HOUSE OF ASSEMBLY

Tuesday 30 March 2004

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

HOSPITALS, REPATRIATION GENERAL

A petition signed by 109 residents of South Australia, requesting the house to urge the government to maintain the Repatriation General Hospital as an independent hospital, to serve the particular needs of veterans and for the hospital to retain its board and receive its funding directly from the Minister for Health, was presented by the Hon. Dean Brown.

Petition received.

CONSTITUTIONAL CONVENTION

A petition signed by two residents of South Australia, requesting the house to pass the recommended legislation coming from the Constitutional Convention and provide for a referendum, at the next election, to adopt or reject each of the convention's proposals, was presented by Mr Snelling.

Petition received.

EPA SURPLUS

In reply to **Mr BRINDAL** (11 November 2003).

The Hon. J.D. HILL: The accumulated surplus referred to on page 360 does not refer to operating savings for the financial year as suggested in the member's question. The accumulated surplus is in fact the equity of the Environment Protection Authority (EPA) and it represents the net difference between assets and liabilities that were transferred to the EPA from the Department for Environment and Heritage (DEH), Department for Human Services and the Environment Protection Fund.

The Statement of Financial Performance and Statement of Financial Position, shown on pages 350 and 351 of the Auditor-General's Report, provide a detailed breakdown of the composition of these figures.

EPA REVENUE DECREASE

In reply to **Hon. I.F. EVANS** (11 November 2003).

The Hon. J.D. HILL: Page 323 of the Auditor-Generals report which relates to the financial statements for Environment & Heritage, states that 'Revenues from Government decreased by $11.4 million, representing in the main, the separation from the Department for Environment and Heritage (DEH) of the Environment Protection Agency (EPA) that was transferred to a newly established administrative unit as from 1 July 2002.'

In this instance 'Revenues from Government' refers to the funds appropriated from Treasury & Finance in line with Budget Estimates approved by Parliament.

As of 1 July 2002, these appropriations amounting to $10.501 million (refer page 350) were drawn down by the EPA not DEH.

The $7.8 million shown on page 349 is the net result of transfers from other agencies upon establishment of the EPA AND is totally unrelated to the $10.501 million. There has been no loss of revenues to the EPA and certainly no $4 million black hole as the Honourable Member suggested. Page 348 of the Auditor-Generals report clearly shows the EPA revenue from Government is still $10.5 million.

COURT FEES

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: Yesterday the member for Newland suggested that I had provided the house with incorrect information about court fee increases. I am afraid the member for Newland has misunderstood the answer given on 25 March 2004; either that or she does not appreciate that reports, such as the 2004 report on government services, provide information about the past, not the future. I clearly stated the amounts given were the average civil fees per lodgement in the financial period that was, of course, 2002-03.

The Hon. D.C. Kotz interjecting:

The SPEAKER: Order! The member for Newland has been given leave.

The Hon. M.J. ATKINSON: The fees for district and supreme court filing fees increased as of 1 July 2003. The house has already been informed of this increase in the budget papers.

The Hon. D.C. Kotz interjecting:

The SPEAKER: Order, the member for Newland! For the second time, it is not question time. The honourable member knows that leave has been granted to the Attorney.

The Hon. M.J. ATKINSON: Even comparing the standard filing fees for the South Australian Supreme and District Courts as they stand now, with the average fees per lodgement for the previous financial year, South Australia fares well. The national average fee per lodgement for district courts in 2002-03 was $732. The standard South Australian filing fee is $485. South Australia—

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens will get that finger back in his holster.

The Hon. M.J. ATKINSON: South Australia is below the $1 066 average in New South Wales, the $784 average in Victoria, the $704 average in Western Australia and the $490 average in Queensland. The current $970 Supreme Court filing fee in South Australia is below the national average of $1 104 per lodgement in 2002-03. South Australia is below the $1 565 average in New South Wales, the $1 190 average in Victoria, the $1 007 average in Queensland; and the $1 144 average in Western Australia. If the 2005 Report on Government Services shows that the increase in filing fees in South Australia has led to South Australia's being the state with the highest average lodgement fees in the financial period 2003-04, then the member for Newland will have a point.

Finally, I wish to respond to the pejorative remarks of the Leader of the Opposition about the making of corrections and apologies to the House. The leader regards the making of corrections and apologies as undesirable. On the contrary—

Mr BRINDAL: I rise on a point of order. I do not believe that a ministerial statement has scope for a minister to answer what he just said were pejorative remarks from the Leader of the Opposition. I ask you to consider this matter, because I think that is beyond the scope of a ministerial statement.

