heaps and it has helped me with many things in my life. I wasn't sure whether to complete 2001 at school, but now I will.' I note that the member for Mawson, who is very active in his area, commented on Willunga High School and the very enthusiastic participation of those young people.

I am pleased to announce that active8 has moved into the 15 to 19 year old sector and is now—and the member for Light raised this matter—expanding from programs at the Magill Training Centre and Cavan Detention Centre to programs with the City of Salisbury (in conjunction with the Adelaide Central Mission and the Australian Red Cross) to Waikerie with River Skills and the Carclew Youth Arts Centre, to the City of Salisbury with the Carclew Youth Arts Centre and to Magill Flexi-Centre with the scouts and guides.

Active8 is a resounding success. It builds on the success with our schools about which the Minister for Education was talking. It is one of the quiet achievements of this government, but it is one of those achievements which shows quite convincingly that, unlike the propaganda put out by members opposite, this government has a social conscience and a heart. This government is prepared not to mouth platitudes in parliament but to get off its bottom and to put money in and commitment to the development of our young people. This is just one of the things that has been achieved in the last four years. The Minister for Education, all the ministers on the front bench, and indeed all backbenchers, can take a lot of credit for what this government has done quietly for the youth of South Australia.

TELETRAK

Mr WRIGHT (Lee): Does the Premier support the statements made to this House by the member for Bragg, the former Deputy Premier and well credentialled former racing minister, regarding the activities—

Members interjecting:

Mr WRIGHT: I will give his valedictory as well.

Members interjecting:

Mr WRIGHT: There is a first time for everything. Does the Premier support the well credentialled former racing minister's statements regarding the activities of the principals of the troubled TeleTrak venture in relation to the lack of proper research undertaken on the issue by the government; or does he support the current Minister for Racing, who sponsored legislation to license proprietary racing, and the Minister for Government Enterprises, who admitted recently that the government, through the TAB, provided $.25 million for TeleTrak? The member for Bragg told this House—

Members interjecting:

The SPEAKER: Order! The member for Lee.

An honourable member interjecting:

Mr WRIGHT: I confuse myself? Have you done a good job over the last few months!

Members interjecting:

The SPEAKER: Order!

Mr WRIGHT: Has the member for Kavel done a good job!

The SPEAKER: Order! The member will resume his seat.

The Hon. M.H. Armitage interjecting:

The SPEAKER: Order, the minister! The member for Lee.

Mr WRIGHT: Thank you, sir. The member for Bragg told this House earlier this month that, in relation to the TeleTrak issue, the scam could have been avoided had a lot more homework been done. The TeleTrak development company CTK Investments went into liquidation in September, reportedly owing $1 million. Premier, whom do you support?

The Hon. R.G. KERIN (Premier): I need a pretty good memory to remember the start of the question, actually. On behalf of the member for Bragg, I thank the member for his very kind words. He spoke of the member in glowing terms with which we all agree. The member for Bragg and I have many discussions about a lot of things. We do not always agree on everything. I cannot remember crossing the floor with him; in fact I am pretty sure I did not. The member for Bragg, though, has always been very entitled to his views.

As far as the current Minister for Racing is concerned, what he put forward was a bill dealing with the principle of proprietary racing and that principle is a sound one. What must happen is that companies have to have the money to get it up. But as far as proprietary racing is concerned—

Members interjecting:

The Hon. R.G. KERIN: No. The member for Hart has got it wrong again. The issue of proprietary racing is a sound one which can bring substantial development to regional areas of South Australia. It is a sound principle.

Members interjecting:

The SPEAKER: Order! I warn the member for Hart for his disruption of the House.

The Hon. R.G. KERIN: Proprietary racing is a sound principle and, hopefully, at some time in the not too distant future we will see in place a company that can bring it about. With respect to the relationship between the Minister for Government Enterprises and the investment that was made by the TAB, as I said previously, it was to buy a licence to carry on the betting for when TeleTrak Australia Pty Ltd, which is not the company that has gone into liquidation—

An honourable member interjecting:

The Hon. R.G. KERIN: So, that is a live licence and, hopefully, in the future we will see that operate.

GILL NETS

Mrs MAYWALD (Chaffey): Can the Premier and Minister for Primary Industries and Resources please advise the House whether he will seek to establish an independent investigation into the appropriateness of the use of gill nets in the Murray River fishery? Over the past four years, many of my constituents have raised with the Premier directly, and through my office, concerns about the appropriateness of the use of gill nets by commercial fishers in the Murray River. The ERD Committee, in a report to this House on inland fisheries, has also recommended that an investigation should be undertaken into the appropriateness of the use of gill nets. Both New South Wales and Victoria have banned the use of gill nets, and a significant amount of data is available which indicates that native fish stocks in the Murray River are under stress.

This morning, on the *Riverland Today* program, community concern has once again been highlighted as the result of PIRSA fisheries compliance officers having admitted that they had found a commercial gill net that had been untended for a number of days and that a number of fish, birds, tortoises and other wildlife had perished in the net, and that there appears to be—

An honourable member interjecting:

Mrs MAYWALD: PIRSA officers have recognised that there was an anomaly in the regulation that requires commercial fishers to check nets in backwaters only within 24 hours, and that no such provision is in place for the main stream.

The Hon. R.G. KERIN (Premier): I also listened to ABC radio this morning, and it certainly highlighted that alleged breach by the commercial fisherman and also that that type of behaviour is unacceptable. It follows closely on some photographs (which many of us have seen) of a gill net that was left in the river by an amateur fisherman and, certainly, the damage that was done by that net also was totally unacceptable. This issue does need to be addressed.

There is no doubt that compliance has increased in the river, and I think that, as PIRSA has increased the compliance effort, we have found more and more cases of unacceptable behaviour. Within the Riverland, we do see a certain amount of friction, and I suppose that, when one looks at the incident reported this morning and the previous incident, one can understand where some of that friction comes from. Obviously, it is a very live issue.

A formal management plan for the inland fishery is being developed at the moment, in consultation with the Inland Fisheries Committee and the community. The management plan will build on current arrangements, and it will aim to align the fishing effort, or catch levels, with the availability of the resource, through a flexible management system, to control growth in aggregate harvesting capacity or restrict the catches to a pre-defined limit.

This issue has been around for a while, and I admit that we have some problems up there. The two recent incidents highlight the damage that can be caused by the misuse of gill nets. Certainly, we will have to take it into account with respect to that management plan. I think it is worth noting that there is still a worrying amount of illegal activity in the river, and this also has to be addressed as well as what we do with commercial fishermen; there is no doubt about that. Certainly, the compliance people are being kept busy.

In reply to the member's question about a review, I have asked that special consideration be given to the issue of gill nets in the development of the new management plan for the inland fishery. Included in that, no doubt, is a fundamental question as to the future use of gill nets which needs to be sorted out. Also included is the question whether gill nets can continue to be used—and the number that is allowed for each fisherman is an issue in itself; the practice of checking the nets; and the code of conduct with which the commercial fishermen need to comply. Obviously, this last one raises a question as to whether they are all doing that. The issue of illegal nets also needs to be addressed. However, I can assure the member, and the member for Hammond, that we are taking the issue seriously.

STATE ELECTION

The Hon. M.D. RANN (Leader of the Opposition): Will the Premier now publicly release the Crown Solicitor's advice, sought by the government, advising it how long it can delay the calling of an election—advice that reportedly states that the government can continue to operate for months beyond the dissolution of parliament at the end of February? The opposition understands that Crown Law advice has been obtained by the Attorney-General, and that senior Crown Law officers have briefed Liberal MPs, and apparently the Independents, but not the opposition. The government's four year—

An honourable member interjecting:

The Hon. M.D. RANN: Some Independents—apparently your two. The government's four year term was up 47 days ago. Will the Premier release the Crown Law advice?

Members interjecting:

The SPEAKER: Order, the member for Mitchell!

The Hon. R.G. KERIN (Premier): I will correct the Leader of the Opposition right from the start. He made an incorrect statement in saying our term was up 47 days ago: that is not correct. He should have a look at what the rules actually are and see that the term is in order. That is completely clear. In relation to advice—

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. I warn the Minister for Police and Correctional Services and the shadow minister for the environment.

Members interjecting:

The SPEAKER: Order! I warn the member for Elder.

The Hon. R.G. KERIN: The advice that the leader refers to is Crown Law advice—a fair bit wiser than the advice I am getting from across the floor today. The issue was around the possibility of the Queen coming here and how we then worked around the issues of how many days—

Members interjecting:

The Hon. R.G. KERIN: It's very technical advice, but any suggestion—

Members interjecting:

The Hon. R.G. KERIN: Do you want to know the answer or not? The issue that has been talked about of going to May or June for an election is absolute rubbish.

Members interjecting:

The Hon. R.G. KERIN: It is absolute rubbish.

Members interjecting:

The SPEAKER: Order!

Mr Foley: June?

The SPEAKER: Order! I warn the member for Hart for the last time. It has been a fairly well conducted question time

to date, by general standards, but I would not like to spoil it in the last two minutes.

The Hon. R.G. KERIN: The only ones who have suggested May or June have been the opposition.

Ms Hurley: Release the advice.

The SPEAKER: Order!

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition for the last time—

An honourable member interjecting:

The SPEAKER: —and the member for Peake for the last time, too. Any further interjections and you will be on your own.

The Hon. R.G. KERIN: The advice makes the constitutional position clear. I have made it absolutely clear that we will be going to the polls by mid-April.

Members interjecting:

The SPEAKER: Order, the Minister for Police! You will be on your own the next time.

INFORMATION TECHNOLOGY

The Hon. D.C. WOTTON (Heysen): Will the Minister for Government Enterprises advise the House of the success of ConnectSA and the role of the government's IE2002 Delivering the Future strategy in making South Australia the most connected society on earth?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I would like to thank the member for Heysen for his question, which deals with the recent launch of a very distinctive web portal. The address, for those of the opposition who might choose to go to it, is www.connectsa.net. It is a portal with a very specific and unadulterated difference in that it is aimed 100 per cent at South Australians and South Australian families. Very importantly, it provides for the first time the opportunity for citizens and families in South Australia to sign up for a free web-based email address if they choose to do so. What is more, they can choose what they see when they log onto their home page. When they visit ConnectSA they see channelled information—news, community sport and so on—but importantly, because of the technology behind it and because of the government's concentration, it is South Australian news, South Australian community weather and South Australian sport.

We believe it is a global first. It is another step down the path of being the most connected society on earth, which the former premier identified when he launched the program, and I do thank the member for Kavel for his great support in this initiative, because it differentiates us, we believe, not only from other states around Australia but from anywhere else on earth.

We have come from behind in this area. We were well behind the pack in 1998, but in 2001 and moving into 2002 more South Australians are on-line at home, on a per capita basis, than those in any other state in Australia. It is very important to know that since the ConnectSA site was launched a week ago there have been some 6 000 visits to the site, with something like 71 000 page reads. It is a very successful site. We hope that all South Australians will use it as their web-based email service provider. I reiterate the address: www.connectsa.net. It is a very consistent part of our strategy, along with Networks For You—an awareness and training exercise in rural areas—and many other initiatives. We will ensure that South Australians are well versed in using the technology of the future.

GRIEVANCE DEBATE

Ms STEVENS (Elizabeth): Today, I draw to the attention of the House three inquiries into allegations made by staff of the Western Domiciliary Care Service about practices in that agency, the management of the service and the secrecy surrounding the findings. I want to talk about the need for transparency and the need for the public and the staff to be informed of the findings of these inquiries. More importantly, the minister must assure the community that the Western Domiciliary Care Service is being managed and delivered in a professional way.

These issues date back to February 2001, when an inquiry by a private investigator, the Klavins inquiry, was ordered after staff made allegations about the operations of Western Domiciliary Care. Statements made by staff include allegations of bullying and harassment of workers, theft, misappropriation and the inappropriate treatment of clients. As events unfolded, this inquiry was cut short and a new inquiry by the Employee Ombudsman, the Collis inquiry, was established. Mr Collis was assisted by a senior officer—

The SPEAKER: There are too many audible conversations going on in the chamber.

Ms STEVENS: Mr Collis was assisted by a senior officer from the Department of Human Services. Domiciliary care staff were informed on 31 August 2001 by the Chief Executive of the Queen Elizabeth Hospital (Mr Peter Campos) that a third inquiry, the Dunn inquiry, would be established. Staff were told that Mr Dunn would investigate new allegations that arose during the earlier investigations. In his letter dated 31 August 2001, Mr Campos said in part:

> Mr Dunn is experienced in conducting reviews of this type and his involvement will ensure that matters raised can be assessed in an independent and sensitive way and with a minimum of disruption to the day to day operations of the Western Domiciliary Care Service. . . Staff can be assured they will not be disadvantaged by coming forward and providing information they consider relevant and I encourage all staff of the Western Domiciliary Care Service to participate in the review and support. . . this inquiry. At interview staff will be required to support their presentation with a signed statement.

It appears that evidence given to the initial inquiry led to the closure of that investigation and the establishment of a second inquiry by the Employee Ombudsman. This in turn led to the third inquiry by the Department of Human Services. Under these circumstances an explanation is required about the issues that warranted not one but three separate inquiries.

The opposition has been told that the allegations leading to the Dunn inquiry involved the misappropriation of funds, expenditure on overseas travel, self-approved appointment to higher duties, the personal use of official supplies, double dipping on Medicare, the conversion of a bequest, inappropriate private use of government vehicles and the theft of property. I am told that, although the Dunn inquiry reported in October 2001, the government has not made public the findings of the inquiries. I am also told that 60 staff were interviewed by the Dunn inquiry and that staff were required to sign statements. Sixty staff is a lot of staff in anyone's

language, bearing in mind that the A-G inquiry into the Hindmarsh Soccer Stadium interviewed only 39 people on oath.

Surely, if staff are required to attach their names to statements because there may be legal ramifications, then the government is bound to let them know the findings of the inquiry. For the staff there has been no closure on this matter. In answer to my questions today, the Minister for Human Services, despite acknowledging that he and Minister Lawson had discussed this matter several months ago, wanted to hide behind answers given in another place, answers in which the other minister did not know who was doing the report, did not know that it had been concluded and could not give any information about future action.

So, there has been no report, no finding and no action. It is time that the minister released the reports and explained publicly what has been happening in this important public service.

The Hon. G.M. GUNN (Stuart): As we move towards an election in the next few months, I think it is very important that the people of South Australia are fully aware of the differences and the priorities, particularly the financial priorities, of the opposition and the government. The current government has had a program of encouraging investment, particularly in rural South Australia, and has had a number of initiatives, and it is important that everyone knows where the Labor Party stands on these issues. On Tuesday 3 July the shadow Treasurer had this to say:

> As I said in the budget estimates committee with the Treasurer, we accept the government's budget parameters and we accept the balances that it has put in place in this budget cycle and in the forward estimates. Those parameters, should Labor win office, will be our parameters: your balances will be our balances. The challenge for Labor—and a challenge that I look forward to taking on and one that I believe can be met—will be to reallocate, from within those parameters, existing resources from existing resources, to allocate from Liberal priorities to Labor priorities.

What the people of South Australia want to know is where the Labor Party stands on some of these important issues.

Mr Foley interjecting:

The Hon. G.M. GUNN: I think that this is the fourth occasion on which I have raised this issue, and I am yet to receive a response. I do not know whether the Labor Party wants to duck the issue. I do not know whether members opposite are not game to own up to the people of South Australia, but I have a number of questions. Where do they stand on the rural arterial road funding program, which has extended the road network across rural South Australia? Where do they stand on the tourism infrastructure that has assisted many rural communities to provide better tourist facilities and, therefore, to maintain employment and growth in rural areas? Where do they stand on the stamp duty exemptions in relation to family transfers? It is very important to ensure that the next generation of rural producers and small businesses are able to continue in business.

Where do they stand in relation to hospitals in country areas? Where do they stand in relation to the ongoing very large investment in education in rural areas? Where do they stand on other issues—the public infrastructure that we have invested in rural South Australia? These are important issues that must be addressed by the Labor Party, and its members cannot continue to hide under a veil of secrecy.

They have not accepted the challenge that I have made on a number of occasions to come clean and tell the people. We balanced the books: the shadow Treasurer has admitted that we have done a good job. He has admitted that we have the parameters right. That in itself is a major step backwards from the Labor Party, where his colleagues have continued to seek more money, to want more spending. Obviously, they want more taxes. In the difficult financial circumstances in which we found ourselves in South Australia, we greatly improved the public infrastructure. We have a plan to do more in the future because we are now in a position to do so, including supporting the construction of a new export port at Outer Harbor, which will have tremendous benefits for South Australia.

Bearing all that in mind, we are aware of what Senator Schacht and others have said about the Labor Party losing its direction. Perhaps they have been too busy dealing with Senator Schacht and perhaps they are completely under the control of the SDA, because a document recently put in our letterboxes, I do not know by whom—whether it was by the member for Spence, I do not know—claims:

> A party that proclaims the principle of equality in its objectives cannot allow such ethical and moral equivocation.

What he is talking about is this:

> The SDA claimed that the rules apply differently to unions than individuals. The SDA wants to impose party discipline on individual members but reserve for itself the right to oppose party candidates and policy.

Senator Schacht goes on to say:

> The ALP, as a matter of urgency, must review union affiliation arrangements. The following would be a good start. UNIONS must affiliate only for those members who genuinely support the ALP. . .

I note that we have in South Australia certain Labor Party candidates who are funded and organised by the SDA and who have time to stand all day at a polling booth when the hard working shop assistants in Coles and other places are paying their union dues to keep them there. I want to know what the Labor Party is telling all these people.

Time expired.

Mr FOLEY (Hart): I would like to speak today on a matter that has been troubling me now for some months. It involves misrepresentation and dishonest politics by the member for Hartley, Joe Scalzi. I think it is important to put on the record now some very important facts. What I am about to reveal for the residents of the seat of Hartley are very important facts. This is about the controversial J.P. Morgan facility to be established by this Liberal government in the old Payneham Town Centre at Payneham, which has been the subject of much controversy.

The member for Hartley (Joe Scalzi) is trying to gain kudos and curry favour with the people of his electorate by having them believe that he has been working against this project, to try to stop the construction of the J.P. Morgan facility at Payneham. What I have to reveal today to this parliament—

The Hon. G.A. Ingerson interjecting:

Mr FOLEY: Listen, member for Bragg, and you will find out. What I have to reveal today I will do very carefully because of the confidentiality that comes with being a member of the Industries Development Committee of this parliament.

The Hon. G.A. Ingerson interjecting:

Mr FOLEY: Well, the member for Bragg best listen, because it is time that the role of Joe Scalzi is uncovered and exposed for all the residents and the electorate of Hartley. Mr Scalzi, the member for Hartley, has tried to give the impression, in order to mislead the public, that an important

meeting of the Public Works Committee of this parliament was the committee that would either approve or not approve the construction of a new facility for J.P. Morgan at Payneham. I am here to reveal today that the committee that made that absolute in-concrete decision to site the J.P. Morgan facility was the Industries Development Committee of this parliament many months earlier. I know that is so, because I am a member of that committee.

It is important that the electors and residents of Hartley understand why Joe Scalzi has, in my view, deliberately misled the people of his community. That committee was told that the Liberal government had been secretly negotiating with the local council to site the new J.P. Morgan headquarters at the old Payneham Civic Centre. These negotiations had involved the Treasurer and the Minister for Industry, the Hon. Rob Lucas. The member for Hartley, Joe Scalzi, must have been aware that the committee of which I was a member was asked and urged to support this. But as a member of that committee, I was not told by the government that there was community uproar and unhappiness with this decision. I was told to keep it secret so that secret negotiations could continue between the Liberal Treasurer—obviously, with the full knowledge of Joe Scalzi as the local member that these negotiations had to keep occurring in secret.

I was told that had to occur and that it was an important initiative for jobs in the local community. I was never told that there was community uproar, because the Liberal government did not want anyone to know. That committee approved the project, and from that day forward there could be no going back. I have to reveal today that the member for Hartley was made aware of that committee's decision. He did not approach me, or any other member. The only people who have ever expressed concern to me were the local candidate, Quentin Black, and the local member for Norwood, and others. The concern—

The Hon. I.F. Evans interjecting:

Mr FOLEY: When it became public; that is my point. The member for Hartley, Joe Scalzi, knew that secret meetings were occurring, and it was only when it was made public that anyone raised concerns with me.

Time expired.

The Hon. G.A. INGERSON (Bragg): First, I rise to correct a comment made in question time today. I did not make any approach to, nor was I approached by, the *Sunday Mail*. I want to correct immediately any inference that I might have been involved in that. Today, I want to talk about the very brilliant brochure that was distributed in our boxes today. I was particularly taken by the support of the Leader of the Opposition, Mr Mike Rann, for the new candidate for Enfield. I have always respected very much the judgment of the candidate for Enfield; I think I have said on many occasions in this place that, for many reasons, he was the best deputy leader I had to deal with. I am happy to place on the record that you could trust and work with him, and that whatever was decided you got the outcomes. To see the sort of support given to him by the leader is outstanding, and I need to congratulate the leader for his good choice.

The problem, of course, is that this highlights that the leader cannot deliver anything. It does not matter how good a member of his party might be, the leader cannot deliver. I do not know who produced this excellent brochure, but whoever it was needs to be congratulated, because it is really one of the best promotional brochures I have seen in my short 18 years in politics. I am quite sure it will serve its purpose. It will get the message across very well. I also note with interest a statement in the brochure, and I will have to read it out because I could not believe it if I did not do so. It says as follows:

> I acknowledge Ralph Clarke to be an outstanding Labor member of parliament. Michael Atkinson, shadow attorney-general and the member for Spence, also endorses Ralph Clark's ability.

I find those encouraging comments, because I know that there is a great deal of love, trust and worship between those two gentlemen. Of course, I know the member for Spence really does support this wonderful statement which I note was made on 5AA on 15 October 2000. I am glad that the member for Peake has come back into the chamber, because I noticed with interest that as the member for Peake left the House he was escorted out by Edith Pringle. I wonder if the sort of statements that have been running around today are true: that, in fact, the Labor Party invited her here today. I assume that the member for Peake was involved in that invitation.

I note one particular reference to industrial relations in this very good brochure. I know that on occasions the member has spoken very vigorously against the industrial relations changes that I brought into this House. I think in this case that one of the changes gave him the benefit to get this opportunity for his constituent. I also note, of course, that Mr Terry Plane, that wonderful, unbiased reporter who works for the Messenger press has said such nice things about the member for Ross Smith. But, generally, this whole brochure is about independence, the ability to work—

Mr Koutsantonis interjecting:

The Hon. G.A. INGERSON: The member for Peake points out our two Independents. That is true, but, I tell you what, you have four of them, so you are 100 per cent better than we are. You have two in the Upper House and two in this House—you are 100 per cent better in terms of people defecting. So, when you point a finger at the Independents on our side choosing to leave, remember that you have four on your side.

I notice with interest in terms of the declaration of independence in the brochure that the member talks about the factional hacks within the party having ignored Mike Rann's request. I could not believe that the factional people would actually not support their leader. How could that possibly happen? It could not possibly be a situation that poor old Mike Rann, the leader of the Labor Party, cannot get the factional support. I find that quite amazing.

Mr KOUTSANTONIS: I rise on a point of order, Mr Acting Speaker. The member for Bragg is referring to people in this House by their Christian names and not their title, and that is inappropriate.

The ACTING SPEAKER (Mr Venning): I uphold the point of order.

The Hon. G.A. INGERSON: I apologise. Mike Rann, the Leader of the Opposition—

The ACTING SPEAKER: Order! The member's time has expired.

Ms THOMPSON (Reynell): I rise to talk about a very serious issue that affects us all, particularly those in the southern suburbs, that is, the critical situation of health care in this state, particularly in the Flinders Medical Centre. In the last couple of weeks, I have had two serious examples of poor service in hospitals being brought to my attention. The first case involved a woman who was distressed that her 88 year old mother had been discharged from hospital two days earlier than she was originally advised suffering from

bone cancer and without any pain management regime whatsoever.

The woman came to see me in the hope that my raising the situation with the hospital might prevent something else going wrong for other people in the future. She recognised that the staff were under tremendous pressure. When her mother was admitted, she was kept waiting for over eight hours for a bed. We are not exactly sure of how long she was waiting, but we know that it was over eight hours from the time that she was diagnosed as needing to be admitted. And then to be sent home with no pain management, suffering from bone cancer, is really a despicable way to treat senior citizens in this state.

The second incident that has come up just recently concerns a young man who attended my office and who was unable to even describe the pain he was suffering without having to leave the room and go outside to vomit. He advised that he was suffering from a serious psychiatric illness and that he had been to several emergency departments and to ASIS, and had not been able to obtain the treatment he required. He had recently returned to South Australia from interstate. He wanted to be with his mother here but was, unfortunately, not able to manage the transfer of his medical records appropriately and was simply not able to get the medication he required. It was very distressing that, when my office first contacted ASIS, it believed it was not able to assist. It was very gratifying that about half an hour later we did get a call back indicating that, if we could organise for the young man to get to ASIS, he would be seen that afternoon. We confirmed with him that he was seen that afternoon and given the medical treatment he required. But this is not how our medical services should be working. It does not serve anybody.

It was against this background of crisis reported to my office that I read the Coroner's report relating to Mr Severio Gadaleta and the circumstances of his death at Flinders Medical Centre last year. The figures revealed in that report are truly appalling. They indicate that in 1995 the proportion of patients spending longer than 12 hours in the emergency department of Flinders Medical Centre was 0.5 per cent. In 1997, this figure had grown to 5 per cent; in 1999, to 10 per cent; and in 2000, to 20 per cent. That translates to about 200 patients in many months, waiting for over 12 hours to be seen.

The head of the emergency department, Dr Chris Baggoley, has been raising the alarm bells about this situation for a very long time. In October 1997, he wrote to the chief executive officer saying:

> In writing to advise you that the situation has deteriorated to an extent that we cannot guarantee the safety of our patients. . .

He continued:

> . . . the potential for a major incident/disaster is high.

What happened when that advice went to the Health Commission was simply that the General Manager of the Health Commission advised the Minister for Human Services in a briefing note:

> SAHC is advised that despite documented delays in admission from the emergency department there is no suggestion that quality of care has been compromised and indeed waiting times in the department have been improved over the last few months.

That is in direct contradiction to the opinion of an extraordinarily eminent emergency specialist. I think we all know that Dr Baggoley, in the end, resigned from Flinders Medical Centre.

Time expired.

Mr SCALZI (Hartley): As members of parliament, this year we have all attended many celebrations involving the Centenary of Federation. Communities have got together to celebrate our great democracy. Last Thursday, 22 November, I was fortunate to be at the Campbelltown Function Centre to celebrate the making of a great video celebrating the Centenary of Federation and giving a snapshot of the community activities in Campbelltown. I was there with the member for Coles, Joan Hall; the Mayor, Steve Woodcock; the staff of the council; councillors; and many representatives of the community. We were shown the video and, as a former schoolteacher, I was very impressed with what the council has produced, which I know is a first.

The idea was initiated by the Federation Community Planning Group (appointed as the council's Year 2000-01 Committee), formed in 1999 to celebrate the beginning of the new millennium and the Centenary of Federation. This committee was formed as a result of calls for expressions of interest from the public and community-based organisations, with 30 people registering after the first public meeting. The committee recently disbanded, with 15 of the people concerned still actively involved in the activities of the committee, after two years of working on events and projects.