The SPEAKER: To the member for Unley, can I say that it is not improper for the minister to describe a pejorative remark in a ministerial statement as being pejorative remark if it is a pejorative remark. Therefore, I do not uphold his point of order that it is improper to use such a term, where the term is provided to identify the circumstance in which facts, as asserted by another honourable member need to be corrected by the ministerial statement for which leave has been granted.

The Hon. M.J. ATKINSON: The leader regards the making of corrections and apologies as undesirable. On the contrary, inadvertent errors will continue to be made by even the best ministers, and when that happens I think a speedy correction is in the best traditions of the house in the West-

minster system. I shall continue to be meticulous, but no such correction is necessary in response to the member for Newland's question. Perhaps if Graham Ingerson and John Olsen had taken the same view and confessed, they would not have had to resign in disgrace.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport (Hon. P.L. White)—

Regulations made under the following Act:
Motor Vehicles—Demerit Points

By the Minister Assisting the Premier in the Arts (Hon. J.D. Hill)—

Youth Arts Board, South Australian—Carclew Youth Arts Centre—Report 2002-03

By the Minister for State/Local Government Relations (Hon. R.J. McEwen)—

District Council of Yorke Peninsula By-Law K—Boat Ramps.

ECONOMIC AND FINANCE COMMITTEE

Ms THOMPSON (Reynell): I bring up the 47th report of the committee on road maintenance funding.

Report received and ordered to be published.

QUESTION TIME

ANANGU PITJANTJATJARA LANDS

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Premier. Will the Premier advise who within his department is in charge of the government group which is administering state government funds and services to the AP lands and what progress has been made? The Deputy Premier's media release of 15 March 2004 states:

Cabinet today agreed to endorsing the formation of a whole of government group led by the Department of Premier and Cabinet, in consultation with the Department of Aboriginal Affairs, to administer state government funds and services to the APY community.

The Hon. K.O. FOLEY (Deputy Premier): Mr Warren McCann, the CEO of the Department of Premier and Cabinet, together with Mr Bill Cossey, the acting CEO of the Justice Department, are coordinating the government response.

ROADS, INFRASTRUCTURE

Mr KOUTSANTONIS (West Torrens): My question is to the Minister for Transport. What is the expected impact of yesterday's infrastructure announcements for the freight industry?

The Hon. P.L. WHITE (Minister for Transport): This is an important question. Yesterday's infrastructure announcements represent—

Mr Brindal interjecting:

The SPEAKER: The honourable member for Bright!

The Hon. P.L. WHITE: —a critical investment that will bring enormous benefit to the freight industry and, as a result, the South Australian economy. These announcements are key to the strategic transport agenda for South Australia.

Mr Williams interjecting:

The SPEAKER: The honourable member for MacKillop!

The Hon. P.L. WHITE: Industry's endorsement of the package was very pleasing. It is a clear recognition of the government's sophisticated approach to infrastructure in South Australia.

Members interjecting:

The Hon. P.L. WHITE: The opposition does not like to hear this, but the facts are that the South Australian Farmers Federation welcomes the news on Outer Harbor as 'fundamental to the growth of the rural sector'. The South Australian Road Transport Association stated that, in addition to better access for freight, our roads will be safer for all road users. Business SA said that yesterday's announcements will make South Australia a better place to do business—that is quite some endorsement of the package. In fact, they pointed to the impact in terms of economic benefit, employment, improved freight access and increased community wealth. Peter Vaughan, the CEO of Business SA, said:

The delivery of these projects will significantly enhance the competitive freight options for South Australian exporters.

The $55 million plan to further deepen the deep sea channel at Outer Harbor from 12.2 metres to 14.2 metres means that we will now be able to attract even larger ships than the Panamax ships, allowing South Australia to challenge eastern state counterparts for all the exports from the port. Indeed, that was a necessary factor because, as we saw last year when the federal government released its AusLink proposal, it did not even include the port of Adelaide as a port of significance.

The $136 million commitment for stages 2 and 3 of the Port River Expressway means that we will be able to link our land freight more effectively and efficiently with improved port facilities. The $20 million upgrade to the Le Fevre Peninsula rail corridor means providing a more efficient service compared to the current substandard and slow arrangements. I am told that, in some places, it is down to 15 km/h. The $43 million upgrade to South Road between Port Road and Torrens Road means facilitating improved movement along Adelaide's north-south link, and of course the announcement which was made on Sunday about the Bakewell Bridge, a $30 million investment, means that not only will we address the safety aspects of that particular link but also we will provide a critical route for heavy vehicles in Adelaide's inner ring route. Simply, yesterday's infrastructure announcement represents one of the most significant freight infrastructure investments in the history of this state.