The Federation Video Steering Committee, a subcommittee of the Year 2000-01 Committee, was formed to put together a funding application in the second round of funding opportunities in March 2000 that were being offered by the Centenary of Federation Office in South Australia. The concept was to produce a video depicting where Campbelltown had come from and how Federation had contributed to its development, giving a snapshot of life today and what it was likely to be in 100 years' time. The funding application was unsuccessful. However, the council decided to proceed with the project and asked that the Year 2000-01 Committee continue with the idea of producing a video and seek sponsorship to assist in the production.

At this stage, I must congratulate and commend the sponsors: Adelaide Fresh Fruiterers, Paradise Motors, Innerware Factory Direct Lingerie, MPC Communications, Laser Focus, Barb Wire Jeans and Iceberg Media. Without their support, this great project would not have taken place.

As the council was going it alone, the project was to produce a live production depicting life in Campbelltown as it was in the year 2001. It was intended to be a presentation to the 19 600 Campbelltown council households as a memento of Federation and as an historic record for future generations. The brief also called for community involvement and to cover areas such as community life, business life, industry, social capital, council's current business, community events, community amenities and facilities, and community aspirations for the future. The successful bidder was Digital On Air, a production company with experience in commercial television, documentary programs and community projects. The producer, Cole Larsen, commenced researching and collecting information in August 2001 with input from the steering committee, staff and elected members. Members of the public were invited to participate and contribute.

It has been a great project. The 30 minute video was launched at the Campbelltown Function Centre on 22 November to a packed audience of community leaders and members of the public. Deliveries of the video to each household will be conducted by the Athelstone Scouts (who

must be commended) during the last week in November and will conclude on 9 December 2001. It is a great idea and a great resource for schools. For example, you could walk into a classroom and say, 'This is where we are at in 2001. What was life like 50 years ago?' You can imagine the research opportunities that students would have in terms of depicting what life was like 50 years ago. Indeed, you could do the same in projecting what life will be like in the future. It is a great project, and I commend the council for its initiative.

Time expired.

HANSARD CORRIGENDUM

Mr LEWIS (Hammond): On a matter of privilege, or a point of order—I am not sure which—under standing order 132 and those other elements of standing orders relevant to *Hansard*, I seek your explanation of how, on 15 November, at the conclusion of debates on page 2849 of *Hansard*, after the House had adjourned, we see in the written record a corrigendum for the complete expungement of the second reading explanation which was inserted, by leave of the House, by the Minister for Water Resources at page 2667. I seek to discover the explicit differences between the record as originally inserted and the text which was then included on Thursday 15 November, and the meaning of the action that was taken and the manner in which it was authorised.

The DEPUTY SPEAKER: Order! The chair suggests to the member for Hammond that it will take the matter on notice and seek an explanation from the Speaker, and come back to the member for Hammond and this House.

LAW REFORM (DELAY IN RESOLUTION OF PERSONAL INJURY CLAIMS) BILL

Second reading.

The Hon. M.K. BRINDAL (Minister for Water Resources): 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.

The DEPUTY SPEAKER: Order! Leave is sought. Is leave granted?

Mr Lewis: No.

The DEPUTY SPEAKER: Leave is not granted.

The Hon. M.K. BRINDAL: This Bill would add a new Division 10A to Part 3 of the Wrongs Act 1936. The new division is entitled 'Unreasonable Delay in Resolution of Claim'. The bill would amend the Survival of Causes of Action Act 1940 and update it by removing references to obsolete causes of action.

New Division 10A would create a new entitlement to damages in the nature of exemplary damages in certain circumstances. Courts and tribunals would be able to award damages under section 35C on application of the personal representatives of a person who has suffered a personal injury (including disease or any impairment of physical or mental condition) and who has made a claim for damages or compensation, but died before damages or workers compensation for non-economic loss have been determined. The section 35C damages would be awarded if the defendant is found liable to pay damages or compensation to the person who suffered the injury and certain other factors exist.

The damages would be awarded against the defendant or other person who controlled or had an interest in the defence of the claim such as the insurer, a liquidator, or personal representative of the deceased defendant. They are called in the bill 'the person in default'. The section 35C damages would be payable if the court or tribunal finds that the person in default knew, or ought to have known, that the claimant was, because of advanced age, illness or injury, at risk of dying before resolution of the claim and that person in default unreasonably delayed the resolution of the claim.

The question of whether the person in default unreasonably delayed is to be determined in the context of the proceedings as a whole, including negotiations prior to the issue of proceedings in the court or tribunal, and including conduct of the deceased person and other parties. Damages may not be awarded under this bill if damages for non-economic loss have been recovered already or are recoverable by the estate under section 3(2) of the Survival of Causes of Action Act 1940 as amended by the Survival of Causes of Action (Dust-Related Conditions) Amendment Act 2001 (Act No. 49 of 2001).

The amount of the damages would be at the discretion of the court or tribunal. In determining the amount of these damages the court or tribunal would be required to have regard to the need to ensure that the defendant or other person in default does not benefit from the unreasonable delay in the resolution of the deceased person's claim, the need to punish the person in default for the unreasonable delay or other relevant factor.

The first element is based on concepts of unjust enrichment and is restitutionary in nature. An amount by which the person in default would benefit or be unjustly enriched by unreasonable delay is the amount of the liability for non-economic loss. The second element is punitive in nature. The third element ensures that any other factors that are relevant are taken into account.

However, the amount that may be awarded when the claim that has been delayed unreasonably is a claim for workers compensation may not exceed the total amount that would have been payable by way of compensation for non-economic loss under the relevant workers compensation act if the worker had not died.

In Australia, liability for exemplary damages is several. This means that, when there are several tortfeasors, exemplary damages may be awarded against only one or some of them or different amounts may be awarded against different tortfeasors.

The bill would direct that normally the damages be paid to the dependants of the deceased claimant, but the court or tribunal has a discretion about this. If they are not paid to dependants, then they are paid to the estate. In apportioning the damages between dependants, the court or tribunal would be required to have regard to any statutory entitlements, such as those that are conferred on dependants by workers compensation legislation.

Mr MEIER: On a point of order, sir, the member for Hammond did not allow the minister to incorporate the second reading into *Hansard*. The member for Hammond is now on his phone and not even listening to the speech.

The DEPUTY SPEAKER: Order! There is no point of order.

Mr Meier: Well, it is about time there was.

The DEPUTY SPEAKER: Order! There is no point of order.

Mr Lewis: You are not bad, are you?

The DEPUTY SPEAKER: Minister.

The Hon. M.K. BRINDAL: A claim for section 35C damages could be added to proceedings commenced by the deceased person and continued by a personal representative or the personal representative could issue separate proceedings within three years of the date of death of the deceased person. The object of these new provisions is to deter delay by persons who stand to gain by reduction in their liability if the claimant dies before the claim is resolved. The bill should remove the incentive for them to delay claims and also provide an incentive to deal with them quickly.

The need for this reform arises because of the current state of the law, which gives an incentive to those who are liable to pay damages or compensation to delay a claim if it is thought that the claimant is likely to die in the near future. The manner in which this comes about is now summarised.

A person who suffers personal injury because of a civil wrong (tort) of another person may sue for common law damages, including for non-economic loss, i.e., for the claimant's personal pain and suffering, loss of mental or bodily function and loss of expectation of life. However, the liability for damages for non-economic loss ceases upon the death of the claimant. (Damages for economic loss have survived the death of the claimant since enactment of the Survival of Causes of Action Act 1940).

A worker who suffers a permanent compensable disability in the course of his or her employment has a statutory right to compensation for his or her non-economic loss without proof of any fault on the part of the employer. The lump sum for non-economic loss is not payable under the Workers Rehabilitation and Compensation Act 1986 unless the worker survives for 28 days after suffering the disability, although the surviving spouse and any dependants become entitled by operation of that act to death benefits on the death of the worker from the compensable injury. Thus, if the claimant dies before the claim is settled or determined by the court or tribunal, the defendant is relieved of liability for damages or compensation for non-economic loss.

The new remedy would be available in any case in which the claimant dies after the act comes into operation. This would have the effect of discouraging delay by defendants of claims that have been made already. It would ensure also that people who have been exposed to injurious substances in the past, but who have not yet made a claim, perhaps because they have not yet developed manifest symptoms, will also benefit from the effect of this reform. It is thought that it is a fair approach because the defendant against whom a good claim is made is liable to pay damages or compensation for non-economic loss if the claimant lives. If the claimant dies, thereby relieving the defendant of that liability, a risk of a different liability would arise in its place, i.e., the risk of liability to pay the section 35C damages if the defendant is found to have unreasonably delayed the proceedings knowing that by reason of advanced age, injury or illness the claimant was at risk of dying before the claim was resolved. Unreasonable delay in the circumstances in which this new remedy would apply is unconscionable and the defendant should not be permitted to benefit from it regardless of whether it occurred before or after the act came into operation. Obsolete provisions of the Survival of Causes Action Act 1940:

Section 2 of the Survival of Causes of Action Act 1940 provides that the causes of action of defamation, seduction, inducing one spouse to leave or remain apart from the other and claims under section 22 of the Matrimonial Causes Act 1929-1938 for adultery do not survive the death of the plaintiff or the defendant. Actions for seduction, enticement and harbouring were abolished in 1972 by the Statutes Amendment (Law of Property and Wrongs) Act 1972. The time limit within which these actions must be brought is six years and all pending proceedings would have been finalised by now. Section 22 of the Matrimonial Causes Act 1929 (SA) concerning actions for damages for adultery ceased to have any effect when the Matrimonial Causes Act 1959 of the commonwealth came into operation in 1961.

Although the 1959 commonwealth act, which replaced it, allowed a husband or wife to sue for damages for adultery, this right was abolished on 1 January 1976 by the Family Law Act 1975. The High Court ruled that an action for damages for adultery could not be maintained after 1 January 1976. Thus the reference in the Survival of Causes of Action Act to damages for adultery became obsolete in 1961—a fact I think a lot of people would be grateful for—or at the latest in 1976. Thus, the only one of these causes of action that can now be pursued is an action for defamation. Section 2 of the act has been repealed and recast to modern drafting standards with reference to the obsolete causes of action removed.

Although a cause of action for breach of promise to marry survives the death of the plaintiff or defendant, section 3(1)(c) of the Survival of Causes of Action Act limited the damages recoverable for the benefit of the estate of the jilted party. The right to sue for damages for breach of a promise of marriage was abolished in South Australia on 18 November 1971 by the Action for Breach of Promise Marriage (Abolition) Act 1971. All proceedings issued before 18 November 1971 would have been finalised by now. Section 3(1)(c) of the Survival of Causes of Action Act is now obsolete and so is to be repealed. I commend this bill to the House.

Mrs GERAGHTY (Torrens): I move:

That the debate be adjourned.

Mr LEWIS: Before you put that proposition, Mr Deputy Speaker—

The DEPUTY SPEAKER: The proposition has been put.

Mr LEWIS: On a point of order I would ask if the minister did not want to include the explanation of the clauses in his second reading. I do not want to see another corrigendum mess-up such as the one to which I drew attention 10 minutes ago, yet that is what the minister has just done and that is what you have told me has happened. So then, so be it.

The DEPUTY SPEAKER: As the matter has been raised, is it the wish of the minister to insert the clauses of the bill?

The Hon. M.K. BRINDAL: Yes, sir.

Leave granted.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of Survival of Causes of Action Act 1940

This clause provides for the amendment of the *Survival of Causes of Action Act 1940* to update its application in the light of Division 10A of Part 3 of the *Wrongs Act 1936* (*see* clause 4).

Clause 4: Amendment of Wrongs Act 1936

This clause provides for the amendment of the *Wrongs Act 1936*. It is intended to provide that a court may award damages, on the application of the personal representative of a deceased person, in certain cases involving unreasonable delay in the resolution of a claim for compensation or damages with respect to personal injury suffered by a person before he or she died. An award may be made if *(a)* the person in default, knowing that the claimant in the personal injury case was, because of advanced age, illness or injury, at risk of dying before the resolution of the claim, unreasonably delayed the

resolution of the claim; *(b)* the person in default is the person against whom the claim lay, or is some other person with authority to defend the claim; and *(c)* the deceased person died before compensation or damages for non-economic loss were finally determined by agreement by the parties or by a judgment or decision of a court or tribunal. A court or tribunal will, in determining the amount of any damages, have regard to *(a)* the extent to which unreasonable delay in the resolution of the claim is fairly attributable to the person in default (and his or her agents), and the extent to which there are other reasons for the delay; and *(b)* the need to ensure that the person in default does not benefit for his or her unreasonable delay; and *(c)* the need to punish the person for the unreasonable delay. Damages will be paid, at the direction of the court or tribunal, to the dependants of the deceased person, or to his or her estate. The provision will apply if the deceased person dies on or after the commencement of the measure (whether the circumstances out of which the personal injury claim arose occurred before or after that date).

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 14 November. Page 2796.)

Clause 3.

The CHAIRMAN: That clause 3 stand as printed. For the question say 'aye' against 'no'. I believe the ayes have it.

Mr WRIGHT: Clause 3?

The CHAIRMAN: The clause has been put and the member has spoken three times on this particular clause.

Mr HANNA: Mr Chairman, I rise on a point of order. I believe that, when we were last in committee, a motion had been carried. I want to clarify what that motion was.

The CHAIRMAN: Clause 3 has been called on and has been put.

Mr HANNA: I want to clarify that we are still dealing with clause 3 and clarify that it has not yet been voted on.

The CHAIRMAN: The chair has put that clause 3 stand as printed, and 'no' was not called, so the clause has been put.

Mr HANNA: Mr Chairman, I rise on a further point of order. As it is some time since we last debated the matter, I wish to clarify whether I have spoken three times on the clause.

The CHAIRMAN: No, the member for Mitchell has not spoken three times but the clause has been put. Is it the wish of the committee that clause 3 be reconsidered? For the question say 'aye', against 'no'—

The Hon. M.H. ARMITAGE: Mr Chairman, I rise on a point of order. Does that mean that previous speakers who have spoken three times—

The CHAIRMAN: No. For the question say 'aye', against 'no'. I believe the ayes have it. That clause 3 stand as printed.

Mr WRIGHT: Mr Chairman, I rise on a point of order. When we were last in committee I moved that progress be reported. Does that not give me the opportunity to take up the debate when we come back?

The CHAIRMAN: No, because the member has spoken on three occasions on this clause. The question is that clause 3 stand as printed.

The committee divided on the clause:

AYES (24)

Armitage, M. H. (teller)	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Condous, S. G.
Evans, I. F.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Olsen, J. W.
Oswald, J. K. G.	Penfold, E. M.
Scalzi, G.	Such, R. B.
Venning, I. H.	Williams, M. R.

NOES (20)

Bedford, F. E.	Breuer, L. R.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Key, S. W.
Koutsantonis, T.	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
White, P. L.	Wright, M. J. (teller)

PAIR(S)

Hamilton-Smith, M. L.	Atkinson, M. J.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 4.

Mr WRIGHT: The opposition is pleased to support this clause, which relates to section 44, compensation payable on death: previously compensated disabilities that do not arise from the same trauma event are not considered in the calculation of a lump sum payment on death. This, if you like, stops one from looking back and discounting the benefit payable, that is, the lump sum payment on death. It is a flow-on as a result of a court decision that this time it is being applied. This amendment will ensure that previously compensated disabilities that do not arise from the same trauma event are not considered in the calculation of a lump sum payment upon death. This also is being applied retrospectively, I think, minister; is that correct? The minister will demonstrate to us (we had a quick discussion before dealing with this clause) the benefits that arise from this and how they outweigh the loss that occurs as a result of the changes that are made to clause 3, and that these benefits outweigh what is lost in clause 3. The minister may well be able to do so in monetary terms. He may also be able to apply himself to an example that I will very quickly provide—and I think it is something that the member for Mitchell, in a different way, was also able to put to the House during the second reading.

The real concern with clause 3 is that there is an unfairness to it. The minister will argue that he is applying clause 3 because of consistency of court decisions—and, in fairness to him, he may well be able to argue that way. But I just want the minister to be open to a model that I will provide and, although it is hypothetical, it is something that could happen in practice. Someone could have one injury with, say, a 55 per cent disability. That person will qualify for supplementary benefits—and well and good: that is how I think, in part, the legislation was intended to be. However, to highlight the unfairness of the amendment which has just been voted on and which the government has put forward, you could get another person who has one injury with, say, a 40 per cent disability (who obviously does not qualify for the supplementary benefits, because they are below 55 per cent) but who then has a second injury which is unrelated to the first trauma, with a disability of 20 per cent, 30 per cent,

40 per cent, or even 50 per cent, and that person will not qualify for supplementary benefits. It would be a better person than I who could argue and demonstrate the fairness of that.

The latter person, who has two injuries unrelated to each other and which, hypothetically, may accrue to something as high as 90 per cent (40 per cent the first time, 50 per cent the second time; in a global sense, they have a 90 per cent disability) will not qualify for the supplementary benefits. Yet another person, according to the amendment from the government upon which we just voted, may have 55 per cent, 60 per cent, 65 per cent, 75 per cent, and they receive the supplementary benefits. The other person could have a much higher percentage but, because the injuries are unrelated, that person will not qualify for the supplementary benefits.

One may well be able to argue consistency on court decisions—I do not dispute that—but one cannot argue fairness. So, when the minister provides an answer (which he is about to do) he may be able to point out something to me and to the opposition that we just do not see. I will be surprised if he can do so, because that is a very real possibility—and, in a practical sense, I am sure that, unfortunately, at any given time in the future, that type of case will in fact occur, where a person has two separate, unrelated injuries. One might be 40 per cent, the other one might be anything between 20 and 50 per cent (I will not take the high figure just to help me argue my case; the minister can take whatever figures he likes to get this person above 55 per cent) and, in all probability, that person will be in a worse position than the other person who has had one injury that was 55 per cent. The minister may well be able to argue some consistency, and he may also be able to demonstrate that, as a result of section 44 being applied retrospectively, more people are benefiting—and in this respect I give full credit to the government. I will acknowledge when and where the government has done some good things and did so during the second reading stage. I will do it again now. But the government would have had more credit and the minister would have walked out with a fairer and more equitable bill if the amendment that we have just voted on relating to section 43 had not been part of it.

I defy anyone to demonstrate to me or the committee the fairness in that model that I have put before you. Hypothetical as it may be, I am sure that there would have been examples in the past, and there will be examples in the future, where that will apply to an injured worker and where that injured worker will be disadvantaged. That is a downside of what we have just passed: that is a disappointment. I will be listening with interest to the scenario that the minister is going to put forward in regard to clause 4, not only in regard to the number of people and how this is going to be, in a global sense, of more benefit to workers but to whether he can dispute that model that I have put forward with regard to clause 3, which amends section 43.

The Hon. M.H. ARMITAGE: All these amendments are, in my view, attempting to re-establish the original intent of parliament, and I believe that legislation ought to be consistent in the way it treats matters. In attempting to identify what we have in the bill to address the issues in both the Cedic and Mitchell cases, we have looked at the way in which a series of compensable accidents are treated. It is fair to say that there are two ways in which they can be treated: one is that you can take every incident into account or you can take the actual compensable injury into account. What is occurring at the moment is that there is inconsistency because of interpretation. The government thinks it is more appropriate to look at the particular compensable accident or injury about which the case is being fought, or discussed or compensated, rather than allowing a series of previous injuries to impinge onto the compensation case. In doing so, I identify that there is a very substantial benefit to workers in this instance.

As I have indicated privately to the member for Lee, if we take all the cases relating to the Cedic case into consideration, there will be a very small sum payable to 38 workers who would each get less by about $50 000. I recognise that for those workers it is a smaller sum, but—and we will have to end up agreeing to disagree—I do think that parliament ought to set consistent legislation in the way it deals with things. We are keen to restore the circumstance to what we believe the parliament wanted originally and, by treating all these cases in the same way, about 1 500 workers will benefit, because of the retrospectivity, to the tune of about $2.4 million. I argue the case on the basis of consistency in application of the law and I am confident that that is what parliament intended.

We are also seeking to amend section 44 of the act so that previously compensated disabilities that do not arise from the same trauma event are not considered in the calculation of a lump sum payment upon death. Again it is the same principle: it is considered that these proposed changes are consistent with the original intent of the provisions. As I indicated, it is our view that workers will benefit by these amendments. It is important to identify that the amendments were enacted at a time when common law rights were removed from the act in order to implement a benefits structure which quite specifically fairly compensated seriously injured workers. I would put the case in favour of the consistent approach that the government is advocating to the member for Lee. I accept that he has chosen two examples that add up to more than 55 per cent. Would he share the same concern about a worker who perhaps had 10 incidents where 7 per cent was affected? He may, but that is definitively not the intent of the original amendments, which were to fairly compensate seriously injured workers following the removal of common law rights in 1992. So, as I say, we argue the case for consistency on the basis that, because of the retrospectivity, it provides a large sum of money to many workers.

Mr HANNA: I sincerely believe that the minister is wrong when he says that his amendment in the form of clause 3 is there to create consistency or to somehow better enact the original intention of parliament. I do agree that those considerations apply in relation to clause 4 because obviously a worker, or effectively the worker's estate, is being sold short if they are to be compensated for less upon death by sheer reason of the fact that there was an earlier injury resulting in compensation, an injury completely separate from the incident which lead to death.

In respect of clause 4, it is true that the amendments being put forward by the government do clarify the original intention of parliament. I do not see how that could be said in respect of clause 3, which we have just voted on. The fact is, as the minister said, the intention of parliament was to provide especially favourable benefits to very seriously injured workers. That is why there was a bonus percentage system to apply to workers who had a greater than 55 per cent disability, or permanent physical incapacity.

It seems to me that the original intention would be best met by allowing workers who were injured on separate occasions to be put on the same footing as those who were injured seriously as a result of a single trauma. That argument we have had, but I had to return to it because of the minister's

remarks about better clarifying the original intention of parliament in the light of court cases. I do not think that can justify the cut to workers' compensation, which the committee has just promoted with the passing of clause 3.

In relation to clause 4, the clause which we are meant to be focusing on now, it is the case that those considerations of better clarifying parliament's intention do apply. I give the government credit where it is due and, if the courts through interpretation of the legislation have brought to light this problem, the government is to be praised for correcting it.

Mr LEWIS: This is as good a clause as any under which to raise a matter of grave concern that I have about the way in which the system operates. It is not WorkCover: it is self-insurers and, in this case, it is the government itself. It is a serious situation. If my constituent in this instance were not to get medication, she would lose her equanimity and it would result in her being extremely suicidal.

At the time, she was employed by a self-insurer, that is, the Pinnaroo Hospital. I do not mind telling the committee that the name of the person whom I am talking about is Priscilla Holmes. The minister knows of this case, and it is about time it was settled. He was kind enough to respond to my correspondence of 22 November 1999: he replied to me on 12 February 2000. He explained a few things in that letter, which were appreciated though not entirely news to me, about the role of self-insurers and the WorkCover Corporation's responsibility to give oversight to what self-insurers do.

In this case, I must tell the minister that the matter is still not settled, still not resolved in any way fairly. What really happens regarding the self-insurers—the government agencies—is that people who have management responsibility and who provide reports on another injured worker, in the instance where it reflects on their incompetence, deliberately cover it up. They ascribe improper motives to the injured worker or allege incompetence on the part of the injured worker, especially if it is a psychiatric problem or one which is not a direct result of injury that produces a wound—there is no visible evidence of it. But as the minister, being a doctor of medicine, would understand, it is still a problem for the person who has been injured by what happens to them at work.

Priscilla is a person who worked for 16 years at Pinnaroo and made a network of friends. She came from Singapore (her parents were of Chinese extraction), and she fitted well into Pinnaroo. However, in the changeover from the autonomy which that hospital had to becoming part of an umbrella organisation based in Murray Bridge—called the Hills and Mallee Regional Health Service, or administration (it has changed its name a few times over the last two or three years)—it lost control of its autonomy and the structure of the bureau that ran it. The people of whom the bureau was comprised ignored the short-run needs and interests of the people in Pinnaroo wherever those needs and interests came into conflict with the medium to long-term goals of the new organisation. She was one of the people who suffered as a consequence of it and continues to suffer.

The advice that the people in the bureaucracy are giving, all of them having an effect, indicates that they have all decided that they are not going to cop this, one way or the other for their little bit, or the lack of their little bit, in the job that is to be done, and they are doing a job on Priscilla Holmes. That is just not fair. It goes so far as to their providing half truths and inaccurate information and advice to Mr Brenton Illingworth in Crown Law. He is of a mind that he will strongly oppose the request by Priscilla's advocate, Jay Weatherill, who has done a very good job in advocacy, though he overlooked a couple of details in the course of his work in preparation of the case (and I do not think it was him exactly). Notwithstanding that fact, she is being victimised.

It is about time that people advising Mr Illingworth gave him the truth, the whole truth and nothing but the truth and allowed this matter to settle. From the way I see it at present, the miserable original offer that was made is an insult, especially since it is made by people who have been involved in a cover-up of crimes committed elsewhere in the hospital system by staff members who were going to be prosecuted for misappropriation or fraud and, because they were so important in the organisation as far as their qualifications were concerned and because they were willing to work in remote circumstances, the police were asked to discontinue.

I am referring to an article in the *Advertiser* of 22 January this year, entitled 'Shamed nurse helping to run hospital', as being the basis in the public domain for my assertions in that regard. And it goes wider and deeper than that: it is a whole malaise. This woman ought to have been offered something nearer $200 000, not $60 000. It has caused distress to her and continues to cause distress to her family, more particularly, and to her treating doctors, when it could have been resolved. And it is causing me a lot of lost time, and I am annoyed by that. If by chance something were to happen—and God forbid that it did—then let me tell members that, late in the day though it may be in this parliament, in my conscience I would hold the government responsible because it is not competent to handle this.

It has not put in place a competent structure to handle these claims for injury where they are clearly demonstrated as having occurred, and it allows those claims to run on and on and on, to try to wear down the injured worker in the process, to the point where the injured worker will give up in despair or, if they have less resolve as an advocate than Jay Weatherill has, they will recommend that their client give up because the legal costs are escalating to the point where they will consume any compensation paid, even if there is success in the claim in some measure.

I will not delay the committee with the dodgy interest rates that were used by people advocating for the Crown. I will not delay the committee in discussing the way in which, deceitfully, the offer was made of a salary in a lump sum at a salary level of ASO2 when, in fact, the board minutes at Pinnaroo show that she was confirmed as an ASO3. It is a straight-out con job to put her down, knowing that she has mental illness and is therefore unlikely to be able to cope, leave alone analyse her own situation. Were it not for the fact that she has a loving husband and supportive older children, as well as a good advocate, long before now I am sure she would have folded.

In the meantime, she has not, and the matter has been brought to my attention. I maintain a continuing and detailed interest in this matter. I am annoyed by the indifference of the system and the laziness of some of the people who work there. Lilian Powell, for example, simply did not bother to turn up only a few weeks ago, on 1 November or thereabouts. She is supposed to have been the case manager. The case has been shunted around from one manager to another, from one organisation to another, to the extent that nobody seems to care what is happening to it other than that they are not in any way implicated in the mess that has arisen in consequence.

It was even sad, for instance, that the judge who was to hear the matter did not show on the last occasion because he

was ill, I understand, although I am not sure of that. I do not seek to discover that from the minister: I simply say that that has had a terrible effect upon my constituent, who is an injured worker. If the medication was not there, she might well end up under this provision. If it had happened a few weeks ago she would have been left without what she was entitled to, because she would have passed on. I do not think that it is appropriate for those people who have been giving half truths or falsehoods to Brenton Illingworth in the Crown Solicitor's Office to be allowed to continue to do that, nor do I think that the people negotiating on behalf the Crown are really all that competent.

Indeed, they are the people who ought to be sacked, if anyone is to be sacked over this. The sooner the matter is resolved, and resolved satisfactorily, the better it will be. I can tell you now, Mr Chairman, that there are not just 10 or a dozen people in Pinnaroo: there are dozens of people in Pinnaroo—and it is not a big place any more—who know of the way in which Priscilla Holmes has been victimised by this government's system. It is not working, and it does the government no credit at all to drag it out any longer.

As much as anything, at this late hour in the four year term of this parliament, I raise it not so much to chasten the ministers into action but so that the public servants who are supposed to be advising them know that it will be an issue high on the agenda in the minds of the people of the community of Pinnaroo when they come to decide how they are going to vote. If this kind of thing is allowed to continue, it demonstrates the inability of the government to abide by its own laws.

The Hon. M.H. ARMITAGE: I do not intend to get involved in a long, detailed discussion of this, but for the member for Hammond to say that the inability of a government to abide by its own laws is in some way affected by or related to the inability of a judge to attend a court hearing because of illness is drawing an extraordinarily long bow. I am unable to prevent illness, much as I would like to be able to do so. The member for Hammond indicates, if I quote him correctly, that it is about time that people who give the information provide the truth, the whole truth and nothing but the truth. That can only mean that he is making an accusation of lying by the regional health board. I am more than comfortable taking that up with the minister for health if the member for Hammond provides proof of the lies being told.

The member for Hammond also said that the case, and I took down these exact words, 'has not been resolved in any way fairly'. Without knowing the specific details of the case, because I do not have to hand the correspondence to which the member referred, I am unable to quote further. I can certainly tell the committee in general and the member for Hammond in particular that in cases such as this the resolution in some instances is not perceived as fair, and I make no bones about that. There are cases, as there always are in litigation, where the case is resolved but the person who has either taken the case or who is defending it believes that the result is unfair.

I am unable to give the committee or the member for Hammond any consolation in saying that every case will be resolved in a way in which all people say is fair. That is not a realistic proposition. However, I will examine the correspondence and obtain further details and take them back to the member for Hammond. I would be grateful if he would provide me with evidence of the provision of the untruths being provided by the regional health board.

Clause passed.

Clause 5.

The CHAIRMAN: The member for Lee has an amendment.

Mr WRIGHT: Yes, sir, but I seek your advice, because I am always happy to be guided by you. I also have some questions. I foreshadowed in my second reading speech that it is the intention of the—

The CHAIRMAN: I suggest that the member for Lee move his amendment, and after that an opportunity will be provided for questions to be asked of the minister.

Mr WRIGHT: Will I still have my three questions after I move my amendment?

The CHAIRMAN: Yes, that is right.

Mr WRIGHT: Thank you, sir. I am happy to do that, but I still need to foreshadow that it is the opposition's intention to oppose this clause, even if the opposition's amendment is supported, because we do not see the reason for it. I will make some of those points as I run through the questions with the minister. I move:

Page 4, after line 19—Insert:

'registered industrial association' means—

(a) an association registered under the Industrial and Employee Relations Act 1994; or

(b) an association registered under the Workplace Relations Act 1996 of the commonwealth; or

(c) the United Trades and Labor Council (the UTLC),

and includes an officer of such an association or the UTLC (while acting in that capacity);

In moving this amendment, the opposition thinks that we can at least make this clause a little fairer if, in fact, the government's clause currently before us is supported by the committee. The minister may well say that registered industrial associations, referred to in my amendment, are covered, anyway. However, as I understand it, they would be covered by regulation in the government's proposal. By referring to a 'registered industrial association' in the amendment, it will guarantee that such an association is a part of the government's proposal. Of course, sometimes it has been described as anti-touting legislation. We are talking about trade unions and legal practitioners not being regarded as such and being exempted by the legislation. The opposition wants to specify industrial associations in the bill. Of course, we then go on to define what an industrial association is. Part A covers those industrial associations that are covered by the state act; part B covers those industrial associations that are covered by the federal act; and part C talks about the United Trades and Labor Council—the UTLC, as it is known—which is the peak body and should, of course, be a part of the amendment that is put forward by the government.

The opposition's amendment makes sure that, should the government's clause be supported, industrial associations are specified in the bill and that they are covered in the way I have suggested. Also, if a trade union determines to undertake—as on occasions they may well do—business on a fee-for-service basis, it will also be exempt as a result of the government's legislation.

In summary, notwithstanding the government's provision, even if our amendment is successful (and, for the reasons I have outlined, I would hope it is), I can think of no reason why the government would not support it if it is genuine in what it says in that trade unions are exempt from the clause. This amendment guarantees that industrial associations are specified in the legislation, but, notwithstanding that (and obviously I will return to this point when I have my opportunity to ask the minister questions about this clause), I still

highlight to the committee that even if the opposition's amendment is successful we will still oppose clauses 5 and 6.

The Hon. M.H. ARMITAGE: The government is happy to agree with the opposition's amendment. We had no intention of excluding unions, and we believe that it clarifies the definition.

Mr HANNA: This clause seeks to cut out touting for services to be provided to people who have noise induced hearing loss claims or potential claims. In some ways this is a nightmare clause. There are serious problems with it.

The CHAIRMAN: We are currently dealing with the amendment.

Mr HANNA: I want to make some general remarks about this clause.

The CHAIRMAN: The opportunity will be provided to the member for Mitchell to ask general questions on clause 5 once the amendment has been put.

Amendment carried.

Mr HANNA: Thank you, sir. I have the opportunity to speak only three times to this clause, so I will pick out three problems with it. The first relates to proposed section 58E, by means of which agents are liable to be prosecuted if they tout for business in relation to noise induced hearing loss claims. The difficulty I have arises from the laws of complicity in the criminal law. On the face of it, it is clear that the amendment seeks to prohibit conduct on the part of agents, and those agents might be people from interstate who seek to specialise in profitably promoting hearing loss claims in our local workers compensation system.

If a person actually goes on to make a claim after having been approached by one of these agents, or if a person facilitates the communication by the agent with the worker who then goes on to make the claim, is it not likely to leave the worker open to a charge that they have been an accomplice of the agent in the promotion of their work? Another example is where the worker says 'Yes, I am happy to take up a claim with you, and Fred, my mate next door, is another person who might benefit from this. Why don't you approach him?' I am concerned that injured workers could be prosecuted as accomplices under this criminal provision. I say that is wrong. I do not know how the government can deny that real prospect.

The Hon. M.H. ARMITAGE: I am informed—and it seems pretty logical to me—that, if a worker is unaware of any falsehood in the claim, they cannot be accused of being complicit. However, if this claim is made as part of a scam, where it is known by the worker that he or she may be making false or misleading statements, for argument's sake, they are prosecutable under another part of the act, as we would all expect. The last thing that we want—

Mr Hanna interjecting:

The Hon. M.H. ARMITAGE: That is as we took it. You are talking about complicity with an agent. That is our understanding and if, indeed, the worker was making a statement or knew that the agent's statement was false or misleading, we would take that to be complicit and they would be prosecutable under another part of the act.

Mr HANNA: I do not know if the minister is being deliberately obtuse or whether he simply has not read through proposed section 58E. I will have to read out part of that proposed section to make my point clearer. If you look at proposed section 58E(1)(b), you see that an agent engages in prohibited conduct if the agent:

> makes an unsolicited approach personally, by telephone or in some other way to encourage a person—
>
> (i) to make a claim; or
>
> (ii) to engage the agent . . .

I gave the example of a worker with a legitimate claim, mind you, that says, 'Yes, I would like to take up the services that you are offering to me, and since you have asked me about whether I have any friends who worked at the same factory all those years ago, I can tell you that Fred next door is also hard of hearing. He worked in the same place as me and you might benefit from contacting him as well.' I am saying that the worker in that situation becomes liable to prosecution as an accomplice to the agent because the worker himself is assisting in an unsolicited approach, personally or by telephone, or in some other way, another worker—the next step in the chain.

The minister has concentrated on proposed section 58E(1)(a) which relates to false or misleading statements. I am not talking about that aspect at all in my example. What you have then are workers who could well be prosecuted—not expecting for a moment that if an agent says to them, 'Do you know anyone else who might benefit from making a claim?' they might innocently be leaving themselves open to prosecution.

That scenario is complicated by proposed section 58K, because that is the section which says that a claimant must, at the written request of the corporation or an employer inform the corporation whether the claimant has made use of the services of a certain agent, who that agent is and how the person came to make use of the services of that agent. I have paraphrased section 58K(1). The problem then is that, if I am right in suggesting that a worker could be charged as an accomplice under section 58E, we have then an abrogation of the common law right to silence in section 58K. I would be very interested to know the position of the Law Society on that point. The Law Society traditionally has defended the common law right to silence for people who might be prosecuted, and it is extraordinary to say that, if certain questions of this nature are not answered and if they might render the person liable to prosecution, they might expose themselves to a maximum penalty of $5 000. That is an extraordinary step for this parliament to take without any adequate debate and without foreshadowing this in the second reading explanation.

I will sum up what I have just said, because I am aware that the minister may not have been listening to all of my points. I made the point first that the minister needs to address the issue of complicity in respect of section 58E(1)(b), and I have then pointed out that section 58K effectively takes away the common law right to silence in respect of the prospect of a worker being prosecuted as an accomplice to an agent.

The Hon. M.H. ARMITAGE: I will try to answer the questions serially. In section 58E, there is no intention of encapsulating a worker, which is why the section is specifically under 'Prohibited conduct by agents' and the definition of an 'agent' is in section 58D. There are quite specific other sections of the legislation which refer to dishonesty of other people. They are not mentioned in section 58E or 58F because there is no intention of catching the worker, if you like, in the circumstances which the member identified.

In relation to section 58K, there is, again, no intention of drawing an analogy between those two sections. Indeed, in section 58K the claimant must only identify whether they themselves have used an agent and not whether they have

referred other people on, or whatever. It relates specifically to themselves.

Mr HANNA: This is my final opportunity to speak to this clause. I turn to proposed section 58I. This amendment takes the extraordinary step of effectively removing legal professional privilege. I have not had any submission from the Law Society on the clause but I would be very interested to hear whether the minister has received any comment on this proposal. The extraordinary thing about it is that, after centuries of recognition, the relationship between a lawyer and client is a special one which has a confidentiality deserving of protection by the law. This proposal says that a lawyer may be forced to give the corporation a certificate which discloses certain information given to the lawyer by the client. A failure to comply with a request can lead to the maximum penalty of $10 000 being imposed.

So, first, I condemn the government for bringing that provision forward. I do not believe it is necessary for the enforcement of the amendment in clause 5 as a whole. Secondly, I suggest that it is impractical to the extent that lawyers may well consider it prudent, to avoid getting into difficulty themselves, to advise clients coming to them with a potential claim for noise induced hearing loss to say at the outset, 'Anything you tell me about how you came to be here or who referred you may be the subject of disclosure by me to the corporation; I may be forced to do so according to the law and I might be fined $10 000 if I do not. So, be careful what you say because a prosecution might arise from it.'

Whether it be the agent, the worker or legal practitioner that is prosecuted is not really the point. The point is that legal practitioners will need to be extremely careful in not only advising but also receiving instructions from workers as to how they came to seek advice in respect of a noise induced hearing loss claim. As a legal practitioner (or at least as a person who has practised law in the past), I am disturbed by that provision, and I would be surprised if the Law Society was not.

In conclusion, I ask whether the minister has received comment from the Law Society on that provision, whether that provision has been brought to the attention of the Law Society by the minister and how the minister meets the criticisms I have made of that proposal?

The Hon. M.H. ARMITAGE: The Law Society was indeed consulted about the bill. It raised a number of issues which were taken into account and considered in the drafting: for argument's sake, the exclusion of local legal practitioners was a direct result of its input. I am unaware of this being an issue with the Law Society, but I am comfortable in saying that I will address it with the Attorney-General and potentially look at it between here and another place.

Mr WRIGHT: I acknowledge the government's support and thank it for it and will move my associated amendment. I move:

Page 4, after line 19—Insert:

'registered industrial association' means—

(a) an association registered under the Industrial and Employee Relations Act 1994; or

(b) an association registered under the Workplace Relations Act 1996 of the Commonwealth; or

(c) the United Trades and Labor Council (the UTLC),

and includes an officer of such an association or the UTLC (while acting in that capacity);

Amendment carried.

Mr WRIGHT: As I did foreshadow the opposition's intention and in my second reading contribution made a number of points with regard to this, there is no need for me to go back over them. The member for Mitchell has, in the number of questions allowed to him, gone through it in a prescriptive sense. From a general viewpoint, I am not so sure what has brought this amendment before us. I wonder what is the mischief we are trying to remedy. I fail to understand why it would not be such a good thing for people to be out there representing workers.

The minister scoffed at me a little during my second reading contribution or perhaps when he was responding to some of the references I made and when I said that this is a closed shop situation whereby trade unions and registered lawyers are exempt from this clause. I can think of a whole range of situations where it might be that either a trade union and/or a registered lawyer is not able to provide the service required for the industry about which we are debating.

There are two parts to my first question. From a general viewpoint, I repeat my earlier question. What is the mischief that warrants a clause of this nature being included in the bill? What about those people who are not members of a union and who cannot afford a lawyer? Who represents them? The minister might say that someone, like the next door neighbour, will pick them up because they are not charging a fee. However, I am not too sure that the next door neighbour will be able to provide a quality service by and large for what we are talking about, namely, a very complicated situation.

Workers compensation (and I do not say this as any criticism of the government) is not a statute that anyone can pick up and apply in a practical sense. What happens in that situation where we have a person who is not a member of a union—and let us be realistic: a lot of people out there who are not members of the appropriate union would not be able to afford the services of a lawyer, because, let us be honest, they do not come cheaply. Who will represent them in this situation?

The Hon. M.H. ARMITAGE: This amendment does not prevent what we consider to be appropriate action on behalf of workers. We have agreed with the opposition's amendment about registered industrial associations. We think that amongst the many roles unions take on this is a very appropriate one. From my perspective, as a well and truly former medical practitioner, it is one of the most appropriate things. We are not stopping local legal practitioners or stopping not-for-profit groups. There is the Employee Advocate Unit of WorkCover. We think there are large numbers of people who are able appropriately to identify to workers that they may have a claim and to help them with that. The people whom we are attempting to stop are those who charge or, as it says, a person who provides services for a fee or reward.

One of the dilemmas—and surely this is indeed the major mischief—is that these people make huge profits out of the workers whom they purport to represent. They make profits of up to 30 per cent of the end result of the claim. To me that seems as though workers are being taken advantage of, and we have specifically identified that we are not including what we consider to be the quite legitimate agents who might take up these matters on behalf of workers.

For the benefit of the committee, in case there is any suggestion that we are moving this amendment because we are a right-wing fascist anti-union government, I point out that similar legislation has been passed in New South Wales under a Labor government for exactly the same reasons. We think it is a legitimate call for certain people to act on behalf of workers with legitimate causes, and accordingly we have moved this amendment.

Mr WRIGHT: I am not so sure the minister should describe his government as such, but nonetheless—

The Hon. M.H. Armitage: I didn't. I said 'We are not.'

Mr WRIGHT: I also do not think it addresses my question about how people may get representation if they are not a member of a trade union and if they cannot afford a lawyer, but nonetheless I have asked that question. I do not know whether it has been seriously addressed—

The Hon. M.H. Armitage interjecting:

Mr WRIGHT: If it has, then as a supplementary question: what is the minister's modelling—and I hope there has been some modelling; I hope we would not put forward an amendment such as this on the run—for what would arise as a result of the amendment? How many people could be picked up by the Employee Advocate Unit; and is the Employee Advocate Unit in a position to be able to service the numbers of people who may be involved as a result of this amendment?

The Hon. M.H. ARMITAGE: I am advised that at least two other groups (which I did not mention) would provide these services, such as the engine workers focus group and the work injured resource connection. There are a number of agencies other than the WorkCover Employee Advocate Unit. The answer to the member's question is that, if the circumstances arose where it was necessary, the answer would be yes, there would be enough people to provide the services. At the moment factually—because in fact the touting for the noise induced hearing loss has diminished—we would not be employing large numbers of people in that unit to deal with that because there is not the pressure of the business. I reiterate that this is not being done to avoid workers with legitimate claims getting those claims heard.

The CHAIRMAN: The member for Lee's last question.

Mr WRIGHT: My second question, sir, because I asked that as a supplementary—

The CHAIRMAN: Order! There are no supplementary questions provided. In fact we have already put the honourable member down as asking three questions. I am allowing a further question.

Mr WRIGHT: How could you put me down for three questions—

The CHAIRMAN: Order!

Mr WRIGHT: How could you possibly put me down for three questions? I have asked two questions and I said one of them was supplementary. Why did you not tell me when I was asking a supplementary question that I could not do so? I would not have asked that last question.

The CHAIRMAN: Would the member proceed with his question.

Mr WRIGHT: No, I am taking a point of order; I want your ruling.

The CHAIRMAN: The chair was not aware that it was a supplementary question—

Mr WRIGHT: We will have to check the records. I asked—

The CHAIRMAN: Supplementary questions are not usually allowed and the member for Lee has been here long enough to know that that is the case—

Mr WRIGHT: No, I do not know that.

The CHAIRMAN: Supplementary questions are provided for in estimates committee debates, but not during ordinary committee.

Mr WRIGHT: Why did you not tell me at the time?

The CHAIRMAN: The member for Lee may proceed with his question.

Mr WRIGHT: Why did you not tell me at the time?

The CHAIRMAN: Does the member for Lee want to ask another question?

Mr WRIGHT: Yes, I do.

The CHAIRMAN: The member will proceed—

Mr WRIGHT: I am asking why and I am taking a point of order—

The CHAIRMAN: Order! The member for Lee has been given an explanation. The chair did not hear the member say that it was a supplementary question. If the chair had heard, the question would have been ruled out as a supplementary question. I have made it perfectly clear since I have been the chair in this place that three opportunities are given on every clause to every member. That has been the case for as long as I have been in this chamber, and as far as I am concerned that will continue to be the case while I am the chair. The member for Lee has a third question.

Mr WRIGHT: I do have a third question. Thank you very much, sir, for your great cooperation. What would happen, if this clause is passed, if we had a situation where a conciliation and arbitration officer, or, for that matter, a commissioner or a retired union person—and of course this happens, as the minister would be aware (in fact the minister may well be looking for a job after the next election)—set themselves up on a commercial basis? The minister may well like to embellish this, but what would happen if we had a situation whereby a conciliation and arbitration officer currently working in this stream with what I would describe as high level expertise—it could be an industrial relations commissioner or a union person—becomes a consultant and sets themselves up on a commercial basis? Would these people be able to operate as a result of this amendment?

The Hon. M.H. ARMITAGE: Is the member for Lee interested in the answer? I suppose he can read it in *Hansard* tomorrow, because I have the answer for it. In the example that the member has quoted, I can only presume that those well-meaning people would not be charging 30 per cent of the eventual worker's compensation claim. Let us hope that would be the case, given the view that he has put that they are all such worthy people. However, the answer to the question is that this is designed to prevent the agent approaching the worker. If the worker went to someone and said, 'I have this problem; what do you think?' that is not prevented.

Mr Wright interjecting:

The Hon. M.H. ARMITAGE: Yes, that is correct. We have no concern about someone with a legitimate claim going to someone legitimately. As I said, we would hope that those people would not then charge 30 per cent—or 20 per cent—of the successful claim. We have no problem with someone with a legitimate claim legitimately getting legitimate advice. What we are trying to stop is charlatans coming in, ripping off people, making unspecified claims, building up false hopes and so on. The sort of case that the member has quoted would cause us no concern.

Clause as amended passed.

Clause 6.

Mr WRIGHT: This clause causes very serious concern. It may well be that the minister can clear up some of this but, as he would be well aware, currently approximately 40 per cent of employers are exempt, and he would also be aware, as I understand it—he can correct me if I am wrong—that we have the highest percentage of exempt employers Australia wide. I think that has to be a general concern for everyone, because you do not have to be Einstein to work out that each additional exempt employer who leaves the system will put

greater pressure upon the system. I know that on a number of occasions, both inside and outside this chamber, the minister has spoken glowingly about how well this scheme is funded. So, from a general principle point of view, the change that the minister proposes in the climate that I have just described would cause some concerns. It may well be that the minister can say to me categorically (in fact, he may even be able to provide a guarantee—I am not sure whether that is possible) that, in a global sense, there will be no additional exempt employers as a result of the clause that is before us. If that is the case, well and good. But we would like some information on that.

I asked some general questions during the first briefing that I had from WorkCover about exempt employers and what the modelling is and, in fairness, I received back some information, which I acknowledge and for which I thank the minister. However, it did not allay my concerns about the principle about which I am speaking. Can the minister give me some general information about that matter? It may be that the minister can allay some of my concerns about what he brings before us.

The Hon. M.H. ARMITAGE: Hopefully, I can allay those concerns. I think the member for Lee has misunderstood the information provided. About 40 per cent of the remuneration paid is paid to workers in the exempt sector, but the number of exempt employers is, I am informed, about 60. So, the number of exempt employers, when one looks at the huge number of employers, is minuscule. I am happy to discuss that at some later stage rather than take the time of the committee—

Mr Wright: I know what you mean.

The Hon. M.H. ARMITAGE: The number of exempt employers is very small. I cannot give a guarantee—no-one would do that—but I can certainly advise the House that there is expected to be no significant change to the number of employers in the exempt sector because of this measure. It is an administrative change to make it easier because of the number of casuals, the number of part-timers, and so on. It is just much easier for WorkCover to measure this on a payroll basis, and we intend to institute a formula that uses the average weekly earnings and so makes it clear. It is an administrative device; it will not change the system.

Mr WRIGHT: I acknowledge what the minister just said. I know he is right. I apologise: I probably loosely and incorrectly described the situation, because I know what he is talking about with respect to the 60 employers, and that figure that the minister is talking about is correct. I think that in the clause we talk about a qualifying amount, and we talk about that being done by regulation. I can understand why it is done in that way, but can the minister give us any information about the qualifying amount—because, obviously, as wages and bills rise, we may need to come back and change that. Can the minister inform the committee of the qualifying amount with which we will be starting?

The Hon. M.H. ARMITAGE: As I indicated before, we intend to introduce a formula that would be along the lines that the figure for being an exempt employer would be as follows: 200 multiplied by the average state full-time weekly earnings, which at present means that the average annual remuneration would be in the vicinity of $8 million.

Mr WRIGHT: I presume we could well have a small work force, all highly paid, who may qualify to become an exempt employer. If that is the case, would it not be the situation that we are moving away from the original intent—the principle of the type of employer that was intended to be an exempt employer?

The Hon. M.H. ARMITAGE: I think a large number of South Australians would be thrilled to be employed in such a company, with a small number of employees, with an annual remuneration averaging about $8 million. I think there would be a rush to join, if that is what the member for Lee is implying; I think that is the implication of the question. This matter has been taken into account, and it is considered unlikely that an employer with a very small number of employees with a high remuneration would, in fact, be able to meet the other requirements that are set up in the exempt employer code—and I will read some of those for the committee's information. Some of these requirements include requiring the employer to have a net worth of greater than $50 million; to comply with the exempt employer standards in OH&S injury management; to have sufficient resources to properly manage claims in accordance with the terms of the act; and to submit a financial guarantee to the corporation of at least $560 000, but as much as 150 per cent of their outstanding workers compensation liabilities. So, if we take the whole exempt employers code into account, in addition to the remuneration, I do not think we will have the case that the member has outlined.

Mr HANNA: Clause 6 deals with an expansion of the segment of the insurance market to go to exempt employers. The great concern here is that the system will be gutted over the long term by taking out of the system those that have the best records and leaving in the system those that have the worst records. I do not need to speak more than once to this clause, because the point is obvious and simple to grasp. The cut-off levels are left to regulation so, in a sense, we are taking the government on trust. Perhaps this clause was one of the prime motivating factors for the amending bill: perhaps a significant number of the government's mates in business said, 'Look, we would rather go exempt. We reckon we can pay out less than the way we do under the WorkCover scheme, so we want to go exempt.' In any case, one could only at this point sound a note of concern. It is clear that the government has the support, in this House at least, for this amendment but, if it is ill used, it has the potential to create a disaster in the long term. As an example, one has only to look at the health insurance system federally. Because of the tremendous advantages given to private health insurers by government, the public health system is under threat. I would hate to see the same thing happen with our workers compensation system.

The Hon. M.H. ARMITAGE: Maybe the member for Mitchell did not hear me previously. It is not expected that this will expand the exempt reach at all. It is not in WorkCover's interests for that to occur. WorkCover does not want, necessarily, to expand the number of exempts. Its core business is in being a workers compensation agency, not in encouraging other employers to slip into the exempt land, or the nirvana, which the member for Mitchell seems to think we are inadvertently creating for exempt employers. As I indicated to the member for Lee, the simple facts are that this is an administrative efficiency because of the difficulties and dilemmas with the number of casuals, part-timers, etc., and it is not expected that it will significantly add to the number of workers in the exempt sector at all.

Mr CLARKE: I follow on from the question from the member for Mitchell and his concerns, which I share, in terms of the formula that is going to be used for the regulations—and I refer to new section 60(2A)(c), which provides:

by inserting in subsection (9) the following definitions:
'qualifying amount' means an amount—
(a) fixed by regulation. . . or
(b) determined in accordance with a formula prescribed by regulation for the purposes of this definition;

Is it the intention of the government in the formulation of that regulation to adjust the money amounts by a particular formula so that people can know, on an automatic basis, that it will increase by, say, average weekly earnings or some yardstick, whereby the amount where you can claim exempt status reflects the movement over time of wages, or is it going to be something the government of the day will have to keep working out on as frequent a basis as it sees fit?

The Hon. M.H. ARMITAGE: The Labor Party Independent candidate for the seat of Enfield seems not to have heard what I said before, and I understand he may have been busy. I have already identified to the committee that we would be intending to utilise a formula which would be 200 multiplied by the average state full-time weekly earnings as determined by the ABS on an annual basis.

Clause passed.

New clause 6A.

Mr McEWEN: I move:

Page 8, after line 13—-Insert:
Insertion of s. 105A
6A. The following section is inserted after section 105 of the principal Act:
Protection from double payment of levy
105A. (1) If—
(a) a worker spends time working in another State or Territory; and
(b) his or her employer is required in a corresponding law to pay a levy, contribution or other amount for or in respect of registration or insurance under that corresponding law on account of that work,
the employer may elect not to pay a levy to the Corporation under this Act in respect of the worker for the period for which the levy, contribution or other amount is payable under the corresponding law.
(2) If an election is made under subsection (1), then no entitlement will arise under this Act while the relevant worker is protected against employment related disabilities by the relevant corresponding law (unless or until the election ceases to have effect).

Mr WRIGHT: Will the honourable member give us a quick synopsis of the amendment?

Mr McEWEN: This is a complementary amendment to the initiative that the shadow minister took in trying to correct the two anomalies, one where the employer paid and got no service and the flip-side where an employer was forced to pay twice. So this amendment clarifies the fact that, if you pay for a service in any state or territory, that service is provided there. I would like to compliment the minister on the way in which he has dealt with this. It is bringing forward some of the initiatives that are going to be taken on a national stage in terms of bringing into line each state's legislation to see that we do have these territorial recognitions in place. So it is consistent with where we are going federally, it needed to be brought forward to correct the anomaly at this time and the minister was prepared to do it to complement the earlier action that had been taken by the shadow minister.

Mr WRIGHT: We are happy to support this amendment: I did not have it in front of me previously. This has been discussed by the member for Gordon, the minister, others and me. It is a practical, commonsense, good amendment and we are very happy to support it.

The Hon. M.H. ARMITAGE: The government is happy to support it because it legislates for what has, in essence, been a policy decision of WorkCover.

Mr LEWIS: Click is happy to support this, too.