The Hon. R.G. KERIN (Leader of the Opposition): I have a supplementary question. Which components of yesterday's announcement were announced for the first time; and how much new money was allocated?

The Hon. P.L. WHITE: It is clear that the opposition does not like this announcement because of the applause that has come from the business community—

The SPEAKER: Order! The minister will address the question.

The Hon. P.L. WHITE: This is over $300 million of investment. It is an infrastructure plan, including government money, and I suggest—

The Hon. R.G. KERIN: Mr Speaker, I rise on a point of order. I thought I was perfectly clear when I asked the minister 'Which components of yesterday's announcement were announced for the first time; and how much extra money was allocated?'

The Hon. K.O. Foley interjecting:

The SPEAKER: The Deputy Premier will come to order!

Mr Brindal interjecting:

The SPEAKER: The member for Unley will come to order!

The Hon. K.O. Foley interjecting:

The SPEAKER: The Deputy Premier will come to order!

The Hon. P.L. WHITE: It involves a whole range of new announcements, including new money, investment in this state and an infrastructure plan in this state, both government and private industry investment. The federal government now needs to play its part.

The Hon. R.G. KERIN: Mr Speaker, I rise on a point of order. Specifically I asked which components of yesterday's announcement were new announcements?

The SPEAKER: It is my melancholy duty to inform the leader that he will not discover that in question time today, quite obviously.

ANANGU PITJANTJATJARA EXECUTIVE

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Premier. For what period of time does the government intend to extend the term of the AP Executive? The government in its initial announcement expressed a lack of confidence in the current AP board, and the Deputy Premier said:

> It is the opinion of cabinet that this crisis has simply gone beyond the capacity and control of the APY council.

The Hon. K.O. FOLEY (Deputy Premier): Absolutely; and we said that because it is a crisis that goes well beyond the capacity not just of the AP Executive but also of the infrastructure and resources that are currently present on the lands. What we have said is that we as a government must accept our portion of responsibility. Not too many ministers of the Crown under governments take that rap and take that on board. It is a pity that members opposite do not acknowledge the eight years of disinterest and lack of attention shown by their government.

We will be deciding shortly what legislative approach is necessary in respect of the AP executive tenure. As I have advised the house previously and said publicly, advice from the Crown Law Office is that there is an issue as to the constitutionality of the current executive which needs to be sorted out. Equally, we need resources on the lands, and we need them quickly. Mr Jim Litster, who was on the lands late last week, has returned, and I am meeting with him shortly after question time today. We are working through a longer term option, given that Mr Litster is able to give us only a month, and we will address that issue. As I have said publicly, and I will say it here and pre-empt the member's next question: I would rather be accused of making a mistake, and I would rather be accused of rushing it, than be accused of sitting on our hands and doing nothing. This is a crisis that requires risk taking by government, and when you take risks you can make some mistakes. The deputy leader can sit over there and mumble and grumble along—

Mr Brindal interjecting:

The SPEAKER: Order, the member for Unley!

The Hon. K.O. FOLEY: —but he as the health minister did nothing to improve the lot and lives of those who live on the Anangu Pitjantjatjara lands. There is a front bench of shadow ministers who did not stand up and acknowledge their government's failures or acknowledge their lack of commitment to the land, like we have. If we have made a mistake—if I have made a mistake—there will probably be more of them until we get this right. Unless we are prepared to take a risk and make mistakes, get resources—police, doctors and mental health officers—up there, more young people will die. I am prepared to take risk after risk, and I am prepared to risk making mistakes. All I ask is that, instead of smirking, the Leader of the Opposition stand up in this place and apologise for his errors.

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: Excuse me, Mr Speaker. The Deputy Premier just accused me of smirking, which is just not true.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: If I have offended the leader I apologise but, if anyone is smirking, they should wipe the smirk from their face.

The Hon. R.G. KERIN: I have a supplementary question to the Deputy Premier. When the government replaces Jim Litster, who for good reason is unable to continue, will it ensure that it appoints both a senior man and a senior woman to make sure that all the issues on the lands are addressed and that the many issues that women on the lands have are given special attention?

The Hon. K.O. FOLEY: That is a very good question and a very good contribution at long last from the Leader of the Opposition. They are the very issues we are working through as we speak. The type, seniority, gender and skills of the people who we need to go up there are what we are working through. If I have made an error I will take responsibility for it. We moved too quickly as we responded to the drama as it unfolded. I sat on my hands and the government sat on its hands. For goodness sake! How can a former health minister and a former premier of this state, whose government did not increase the resources to the level this government has—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: There is one thing that the opposition could contribute to this debate: you can stand in this parliament every day—

The SPEAKER: Order! I remind the Deputy Premier that this is not a debate; it is answer time.