An honourable member interjecting:

Mr LEWIS: Click is the name of a political party, registered for the purposes of the Electoral Act with the Electoral Commissioner. I am its parliamentary spokesman—

The Hon. M.H. ARMITAGE: I rise on a point of order. As the member for Hammond as a keen supporter of parliamentary Westminster tradition would be the first to acknowledge, we are not identified in this place as members of political parties.

The CHAIRMAN: The member for Hammond has been called as the member for Hammond.

Mr LEWIS: I was merely telling the committee that Click was willing to support it. I did not say that I stood to represent it: I said I was a member of it. Let me make it plain for the minister's benefit that very often I hear him and other ministers saying what the ALP has failed to do, what it might have done better, or what it has done that ought not to have been done. And, likewise, I hear ministers daily in question time claiming that they act on behalf of the Liberal party.

Notwithstanding that, my point about this is that during the course of the second reading debate I explained my own dilemma and applauded what the member for Gordon was proposing as being fair and proper. My question to the minister is: will he be willing to take up this matter forthwith with other states and territories, as well as the commonwealth, to ensure that we as citizens and businesses are not compelled to pay workers' compensation in two jurisdictions just because our employees are working in places which cross state boundaries? The way in which the government got around this in South Australia in the most significant case in which it used to occur was as follows—and it was for other reasons, I acknowledge: it allowed Santos and its partners to become self-employers. Years ago, when WorkCover was first introduced, they were exempt. But there are other people who are equally affected in this manner who presently suffer the disadvantage. Just because we are doing it in South Australia—and I commend the minister for pointing out that the government supports this proposition—does not mean that governments in other jurisdictions will automatically acknowledge it and reciprocate. I want to know whether the minister will do anything about it and, if so, when.

The Hon. M.H. ARMITAGE: Maybe the member for Hammond, being busy on other matters, has missed a number of the contributions that I have made previously, but I can think of nothing greater than for this provision to be applied across Australia. At the risk of inflaming the debate again, I point out that, if other states had agreed with us 12 to 18 months ago, we would not be having this debate today. South Australia will continue to take a lead role in attempting to get the other states to legislate in a similar fashion. I am totally unable to deliver that, much as I am sad about it, because I believe this should have been fixed a long time ago.

I am able to tell the member for Hammond that I will be identifying to the other states that in so legislating in South Australia, as we are in the throes of doing right now, we have in fact made these various amendment clauses retrospective. What I will find interesting is whether the other states governed now by Labor governments will follow us. I will certainly be expecting my colleagues around Australia to do so. Not only have we been forcing the agenda on a nation-

wide basis by legislating retrospectively, hence returning benefits to workers, but we have quite clearly, in my view, put the acid on all the other states. I hope they will follow.

New clause inserted.

Clause 7.

Mr WRIGHT: The opposition strongly opposes this clause, and I spoke about this in detail during my second reading speech. It may be that the minister, in giving us information about clause 7 (which amends schedule 2 and relates to hearing loss), identifies this as the same as or similar to the provision under clause 5 in regard to the anti-touting legislation. Like the minister and the government, we do not support the 30 per cent commission rates that he referred to earlier, but it may well be that clause 5 could have been picked up with some consumer legislation to stop that type of behaviour.

Nonetheless, I am interested in knowing, in respect of schedule 2, which is amended by clause 7, what has triggered this amendment. If it has been triggered as a result of Better Care, I am not so sure that is good enough. Better Care, as I understand it, is now out of the system. It may well be that the minister would argue that it may come back, or that another organisation may come back at any stage with similar behaviour.

This amendment narrows the field: it tightens it up considerably, making it much harder for workers, for example, going from one job to another, and much harder if we have to try to go back 20 years—how do you prove the case? It will be much harder in the building and manufacturing area. The effect of this amendment will be considerable.

Will the minister tell the committee what has triggered this amendment and give some detail of the reason why something like this is before us. If it is, as I have suggested, because of Better Care, could it not have been handled in another way, if the government is still concerned that Better Care or another organisation could come along and trigger a whole range of cases, as occurred about three years ago? I agree with what the minister said in respect to the commission rates that were charged by Better Care. I do not believe anyone in this place would support the type of commission rates that it was charging. It is simply not on. We want to get that type of commercial pricing out of the system. But I think we might have gone a whole step further with what has been proposed and voted on under clause 5, and now in terms of schedule 2 under clause 7.

There may be other reasons, and the minister may well put them before us but, as I said in the second reading stage, the one thing that can be said about these claims that were put into the system approximately three years ago is that the system will address and knock out those claims that are not eligible. That is one thing that we already have in place. I support the points that the minister made earlier today and previously about dealing with any company, whether it be Better Care or another company, that charges commission rates of 30 per cent. I am not so sure that, as a result of what we are doing, we may not actually harm a whole lot of people to overcome a problem that was with us some three years ago, and I suggest that with both clauses 5 and 7 there may be better ways to handle a situation that occurred two to three years ago.

The Hon. M.H. ARMITAGE: This amendment has nothing to do with the Better Care exercise. This relates to the court decision of WorkCover and anor v Perry in 1999, whereby the court found that a worker need only prove an exposure to noise at work—not noise capable of inducing hearing loss—and that they had a noise induced hearing loss for the claim to be successful. All we are attempting to do is establish a connection between noise that is capable of causing hearing loss and the hearing loss. With the extreme example—and I do this only because the member for Lee has quoted examples before; I know you cannot always argue from examples—someone could be playing in a rock band for fun at night with all the difficulties and dilemmas that may bring, and work in a library. One can make all sorts of jokes, as has been done in discussing this, about the turning of the pages and so on, but we think that is a ridiculous way of looking at this.

All we are attempting to do is establish a connection. There is no change to the relevant decibel levels or anything like that. It is literally just trying to re-establish the connection between noise that is capable of causing hearing loss and that hearing loss.

Mr WRIGHT: The example that the minister gives I think was provided in his second reading explanation, so it is not foreign to me. I suppose that, for every example he can provide, a range of others could be provided on the flip side. Despite what the minister said about no changes to the decibels and so forth, I would be interested to know what difficulty may be created by this amendment for a worker who needs to try to prove a case that may have happened some years ago, and what analysis the minister is able to provide to us in regard to the costs that we have with the existing legislation as currently applied.

The Hon. M.H. ARMITAGE: Again, we think that this is a matter of logic. What happened before the court case was that workers had to prove that they had been exposed to noise capable of causing hearing loss. I emphasise that this amendment does not say that a worker has to prove that the noise caused the hearing loss. All that it says is that they have been exposed to noise capable of causing hearing loss and they have a hearing loss. We are not even being as specific as that. All we are trying to do is avoid the case, and I know that it is an extreme example, where they are exposed to noise, and that noise can be very small. All we are saying is that workers have to prove, as they did before, that they were exposed to noise capable of inducing hearing loss, not that that noise did cause the hearing loss.

Mr WRIGHT: The minister may well say to me that it is not being done for this reason, but has an estimation been done of what the savings may be as a result of this amendment should this amendment become legislation? I do not want to predict the minister's answer but I do not want to find that, this being my third and last question, he says to me that it is not being done for that reason. It may well not be done for that reason, because the minister told me that about section 43, which I think I have been able to clearly demonstrate is unfair.

Despite consistencies that the minister might be able to argue in respect of legal decisions that have been made, a clear case can be made that the amendment that has been passed here today to clause 3, which relates to section 43, is a backward step and does not have fairness and equity. I do not think it is an unfair or unrealistic question, even if the minister says that it has not been done for that reason. If he does say that to me, I would say to him, 'Why do it?' I would like to know the estimated savings as a result of this amendment and, if they are negligible, why do it?

The Hon. M.H. ARMITAGE: This has not been done for that reason. In fact, since the court case to which we refer, the number of noise induced hearing loss non-exempt claims has

decreased. It is literally being done for a matter of logic and I think that everyone can see that the case is logical. There was a huge aberration in the number of claims caused by the Better Care example, when it went from the average of somewhere between 250 and 300 up to a figure of 858. In 1999-2000, which is when the decision was made, there were 248 claims; in 2000-01 there have been 226 claims; and in 2001-02 to date there have been 41 claims. It has evidently not been done to make a saving: it has been done for logic, because the number of claims is, in fact, going down.

Mr HANNA: I want to take issue with the minister's example of the rock band player who works in the library during the day and takes out a hearing loss claim because there is after all some noise in the library. Is not the problem with that argument section 31(2) of the act itself, which is the springboard for schedule 2? Section 31(2) provides, in full:

> However, if a worker suffers a disability of a kind referred to in the first column of schedule 2 and has been employed in work of a type referred to in the second column of schedule 2 opposite the disability, the worker's disability is presumed, in the absence of proof to the contrary, to have arisen from that employment.

My point is that, in a case like that, ample proof could be brought by the insurer that the noise level in the library could not have caused the hearing loss. Indeed, if one of the insurance company's many surveillance firms was able to detect that the worker worked in a rock band, it is very likely that there would be proof accepted to the contrary. I would like the minister to concede, in light of that evidentiary provision, that in fact his example is erroneous.

The Hon. M.H. ARMITAGE: It is the first time I have heard a member of the Labor Party saying that it is a good thing there are surveillance people around. I acknowledge that the example I quoted was an extreme example, and whether or not one has a successful surveillance to determine that the person is playing in a rock band, frankly I am not interested in getting to that level of detail, because I acknowledged in my second reading explanation that it was an extreme example. The fact remains that the government believes that it is inappropriate to have people who are exposed to noise, which by definition may not be capable of causing hearing loss, being able to successfully prosecute a workers' compensation claim for noise induced hearing loss.

However, we are saying that there is no requirement to prove that noise that is capable of causing hearing loss actually caused the hearing loss. We do not perceive this as being anything other than logical, and I believe that the vast majority of people in the community would also say that it is logical. We are not saying that people who are exposed to noise that is capable of causing hearing loss should be disadvantaged. We are not changing the level at which the hearing loss claim triggers. All we are saying is that for the claim to be—

Mr Wright interjecting:

The Hon. M.H. ARMITAGE: We think that under the previous circumstance they were able to do so.

[Sitting suspended from 6 to 7.30 p.m.]

Mr HANNA: This amendment changes the inference to be made when there is noise in the work place in which a worker worked and in relation to which he or she subsequently claims noise induced hearing loss. It undoubtedly raises the standard of proof for the worker. As the minister has said, it is true that there is still not a requirement that the environment capable of causing a noise induced hearing loss actually did cause the hearing loss claimed by the worker. If the minister wanted to go down that track, it would have been taken out of schedule 2 altogether. But it undoubtedly does raise the standard of proof for the worker, and it will lead to a lot of litigation, because the worker must now prove that the kind of noise to which he or she was exposed is capable of causing hearing loss.

So, we can expect a lot of litigation to arise from the government's amendment, and it will be on the government's head. It will cause a lot of time in court, and it will probably end up in the Supreme Court as to what work does and does not cause hearing loss. That is not to say that the worker has to prove that it caused the hearing loss in his or her particular case, but there will be cases saying that the ruffling of papers did not, and a certain type of music did, or a certain type of factory noise did or did not. That sort of thing will be fiercely contested and lead to a lot of litigation, which is exactly what schedule 2 was intended to avoid. So, once again, like clause 3, the minister's amendment cuts against the original intention of what was in the act.

The Hon. M.H. ARMITAGE: We do not believe this will lead to any more litigation than prior to the Perry case in 1999. The circumstances will be the same. As I have said, in our view, it is very legitimate and appropriate for the noise to which a worker is exposed, for the successful prosecution of the workers compensation claim, to be capable of causing hearing loss.

Clause passed.

Clause 8 passed.

New clause 9.

The Hon. M.H. ARMITAGE: I move:

> Page 8, after line 19—Insert:
> Transitional provision
> 9(1). If—
> (a) before the commencement of this subsection but on or after 25 May 1995 a worker suffered a disability that would have been compensable under the principal act had the amendments effected by this act to section 6 of the principal act been in force; and
> (b) the disability was not (and is not) compensable under a corresponding law within the meaning of the principal act,
>
> then the principal act, as amended by section 2A of this act, will be taken to have applied to the worker's employment at the time of the occurrence of the disability (but not so as to require the payment of any levy by an employer on account of this application of the principal act).
>
> (2) The amendments effected by this act to section 44 and clause 5 of Schedule 3 of the principal act (and any variation made to any regulation as a result of those amendments) will be taken to apply from 7 September 1998.
>
> (3) However, subsection (2) applies—
> (a) only in so far as is necessary to ensure that section 44 and clause 5 of Schedule 3 of the principal act (as amended by this act) do not require any disability arising from a previous trauma, or any compensation payable in respect of such a disability, to be taken into account for the purposes of the operation of either of those provisions; and
> (b) except to the extent that paragraph (a) applies, not so as to allow any other reassessment of any disability or entitlement under the principal act.

This is a transitional provision. I believe it is self-explanatory, but I am very comfortable in answering questions about it if any member chooses to ask any.

Mr WRIGHT: The opposition is pleased to support this amendment. I asked a question at a briefing on Friday 9 November, and the minister will recall that before dinner I acknowledged some information that I had received from an earlier briefing. But, on this occasion, I received no answer to the question, 'What would be the costs of the Smith

(Keating) case and the Selamis case?' that I asked at my second briefing. That is the first part of the question. I presume that the transitional provision put forward by the government will cover Smith (Keating) and Selamis.

The Hon. M.H. ARMITAGE: One of the points of this amendment is to do just that. We have identified loud and long that we think that this is reverting to the original intent of parliament, and that it is an appropriate thing to do. I acknowledge that the member for Lee identified that during the debate. I have also identified that I would expect that other governments around Australia will do similarly. If they do not, it will demonstrate that, despite the protestations of members opposite, this legislation has been framed in good faith with the object of providing appropriate compensation.

At the moment, the advice provided to me is that, in the Smith (Keating) case, the sum now due (which is approximate only; we would have to work this out further) would be $300 000, and, in the Selamis case, it would be approximately $73 000.

Mr WRIGHT: It may be that it is not a lot different to what the minister has already said, although I am not sure whether or not he would have this type of information at his fingertips. Going back to 25 May 1995 and applying this transitional provision beyond the figures that he has given me for the two cases, is there an estimation of what we may be looking at in a global sense?

The Hon. M.H. ARMITAGE: We have not made that estimation. However, if someone has had a previous claim disallowed for this reason, they would have to resubmit that claim and it would be retrospectively paid provided that it met all the right criteria. I would emphasise that, in large measure, it is our estimate that a number of those claimants who were unsuccessful in South Australia may have attempted to be compensated in another state, and if they have received some compensation in another state they are ineligible for back payment, under this legislation. I think that that is appropriate because this is not about doubly rewarding people; it is about appropriately rewarding people who have received no compensation at all. But the answer to the member's question is that we do not know.

Mr WRIGHT: Maybe I should have asked this question before the one that I just asked; nonetheless, here we go. I do not expect the minister to give me finite detail because that is not his responsibility, but can he provide just a general outline. With the Smith (Keating) case the minister referred to $300 000 and, with Selamis, approximately $73 000. Generally speaking, what would we be looking at in the process and timeframe, and I am more interested in the timeframe? Are we looking at before Christmas, three months, six months?

The Hon. M.H. ARMITAGE: That is a very good question. We would like to see this legislation passed through the upper house this week. If that is the case, I will guarantee to the member that I will work as assiduously as I possibly can to have this money in the hands of the relevant people prior to Christmas. I will, however, need the member's assistance in getting this legislation through the other place. But I identify that the whole goal in providing this retrospectivity is to ensure that the people receive appropriate compensation. The sooner they get that the better. If the member for Lee will work with me to get this through the upper house, I will work to ensure that, if possible—in fact, I will guarantee that, if it is through the upper house this week, some money—it may not be all of it because I guess there will have to be some final calculations and so on—but I will guarantee that there will be some money in the hands of these people well before Christmas. But I need the assistance of both the member for Lee and the opposition, and members in another place, to ensure that happens.

New clause inserted.

Title passed.

Bill reported with amendments.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That this bill be now read a third time.

I thank members for their contributions. It is fair to say that I thank them much more for their contributions today than previously. It seems to me that today we had a legitimate debate without any unnecessarily agitated and heated statements. In the government's view this is good legislation because we believe that it is consistent. We believe that it identifies the original intention of parliament and, on a philosophical basis, we believe that it identifies that parliament, in this case and, we would hope in others, is prepared to insist, if necessary by legislating again in this fashion, that its original intention is carried through. It is very much my view that there are occasions where the intent of parliament is altered because of judgments in the court process. I do not blame the court process for that but in my view the place in which legislation ought to be made is in the parliament, because it is in the parliament where the legislators are either in or out of power at the whim of the electorate.

I am doubly pleased that the legislation is through, number one, but, secondly, that parliament has reasserted—in this chamber at least, and I hope that following a very short period in the upper chamber that it does as well—its original intent. I am also pleased because it does, as has been identified, quite openly provide for retrospective compensation for people who should have had it before. I am also pleased that we appear to be again at the leading edge of the charge for nationally consistent legislation which, hopefully, will not see other people subjected to cross-border disputation when the national legislation is enacted. With that said, I thank all members for their contribution.

Bill read a third time and passed.

VOLUNTEERS PROTECTION BILL

The Legislative Council agreed to the bill without any amendment.

STATUTES AMENDMENT (COURTS AND JUDICIAL ADMINISTRATION) BILL

Received from the Legislative Council and read a first time.

LEGAL SERVICES COMMISSION (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 October. Page 2413.)

Mr HILL (Kaurna): I am pleased to be able to speak finally on this bill. It has been sitting around the House for some time now. This is an important and substantial piece of legislation that has been introduced by the government. I would say that it is probably the most substantial environment legislation that has been introduced in the four years that I have been a member of this place. I would go as far as to say that it is probably the only substantial piece of legislation that has been introduced in the environment area since I was elected to this parliament. I guess that indicates that this is not an activist government when it comes to environmental matters.

This has been a long awaited piece of legislation. The government has been in now for over eight years and there has been much lobbying and debate about native vegetation over that period and a lot of processes have been gone through. Finally, at the death knell of this parliament and this government, we have legislation that addresses some of the important issues in the native vegetation area, issues which the opposition has been raising and commenting on for much of that eight years, and every time we have made comment about it we have been told that things are right, that you do not need change, that the Native Vegetation Council and Act are working well. It is interesting that this legislation has come in now.

In the previous parliament the then Minister for the Environment, the member for Heysen, attempted to get changes to the native vegetation regulations. He established a committee of experts which looked at the regulations and those experts recommended certain changes. Unfortunately for him and unfortunately for native vegetation, those recommendations were nobbled and a new committee that consisted, as I understand it, of prominent backbenchers of the Liberal Party got together and came up with an alternative set of recommendations which were then introduced following the 1997 election by the new Minister for Environment, because the previous minister (Minister Wotton) had been replaced by Minister Kotz, no doubt because of his views on environmental matters. She attempted to introduce regulations which made it considerably easier for people who wished to clear land to so do. Unfortunately for her but fortunately for the environment, those regulations were disallowed by this parliament.

Minister Kotz was then forced to undertake two review processes, which she did, one involving the Native Vegetation Council—another expert committee that commenced in 1999—and now, finally, at the death knell of this parliament we have that report. The big problem for any Minister for Environment on the Liberal side of this chamber is that they have to get any of these changes past a natural resources backbench committee dominated by members such as the member for Stuart, who is on the record here (and it is a shame he is not in the chamber at the moment) as being opposed to any progressive legislative changes in this area—

Mr Venning: That is unfair and outrageous.

Mr HILL: It is not unfair: he is on the record as being opposed to any progressive changes in the area of native vegetation or the environment. I look forward to his contribution to the debate today. I hope the member for Stuart, along with the member for Schubert, makes a contribution and tells us why it is a good act. I suspect the member for Stuart managed to suppress activity on this bill for some time. It is only now at the end of this parliament that he has been persuaded because the minister for Davenport was able to say to him—

The ACTING SPEAKER: Order!

Mr HILL: A slip of the tongue—the minister, the member for Davenport, said to him, 'This is important for my survival: I've got to get the green vote up in the hills. My colleagues up in the hills need the green vote, so we have to put in legislation which the environmental movement will approve of.' I think he also said to him, 'The chances are, Graham, that come this election the Labor Party will be in power and will introduce native vegetation legislation themselves and that will be far worse from your view point than we are attempting to introduce here.' I think he put pressure on the member for Stuart and other members—

Mr Venning: Have you read the bill?

Mr HILL: I have read the bill; you will be sorry you asked that question. I have read the bill in great detail and I have seven pages of amendments, so we will be here for some time debating the substance of this bill. I believe that is what happened: pressure was put on the backbench committee of the Liberal Party to finally come to the party after such a long time.

The history of native vegetation legislation is interesting. It goes back to the 1980s in this state. Members will be aware that the voluntary heritage agreement scheme was introduced in 1980 by the member for Heysen when he was Minister for the Environment. Planning controls were introduced in 1983.

Mr Venning: He was a good minister, too.

Mr HILL: The member for Heysen was a very good Minister for the Environment. It is a pity he was knifed by the Olsen government at the end of 1997 and replaced by a minister less worthy of the mantle. In 1983 planning controls were put in place, which did not survive legal challenge and in 1985 Don Hopgood, the then Minister for Environment and Planning, introduced the first substantial act, the Native Vegetation Management Act, which was ground-breaking legislation. It was a major piece of legislation, which really settled the issue that no longer did owners of land have an absolute right to clear that land. That involved compensation—something like $80 million worth of money back in 1985 which, applying whatever multiplier or inflationary effect is appropriate, would be a lot greater now—for heritage protection for protected land.

That was a great advance in 1985, and then in 1991 a Labor government again introduced another act—the Native Vegetation Act—which tightened up and made stronger provisions in the protection of native vegetation. There was a review of the regulations in 1998 or 1999 and the whole process went on, and now we have this bill before us. Members may know but should be reminded that we have native vegetation legislation in this state because of our appalling history of clearance of native vegetation in South Australia. Minister Kotz indicated to me in answer to a question some years ago that less than 10 per cent of the agricultural land of South Australia remains uncleared. That is, 90 per cent or more of the agricultural land of this state has been cleared. We and various ministers stand in this place and point the finger at Queensland and criticise it for clearance, and Queensland deserves to be criticised for it.

The Hon. J.W. Olsen: Hear, hear!

Mr HILL: I appreciate the comment of the member for Kavel. Our track record is appalling because as a community we have cleared far too much land. There was outrage at the time this native vegetation legislation was introduced: the farmers and landowners wanted the right to continue to clear. If they had been granted that right we would have been in a situation where little native vegetation was left. Less than 10

per cent is protected. Of that 10 per cent only 40 per cent—in other words, only 4 per cent of that land—is protected by heritage agreement. Most of that land is still subject to de facto clearance by overstocking and other processes.

I also asked the then Minister for the Environment, Minister Kotz, several years ago how long it would take to revegetate 1 per cent of the state that had been cleared. I was surprised by the figures, which I report whenever I get an opportunity, as they are stark figures that members should understand. She said that at the rate of replanting of 10 million trees a year, which is an optimistic statement about South Australia's contribution—the goal South Australia had two or three years ago in terms of replanting—it would take 25 years before 1 per cent of the state's cleared land was replanted. That is a staggering figure, and it assumes that there is no further clearance and that every tree planted survives.

We have a terrible record, with 90 per cent of the land having been cleared: it would take 25 years to replant just 1 per cent of it, yet there was a period in the 1970s and early 1980s when 10 to 15 per cent of the land was cleared in just a few years. We have a bad track record and there is a strong need to protect what we have. Unfortunately, clearance still occurs under the act, and I will go through some of those figures in a moment indicating how much clearance still occurs. Mostly it is scattered trees and degraded vegetation, but some clearance still occurs legally. There is also illegal clearance. We have plenty of examples of where landowners, for whatever reason—to put a drain through, to grow grapes or whatever—illegally clear and then say that they will cop the fine if they manage to get prosecuted. The statistics show that the chance of being prosecuted is less than one in two.

Illegal clearance is happening and de facto clearance also occurs, where landowners or users clear land by overstocking. I see examples, particularly in the South-East, where stock is put onto land with native vegetation on it; it is overstocked for a period of years so all the undergrowth is eaten or crushed underfoot, the stock is left there and then they start ringbarking the trees. The member might deny this—

Mr Williams: Give us an example.

Mr HILL: This is absolutely true; this does happen. Then other provisions in the regulations such as fences, fire trails and clearances around houses are used by some landowners to clear even greater patches of land. I am not saying that this applies to every landowner or even a majority of landowners, because I do not think this is the case, but a minority of landowners abuse the provisions because they do not agree with them. However, most sensible landowners and most farmers these days realise that it is important to look after the land and the vegetation on it. I am not having a go at most landowners, but the facts are that clearance is occurring and the current act is not strong enough to deal with those clearances; that is why we have the provisions in the act before us.

As I said, I have a figure in terms of how much clearance happens. I am reliant on the Premier (Hon. Rob Kerin), who, in an answer to a question during estimates, told me that in the year 2000—and this is advice from the Native Vegetation Secretariat—some 522.5 hectares of highly degraded vegetation was allowed to be cleared by the Native Vegetation Council and 2047 trees were approved for clearance. There is absolute evidence that clearance is still happening. I referred previously to the Native Vegetation Council's working party. This is the body which is set up under the existing act to deal with applications for clearance and to administer the act. It is chaired by the Hon. Peter Dunn, the former President of the other place, a member of the Liberal Party—I do not know whether he still is but obviously was at one stage—and a person who expressed extreme scepticism about the validity of these acts when they were introduced in the 1980s and 1990s, because I checked the *Hansard* and I have read his comments.

He was very sceptical about it, but it was agreed to on a bipartisan basis. It is interesting to see what a committee which he chairs and which has been appointed by the current government felt about the existing act. I will not read all the report because it would take me several hours, but I will refer to some of the highlights for the benefit of the House. This is a report of the working party on amending the Native Vegetation Act 1991. The report states:

> Deficiencies in the legislation remain in relation to enforcement or compliance. An unsatisfactory level of illegal clearance has persisted over the years.

I think that is a telling point, which the opposition has been making for years, and every time we make that point it is denied. It is good to see that we are validated by this report and that the government has picked up some of the recommendations of this report.

In terms of this report, an analysis of the past prosecution record shows that there has been once again 'a poor success rate in prosecutions resulting in a failure to achieve an overall environment benefit'. The report further states:

> A particular concern is that legislation in its current form does not facilitate action to achieve an overall environmental benefit.

One of the recommendations was to look at civil proceedings, and the recommendation is made to repeal the civil enforcement proceedings of the Native Vegetation Act to bring it into line with more modern environmental legislation using the Development Act 1993 as a model. This would allow cases to be prosecuted more successfully and would enable sentencing to provide more direct environmental restitution. I know some of those provisions are picked up.

The Dunn committee recommended that civil enforcement proceedings be directed to the ERD Court and that criminal prosecutions be directed to the ERD Court. That is something I do not believe the government has picked up. Recommendations are also made to give authorised officers broader powers. Those powers include the powers to enter and inspect land; to use reasonable force to break into land, place or vehicle; to stop a vehicle; to take samples of plants; to require any person to produce documents; to examine, copy or take extracts from any document; take photos and videos; seize and retain evidence; and require a person to answer questions and give directions regarding all those powers. Most of those recommendations have been picked up by the government.

The committee also recommended that there be an appeals mechanism for land-holders. They make the point that South Australia was the only jurisdiction without such a process, but it is also the only state with a compensation mechanism. The establishment of a land-holder appeals process was part of the Liberal Party policy platform in 1997, so I guess this is one election promise that the government is attempting to honour. Although the committee suggested that appeals go through the ERD Court, the government has not picked up that suggestion. I indicate to the House that the opposition has an amendment to change that to match what the committee recommended.

The committee also recommended broadening enforcement options. It recommended that the range of enforcement

tools available to officers be broadened to include expiation fees (which has not been picked up by the bill), administration notices and enforcement notices. They made the point that this would sometimes avoid court proceedings and, in some cases, allow for more direct environmental benefit. I am surprised that the government has not picked up the issue of expiation. I would like to ask the minister about that. The report also states:

> Civil enforcement proceedings should give greater scope to the court to make environmental gain by either requiring sufficient revegetation to achieve significant gain on the property or, if this is not possible on site, to require payment of a fine into a regional native vegetation fund.

I do not believe that is picked up in the act, either. They also recommend a rationalisation of the conditional consent process.

The report finds that the current level of compliance to conditions imposed for clearing is less than 50 per cent, with no successful prosecutions for this, and 90 per cent of applications allow some form of clearance. This is a clear failure to achieve environmental gain. A recommendation was made to establish a bond system whereby the land-holder puts up a bond equivalent to the cost of work involved, which is either forfeited to a regional vegetation fund if work is not completed or is used to pay a contractor to do the job. I do not believe that is picked up in the act, either.

Recommendations about the definition of 'owner' are included. I believe the government has picked that up so that it applies not only to the owner of the land but also to the custodian of crown land, and I think that is a sensible provision. In addition, the committee recommended that the area of operation of the act be made clearer. It makes the point that much confusion exists about the definition of metropolitan Adelaide and various local councils and it recommends a clearer definition. The government has had a go at doing that. I still think there are problems with the definition which it has come up with, and on behalf of the opposition I have tabled some amendments which will deal with that. I note that the government has also tabled amendments which deal with that.

That is what the report of the Native Vegetation Council recommended. The following is what the native vegetation clearance laws being proposed in this bill deal with. The minister said that there are six features to the bill, the first of which is whether clarification of the act limits broad acre clearance. This is a provision that the opposition supports. As I understand it, the Native Vegetation Council, in practice, has taken that into account; that is, it does not allow broad acre clearance, but the current act is silent on this—this is just policy. The current bill encodes that practice and we certainly support that.

Secondly, the bill requires significant biodiversity gain in return for any clearance approval. Once again I understand that this is the current practice of the Native Vegetation Council. It is not in the existing act, and this bill today strengthens that and makes law what is currently only policy. The third point is the encouragement for revegetation through a proposed environmental credit system to provide a positive incentive for land-holders to revegetate with local indigenous plant species. This is a new provision. Certainly the opposition supports the idea of encouragement of revegetation. Obviously that is essential. The credit system that the minister is proposing is novel.

There is some concern by some groups, including the Farmers Federation—and I will go through those concerns later—about the way in which this system might operate. I would like the minister to explain how this system may operate. However, we will support the principle. We will ask some questions and move one or two amendments.

The fourth point that the bill covers is the introduction of a user-pays system to cover the cost of data collection. We certainly support that. In the past, when an applicant put in a request for clearance, the Native Vegetation Council would go out and collect data in relation to it and the council, or the government—the taxpayers—would have to pay for that. This changes the onus and puts the burden onto the would-be clearer, who has to pay for appropriate scientific data to be collected. That seems to me to be quite reasonable.

There is also the introduction of a judicial appeals process. This is perhaps one of the most contentious elements of the bill. The current provisions are that, if an applicant for clearance is unsuccessful, there are no appeal rights whatsoever. Some of those who have been dealing with the legislation tell me that the system has worked well: why change it? There is surety that, once the Native Vegetation Council makes its decision, people know what is happening. The government, because of its own policy—and, I guess, its own commitment—has decided that there should be an appeal right, so that landowners who are unsuccessful with an application have a limited right of appeal, based on a judicial review of administrative procedures. In principle, I am not opposed to that. I think that any person who appears before any judicial body, except perhaps under the most exceptional circumstances, should have a right to appeal if the body—the quasi-judicial body, perhaps—gets the procedures wrong and makes a mistake. People should have a way of appealing that mistake. So, I am not opposed to that.

However, there are some elements of the recommendations that the government makes to which I am opposed—in particular, referring the appeals to the District Court rather than the specialist environment court. In fact, the Native Vegetation Council's recommendations were that it should stay with the environment court. That is a specialist court; it knows what it is dealing with, it knows the context, it knows what would or would not be fair administrative procedures. There is no reason to refer it to the District Court. The disadvantage of referring it to the District Court, apart from the loss of specialist knowledge, is that the right of third parties to be joined to the action disappears because, under the ERD Court, third parties have a right to be joined if the court agrees, and that is a loss of a right. So, I am in favour of extending rights to applicants, but I do not want to see rights denied to others by the use of that measure.

In addition, there is no third party appeal right provided for in this bill, and I think that is a weakness of the bill. In fact, I think it is a significant weakness of the bill, because if the administrative body—the Native Vegetation Council—gets it wrong by fouling up the administrative process, there is no-one there, other than the landowner, who can draw their attention to that mistake and have it reviewed. That is wrong. There is no-one there who can stand up for the environment and say, 'Native vegetation got it wrong. You should not be able to clear, for these reasons. You did not take into account these factors', or 'You did not properly assess the factors in the appropriate way.' There is no-one there who can do that under this bill. That is a mistake, and the opposition would seek to correct that mistake by amending the bill to allow for third party appeal rights—once again, only in a very limited way, not on merit. We do not support appeal on merit—but, certainly, appeal on process. I cannot imagine that there

would be terribly many circumstances where a third party appeal would even be contemplated on administrative grounds or would be successful on administrative grounds. But we cannot deny the possibility that there will be some circumstances where the Native Vegetation Council gets it wrong, and there ought to be judicial review in those cases.

The minister's final point in his summary is to improve enforcement capability, with the maximum penalty for breaches of the act to be increased from $40 000 to $50 000, and improved powers to authorised officers for the purpose of collecting evidence. The opposition certainly supports the improved powers given to the officers. I think that they are very sensible provisions. There is no point in having a law that says that people cannot do certain things if there is no capacity for anyone to gather the evidence that is required for a prosecution to be heard. The fine, which goes from $40 000 to $50 000, we think, is an insignificant change. We believe that the fine should be at least $100 000.

I think that the $40 000 figure has been in the act since 1991—I am not 100 per cent certain of that, and perhaps the minister can correct me when he eventually responds. But $40 000 for illegal clearance strikes me as not a great penalty because, in some circumstances, particularly where viticulture is concerned, the overall costs of establishing viticulture on a hectare of land are so substantial—I think it is something in the order of $40 000 to get a hectare of viticulture established—that a maximum fine of $2 500, I think it is, a hectare, or $40 000 altogether, is minimal, and it may well be worth the risk to unscrupulous land-holders. Having said that, I acknowledge that there are other provisions in the act that would make it a bad shot for a land-holder to clear land, because they can be required, under the act, to replace what they have destroyed, and I certainly support that provision: I think it is well worth supporting.

I have had discussions with landowners and members of the Farmers Federation about the legislation, and I know that some of them take the view that, if the community wishes to impose restrictions on what a landowner can do on his or her property, the community should compensate the landowner for that loss of rights and that, as the community is the beneficiary, it should pay for it. I guess that was the thinking behind the heritage agreements of the mid 1980s, when $80 million was paid. There are no compensatory sums in here, although possibly through some of the funds that are established some help can be given to landowners who wish to protect native vegetation.

I want to put on the record that protecting native vegetation is not just a community goal; it is not just a green kind of goal; it is not just something that is good for the overall environment. It is also good for individual landowners; it is good for farming practices; and it is good for sustainable agriculture. I will briefly read from this year's autumn edition of the *Australian Viticulture BFA News*, Issue 46, which looks at windbreaks and farm productivity. I will not go through all the paper, but I recommend it to the House: it analyses the benefits to farmers—to landowners—of having trees upon their land. The article states, in part:

> Establishing trees and other deep-rooted perennial plants on farms helps produce a more closed water and nutrient cycle, retaining rainfall and nutrients that are at the site and using them productively. Trees reduce erosion, improve water quality by filtering and reduce rising salinity by keeping the watertable low and away from the shallow roots of pasture and crops. In the mulga country, 10 centimetres of topsoil is readily lost from the wind erosion run-off after storms. In South-East Queensland, seven tonnes of topsoil is lost for every tonne of grain produced.

Incidentally, in Victoria and South Australia, where large-scale clearing of land has occurred, the value of treed properties has increased by 20 to 30 per cent. The article continues:

> Animals experiencing extreme hot or cold conditions require more energy to maintain basic metabolism and thus have less energy available to increase body weight.

In other words, if you grow trees, it allows the animal to cool or protect themselves from wind. They do not suffer the extremes of heat and cold; they keep their body weight up, so you have more valuable property. It continues:

> A study in Montana in the USA showed that beef cattle protected by windbreaks were, on average, 16 kilograms heavier than those unsheltered.

That was a study carried out in 1994. The article continues:

> In southern Victoria, it has been calculated that the provision of shelter can increase milk production by 30 per cent. 10 per cent of this is attributed to the greater efficiency of conversion of feed, and 20 per cent to the greater amount of feed available. In addition, the provision of adequate shelter can prevent dramatic stock losses under extremely adverse conditions. Another major benefit of fenced windbreaks and shelter belts is the provision of habitat for wildlife. Many species of wildlife, such as insectivorous birds, eat enormous quantities of problem insects, especially scarab beetles, cockchafers, crickets and grasshoppers. Magpies will take thousands of scarab beetle larvae per hectare from pastures. A single ibis will consume 200 grams of insects a day.

In other words, having trees allows you to have birds; having birds allows them to eat insects; and if birds eat the insects your crops will grow so that you will be a wealthier farmer.

Mr Williams interjecting:

Mr HILL: I look forward to that at some stage.

Mr Hanna interjecting:

Mr HILL: It is a bit complicated. Whether or not those facts are disputed is not terribly relevant: the point is that there is an economic benefit to farmers by having vegetation on their property in a range of assessable ways. Whether those figures are exact for South Australia is not really the point: there are benefits for farmers. I would like now to go briefly through some of the measures in my amendments to the bill. I will talk briefly on the matters about which I am concerned and the areas that I want to raise in my amendments. I indicate that I have some seven pages of amendments and I am pleased to inform the House that the minister has agreed to a substantial number of them but not all of them. We will have some debate and, perhaps, division over a few of those amendments—not every one on which we do not agree but there are a few key issues that I would like to—

The Hon. I.F. Evans interjecting:

Mr HILL: No. I think that on important matters of principle the House is able to express itself in the most perfect way, which is through a division. The areas on which we have some amendments relate to appeal rights and I have indicated that previously. There are three issues relating to appeals: the rights of third party appeals; the rights of third parties to be joined; and also the rights of a third party to initiate prosecution under the act. I suppose that is not an appeal right but it is the right of a third party to initiate action. We will be moving amendments in relation to those issues.

I will also be moving amendments in relation to the ERD Court. We believe that is the appropriate jurisdiction to deal with these matters. The District Court is not the appropriate jurisdiction and we will be dealing with that. I must say that, in all of those areas, the minister and I are in disagreement, so they will be areas in which we will have some contest. On the issue of fines, I have already indicated that the opposition

has an amendment which will increase the amount of fine. We have some amendments on the powers of enforcement and 'make good orders', which the minister has agreed to accept, so I will not go through those issues now.

We have suggested some changes to the objects and much of that the minister accepts. There is one particular issue which I am not sure the minister accepts at this stage but we will go into the detail of that when we get to it. We have a couple of amendments to 'functions of the Native Vegetation Council' which I believe the minister is accepting. We have some amendments to the credit system, some of which the minister is accepting, others he is not accepting.

We have a serious dispute with the minister on the Native Vegetation Fund. The amendment proposed by the minister in relation to the Native Vegetation Fund allows a broad discretion to the fund to use money that has come into the fund for what would appear to be administrative purposes. The criticism here is that that should be a central role of government. It is not something that should be paid for out of the fund: that money should be paid for the pursuit of the goals of the legislation more directly, that is, protection and revegetation. We have some amendments in relation to heritage agreements, and I believe that the minister accepts those. We have an amendment in relation to harvesting of native species and, again, I think that the minister is accepting that.

The original bill includes a series of delegatory powers, which the minister is now withdrawing, and that is consistent with the amendment that the opposition was putting. There are also delegations to local government bodies, and we will be moving an amendment which the minister has accepted and which means that a delegation by the council to a local government authority or a sub-delegation to a body of that council can occur only when the committee or body has a qualification in natural resource management, biology or some sort of scientific expertise.

I also note that the Local Government Association has contacted me—and, I assume, the minister—in relation to this delegation. The association has certain requests in relation to that issue. I did not receive the correspondence from the LGA until after the shadow cabinet and the caucus had dealt with the bill, but I will ask the minister about that. I am not sure whether he has seen the requests. They are fairly straightforward and I am sure that the minister would not have a great deal of problem with them, but I will raise them during committee. There are also some amendments in relation to consent conditions and, again, I think that the minister has agreed to accept those.

There are a few issues on which we disagree with the minister but, in general terms, we are reasonably happy with the majority of the bill. I will briefly go through some of the correspondence I have received in relation to the bill. I have consulted fairly broadly on this measure. I have certainly talked to the Farmers Federation and I have received correspondence from that organisation. I have talked to the Conservation Council, the Nature Conservation Society and a range of individuals and, as I said, I have talked to the local government authority. I think that it is fair to say that most bodies are generally supportive of the direction in which the bill is going. The association believes that it is an improvement.

There are some areas of concern and, as is proper in the House, we will certainly go through that process tonight. For the benefit of the minister, I will read to him the concerns of the LGA in relation to the bill. In correspondence dated 12 November, the LGA states:

> Specific amendments sought.
> Local government has concerns especially where access for utility work, for example in relation to telephone and electricity supply works, could potentially harm roadside vegetation by not informing the land roadside vegetation managers of the intent to enter or undertake works. It would be helpful if utility providers consulted with Transport SA, the Department for Environment and Heritage and councils who would be best informed about the occurrence of incidents in their area.

In relation to clause 10 of the bill, the LGA states:

> It proposes amendments to section 22 of the act without sufficient clarity of roles. The LGA seeks that this clause be amended so the delegation cannot be made without the consent of the affected party.

This is a reference to the delegation of councils. If the minister wishes, after I have finished reading it, perhaps an attendant could photocopy this letter and he can look at it. The LGA is saying, 'If the council wants to delegate to local government, at least let us say we are happy for that delegation to occur: do not delegate to us against our permission.' The letter from the LGA further states:

> Clause 17 of the bill refers to preparation of guidelines in relation to the management of native vegetation. The proposed amendment seeks comment from catchment water management boards where the guidelines relate to land within the area of a board. Considering the impact or need for consistency with development plans this clause should also include a specific opportunity for council to comment, for example, on improved integration of policy consistency where the guidelines relate to the area allocated to individual councils as a relevant authority under the Development Act.

The letter further states:

> The definition of 'dwelling' should be more closely aligned with the development regulations to ensure consistency and avoidance of loopholes between development approvals and native vegetation clearance consent.

That is what the local government authority wants. I will have that letter photocopied so that the minister can look at it. It seems to me that the requests are reasonable but I am not sure how they pan out. I have not had a chance—

The Hon. I.F. Evans interjecting:

Mr HILL: You have done that. I would like briefly to refer now to correspondence I have received from the Conservation Council, which includes legal advice from David Cole to the Conservation Council. Solicitor Cole has made a number of comments about the bill. The opposition has picked up some of the issues that he has raised in its amendments, in particular, the issue of delegation to which I have already referred and which has been picked up by the minister. The Conservation Council is concerned about harvesting of native vegetation and believes that there should be more scientific precision of the term 'lasting damage'. If the term has not been defined under draft regulations, it probably should be.

In relation to the application of the ERD Court for enforcement, David Cole states:

> There is no proposal to allow third parties to bring action in the courts to remedy or restrain a breach of the act. (See section 24 of the bill.) This right is confined to certain bodies and persons with an immediate interest in the issue. Although the ERD Court may, in determining the matter, hear from third parties, they may not initiate proceedings.

Then it gives some case law on that issue. He concludes in that section by saying:

> It is my view that if the Development Act allows any person to bring an action to enforce compliance with that act (and section 85 is the relevant section), and the Environment Protection Act allows third parties with the approval of the court to enforce the act (and

section 104 is the relevant section there), then there is no sound argument for not allowing the same or similar rights under the Native Vegetation Act.

I think David Cole makes a very good point. If the Development Act and the Environment Protection Act allow third parties rights under those circumstances, why does the Native Vegetation Act not also allow it? He recommends that the act should be amended to include a clause similar to that of section 85 of the Development Act, and the opposition has picked up that recommendation. In relation to appeals, Mr Cole says:

> The right of appeal introduced by proposed section 33G is, in terms of the bill, open ended and is not confined specifically to appeals based on administrative review principles such as relevant or irrelevant considerations, reasonableness, procedural conformity, etc. Under the bill, appeal rights are not confined to the jurisdiction of the administrative and disciplinary division of the District Court.

And I think that this is an important point. He continues:

> It is my view that, as currently expressed, the appeal provision allows an applicant to argue before the court that the appeal should be heard as to the merits of the decision of the council. I believe that as presently framed it would be open to the District Court to hear an appeal on the merits.

That is not what the government says it wants. It says that it is a judicial review of administrative procedure. I have an amendment that would make that absolutely clear, and I am pleased to say that the minister has agreed with that amendment proceeding. That will fix up the issue, so it will be appeal on administrative grounds only. Mr Cole also states:

> The relevant appellate court should be the ERD Court. I can see no point in retaining the District Court when the ERD Court, as a specialist court, is in a better position to determine, for example, what is a relevant or irrelevant consideration and what is reasonable or unreasonable in the context of native vegetation clearance.

That is the point that I would take up. The ERD Court has been set up. Why is the government undermining what has been set up as a specialist court by giving this job to the District Court? I understand that the Attorney-General has a kind of black letter law approach to this and wants things neatly arranged so that all appeals go a particular way, but it just makes a nonsense. We have specialist courts: if he does not like specialist courts, he should get rid of them; do not have them there and not use them. You either have them or you do not: you do not have them and not use them. The final point that Mr Cole makes is as follows:

> Even in the relevant court act or the Native Vegetation Act there should be an explicit opportunity for third parties to apply to the court to be joined in any appeal proceedings under the Native Vegetation Act.

It should be noted, as I have said before, that the Environment, Resources and Development Court Act allows such applications. That is a measure with which I agree, and I have on file an amendment which would achieve that end. It could well be that, in a case where a landowner is appealing a decision of the Native Vegetation Council, based on bad administrative procedure, there may well be other bodies, such as the South Australian Farmers Federation or another landowner, who may wish to join the appeal to be part of the appeal process so that they can substantiate the claim made by the individual landowner with other information. I think that is a pretty reasoned and sensible kind of set of recommendations from David Cole and the Conservation Council.

I turn now to correspondence I received from the South Australian Farmers Federation, which wrote to me on 15 October 2001. I had written to it and indicated that I was seeking its advice in relation to this bill. It replied, in part, as follows:

> We believe the amendment bill does in part provide land-holders with more flexibility to manage native vegetation through increasing flexibility and exemptions relating to grazing and regrowth.

I guess that really goes to the regulations, rather than the bill itself. The letter continues:

> We support the concept of the environmental credit scheme, although we have some concerns over the complexity and practicality of the scheme in its current form.

As I have said, I share some of those concerns and will be seeking some further information on that. The Farmers Federation also raised a number of other concerns, including the proposed fee structure and the elimination of conciliators, because the Farmers Federation quite liked the conciliatory process. Currently, if you are not happy with a decision of the Native Vegetation Council, you can have it conciliated. This bill removes that process and puts in a legal appeals provision.

I guess you cannot have it both ways: you either have conciliation or you have an appeal process, and the bill goes for the appeals process. There are then some issues to do with reasonableness of clearing and fencing, although they go to the regulations rather than to the bill, and that is not before us today. I have also had correspondence from Mr Andrew Black, a former member of the Native Vegetation Council. He has made some comments to me that I think are worthy of being presented to the House, although I will not go through everything that he says. He writes:

> I am also in agreement regarding section 33G. I was completely unaware that the appeal process was intended to be through the District Court. I, and presumably other members of the Native Vegetation Council, had assumed that this would be with the ERD Court. It is worth noting that the fine details of these amendments were not presented at the Native Vegetation Council. Most of the ideas have been discussed with the NVC, which has mostly approved them, but I think it strange that the body that would be required to deal with it under the amended act was not given the opportunity to advise the minister about its potential workability.

It is interesting that the members of the Native Vegetation Council were not told that it was going to be the District Court, and they certainly oppose that. Mr Black also refers to proposed new section 21(6)(b), to which I have also previously referred. This section allows a fund to be used for administrative purposes, and he states:

> This has been included so that an inadequately funded department can apply pressure to an inadequately funded council to use the Native Vegetation Fund in order to employ persons that should be available in the department. This has been tried already, and the NVC resisted strongly. The fund is already inadequate and must not be used for this purpose.

The final point Mr Black makes is in relation to the credit system. His concern is that the way the credit scheme will operate will mean that previously voluntarily protected land can be used to offset future clearance. If that happens, then there will be a net loss in the protection provided. There are great concerns about that, and that is one of the concerns that has been identified by Mr Black.

I will finish with a quotation from Michelle Grady, the Executive Officer of the Conservation Council, who emailed me last week about the act. In relation to the third party matter, she states:

> We are firmly of the opinion that the matter of third party appeals rights is a critical matter, not just for the environment but for democracy overall. To afford one interested party legal rights at the expense of the other is retrograde, no matter what act of parliament it relates to. The integrity of the act is at stake on this matter. We

have held back our opposition to the provision of any rights of appeal, land-holder or otherwise, on the basis that we have had a good hearing from key MPs in the matter of providing a balancing right of appeal for the general community. We urge you to vote in favour of third party appeal and enforcement rights.

I know that the minister is not in favour of this, but I would appeal to independently minded and independent members of this House to support my amendments in relation to that. It is a matter of fairness. It is a matter of democracy. You are not giving much away—just making the act more balanced if you support that recommendation.

I know that I have captivated the attention of the House for almost an hour, but I have come to the conclusion of my second reading comments. I look forward to the contributions from members opposite who have interests in land management issues. I am particularly looking forward to hearing from the member for Schubert and the member for Stuart, and other members opposite. I very much want to hear of their support for the measures in this bill. As I have said, on the whole, we support it. There are some provisions about which we have some concerns and we will get into them, no doubt, in the near future.

Mrs PENFOLD (Flinders): The bill we are now considering is a further refinement of the legislation generated by a Liberal state government 21 years ago. It is just one more indication that the government has had a positive and, where appropriate, active approach to environmental issues long before the matter became a populist concern.

This state has a national and international reputation for leadership in the management of native vegetation. The impact of rabbits and land clearing was one of increasing concern 30 or so years ago. It was recognised that the loss of the original native vegetation cover brought about a significant loss of native plants and animals as well as causing land degradation and adversely affecting our critical water supplies. While we enjoyed, and we still enjoy, a range of national and conservation parks it was decided that protection and conservation of biodiversity could not be confined to these parks alone. The launch of the Heritage Agreement Scheme in 1980 by the then Liberal state government was a visionary and progressive move that, at the moment, makes us about a generation ahead of the eastern states in this field.

The Heritage Agreement Scheme gave landholders a system whereby native vegetation, especially remnant native vegetation, could be preserved. The landholder was given selective incentives to retain and manage the areas in return for entering into a heritage agreement, generally lasting in perpetuity. It has been a distinct success. The legislation also focused attention on the need for revegetation. In the latter half of the last century overseas visitors commented approvingly on the lines of scrub along the roadsides on Eyre Peninsula. It was such a common characteristic of our environment that it went unremarked by the local population. Now the same characteristics of roadside vegetation is becoming more and more common across the state as roadsides are revegetated.

While concentrating on native vegetation, it is an appropriate moment to mention the damage caused by rabbits in the past, and will again should control measures fail. People today are unaware of what it was like to try to live with the millions of rabbits that infected all the land and to try to make a living from that land. Farmers did clear land but much of it was cleared to remove infestations of rabbits that could not be controlled otherwise. Rabbit trappers towards Elliston on the West Coast of Eyre Peninsula would take 3 000 to 5 000 rabbits a night without affecting the population. Our farm was on the Elliston to Lock road and I remember well the difficulties encountered trying to control the rabbits and save the crops.

A rabbit 'drive' was described in one of Arthur Upfield's series of books featuring the Aboriginal Napoleon Bonaparte as the detective hero. A wire netting enclosure was set up and rabbits driven into it and killed. I have seen photos of this being done. There is no knowing what or how many native species may have been wiped out by rabbits. It is imperative that this pest is kept under control and, where possible, eliminated.

The calicivirus helped to complete the work started by the myxomatosis virus by dramatically reducing rabbit numbers already depleted from the plague proportions that I remember from my youth. Natural regeneration, particularly of the sheoaks, along the roadsides has been spectacular. Thousands of young trees are growing where once only aged oaks grew. Already, people are forgetting what it was like only a few years ago. Excellent work is being done by national parks personnel, farmers and others such as the Rotary and their fox baiting program to eliminate feral animals. Feral plants such as bridal creeper, allepo pines and boxthorns are also being targeted for control and, where possible, eradication. In addition, seed collection from native plants in a locality have been mixed and directly seeded onto roadsides. It is fulfilling to see the progress of these stands over the years. Members of Landcare groups, friends of parks and ordinary individuals working together and alone are making a difference.

Revegetation is also being used to stop the spread of land salinity and to reclaim land where salinity has occurred. Land and water salinity is one of the biggest challenges facing Australia. South Australia is a leader in the field of rectifying damage done to the environment in the past. We have only to look at the way in which the state government has focused attention on the River Murray to see positive reparation being done. Again, work done on Eyre Peninsula in reclaiming salt-affected land is watched across Australia and is considered an example for other states to copy.

An appeal process and enforcement of judgments are included in the bill. Appeals are essential for this legislation to work fairly. Disagreements with decisions of the Native Vegetation Council are one of the most common complaints I receive concerning native vegetation. Some of the council's decisions have given rise to perplexity; however, the majority of disagreements have been resolved through discussion of the issues. It is to be hoped that the courts operate with commonsense. Local government councils and landowners have been frustrated and alarmed by some decisions that impact on safety.

We are fortunate to have large trees in parts of my electorate. Unfortunately, limbs sometimes grow out across the road, and cutting back the branches for safety purposes has, at times, become a nightmare. Insistence on using a hand saw and specifically not a chain saw in vegetation overhanging on highways is just one instance where commonsense needs to prevail. The accommodation on roads of the larger and more efficient equipment that is being used by farmers also has to be addressed. Legislation obviously has to be put in place; however, where it is restrictive and inflexible to the point of absurdity it is counterproductive. It will be interesting to see how the environmental credits work in practice. The proposal could give some much needed flexibility to the

retention, management and clearance of native vegetation. I support the bill.

Mr WILLIAMS (MacKillop): I rise to support the bill. It gives us the opportunity to present a breath of fresh air into the native vegetation regulations in South Australia. The regulations over the last period have been the bane of many landowners.

Mr Hill interjecting:

Mr WILLIAMS: Regulations and legislation, for the sake of the member for Kaurna. The legislation has been the bane of many landowners, and I think it would be much better if I use the term 'land managers', because that is what landowners are in South Australia today. It was very interesting listening to the contribution by the member for Kaurna this evening. One of the things that it indicated to me was that one of the great failings of the Labor Party, the Conservation Council and the Democrats with regard to environmental matters is that they have no practical knowledge or understanding of what actually happens with regard to land management. Their understanding is largely derived from the reading of books. It is an academic-type understanding and has very little to do with on the ground, practical land management. I believe that this bill will drive land management forward with regard to native vegetation in South Australia and give us the opportunity to maintain the biodiversity of our native flora and fauna for generations to come whereas, in my opinion, the present legislation and regulations are very short-sighted.

They maintain what is here today but do nothing to make sure that today's native vegetation is able to regenerate in a sustainable manner for generations to come. I talk particularly of the move to offer credits to land managers who do the right thing by the environment. This is one of the problems of the Native Vegetation Act; it has been all stick and no carrot. I can cite many cases of landowners—land managers—who have spent the best part of their working life building up and working for the environment only to be thwarted by the Native Vegetation Act as it stands, at a particular time when they wished to do some minor clearing to maintain the viability of their property.

Indeed, their ability to maintain the biodiversity and their ability to maintain native vegetation on their property always depends on their property being economically viable. If a landowner cannot make a living for himself and his family off the land that he controls and manages, he certainly will not be very interested in maintaining the environment and maintaining the native vegetation. If he is encouraged, given incentives and taught how he can work and maintain his farming enterprise—to maintain his viable business at the same time as enhancing the environment—I suggest that in most cases the landowner/land manager will take the appropriate action which will not only look after the environment and maintain the biodiversity but at the same time at least maintain, if not enhance, the viability of the business enterprise he is running on the property.

The member for Kaurna quoted from a document that stated that stock performed better where there are windbreaks. For the member for Kaurna's information, I can tell him that, having been a practical farmer and practising livestock producer for most of my working life, in winter conditions in the South-East, 60 per cent of the food intake of the animals is used merely to keep the animals warm. If you can help them keep warm by having scrub, windbreaks, etc., you can indeed increase the productivity of the animals substantially. He mentioned that cattle were 16 kilos heavier. However, he failed to say what age animals they were and how long it took them to become 16 kilos heavier, and that is exactly the point that I was making earlier when I said that the opposition, unfortunately, has no understanding. I am not having a go at the member for Kaurna here—I am just saying that he does not have the experience of a land manager and a livestock producer to understand the intricacies of raising livestock and actually making a property economically viable at the same time as looking after and, indeed, enhancing the native vegetation on the property.

I will talk tonight particularly about the system that this bill seeks to introduce involving environmental credits. I think that the idea to put this in the bill came largely from me and the Hon. Angus Redford from another place. In discussions—

Members interjecting:

Mr WILLIAMS: I want to put that in because I think that both the Hon. Angus Redford and I would not be recognised by a lot of our colleagues in the parliament as being particularly green, but therein lies the misunderstanding of what looking after the environment is all about. I would argue that nearly every farmer cum manager today is quite green, if not very green. The member for Kaurna mentioned that it was only recently that farmers were out there clearing the landscape as rapidly as they could, but he failed to say that it was governments—and it has been a long time since governments in this country were controlled by rural constituencies—controlled by city constituencies which encouraged farmers to clear the land because they saw the economic drivers in clearing the land. That is what caused the clearance of the landscape right across this nation, not just in South Australia. It was not the farmers out there clearing the land because they wanted to clear it: it was because they were driven to it by economic imperatives.

All we have to do is give the right economic imperatives and they will go back to looking after the landscape, including the fauna and flora that is there. Because they are my peers, my colleagues with whom I have worked for most of my life, I know the way they think and I know the association they have with their land, and I believe that it will take very little incentive to get them not only to look after what is there but to improve what is there and to ensure that it is regenerated in a sustainable manner for the future.

The problem we have at the moment is that, in protecting what is there, we put land managers off side. They are a resourceful bunch and I have had plenty of representations from constituents in my electorate in the South-East who for one reason or another want to clear a patch of native vegetation, be it to put in a centre pivot or a vineyard—I guess they are the two instances which have been the most predominant over recent years. For those who do not understand, a centre pivot is an irrigation system which is centred at one point in the paddock and has a long arm like a sprinkler which describes a circle containing 100 or sometimes 200 acres of land. The machine has to describe the whole circle to be efficient and, time and again, I get representation from constituents who say that they requested permission to remove five, eight or 10 trees and received permission to remove half or two-thirds of that number and were forced to leave one or two trees there. It is an absolute nonsense.

Those same land managers would have been quite prepared to lock up a portion of their land and even replant a corner of their paddock, but they were told that they could not remove one or two trees because, either they were seen

as outstanding examples of their species (and I will come back to that in a moment) or they may have had some habitat value. The people concerned were made to protect those one or two trees at the expense of planting and maintaining an area of some acres with hundreds, or even thousands, of young, virile trees to replace them.

I mentioned that I would come back to the point that some of these trees that have been retained have been seen as outstanding examples of their species. The Native Vegetation Act, from memory, names only several species, one of them being eucalyptus camaldulensis, the river red gum, which predominates right across the wetter areas of the South-East. It is extremely difficult under the act, if not impossible, to remove a red gum. Quite often, in order to build a new vineyard or to put in a centre pivot, there may be several red gums which, to maintain the viability of the proposed project, need to be removed. Being very resourceful, the farming community is able one way or another to get around the problem, and more often than not it is the environment that is the loser, not the winner, out of the present act.

I can cite one example of a land-holder (although I will not be mentioning his name) who, over the last 20 or 30 years since he had owned the particular property, had been very proactive in regenerating native vegetation. He had locked up quite substantial tracts of his farm and had direct drilled red gum seed collected from the local trees—so it was the provenance of the local area—fenced them off and excluded stock from the area, and he had some trees there that were over 20 years old. In one instance, he wanted to remove two quite mature red gums in the Padthaway-Keppoch area. They were in an area that was being flood irrigated to grow phalaris seed and the flood irrigation was severely affecting the health of these trees, which were literally dying. He was prevented from removing them, and he said to the authorities, 'I have planted all these trees and I have been working to restore red gums in a managed way so that I can maintain the viability of the property at the same time as maintaining the biodiversity of the area.' The authorities said to him, 'Sorry, that's history; we want you to actually to do something in the future if you want to remove one or two trees.'

That is one example of why and where the idea of environmental credits came from. We are literally discouraging land managers, certainly in my electorate and I presume and expect that it has happened right across the state, from being pro-active towards the environment because they are sitting back, having now seen what has happened to their neighbours and contemporaries and saying, 'It would be great along that creek bed down the bottom end of the farm to direct seed some of the local species and form a bit of a forest down there; it would be good for the farm, would provide a wind break and stop erosion in the creek.' But, by and large, they say, 'But I'm not going to do that because in another four or five years time I or my son might want to put a centre pivot out in that paddock and remove those two trees in the middle of that 150-acre paddock,' so they do not do it and do not plant the trees.

If the parliament accepts these amendments, they could go ahead, do that positive work for the environment, fence off an area, exclude stock from it and plant it down, make corridors between remnant vegetation patches and do all those sort of things, knowing that at some time in the future if they wish to do something different on their farm, and were required to remove a small patch or a few specimens of native vegetation, they would indeed be allowed to do it because they had built up credits. That is something for which the act has been crying out for a long time.

I interjected when the member for Kaurna made the claim that overstocking in the South-East was akin to de facto clearing, and I called on him to give examples. It was an outrageous claim. I would dearly like to hear examples of that happening. I do not believe, as someone who has run stock in the South-East for a long time, that the sort of vegetation we have in the South-East can be cleared in any substantial way by putting stock on it as I think the stock would die before they cleared the vegetation.

Mr Hill: I have seen it.

Mr WILLIAMS: The member claims he has seen it. I hope he passes on some details of that to me. I would be delighted to know because, if stock can thrive to the extent where they will outperform the native vegetation in the South-East, it would be a great breakthrough and we might find that more farmers are planting down native vegetation and running their stock on it, as I understand that the South-East native vegetation provides so little nutrition to stock in such harsh conditions that the stock would die before the native vegetation did.

I move on to the matter of which court will hear what. Two reviews have been done: one of the act and one of the regulations. In particular, I refer to the Dunn review into possible amendments to the act. The member for Kaurna suggests that that recommends that breaches of the act should be handled through the ERD Court. My reading of this bill is that that is what will happen.

Mr Hill interjecting:

Mr WILLIAMS: We are talking about the fact that breaches of the act will, through this bill, be handled through the ERD Court.

Mr Hill interjecting:

Mr WILLIAMS: The member for Kaurna talks about the appeals system. As the bill sets out, my understanding is that the only cause for appeal would be on process. The member for Kaurna made much of the fact that the ERD Court is a specialist court and that is indeed what it is. It is a specialist court not on process but on ERD matters. I suggest that the Administration and Disciplinary Division of the District Court is a specialist court on process. The bill is written to allow appeals on process only.

The member talked about amendments that he will move to allow appeals not only on process but also on merit. The government's position is that, having put the case of merit or otherwise already through the ERD Court, it should only be necessary and only allowed to have appeals on process, and the opposition will be going backwards—

Mr Hill: You misheard me—I agree with that.

Mr WILLIAMS: You agree? I cannot understand why you would want to have appeals on process handled by the ERD Court unless you wanted to be mischievous, which I suspect you might be, because that would allow third parties to enter into the appeal process.

Mr Hill interjecting:

Mr WILLIAMS: Again, that is something which is mischievous, because I cannot see any point in having a third party involved in the process.

Mr Hill: The Farmers Federation?

Mr WILLIAMS: I cannot see why even the Farmers Federation would have any interest in being involved in the process. The Farmers Federation would have an interest only on the matter of merit of the case: whether the case should have been upheld or dismissed by the court. I am arguing

against the member for Kaurna's intention to introduce amendments to change that part of the act. The bill is in fact written very well and will produce substantial changes to the act which will indeed give win/win situations to the environment while at the same time allowing land managers cum farmers to get on with the business of making a viable income for themselves and their family off the land in what are often very difficult situations and circumstances. I commend the bill as it is to the House.

The Hon. R.B. SUCH (Fisher): This is important legislation and I commend the minister for bringing it to the House. We have all known for a considerable time that the Native Vegetation Act 1991 needs review and some changes. That prompted me earlier this year to introduce a private member's bill, which is still before the House and which addresses part of the concerns that have been raised by many people in the community. When I took up this matter with the South Australian Farmers Federation back in May, they wrote to me and indicated that 'they were disappointed with the level of illegal clearance occurring in this state'. They also indicated that there were problems associated with the fulfilment of conditions imposed as a result of the current act and argued that the act needed to be revised. Here we have the bill in front of us.

It is fair to say that the record in South Australia in regard to native vegetation retention has been bad—in fact appalling. I do not seek to point the finger at any group or person. I have to acknowledge that my relatives, past and present, have been significant contributors to that. My forefathers settled in Upper Sturt back in the mid 1880s and certainly contributed to the removal of some vegetation there and elsewhere in the state. Thankfully, there has been a dramatic change in attitude, particularly amongst the rural and farming community in respect of the need to conserve native vegetation. People need to remind themselves of the reasons for conserving it.

I take as the first point the intrinsic value in native vegetation. There are a lot of other reasons, including the need to minimise salinity and the possible medicinal uses of native vegetation. Sadly, we have lost many species of not only flora but also fauna, and heaven knows what we have deprived ourselves of in terms of some social benefit as a result of that ignorance and rapacious attack on the natural environment.

There has been a quantum shift in attitude, particularly amongst farmers. I can recall in the 1960s and early 1970s a clearance mentality amongst some sections of the farming community and that, I am pleased to say, has given way to a recognition of the importance of conservation. Indeed, I was heartened last week to read in the *Mount Barker Courier* (which is one of the best papers in this state) an article relating to a farmer at Bletchley. The article states:

> Michael Eckert is going against the trend of his forefathers. Instead of clearing native vegetation, the fourth generation Bletchley farmer has planted tens of thousands of indigenous trees and shrubs.
>
> Mr Eckert, along with some dedicated helpers, intends to plant many more in a bid to further link areas of native scrub in the area.
>
> The landowner, whose family settled in the district in the early 1860s, is among a number of people revegetating strips of land to form revegetation corridors, which join patches of valuable remnant bushland.

The article goes on to point out the achievements of Mr Eckert and others, and highlights the fact that four areas of high quality native vegetation totalling 16 hectares have been fenced off, linked together and joined with others on nearby properties through nine kilometres of corridors.

This is a positive example and illustrates the point I made earlier; that is, amongst our farming community—and Mr Eckert is just one example—there is now a recognition of the importance of conservation. I make the point that much of the illegal clearance which has occurred in recent times, and sadly still occurs, is not done by farmers but by what I would call cowboys who have come into an area. They are not the farmers resident in the area, but are cowboys who are looking to make a fast dollar, and they are the ones who are causing significant damage. Indeed, I have been approached by many farmers on the Fleurieu Peninsula and elsewhere who have been horrified at some of the behaviour of these corporate cowboys who have little regard for native vegetation, or anything else for that matter.

What we are left with in South Australia as a result of extensive clearing—and you only have to look at areas such as the Yorke Peninsula and the Mid North to see how devastating that clearance has been—is basically islands of habitat. That puts creatures at risk, and obviously puts various plants at risk as well. There is much to be done in terms of rehabilitation and replanting, but people should not fool themselves that replanting is equivalent to the retention of original virgin bushland. There is no comparison between the two and anyone who uses that argument is fooling themselves and trying to fool others. In effect, illegal clearance (which still occurs) is a crime against the community in the true sense of that term. It is a crime against the present generation of inhabitants, and in particular it is a crime against future South Australians, and it should be viewed in that light; that is, as a very serious breach.

I accept the point made by the member for MacKillop that you have to have commonsense provisions because there will be situations—he referred to the centre pivot—where you need to make some adjustment for that provided there is a proper offset or compensation on that property which results in a net gain to the environment. I think that is one of the words which could profitably be included in this bill; that is, the word 'net'. There should be a net gain when you are talking about substitution of areas or clearance which is approved that occurs on a particular property.

I was heartened that the minister was gracious enough to include some provisions from my bill, in particular relating to what is called the 'make good provision', because that is the fundamental point. If there is no economic gain from clearing illegally, then people are just not going to do it. I am pleased that this bill does incorporate aspects of the make good provision; that is, if people clear illegally, they can be required to replant and therefore will not gain economically from their illegal activity. To me that is the most critical aspect in terms of protecting native vegetation. The financial penalties are secondary, because, in many cases, the people doing it will make a greater return than the penalty, so there is an incentive to break the law. I am delighted that the minister has done that, and once again I acknowledge his willingness to incorporate that aspect into the bill.

We have within this state some excellent national parks, but members need to realise that most of our national park area is in the low rainfall part of the state and not a lot of native vegetation has been retained in the higher rainfall areas. It is critical that legislation help protect, preserve and enhance native vegetation, particularly in the higher rainfall areas. I have written to the minister on two occasions commending him for making additions to the national park

system. Of course, that is not a substitute for good native vegetation retention on private property, but it is a supplement. It is an additional aspect and it is a very important one. I have commended him for his recent announcements and, to his credit, I believe it is something that history will record very favourably in regard to his time as minister.

Many people in the community, in fact the majority according to surveys, regard trees as the most significant aspect. That is understandable because by their very size they tend to stand out. What is often ignored, though, is the importance of the understorey—the shrubs, the bushes that are usually beneath those trees. For example, we often hear people in areas of the Adelaide Hills say, 'I have saved some of the larger trees' but they have removed all the understorey. In that respect they have destroyed the potential for maintenance of the ecosystem. We need to move beyond what I would call tree worship (as important as it is to acknowledge the role of trees) to ensure that we do not overlook the significance of the understorey, including native grasses and the smaller plants and shrubs.

Some other aspects are vital, too. One is maintenance. Wherever you travel throughout this state you see the folly of early settlers and more recent activity where we have weeds and other feral plants infesting a lot of our areas of native vegetation. Even where we have been able to save native vegetation, it is under threat because of the introduction of weed species and feral plants. The great hope is that through biotechnology we may be able to come up with some remedies for the growth and expansion of those weed species throughout much of South Australia. Plenty of examples come to mind, including things such as bridal creeper. I realise that work is being done on that very plant at this moment in terms of trying to come up with biological solutions.

My support for this bill is evident, but I have some concerns in relation to a couple of aspects. I would have to put a question mark alongside the proposal for environmental credits. I do not want to be negative, but I am not quite sure how it will work in reality. I hope it will work. I trust it results in a net gain to the environment, but I would have to say that, at this stage, I would have some reservation about the effectiveness of an environmental credit scheme, but that is not to say that it is not worth trying and considering, but I think only time will tell and we have a proper evaluation of whether or not the credit system will work.

Another aspect that I think needs attention is the question of third party appeals. I know that the minister is arguing that the third party appeal is unnecessary and that only those who are direct land-holders should be able to challenge on the basis of process. I look forward, in the committee stage, to some questioning in relation to the whole issue of third party appeal. Certainly, I do not favour frivolous or vexatious appeals, but I think that we have to look at fairness in the system and whether, if we allow some people to appeal, we should, indeed, allow others—or some category of others—to at least also have that opportunity.

I would like to conclude by saying once again that South Australia has led this nation in relation to sensible management of native vegetation and the retention of native vegetation. No-one would argue that the present act is perfect—that is why we have this proposal before us now, to try to make it work better. But I think that we have the opportunity, with goodwill and the commitment of the farming community, in particular, to ensure that future generations of South Australians will be able to acknowledge that this generation did something positive towards saving what little is left of our remnant vegetation. I commend the bill to the House, and I look forward to vigorous discussion during the committee stage.

Mr HANNA (Mitchell): I will speak briefly in support of the bill. There are a lot of good proposals in it and, of course, the government will receive bipartisan support in relation to those aspects. But it could also be a lot better. If the amendments of the member for Kaurna (the shadow minister for the environment) are accepted, the bill will be vastly improved. In terms of the features of the bill that are to be applauded, there are measures to limit broadacre clearance and to promote biodiversity and revegetation. I do not have any problem with the user-pays philosophy attached to data collection, because if we do not have data in respect of native vegetation we will not be able to effectively assess whether or not this bill is working: we will not be able to assess what more needs to be done.

However, there are a number of areas in which the bill falls short. For example, in relation to the forum for resolution of disputes, it does seem to me, as it does to the member for Kaurna, that if we are to have a specialist court such as the Environment, Resources and Development Court, we really should have matters arising from legislation such as this referred to that court. After all, it really is the purpose of the court to hear matters such as those pertaining to native vegetation. I suspect that, if the current Attorney-General (Hon. Trevor Griffin) were here for another eight years, we may not even have an ERD Court by the end of that period. However, we do have the court at present, and it does a lot of good work, it has value and it is the appropriate forum for matters under this bill to be heard.

There is also an important philosophical difference, it seems, between the government and the opposition in relation to the position of third parties concerning disputes that might arise under the bill. By 'third parties', I mean those interested parties who may not be directly affected by vegetation clearance. Obviously, there are lobby groups and a whole range of community groups and Adelaide-based groups that might be concerned with the strategic effects; the overall impact of native vegetation clearance. It is about time we recognised that clearing trees on one particular farm does not just affect that farm: it might affect the whole area as far as the ecology of a region is concerned, or it might even affect a whole state, if we are talking about widespread clearance. Indeed, when one thinks of the land clearance for a substantial distance either side of the Murray River in terms of 19th century settlement and post-war soldier settlers in the 20th century, one can see that most of the population in South Australia has been severely affected by the ignorant practices of the past.

In respect of third party rights there are, essentially, three matters to be considered. The first matter relates to the circumstances in which third parties (as I have described them) might be able to make submissions in legal cases, even though they are not directly affected by the outcome of the case. Third parties in such matters might be able to speak in an expert manner about the broader impact of a particular attempt to clear land. Secondly, in relation to appeals from court decisions, it is important that third parties have rights in that regard. Very often, individual litigants will not be bothered to pursue matters, even though there is a broader social interest in the law being clarified on a particular point. One has to bear in mind that the legal costs and risks

associated with appeals will be a natural deterrent and, in my submission, it should be left to those factors to regulate the process rather than shutting out third parties altogether.

There is also the matter of enforcement. For a long time now, perhaps forever in the past, there has been insufficient enforcement of breaches of the various regulations and laws dealing with land clearance. The same applies to all manner of offences in relation to the environment, both urban and rural, but, in particular, with respect to native vegetation, where we are talking about offences that might occur very distant from centres of population—distant from Adelaide, certainly, but also distant from towns where, if there are any inspectors or departmental officers residing, they would not be further afield than that. If offences are occurring in remote areas, if the funding for inspectorial services is not considerably increased, it makes sense to allow third parties to have a role in the enforcement process. The fact is that there are probably hundreds of volunteers who would be willing to consciously be on the lookout for transgressions. If these kinds of resources, for example, are utilised, we can have enforcement of the legislation in a way that would not be provided by the existing resources allocated to inspection and enforcement. So, there are some problems with the bill.

South Australia has had an unfortunate history with respect to native vegetation clearance, and we are well and truly suffering the consequences in terms of our water supply, our salinity problems and so on. But this bill does go some of the way to improving that situation. It is high time for reform in this area. I am very pleased that the opposition has seen fit to support a lot of the measures in this bill, and we simply seek to take it further in a responsible and balanced way, but certainly with a view to securing the long-term future of South Australia, not only for producers in primary industry but also for all South Australians who depend on the prosperity of the land and on the state's water supply.

The Hon. D.C. WOTTON (Heysen): I want to speak only briefly on this legislation. I have enjoyed hearing the contributions from members who have spoken in the debate, and I will certainly be interested in the deliberations that occur during committee but, as I will be in the chair, it will not be possible for me to participate. I support the bill. Members have said that it does not go far enough, and perhaps there are areas where I would agree that that is the case. It has always been a difficult area in which to satisfy everyone. I think that a certain amount of commonsense is required in this area as, of course, is the case in so many other areas.

I have, I suppose, along with other members of the House, received correspondence on this issue. In my own electorate I have received correspondence from a very broad spectrum of opinion—from those who believe that the bill needs to go much further to those who believe that it has gone too far already. I have also received a letter from the Conservation Council, and the member for Kaurna (the shadow minister) has already referred to that correspondence. I am aware that a number of the amendments that the honourable member will introduce through the third reading stage cover a number of the issues that are raised in this correspondence.

I know that the Conservation Council is very genuine in its concerns about which it has written to us. As I said earlier, I will be interested in the debate that will take place in committee. I must say, though, taking into account everything that has been said thus far, to a large extent I agree with the member for Fisher. I still believe that this state leads Australia in having the most enlightened legislation in this respect. As I have said, we could go a lot further but it is good, commonsense legislation and, provided that we can hold onto that commonsense and the strength of the legislation, I think we will be in good hands.

The other aspect that continues to impress me—while recognising that there are concerns (and I share those concerns) about the amount of vegetation that has been cleared over a period of time and the ramifications that have emerged from that, particularly with respect to management of our water and our catchments—is the number of volunteers and organisations that continue with the planting process. One tends when one is about to leave this place after a very long time to look back over old files. One of those files I looked at the other day goes back to 1980, when the government, in which I was Minister for Environment and Planning, introduced the Greening of Adelaide program.

I was interested to look at some of the old photographs that were taken as part of that program from the top of the MLC building—which, at that stage, was a very high building—looking around the city. I would love to be able to get back up there now and compare the vegetation that has been planted in the city itself. I can remember having huge discussions, debates and arguments with the E&WS Department, which refused point blank to have trees planted in Hutt Street, for example, because of the huge impact they would have on water mains, etc. You can now drive down that boulevard and appreciate so many other parts of the city, the metropolitan area and areas across the state.

One can appreciate what the organisations are doing throughout South Australia, particularly in the regional areas, and I mention Greening Australia, Trees for Life and the service clubs. Rotary, the service club of which I am a member, has had a long association with tree planting in this state, and all those people are to be commended.

The other file I looked at with some interest was again a file from 1980, and the press release at that time regarding it states:

> The state government, through the provision of selected incentives, is to seek the cooperation of the public in a program aimed at retaining significant areas of native vegetation on private land. Substantial funding provided—

and I think that back in 1980 it was about $150 000, which seemed to be a hell of a lot of money in those days—

> and in accordance with policy will encourage land-holders to retain appropriate areas of native vegetation. The scheme is seen as an essential complement to the state-owned parks and reserve system.

And so the release goes on. Of course, that was the birth of the heritage agreements program. The minister has just handed me a note because I was interested to know the number of hectares and heritage agreements involved. There are now 1 230 heritage agreements in place covering some 570 000 hectares of native vegetation. I am still very proud of that program. It came, of course, at a time when huge debates were taking place about the need to introduce a form of retention of native vegetation in this state, and it was and has been very well received. Of course, it was the forerunner of the Native Vegetation Act, which was introduced by the Labor Government in 1985.

I know that, at that stage, people in my department were champing at the bit to have legislation introduced, but we determined that we should try to move in a voluntary capacity on private land. That is what the heritage agreements program was all about and, of course, the Labor Government, which took over from us in 1982, went about bringing down that

legislation. With 1 230 agreements in place covering 570 000 hectares under those agreements, it has been a remarkable success, and that success is due only to those private landowners who have felt that they have been able to do it.

I suppose that if I do have any concerns about that program it is that we have not been able to keep up with the incentives—the cash—because I know of so many people back in the 1980s who put aside significant areas of land on the understanding that they would receive funding for fencing, reductions of rates, and things like that. Unfortunately, we have not been able to keep up with those incentives which, of course, is the bottom line as far as this program is concerned. I am pleased to be able to commend the minister for introducing this legislation. I think that it is sound legislation and I support it, and I will be interested in the deliberations that take place during the third reading.

Mr LEWIS (Hammond): I do not join the chorus of those who are singing the song of complete joy at the introduction of this legislation and many of the things that have happened in consequence of the original regulations, which were proved to be ultra vires and which were introduced by the Labor government. Much of what has happened since and much of this act is ill thought through. I note of course that the 'nimbys', who are the majority of the people represented in here by the members, say that it is all okay as long as someone else has to wear it, 'so long as it is not in my back yard.'

All we have to do is look at clause 5, which amends section 4 of the principal act. It points out that the act does not apply to those parts of the hundred of Adelaide, Munno Para, Noarlunga and Yatala that are within the zone designated as the metropolitan open space system or the hills face zone by a development plan or development plans under the Development Act. So, they can be changed by the local government bodies. It also lists those that are east of the Hills face zone. What it is really saying is that, so long as someone else has to cop the inconvenience, that is okay.

More particularly, I am disturbed by the extent to which householders seem stupidly willing to plant inappropriate native eucalypt species too close to their dwellings and other improvements on their land, in that many of the species they have selected that were indigenous to the locality in which they are living are not species suitable for planting in situations where their limbs will extend over the improvements that they have put on their land. That is all very well, because what it means is that in their ignorance they have done it, ultimately.

As these trees grow, they will prune naturally. They will drop limbs, and that will smash the roof in. This is not a 'maybe' thing: it is not a matter of if, it is a matter of when. Every householder who has planted one of those open savannah woodland eucalypts that were to be found extant across the Adelaide Plains and along the creek lines, and so on, will find that they will suffer tens of thousands of dollars of damage some time in the next few decades as a consequence of the unpredictable shedding of limbs. And it does not happen just in a storm. It will happen in extremely hot weather or in extremely cold weather, where there has been a rapid change in temperature, or at times of moisture stress.

You will not get any warning. It will not be that on a windy day you will know that you have to keep away from under the trees. That is a good time to keep away, because with greater stress they might shed then. However, it is not a gradual process. It is a bit like the antlers on a deer. Up until the stag's hormone levels have substantially altered, even 24 hours before, you could hook a chain around the antlers of the deer, put a collar around its shoulders and chain it back to a concrete block by the collar, hook onto it with a D9 tractor and you would tear the deer apart—the antlers would not come off.

Yet, within a matter of hours after the change in the hormone levels in the blood, the antlers will not require even the slightest tap from a feather: they will simply fall off. It is as simple as that. And so it is with the limbs on gum trees, as we know them, gum trees being those species of eucalypt to which I was referring. They will simply drop when it suits them. When the tree has decided in its inimitable biological manner—it does not have a mind; it does it in other ways, without thought—it will drop its limbs. The consequence of that is not just the risk of injury to anyone unfortunate enough to be beneath it wherever it falls but, more importantly, I guess, because the likelihood of that happening is small although not remote, it is almost certainly going to cost lives.

But we will ignore that for the moment and consider the enormous cost there will be in damage to the property. That will not be borne by the property owner who is prudent, but it will ensure that all our insurance premiums will have to rise because the risk of damage from the trees as they shed their limbs will increase over the next 40 years. You can either laugh at me and ignore the warning or do something about it.

I believe that there ought to be a provision in law that requires people to remove such species where they pose a threat to the property of either the persons themselves or anyone else, and/or a threat to the individuals who might be on the land. It is inappropriate to plant them next to the front fence where they will overhang the footpath, for instance. Altogether, as I have said, it will be an extremely expensive and unfortunate consequence of our zeal to re-establish something of what was here now that we understand that it was not a good idea to remove it all in the first place. But we should have done it in a more disciplined way.

Having said that, let me illustrate it in other ways. I will move on from the NIMBY principle and state that I think that some replanting has been irresponsible, if not criminal. I was a member of Men of the Trees, which is now Greening Australia (and that takes me back a good many years, even before I came into this place), but I am pointing this out, notwithstanding my strong support for the good work that is done by LAP groups and other groups, as the member for Heysen said, such as Rotary. The Walkerville Rotary Club has done a great deal of work in this respect that I know of, as have dozens if not hundreds of other similar clubs. They have revegetated land bare of trees and shrubs in an irresponsible way along roadsides.

That has happened on bends in the road, over the past three or four years. Whereas it was possible to see the road for some distance ahead around a swept bend, these idiots have gone and planted trees and shrubs that completely obscure the view around the corner, yet the Highways Department has not caught up with that. So, where there now need to be double lines to prevent overtaking, there are none, and the motorist presumes that, because there is no double line, it is safe to overtake; that it must be possible for some reason or other to do so.

I am speaking from experience, having had to head for the donga myself to avoid a collision with someone who could not see around the corner because the shrubs and wattle that had been planted there—and I do not know whether you want to call that a tree or a shrub—had become so dense and high

in their foliage that they obscured his vision. He—or she: I do not know whether it was he or she—was overtaking on what had become a blind corner and I was the car coming in the opposite direction. Had I not known how to swap ends to avoid such a collision, I would have been dead. I would not be here just now.

I see that sort of thing happening increasingly and the risk of it happening increasingly as more and more trees are planted too close to the roadway, too close on the inside of bends and without any formal, lawful permission being obtained to do it. Once this bill becomes law, it will prevent those trees and bushes from being cleared unless a whole process of examination of the consequences is undertaken. I urge the government, and the minister, to take what I am saying into account and not just ignore these remarks, because it may be the minister or one of his children who dies as a consequence of it. Equally importantly, too many stout stemmed plants are being planted too close to the edge of roadways and in situations where there is likely to be some fool taking a corner that has a bad camber on it and running off the road and into those trees. Trees which are shrubs ought to be planted on the outsides of bends where motorists are likely to run off the road into them, such that they will absorb the energy and, whilst damaging the panelling, will be unlikely to do such damage as would cause the death of the occupants of the vehicle.

Having drawn attention to what I see as the zealous, well-intentioned but sometimes misguided efforts of many people, I move on and note the remarks made by others that are not entirely germane to this legislation. For instance, it has been stated that forests in higher rainfall areas bring benefits to the immediate catchments of reservoirs in that they provide much higher quality water. Native forests add a measure of tannin to the water and have a desirable effect on the micro flora that can then live in that water, making it less costly and less of a problem to clean it up ultimately for human consumption. I do not have a problem with that, but I do have a problem with the notion that we can replant the whole bloody state with scrub and, as is proposed in clause 14, Division 2, proposed sections 23D and (particularly) 23E—the declaration in relation to existing vegetation—that, where once you have planted these trees, if they are indigenous to South Australia:

> the [Native Vegetation] Council can declare that the act applies to that vegetation if, in its opinion, the value of the vegetation is sufficient to warrant the application of the controls against clearance under Part 5.

I refer to the way in which the Native Vegetation Authority and, more recently, the council have behaved and to the criminal behaviour of people such as Craig Whisson, who deliberately forged documents, deliberately changing the meaning and altering the statements in those documents on applications from people who were seeking approval for clearance. I believe that he should not simply be given a rap over the knuckles but that he ought to be charged; it is a very serious crime and it sent many people broke. For him to now say that it was inadvertent is quite wrong. It was very deliberate, and it is well documented. One land-holder in particular has taken the trouble to communicate that to the Commissioner for Public Employment. Even though nothing as yet has happened, I live in hope that the Public Sector Management Act will apply and that he will be appropriately disciplined for what he has done. It was wrong, and he should not be allowed to get away with it.

The fact is that this conduct has been allowed to continue by people appointed to the council and, more particularly, by people in the Public Service at the highest level who are charged with ensuring that no such maladministration occurs and that liars, cheats and crooks are kept out of the public service. I think that is far more serious, for instance, than what happened when David Hickinbotham cleared a few trees out of the way to plant a vineyard with the intention of replanting an even greater area. I subscribe to the view that it has to be made to work in the wider community. To replant the entire state with native vegetation really means that we are all willing to reduce our standard of living, because you cannot chew gum trees. Indeed, you will not be allowed to cut them down to chew them, anyway; nor will you be allowed to defoliate them to make tea or eat any of their leaves, or do anything of the kind if it is using them as a crop.

The act is becoming much wider in its application. I do not mind that; I have always argued that it ought to have been to begin with and that the practice that we engage in for the benefit of the yuppies' front gardens of picking up moss rocks so-called is every bit as serious in its impact on the environment in which it is undertaken as the removal of trees from that same area, because of the impact it has on the native species that depend upon that habitat or vegetation, however small and insignificant it may be. It may not be as majestic to the eye of the untrained beholder as it is to a botanist, zoologist or someone who has studied that, as I have—and I am quite happy about that.

The Hon. I.F. EVANS (Minister for Environment and Heritage): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

Mr LEWIS: Having drawn attention to the seriousness of the destruction of biodiversity by a whole lot of things that were unrelated to simply chopping down trees but were equally devastating, such as the removal of moss rocks and so on, I note with some gratification that we also now apply the legislation to land under water. I have always thought that that was an anomaly and an omission where it was possible to denude wetland of its native vegetation and not suffer any consequences in law. I also want to talk about the ERD Court by simply saying that I am not as enamoured of the function of the court, or of the people who sit on its bench and practise in it, because I see them as being more about feelings than they are about rigour; they are more about attitudes than they are about law. It is a waste of time paying $2 000 a day to have counsel represent you in such a court. It seems to me that it does not matter what the law says: it is a matter of what the bench feels that will determine the outcome of the hearing. You might as well go in there and do it yourself; take your chances, as it were, and flip a coin—it is a bit like two-up.

If honourable members are serious about what they see as the benefits of the so-called credit system being established here—and I do not really understand it—they had better pray for and pursue policies which ensure that we keep the value of the Australian dollar compared to the US dollar and other currencies in the markets to which we have to sell our products—keep our Australian dollar at around 50¢ because, by God (and, if not by God, by whatever other means I do not know), if that changes and the dollar revalues upwards, the viability of many farms will simply be destroyed.

There will be too much of a cost burden on the producer to maintain too much native vegetation from which no production occurs, and the activity of farming on the land will not make it possible for the farmer, the person working the land, to make a living. I guess this means that we will all be gratified to see large tracts of South Australia returned to unmanaged, voluntary reselection of what species will grow on those farms, and it will not be anything that we can sell. The way the act is written, any regeneration of species that are indigenous to the locality will be required to remain there. I am very worried about those elements of the law. I do not mind what they seek but I do mind the consequence.

Time expired.

The Hon. I.F. EVANS (Minister for Environment and Heritage): I wish to respond to a few of the comments made in the second reading debate before we go into committee. I acknowledge that the member for Fisher previously had on file some amendments to the Native Vegetation Act. During discussions in relation to this bill, he has agreed not to move his amendments because the government has adopted his proposals in relation to reinstatement, or 'make good', orders, as the member for Fisher called them. In relation to those people who are found guilty in a criminal court, there is a mechanism whereby the Native Vegetation Council needs to start proceedings within 21 days in the civil court on that matter, so the reinstatement order which is in the civil court provisions can then be applied to the particular case. The government and the member for Fisher support that, so the member is not proceeding with his amendments. I wish to acknowledge the cooperation and the good work of the member for Fisher in respect of that point.

The member for Kaurna raised some issues regarding the letter from the Local Government Association. I will quickly run through three or four points. The first point that the Local Government Association raised related to access for utility work, such as telephone, electricity, etc. The government agrees with that change and will pick that up in the redraft of the regulations. In relation to the amendments in clause 10, which is about the Native Vegetation Council's not delegating to the council unless the council agrees, we have agreed to that proposal, and an amendment on page 160(5) deals with the amendment in relation to that issue which was raised by the Local Government Association. Regarding the redefinition of the word 'dwelling', or a clarification of the word 'dwelling', we have agreed, and that provision for the redefinition of 'dwelling' will be picked up in the draft of the regulations.

Clause 17 of the bill relates to the preparation of guidelines regarding the management of native vegetation, and we certainly support adding the LGA, the South Australian Farmers Federation and the Conservation Council to the section 25 consultation process. Again, we have picked that up in amendments on page 160(5) that are before the House as we go into committee. With those comments, I thank the members for their contributions and look forward to the committee stage.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

Mr HILL: I move:

Page 4—

Line 14—Leave out 'definitions' and insert'definition'.

Lines 16 and 17—Leave out the definition of 'the District Court'.

These two amendments deal with the same issue. They are technical amendments to remove the District Court from the definitions. If my subsequent amendments are supported, then these definitions are not required. My intention is to remove 'District Court' and replace it with 'ERD Court' further on in the bill, but I will not go through those substantial arguments now.

An honourable member interjecting:

Mr HILL: I am happy to do that. I guess it is funny having debate about the word 'definition' or 'definitions', but the principle is correct. I have gone through the issue in my second reading speech. It is about whether or not the specialist court should be the court where decisions are made in relation to appeals from the Native Vegetation Council. It seems eminently sensible to me that the specialist court which has been established to look after environmental issues is given that role in relation to appeals.

In addition, of course, the environmental court has the ability to have third parties joined to cases. As I said in my second reading speech, this is a very important provision because it allows other parties who may well have a view about an administrative procedure which the Native Vegetation Council may get wrong to then participate in the action. As I said by way of interjection to the member for MacKillop, it may well be a supportive group; it does not necessarily have to be a hostile one. It could well be the case of a landowner who objects to a particular way in which the Native Vegetation Council has conducted its hearings and goes to court. It may well be possible for the South Australian Farmers Federation (SAFF), for example, to join in the case and give support, both in legal terms and in terms of expertise and financial support, etc., to that individual landowner. I can well and truly envisage a situation where an individual landowner may not be terribly skilled and may not have the resources or the ability adequately to put a case, and it seems sensible to have SAFF come in behind that person and support him or her, or, indeed, to allow another landowner from either a neighbouring property who has similar issues, or from somewhere else in the state to join the case. In addition, I do concede that it would also allow outside groups or third parties, such as the Conservation Council or any other individual who may have an opposing point of view, to participate. But there is a discretion in the ERD Court as to whether those third parties can, in fact, be heard. To take it away from the ERD Court and to give it to the District Court reduces that flexibility and reduces the right substantially of that group of people to participate in the process.

I indicate that if my amendments in relation to the District Court fail and the ERD Court is not substituted, I have an alternative provision later on down the track which would give that right to applicants who appear before the District Court. But it seems to me that this is the sensible way of dealing with it. The ERD Court already has those powers and, in addition, it is the expert court. It is the court that understands the background and the issues, and will be able to put whatever appeals are made into a proper context.

The Hon. I.F. EVANS: I thank the member for making this the test clause. I think that is a simpler way to handle it, given the number of amendments we have. The government does not support the amendment. This is all about whether the administrative appeals section of the District Court handles what is, ultimately, an administrative appeal. This is an

appeal based on procedure and not necessarily on the merits of the case. So, given that the District Court has the administrative appeals section, that is, we believe, the specialist area of the court system that deals with administrative appeals. Given also that the government's view is that we should restrict the appeals to the administrative process, the government's view is that the Administrative Appeals Tribunal of the District Court is the appropriate place for the appeal to be heard. We reflect on the Petroleum Act passed during this session of parliament with the support of the opposition, where the appeals in that section go to the administrative section of the District Court. We think there is some consistency there. We recognise the difference between the government and the opposition, but we oppose the amendment.

Mr LEWIS: I do not understand what would be the benefit of the removal of the District Court from the definitions and, indeed, from the provisions of the act. The member for Kaurna has made no case whatever, other than to say that the ERD Court is there. When parliament first put this in place it had good reason for leaving the District Court in the act. Why is it necessary to remove it? Do not just tell me that it is a good idea: I would like to hear why it is necessary.

Mr HILL: The reason is that the amendment bill puts in District Court because it is creating a provision for appeals to go to the District Court. There was no mention of the District Court in the act, so you need to put in the definition of 'District Court'. The minister should be answering this because it is his provision. I am trying to explain the matter to the member for Hammond. In order to justify why it needs to come out, I need to explain why it is in there. It is there because that is the jurisdiction to which appeals under the minister's bill go. If you argue as I do that the appeals ought to go to the ERD, you do not need the District Court because there is no other purpose in the act for the District Court. That is why it is unnecessary. The minister suggested that I make this the test case and I agree to do that for the sake of simplicity, but I do not want to give the impression that this is just some sort of wanton move by me. It is unnecessary. We could quite easily keep these two clauses in the existing act and I could still change ERD, but the District Court would be redundant. There would be no other purpose for it in the act. I hope that explains the reason.

The committee divided on the amendments:

AYES (20)

Bedford, F. E.	Breuer, L. R.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D. (teller)
Hurley, A. K.	Key, S. W.
Koutsantonis, T.	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L.	Such, R. B.
White, P. L.	Wright, M. J.

NOES (22)

Armitage, M. H.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F. (teller)
Gunn, G. M.	Hamilton-Smith, M. L.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Lewis, I. P.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Olsen, J. W.	Oswald, J. K. G.

NOES (cont.)

Penfold, E. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

PAIR(S)

Atkinson, M. J.	Hall, J. L.
Thompson, M. G.	Brindal, M. K.

Majority of 2 for the noes.

Amendments thus negatived.

Mr HILL: I move:

Page 5, after line 8—Insert:

(g) by inserting after subsection (6) the following subsection:

(7) For the purposes of this Act, an environmental benefit will not be taken to exist or to arise unless it can be established that the particular benefit will maintain or enhance biological diversity.

This clause adds to the interpretation. It tightens the definition of 'environmental benefit' used in the credit system outlined by the minister in his second reading speech and discussed by a number of members. Without this change in the definition, which makes it clear that the environmental benefit under consideration is one which maintains or enhances biological diversity, clearance could be justified on the basis of a more general environmental benefit such as soil quality, carbon sinks and so on. I am not suggesting that they are not necessarily good things. However, since this is an act about native vegetation, it is also by extension an act about biodiversity. Therefore, if we are to make environmental benefits, we should do so on the basis of that principle.

The Hon. I.F. EVANS: The government does not support this amendment. We fully understand from where the opposition spokesman is coming in relation to enhancing biological diversity. My advice is that the way in which this amendment is drafted may limit the benefit that the member for Kaurna is seeking to gain. The example given is that, where he mentions enhancing biological diversity, from the way in which he has it worded he may get a better benefit through revegetation for purposes, say, of salinity. That is, you may want to revegetate for salinity purposes and we believe that the way in which this amendment is drafted limits that particular option.

There may be other options which the government has thought of such as salinity. While we do not disagree with the principle of what the member for Kaurna is trying to do, we think that the way in which the amendment is worded confines and restricts the options available, and therefore on that basis we would rather keep the options open. We oppose it on that basis.

Mr HILL: I do not really understand the objection the minister is making. I will not pursue this to a division. We will stick to our guns, but we might have an exploration of another amendment before this matter reaches the other place.

Amendment negatived.

Mr LEWIS: I have several questions about the definitions in clause 3. I want to understand what the minister believes will be achieved by changing the definition of 'native vegetation' from that which is included in the principal act, that is, by striking out paragraph (b) of the definition of 'native vegetation', which includes the following words:

a plant intentionally sown or planted by a person [or persons] unless the person was acting in compliance with the condition imposed by the council under this act or by the Native Vegetation Authority under the repealed act. . .

Why do we now have this new definition?

The Hon. I.F. EVANS: In relation to clause 3(e)(b), which refers to 'a plant intentionally sown or planted by a

person' and to which the member for Hammond referred, we are trying to bring in a system whereby people who plant native vegetation on their own initiative and who wish to voluntarily bring it under the Native Vegetation Act can apply to the Native Vegetation Council to do so. Therefore, we need a definition about 'a plant intentionally sown or planted by a person'. The purpose of that particular amendment is to provide for a mechanism in the bill where someone who plants their own native vegetation on their own initiative and who wants that to be brought under the terms and conditions of the Native Vegetation Act can voluntarily do that by applying to the Native Vegetation Council. I stress the word 'voluntarily'. My understanding is that some people have made approaches in respect of this proposal and this now gives them a mechanism to do that.

Mr LEWIS: I make the observation that that appears to be at odds with what will come later in the bill under the amendments to clauses 12 and 14. I can see that the definition of 'native vegetation' excludes those plants intentionally sown or planted by a person unless the person was acting in compliance with a condition imposed by the act or by the Native Vegetation Authority under the repealed act, or with the order of the court under this act. In other words, if they have been told to plant it by a court order, then of course it is being restored by that court order. Whether I agree that that is a sensible thing is beside the point: the fact is that is the intention. However, I would have thought that what we had in the act was already adequate for that purpose. Anyway, the minister wants it this way—or I wonder whether the minister knows exactly what it does anyway.

Clause passed.

Clause 4.

Mr HILL: I refer to new section 3A(1)(a), which contains the wording 'the stratum has not been seriously degraded by human activity'. Can the minister state whether over-grazing would be an example of degradation by human activity?

The Hon. I.F. EVANS: Yes, it would.

Mr LEWIS: I am astonished that we can invent what native vegetation now will mean in the literal sense on the ground by saying that, if it has been there for 20 years, it is now native vegetation. That is about what clause 4 intends to do from here on. If there has been a dispute in a family as to who has inherited the land or how it will be managed, and some acacias, eucalypts and so on have started growing on that land by chance over the last 20 years since 1982, and the only thing in the opinion of whoever examines it that has affected it has been fire, that is a bit of a worry for me, because I know of a couple of instances in particular where this has happened; that is, there are family disputes and the land has been badly managed and it is good farm land.

Pass this in its present form and those poor buggers have lost their farms and do not get anything for it. It cost the family a hell of a lot in blood, sweat and tears and living standards forgone to acquire the land in that form and put it into a state which made it possible for it to be used as a commercial farm. Since that time there have been disputes and/or insufficient funds to enable them to farm it and they have merely let sheep graze it. Now an officer of the Native Vegetation Council will report to the council that it has a few trees scattered across it—and they only have to be maybe 900 to 1 000 millimetres high (or a bit higher or a bit lower)—and some other native species have regenerated amongst the Gramineae and Leguminosae that are not indigenous to the area, and they have lost that part of the farm on which that has occurred.

That is a worry for me, because I know the way in which these knaves or fools have operated. Whether they are knaves or fools, or both, I do not know, but they do not have any regard for the law or for the rights of other law-abiding citizens. They seem to be prepossessed with this zealous determination in relation to every square metre of land that they can reconvert to unproductive uses, other than just simply providing habitat for native vegetation and the other organisms that live in it; and they will go to the sort of native vegetation bin Laden heaven for having done their bit. They really are quite unprincipled in the way in which they go about it, judging by, as I have said to the minister before, what Craig Whisson did to people such as the Mahars out west of Ceduna on Eyre Peninsula, and a good many others who have not had the resolve of Mrs Helen Mahar.

I ask the minister: why include this provision? If the land has been cleared, regardless of the fact that there may have been some regrowth of the odd bush and plant here and there, why alienate it from land which was considered appropriate for farming—land which was not causing, through its clearance, saline ground water tables to rise, in any direct sense, or any other problem? Why do we have to compel the owners to forgo their rights to restore it to agricultural production?

The Hon. I.F. EVANS: Before I answer the member's question, I am concerned about issues that he has now raised twice about an officer, Mr Whisson. I think that the way in which to handle that is for me to make a commitment to meet with the member for Hammond and work through that issue. It might be better done, at this stage at least, in private, rather than through *Hansard*. If the member for Hammond is happy with that, I will make a commitment to meet with him and work through the issues that he raises about an officer, Mr Whisson. Hopefully, I can address the member's concerns and the issues that he has raised on that matter during the debate.

The reason why we have put this clause in the bill is really to do with the continuation of the principle that there is no broadacre clearance, and the Native Vegetation Council has essentially administered the act, in that regard, anyway, for years. So, this is a clarification and a reinforcement of that to go into the act to emphasise and to clarify that no broadacre clearance is allowed. We have consulted with people such as representatives of the Farmers Federation in relation to this definition, and they have raised no issues with us in regard to this being a definition that assists in the administration of the act in relation to no broadacre clearance. While I understand the concerns that the member for Hammond raises, from our broader consultation with the Farmers Federation representatives, when we walked them through the meaning of this clause and the administration of it, we ascertained that they are comfortable with this, because there has been no broadacre clearance in South Australia for many years.

Mr LEWIS: If the minister is willing to listen to me and to Mrs Mahar and to see the evidence that she has painstakingly produced (and I know that it has happened to other people but they have not authorised me, on their behalf, to mention their cases, because they are scared witless that they will be victimised), and when he sees what this man has done, he will realise just how nefarious his behaviour has been. The fact that he has been found to have done what he has done, by inquiries that have been made as a result of the persistence of Mrs Mahar and others, I am sure that the minister will understand why I am concerned. Equally, there are others who have followed in his footsteps who have got away with

it—but it has not been anywhere near as serious, in that they have not deliberately set out to falsify documents and change the statements that were made in applications put before what was the Native Vegetation Authority, and a few other things of that nature. They have simply deliberately misreported the facts, again, because they have wanted a particular outcome that is not consistent with the law—nor will it necessarily do anything much for the environment, so-called.

I am astonished. It is obviously intended to be terrestrial vegetation, even though we have now included land submerged by water. The minister might appreciate the fact that there is land that has been submerged by water on which there has been no substantial clearance of vegetation in the past 20 years, but that will not be caught by this clause. Why is that of any less merit than the land that has no water above it? I think that our concern about the frog population and a few other things such as that in recent years warrants its being applicable equally to land that has been covered by water (if not permanently, then for the majority of the time) as it is for land that is not covered by water for any significant length of time at all. I therefore ask the minister: why exclude water?

Will the minister also address the concerns that I have about the farms to which I have referred, where there has not been any cultivation, and some plants have re-established themselves on the land since 1980, when the rural recession really started to bite hard? These matters take time to resolve, and if a person does not have any money they cannot afford lawyers. Also, some families have not sorted out their affairs, and I think it is grossly unfair to those who might ultimately have been the beneficiaries to be denied their property rights just because of the difficulties they have faced over the past couple of decades. As I was not at all satisfied that the minister understood my original inquiry, I put it to him again.

The Hon. I.F. EVANS: First, I will commit to meet with the member for Hammond in relation to the issues surrounding the officer and the people concerned, and I am happy also to meet with those people. So, I think we can move on from that issue. For the benefit of the member for Hammond, I point out that clause 3(d)(a) provides:

'land' includes—
(a) land submerged by water;

In the bill it includes land submerged by water, so we have covered the issue raised by the member for Hammond in that respect.

In relation to the revegetation of land, my understanding of the proposal is that between zero and five years they do not need approval to clear, and that between five and 20 years they do need approval to clear. There is a process in the bill and amendments where, through a management plan process, one can get some variations of those time frames to give the farmer more opportunity to better manage the land. If they prepare a management plan, whether it be by property or, indeed, by region, they can vary those time frames. The general principle is that between zero and five years they need not get approval, between five and 20 years they will need approval of the Native Vegetation Council and at the 20 year mark, of course, this clause kicks in. We have provided, we believe, more flexibility for the land managers to manage their land through the management plan process.

Mr LEWIS: My last question on this clause then is: is it to apply to roadside vegetation where literally the only serious degradation of the vegetation that is grown on the surface of the land—including the rocks on it—has been caused by the human activity of a fire that a human being may have lit. I wonder, does it mean now that local councils cannot remove vegetation which has grown up and which is creating a hazard? I would rather have bare verge on the road if I have to run off in a traffic hazard situation than run into a substantial tree trunk, or have the risk of having to run into one if I have to get off the road.

I worry about the fact that where this vegetation has been allowed to grow the hazard was not noticed earlier, but now that it is 20 years old, say, you cannot do anything about it—you must leave it there, or can that vegetation be removed by the council, that is, the local government body, not the Native Vegetation Council? Can the local government body do so without having to bother about going to the Native Vegetation Council, spend thousands of dollars and wait two or three years and run the risk of some poor bugger killing himself in the process while the bureaucratic process is being satisfied?

The Hon. I.F. EVANS: If it is a fire danger provision there are provisions for local councils to act; if it is an emergency, there are provisions for local councils to act; and if it is in relation to an unsafe tree there are provisions to act. We now have some guidelines established for local government. We have undertaken some trials with local government to implement the guidelines to give them more flexibility on the ground to try to cover the very issues that the member for Hammond and, indeed, some of my other rural colleagues have raised about the flexibility of councils to deal with roadside vegetation. When we consulted the Local Government Association on these particular clauses it was supportive because it gave it some more flexibility.

Clause passed.

Clause 5.

Mr HILL: I move:

Page 5—
After line 29—Insert:
or
(c) that are within an area that, in the opinion of the council, includes significant native vegetation that should be subject to the application of the act and that has been identified by the council by notice in the *Gazette*; or
(d) that are within an area prescribed by the regulations for the purposes of this subsection,

For the convenience of the committee and to speed things up I will talk to the three amendments which relate to this clause and we can vote on them in whatever order we like. The original draft brought down by the minister referred to certain areas of South Australia, in particular to the metropolitan area. Advice I received was that, as a result of this reformulation of Adelaide (which was superior to what was in the original act because the original act referred to council areas which no longer existed), the reformulation left out parts of areas that had previously been covered by the Native Vegetation Act and where there was valuable vegetation.

In other words, the new bill would have meant certain areas, which hitherto had been protected, were no longer protected. I know that was not the minister's intention. The amendments that I have suggested say, 'Well, okay, let us take what the minister said and add some things on.' The bits that I want to add on are two-fold: to give the Native Vegetation Council the right by *Gazette* to include sections which it believes ought to be protected and, in addition, to give the minister the right by regulation to include sections of land, or pieces of land, which would not otherwise be protected, and bring them within the control of the act so that they could be protected also.

The final element was that if the council did use the *Gazette* to bring land in the minister could overturn that

through a process which is described. Basically, the minister would have to give notice of that and then give reasons for his changes in both houses of parliament. In other words, it was whatever the minister said Adelaide was plus bits that the Native Vegetation Council might believe ought to be protected and bits that the minister might believe ought to be protected. I know that the minister has his own amendments to this, which are far better than what was approved. I know that he is not accepting my amendments.

I suppose that mine will fail and that his will succeed. I am not totally dissatisfied with that but I do think that the provision that I am including, which would give the Native Vegetation Council the right to identify areas, is a good one because it could do it immediately and quickly, and it would be able to act promptly. We may well have a Minister for the Environment at some future stage who cares little about these issues. The member for Stuart, for example, might, in some future government, be the Minister for Environment who may not believe in some of these issues and so may ignore good advice from the Native Vegetation Council. I think that this provision is sensible because it will allow the Native Vegetation Council, of its own initiative, to include an area. The minister would then have to come to the parliament and explain why those areas ought not be protected.

The Hon. I.F. EVANS: I wish to explain the government's view on this. The government does not support the opposition's amendments. We do have concerns about the concept of giving the Native Vegetation Council, an unelected body, the power to, in effect, gazette extra areas into application under the act. We are concerned about that because, first, the Native Vegetation Council is unelected and, secondly, there is really no immediate parliamentary scrutiny, although I accept the fact that the minister has some override in relation to the matter in the Labor Party's amendments. The government has amendments and I will speak to those now. I therefore move:

Page 5—
After line 29—Insert:
or
(c) that are within an area prescribed by regulation for the purposes of this subsection,
Line 30—After 'but does not' insert:
, subject to subsection (2aa),
After line 30—Insert:
(2aa) This act applies to the whole of the area of the City of Onkaparinga.

Page 6—
After line 2—Insert:
or
(c) in any other part of the Hundred of Port Adelaide prescribed by regulation for the purposes of this subsection,
After line 3—Insert:
(2b) However, the Governor should not make a regulation under subsection (2) or (2a) unless—
(a)—
(i) the Governor considers that the regulation should be made in order to enhance the preservation or management of an area that includes significant native vegetation, or in order to assist in the provision of a significant environmental benefit in a particular respect; and
(ii) the Governor is satisfied that the minister has taken reasonable steps to consult with—
(A) any local council whose area includes any part of the area to which the regulation relates; and
(B) the Environment, Resources and Development Committee of the Parliament; and
(C) any member of the House of Assembly whose electoral district includes any part of the area to which the regulation relates,
about the proposal to make the regulation; or
(b)—
(i) the Governor considers t hat the regulation should be made as an interim measure pending consultation under paragraph (a); and
(ii) the regulation is expressed to expire not more than two months after the day on which it is made.

The government's response to the issue raised by the member for Kaurna is that we have moved amendments to clause 5 that give the minister the power to introduce a regulation. The regulation can then last for only two months and, in that way, if there is an urgent situation where the Native Vegetation Council brings to the attention of the minister some clearing in an area of important native vegetation that is not currently covered, the minister can introduce a regulation. The important thing about that is that, quite rightly, like all regulations, it brings in parliamentary oversight to that particular decision.

We are very conscious that we do not want this to be unduly unfair on land owners so we have included a proposal that it last only for a limited time of two months. That means that the issue must be dealt with, consulted and finalised within that period. We do not support the opposition's concept of giving an unelected body the power to gazette. We believe that is a dangerous precedent, but we do acknowledge that there might be a need for a mechanism to deal with urgent clearing in areas that are not covered. We have given the minister that power because the minister ultimately is answerable to the parliament through disallowance motions and through questioning in the House. We have also further restricted the minister by imposing a two month time limit. We oppose the opposition's amendments and we will be moving our own.

The CHAIRMAN: Just for the clarification of the chair, is the minister saying that the government would not accept paragraph (c) but would be happy to accept paragraph (d)?

The Hon. I.F. EVANS: We do not accept any of the clause 5 amendments moved by the opposition. We have a number of clause 5 amendments on our own amendment page, page 160(1).

Mr HILL: The minister just said (1): I think he might be referring to (4).

The Hon. I.F. EVANS: Yes, it is a combination of the two, sorry.

Mr Hill's amendment negatived; the Hon. I.F. Evans' amendment to page 5, after line 29, carried.

The CHAIRMAN: We now go to the clause 5, page 5, line 30 amendment moved by the minister.

Amendment carried.

The CHAIRMAN: I now put the minister's amendment to clause 5, page 5, after line 30.

Mr LEWIS: I take it that new section 4 will not apply to the whole of the City of Onkaparinga. The amendment inserts 'that this act applies to the whole of the City of Onkaparinga', which would mean that the City of Onkaparinga is excluded from the exclusion zone where the act does not apply; is that right?

The Hon. I.F. EVANS: No, it is the other way around. It is now included to come under the provisions of the act.

Mr LEWIS: So, section 4 of the principal act will then read:

(2) This act applies to those parts of the hundreds of Adelaide, Munno Para, Noarlunga and Yatala.

The minister is saying that it does not apply to any other parts of those hundreds, where it has been defined. He then says that it does apply to the City of Onkaparinga, meaning that the whole of the City of Onkaparinga will be subject to all the controls that are included in the legislation, whether on urban land or farm land; is that right?

The Hon. I.F. EVANS: It is covered in the original act. In the drafting of the bill there was a concept whereby we were going to try to deal with it through the Metropolitan Open Space Scheme. That became unworkable; therefore, we have simply moved by way of amendment to put the whole of the area of the City of Onkaparinga back in.

Amendment carried.

The CHAIRMAN: I will now put the amendments moved by the minister to clause 5, page 6, after line 2 and page 6, after line 3.

Mr LEWIS: Do I take it that the salt pans and the mangroves are going to be covered by the provisions of this act and that it will therefore not be possible to dispose of any material that is dredged from the Port River in the way in which it has been done in the past, to engage in the practice of reclaiming land, so-called, or putting a bunding around a given area of what was tidal samphire, meaning those areas that were only inundated on high spring tides that had samphire vegetation on them and perhaps even in some lower altitude areas where there were some mangroves and coastal vegetation? None of that will now be possible under the provisions envisaged by this amendment unless in some way or other the Native Vegetation Council approves it; is that the intention?

The Hon. I.F. EVANS: There is no change to the status of the mangroves or the salt pans. In the middle of a salt pan you have no native vegetation, so the act would not apply.

Mr Lewis: You do, on the contrary.

The Hon. I.F. EVANS: The bill does not change the application in relation to the mangroves or the salt pans. All it has done is clarify the definition of the area covered. There is a clear consultation process that has to be gone through in relation to adding any new areas to come under the administration of the act. The member for Hammond can rest assured that we have not changed it in relation to the mangroves or the salt pans. That is the advice to me.

Mr LEWIS: Whilst we are on this section, I have a concern in an ever so slightly related area, which I am sure that you, Mr Chairman, would appreciate. Out on Torrens Island there is a bit of land that was a quarantine station. It is out past Snowden's Beach on the western shoreline of Torrens Island. Some of that used to be used for animal quarantine, but on that land there is a building of great significance, which is now subject to the vagaries of neglect. Native vegetation is growing up and over and around it and it is allowing it to rot. It is a building of enormous historical significance.

The member for Waite will appreciate this point: it is the only remaining original hospital ward from the Crimean War anywhere on God's earth. It is on Torrens Island, and it is being allowed simply to rot. It is rotting because native vegetation has grown up, around and over it, and birds are being allowed to roost in it and ruin it. It is of extremely high heritage value. I wonder whether the minister will take steps to protect and preserve that relic of history from the encroachment of the forces of chaos that are extant in nature, where it is all simply going to fall to bits very quickly. He will have to act very quickly, because vandals have got into the area now that there is a bridge across to Torrens Island. They know that there are things of interest down there, and damage is already beginning to be perpetrated not only by the encroachment of life forms across it but also by virtue of the damage being done by human beings. I ask the minister whether it is his intention to do anything to save this relic, which is of immense historical significance and importance. If it were relocated, it would be a far more significant tourist attraction for South Australia than the Festival Theatre. Yet it is just ignored because nobody knows it is there.

The Hon. I.F. EVANS: I am unaware of the building to which the member refers. However, given his explanation of the importance of the building, I will have that matter referred immediately to my officers to investigate, and I will get straight back to the member for Hammond.

Amendments carried; clause as amended passed.

Clause 6.

Mr HILL: I have a series of amendments to the objects of the act. I know that the minister accepts at least three parts of it, but I am not sure whether he accepts my fourth provision. I move:

Page 6, lines 5 to 14—Leave out all words in these lines after 'amended' in line 5 and insert:

—

(a) by striking out paragraphs (a) and (b) and substituting the following paragraphs:

(a) the conservation, protection and enhancement of the native vegetation of the state and, in particular, remnant native vegetation, in order to prevent further—

(i) reduction of biological diversity and degradation of the land and its soil; and

(ii) loss of quantity and quality of native vegetation in the state; and

(iii) loss of critical habitat; and

(b) the provision of incentives and assistance to landowners to encourage the commonly held desire of landowners to preserve, enhance and properly manage the native vegetation on their land;

(b) by striking out from paragraph (c) 'efficient use' and substituting 'sustainable use';

(c) by striking out from paragraph (e) 'that have been cleared of native vegetation' and substituting 'where native vegetation has been cleared or degraded'.

This is a reworking of the objects to ensure that remnant vegetation is given primary importance in the bill. There is no mention in the current act of the importance of remnant vegetation, which I think most of us would agree should be the primary importance of a native vegetation act. So, that is the purpose of paragraph (a).

Amendment carried; clause as amended passed.

Clause 7 passed.

New clause 7A.

Mr HILL: I move:

Page 6, after line 19—Insert:

7A. Section 14 of the principal act is amended by striking out from paragraph (b)(ii) 'from which native vegetation has been cleared' and substituting 'where native vegetation has been cleared or degraded'.

New clause inserted.

New clause 7B.

The Hon. I.F. EVANS: I move:

Page 6, insert:

7B. Section 15 of the principal act is amended by inserting after subsection (5) the following subsection:

(5a) the council may only make a delegation to a local council or an officer of a local council under subsec-

tion (2) with the written approval of the relevant council.

New clause inserted.

New clause 7C.

Mr HILL: I move:

Page 6, insert:

7C. Section 15 of the principal act is amended by inserting after subsection (5) the following subsection:

(5a) The council may only make a delegation to a local council or an officer of a local council under subsection (2), or approve a subdelegation to a committee or officer of a local council under subsection (5), if—

(a) in the case of a delegation to a local council or a subdelegation to a committee—the council makes it a condition of the delegation or approval (as the case may be) that the local council or committee will, in the exercise or performance of a delegated power or function, seek the advice of a person who holds a qualification in a field of natural resource management, or in biology;

(b) in the case of a delegation or subdelegation to an officer of a local council—the officer is a person who holds a qualification in a field of natural resource management, or in biology.

This clause is a limitation of a delegatory power of the Native Vegetation Council: it is able to delegate to a local council, or subdelegate to an approved body. Prior to this amendment, there was no requirement for either the council, the committee or any body that dealt with a delegated power to have any expertise in the area of natural resource management or biology. I am pleased that the minister has accepted this amendment, because I think it strengthens the provision so that we can ensure that, when a native vegetation council delegates its powers, it does it to a body which has some expertise and which is able to deal with those powers.

The Hon. I.F. EVANS: The government supports the amendment.

New clause inserted.

Clause 8 passed.

Clause 9.

Mr HILL: I move:

Page 7, lines 13 to 20—Leave out paragraph (d).

In essence, this means that the Native Vegetation Council can use the fund that has been established under this bill to pay for ancillary services. Currently, there is a provision which allows the Native Vegetation Council to use the fund for services related to the functions of the act, that is, the objects of the act. This broadens the power, and the worry is that it will be a way for the government to force the Native Vegetation Council to use the fund for administrative rather than environmental purposes, and that would be contrary, I believe, to the purpose for which the fund was established. There are strong objections to this provision being passed, and I highlighted the comments made by Mr Black who has been a member of the Native Vegetation Council. He is strongly opposed to it. It allows cost shifting and may subject the council to pressure from the department to go through that process of cost shifting. I strongly urge the House to oppose this measure and support my amendment.

The Hon. I.F. EVANS: The government does not support the amendment. We think that the Native Vegetation Council should have some flexibility in relation to the fund. In regard to the matter of cost shifting, of course, if that happened the Native Vegetation Council members would no doubt, quite rightly, bring that to the attention of the appropriate people for questioning. So, we do not see the issue that the member for Kaurna does, and we reject the amendment.

Amendment negatived.

Mr HILL: I refer to paragraph (a) of the clause which is talking about the fund. The original clause reads:

for research into the preservation, enhancement and management of native vegetation to encourage the re-establishment of native vegetation on land from which native vegetation has been cleared;

Can the minister indicate how much money has been spent in previous years achieving these goals, and perhaps in the last 12 months, although if he could give some rough indication over all of the previous years, just to give us a sense of the quantum that is being used?

The Hon. I.F. EVANS: On notice, Mr Chairman. I will get it to the member while the bill is between houses.

Mr HILL: The provision talks about encouraging the re-establishment of native vegetation of land. I am unsure from the way the act is constructed whether that land where native vegetation is re-established is protected under this act as well. Is that automatically then heritage listed land, or does it have some other protection? In other words, are funds which are being used by the Native Vegetation Council creating more heritage land?

The Hon. I.F. EVANS: The answer is yes. If the council is using funds out of the Native Vegetation Fund, it automatically seeks to protect it.

Clause passed.

Clause 10.

The Hon. I.F. EVANS: I move:

Leave out this clause.

We are not proceeding with this clause. During our consultation process there were some issues raised and we think that the correct decision is not to proceed with this particular clause.

Clause negatived.

Clause 11 passed.

Clause 12.

Mr HILL: I move:

Page 8, line 15—Leave out 'a' and insert:
one or more

There are three clauses that the minister has accepted my amendments on and I will speak to the three of them at once. This is a minor provision. In the existing bill the word 'a' appears in relation to a species indigenous to a local area. Basically, I think it is a species in each of the circumstances. This suggests only one species. I understand that technically and legally by the Acts Interpretation Act that refers to one or more, but the amendment that I am moving makes it explicit that it refers to one or more. I am pleased that the minister is accepting that and I speak to those three and move them in whatever order is necessary.

The Hon. I.F. EVANS: We support all those amendments where that particular provision has been moved.

Amendment carried; clause as amended passed.

Clause 13 passed.

Clause 14.

Mr HILL: I move:

Page 8, line 36—Leave out 'a' and insert:
one or more

Page 9, line 2—Leave out 'a' and insert:
one or more

I have spoken to these amendments already.

Mr LEWIS: Can I ask the member for Kaurna to explain the effect of his amendment to line 25 on page 8, 'the following Division is inserted before section 24 of the principal act'? Where will I find his amendment?

The ACTING CHAIRMAN (Mr Williams): We are on clause 14 and we are considering the amendments marked '160(3)', the third page. There are two amendments indicated by the member for Kaurna to clause 14, one being on page 8 of the bill at line 36 and the other on page 9 at line 2.

Mr LEWIS: I do not understand what these amendments will do.

Mr HILL: For the benefit of the member for Hammond, I went through this in his absence from the chamber. Currently the bill says on a number of occasions that land should be revegetated with plants of a species indigenous to the local area, or something similar to that. The fear expressed to me by those who had read the bill and were not trained in parliamentary drafting principles was that that meant that only one species may necessarily be insisted upon in terms of revegetation. I am moving that that be changed to be one or more, so that when the Native Vegetation Council is looking at this it is not just limited to indicating a particular species but a range of species, which is appropriate. I understand from the Acts Interpretation Act that 'a' means one or more anyway. This is something of an abundance of caution to make clear to a casual untrained reader that it means what it means.

Amendments carried.

Mr HILL: I refer to new section 23E at the bottom of page 8, which is a good provision that I support. It allows the Native Vegetation Council to declare that, with land which an individual owner has revegetated with plants of one or more species indigenous to South Australia, the division applies to that vegetation if in its opinion the value of the vegetation is sufficient to warrant the application of the controls. Will the minister clarify what might happen if the land is transferred to another owner after, say, 20 years? Are those controls put on the title and maintained indefinitely?

The Hon. I.F. EVANS: Yes, they are. They are on the certificate of title, so the requirement travels with the land. Once the owner voluntarily commits to put it under the Native Vegetation Act, it is noted on the title. The new owner buys it, knowing that it is noted on the title: it travels with the land.

Mr HILL: So, that means that there is no voluntary exclusion from that process: once you put it on you cannot take it off?

The Hon. I.F. EVANS: That is correct.

Mr LEWIS: This is the bit where the rubber hits the road. I have two substantive questions, the first being that it refers to 'species indigenous to South Australia', but that is a range of ecosystems. If you planted some mulga at Strathalbyn, it is a species indigenous to South Australia but it certainly does not and has not grown anywhere near Strathalbyn for a good many hundreds of thousands of years, I could say with some certainty. Yet it seems that that may form part of what the Native Vegetation Council would accept as being native vegetation, even though it is exotic to that area. Am I correct in that assumption?

In the same vein, does the Native Vegetation Council really consider that that is a desirable way to proceed? If it does, I am pretty disturbed by that. Already we have a spread of other life forms from their natural range into a much wider and/or different range as a consequence of changing the vegetation in which they live. That has devastating consequences for the birds or other animals that used to live there. I make that absolutely clear. By changing the nature of the vegetation in and around the Adelaide Hills, even in your electorate, Mr Acting Chairman, we have made it possible for rainbow lorikeets to establish themselves in the Adelaide metropolitan area and for long-billed corellas to spread hundreds of kilometres out of their natural habitat. The end result of doing that is that those birds more aggressively compete for nesting sites and so on with the birds which used to live there or are still trying to live there.

If we persist with the practice of simply saying that vegetation that would not normally be growing there can be put there and must stay there, we are really inviting the state to bugger up its ecosystems with a whole lot of native species that are really weeds in the locations into which they have been put and to invite the rapid demise of things like the yellow-tailed black cockatoo in the Mount Lofty Ranges. That is what is happening. They are losing nesting sites to these more aggressive species that have now been given food in those localities, those species being galahs and long-billed corellas. I am disturbed if that is to be the way of things. I will raise the other matter a bit later.

The Hon. I.F. EVANS: The way the clause works, if it is a new planting obviously the Native Vegetation Council would dictate to the owner that, if they wanted their new plantings to come under the control of the Native Vegetation Act, clearly the Native Vegetation Council would dictate to them the type of plantings and therefore it would be local indigenous to that area and not necessarily statewide indigenous. If it is already planted and they approach the Native Vegetation Council to say, 'Here is some native vegetation we have planted; will you accept it to come under the Native Vegetation Act?' that is a value judgment made by the Native Vegetation Council at that time. If they have planted a wrong species or one that might bring some of the problems to the fore that the member for Hammond raises, the Native Vegetation Council simply says no, that it does not want the act to cover it. There is flexibility there for the Native Vegetation Council to either dictate in the case of new plantings or reject in the case of old plantings.

Mr HILL: New section 23F says that an owner of land who wishes to revegetate may go to the Native Vegetation Council with a plan and seek approval, and 23I says that the council must inform the Registrar-General of that approval, and I assume that he then notes it on the title. What happens where a person, for whatever reason, does not proceed with the plantings that have been approved? Are there penalties that would apply to that person or landowner?

The Hon. I.F. EVANS: That is a good question from the member for Kaurna at such a late hour—very unfair! I am advised that the way in which it works is that, if they go to the Native Vegetation Council, they seek permission to revegetate and have it come under the administration of the act. It is not registered on the title until they revegetate. My advice is that they have to revegetate first, and it is then registered on the title. If they do not revegetate, it does not go on the title. That is the advice to me, but if the member is not convinced of that I will check it in between houses.

Mr HILL: Proposed new section 23I(2) provides:

> The Registrar-General must note the declaration or approval against the relevant instrument of title for the land

If noting does not mean what I think it means, it also means that the declaration has not been put on the title, in which case there is a problem in that regard.

The Hon. I.F. EVANS: We have revisited the advice. In relation to vegetation that is already there, obviously the previous advice stands. If they are looking at planting new vegetation, then the point the member for Kaurna makes is

correct. Why someone would do this would be a mystery to me, but in theory they could apply to the Native Vegetation Council to replant, gain approval to replant, have it registered on the certificate of title and never replant.

Mr Hill interjecting:

The Hon. I.F. EVANS: Yes, but it would stay on their title and that may affect the value of their property positively or negatively, depending on the buyer's viewpoint. I do not know why someone would go through that mechanism and not proceed, except perhaps for illness, death or similar reasons. The point the member for Kaurna makes is correct, that is, no penalty as such attaches to that.

Mr HILL: This is an important point. It does seem to me a bit onerous in the case where there is death, injury, financial hardship or something else to have changed the title which has that provision on it and which may well affect a whole range of possibilities. I suggest that the minister revisit this and develop a mechanism to undo it in those hardship cases—not necessarily all cases.

The Hon. I.F. EVANS: I agree with that principle and am happy to work with the honourable member to find an appropriate remedy in between houses.

Mr LEWIS: There are two bits left to be dealt with for me on this clause. First, is it necessary for the council to be involved in a decision taken by a landowner to plant, say, acacia that might be indigenous to the locality as virtually a monoculture crop with a view to harvesting the seeds for oil purposes? As the member for Kaurna would know (perhaps he does not, I do not know; I think other members might know this), our acacia has higher levels of omega 3, 6 and 9 in the oils in the seeds; and with some plant breeding perhaps and selection of strains, species and so on that have gone on for thousands of years in the grapevine industry, the production of juice for wine production could easily outyield olives in the production of oil per hectare.

They are higher quality seeds in terms of the sorts of oils they produce. I have already explained that for the benefit of members, Mr Acting Chairman, and coming from the area you do—Wattle Range is the name of the local government area in the location in which you live—you would know how healthy the birds are that live on these seeds. You would also know that the Aborigines lived on them and that they never got heart attacks in consequence. Indeed, their arteries and veins, their having been on a native diet, have been shown to be of a much better condition than if they had been on a diet of a whole lot of other things, and the problems that we have, given the differences in the kinds of fats we eat, were not problems which they had.

I believe that in fairly short time we will discover that we can make more money growing native species of vegetation and harvesting their seeds than we can growing exotic species that were traditional crop species, and that the use of the native species would avoid the necessity to resow the oilseed crop every year. It is there to look after the trees. They produce a hell of a lot of seed, and you simply go along and vacuum it up after it has ripened and fallen on hard soil beneath that is left rolled out fairly flat and firm, the same as it is in almond groves. I do not want to find that the Native Vegetation Council, in the first instance, has to give permission for it; and, in the second instance, would be able to step in and prevent you from clearing the old stand of wattle (or whatever other species you chose to grow for crop purposes) because it was indigenous to that locality. That would not make any sense to me at all and it would not make any dollars for the farmer.

The Hon. I.F. EVANS: The member for Hammond needs to understand that this is about when landowners voluntarily approach the Native Vegetation Council about having land they have already replanted or land they are about to replant come under the provisions of the Native Vegetation Act. If a landowner was about to plant a native species which they then wanted to harvest to get the oil as a commercial crop, then the simple fact is that they would not approach the Native Vegetation Council to put it under the provisions of the Native Vegetation Act: they would simply plant it as a commercial crop. There is no need for someone planting a native species and cropping it three or four years later to put it under the act.

This provision purely provides a voluntarily instrument for landowners who wish to replant to bring it under the provisions of the Native Vegetation Act. I cannot believe that the circumstances the member for Hammond describes would arise under this act, because I cannot believe that any landowner would put themselves in the position of going to the Native Vegetation Council and saying they wanted to plant a crop for commercial purposes but they wanted it to be under the provisions of the Native Title Act. That does not gel to me. The answer to the honourable member's question is that I do not think it will ever happen.

Mr LEWIS: I guess I was being a bit mischievous in that elsewhere in the act at present it says that, if you have this regrowth (and we have already been over a bit of that), you cannot clear it, even though it has reached the end of its economic life in these circumstances. I would not want the council to be able to step in and stop you from clearing it. I would seek the minister's assurance that that will not happen.

Before I run out of options, my other concern is that, in general terms, I am disturbed by the way in which people willy-nilly are planting, either in inappropriate mix or inappropriate locations, from the point of view of human safety, or replanting a whole lot of native vegetation, whether it is on roadsides or, indeed, in other places. The roadside is the most obvious one. I trust that there are no circumstances in which human safety will be sacrificed by this act.

I want to draw particular attention to circumstances that you would know something about, Mr Acting Chairman. As you are driving towards your electorate across the black soil plains south of Wellington, before you get to your electorate, before you cross the sandhills, on the southern side of those samphire swamps on the way to Meningie, you will notice that trees have been planted that might be indigenous to the locality 30 or 40 kilometres away, but they are not trees explicitly indigenous to the black soil plains of the flood plain of the river as it used to be. Are those trees which have now been planted (and I will not name the landholder; I think you know who that is, Mr Acting Chairman, just as well as I do) there for keeps just because some of them are river red gums, or other similar species, which can survive there on the water that will run off the road pavement and contribute extra to the natural rainfall that falls on the area on which the tree is established?

Will they now be a permanent feature by virtue and force of this act, or will it be possible, when they reach senescence, for the landholder to harvest and sell them for fire wood and replant again, if that is the landowner's desire? At present, they form a good windbreak, they provide shelter, and I think the landowner believes that they reduce the watertable. I have got news for him if he thinks that, because the watertable is determined by the free water surface in Lake Alexandrina, not very far away. It would not matter how many bloody trees he

planted; the lake will not dry up. The water will still continue to maintain the watertable at that explicit depth below the surface at which it is now, and to which it has risen in consequence of the barrages being put there across the exit from the estuarine lakes to the Coorong to the mouth. We have lifted the level of water in the lakes permanently, and that has lifted the level of the watertable for 50 or 60 kilometres around that whole area. That is the nature of my concern. First, will the landowner be prevented from harvesting the trees once they have grown up, because they are indigenous trees by force of this and/or any other provision of the act; and, secondly, why would that be so?

The Hon. I.F. EVANS: If the landowner plants the trees, they do not come under the provisions of the act, unless the landowner voluntarily decides to approach the Native Vegetation Council and asks them to come under the act. On the basis that the landowner wants to have them as a commercial crop, my reading of it is that he or she would not approach the Native Vegetation Council, therefore the act will not apply.

Clause as amended passed.

Clause 15 passed.

Clause 16.

Mr HILL: With respect to clause 16(a)(1a), which refers to financial assistance available for landowners, can the minister give us any guide about how much money would be available to help landowners? I do not mean individual landowners, but in total: what kind of budget is the minister looking at here?

The Hon. I.F. EVANS: I will take that question on notice and get back to the member.

Clause passed.

Clause 17.

The Hon. I.F. EVANS: I move:

Page 10, after line 8—Insert:

and

(e) where the guidelines relate to land within the area of a local council, submit the guidelines to the Local Government Association of South Australia for comment; and

(f) submit the guidelines to the South Australian Farmers Federation Incorporated and to the Conservation Council of South Australia Incorporated for comment;

This is a consequential amendment to the amendment to section 15, to which the House agreed earlier in the debate.

Mr HILL: The opposition supports the amendment.

Amendment carried.

Mr LEWIS: What is the amount of money that will be made available?

The Hon. I.F. EVANS: I am unaware of the amount of money, and I have given a commitment to provide an answer to that question to the member for Kaurna. I will also provide the same answer to the member for Hammond. I am getting advice from the agency about the amount of money.

Clause as amended passed.

Progress reported; committee to sit again.

STATE SUPPLY (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

GENE TECHNOLOGY BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT

At 11.50 p.m. the House adjourned until Wednesday 28 November at 2 p.m.