The Hon. K.O. FOLEY: The opposition can contribute to this crisis like this, in my humble opinion; and this is my humble plea to them: criticise me all you like, ask me questions in this house and publicly attack me, but can you not show the decency to be prepared to offer bipartisanship and support to a combined effort? Sometimes in this parliament, sometimes in this community, and sometimes in this state, politics should be put aside.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: The member for Bragg says 'Not very often.' Well, if we are going to offer a hope, if we are going to offer opportunity, and if we are going to go anywhere—

Mr Koutsantonis interjecting:

The SPEAKER: Order! The honourable member for West Torrens is only encouraging the Deputy Premier to participate in debate.

The Hon. K.O. FOLEY: I would put the plight of the Anangu Pitjantjatjara people before a soccer stadium any day of the week.

Members interjecting:

The SPEAKER: Order!

Mr BROKENSHIRE: I rise on a point of order, Mr Speaker. I think you are going to take the point of order I was raising, No. 98, sir.

LIBRARIES, INTERNET ACCESS

Ms BREUER (Giles): My question is to the Minister Assisting the Premier in the Arts. Will the government help small and regional libraries, such as those in my electorate, to upgrade technology so that the Internet is an accessible resource for all South Australians?

The Hon. J.D. HILL (Minister Assisting the Premier in the Arts): I thank the member for her question and acknowledge her great interest in regional South Australia. This is, in fact, a good news story for regional South Australia. Yesterday I launched a new program that will upgrade internet access in South Australia's public libraries, including a rolling out of the broadband. Thanks to a partnership between Telstra, Applied Data Control and our public libraries this new internet network reaches from Andamooka to Mount Gambier, from Ceduna to Pinnaroo, and from the major metropolitan libraries to the smallest library at Browns Well. The first time all 139 libraries will be linked to the same internet network allowing users to share data bases and online information. The service will also streamline access to state and local government information. It will be a knowledge hub and, because the network is broadband, users will be able to navigate the net quickly. This technology upgrade will help to make sure that our libraries are just as relevant in the 21st century as they were at any time in the past.

All South Australians should have access to the virtual classroom that is the internet but it is not enough to just have the connection and the equipment. Public library users, particularly senior citizens, also need help in learning how to use the internet. That is why from August this year new IT trainees will be posted to 20 regional libraries to help first-time users on the internet. The trainees will also be skilled in accessing government services online. This new program of 20 IT trainees is a joint initiative between the government and the local government authority, and members, particularly the member for Giles, will be pleased to know that libraries in Roxby, Andamooka, Coober Pedy, Quorn and Hawker—all in the new boundaries of Giles—will be eligible to apply for new IT trainees. Indeed, all regional communities with libraries will be able to apply for these trainees. The government wants South Australia to have the best libraries in the nation, because they are the places that—through learning—help to build clever and creative communities. I find it extraordinary that this good piece of—

Ms Chapman interjecting:

The SPEAKER: Order! The honourable member for Bragg is out of order, and ought not to be encouraged by the Minister Assisting the Premier.

The Hon. J.D. HILL: I will not be encouraging her, sir. I just find extraordinary that members opposite knock what is a very good news story for regional South Australia.

HOMELESSNESS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Premier. Why has the government doubled the time for meeting the Premier's pre-election target of halving the number of homeless South Australians by March 2006? In the media release of 9 January 2002, before the election, and again in the Social Inclusion Board's July 2003 publication *Reducing Homelessness in South Australia*, the Premier undertook to 'halve the number of homeless people sleeping rough within the life of the government'. Today the housing minister advised that the time was now two terms of government.

The Hon. M.D. RANN (Premier): Can I just say that here we have an opposition, when they were in government, which was known as a government of neglect and which did not give a damn about the homeless, people on the Aboriginal lands, or anything else. What I said—and you will remember what I said very clearly, and perhaps this is just a symbol of your own frustrated ambition—was that we made a pledge—

Mr MEIER: I rise on a point of order, Mr Speaker. The Premier reflected on you on two occasions: he knows that he should not use the second person pronoun.

The SPEAKER: Order! I thought he was agreeing with my frustrated desires. I found it bemusing that he even understood that I had them. I ask the Premier, if by chance he was referring to some other member, to address his remarks through the chair.

The Hon. M.D. RANN: Thank you, sir. I have known the Deputy Leader of the Opposition for many, many years. We have had many contacts over many years, and I have to say there have been times when he has been of great assistance and given me advice, but there is one thing that we know: he still craves the return of the field-marshall's baton; he still thinks it is in his knapsack. What I have said is what I intend to do. That is why we have kicked the backsides of some of the public servants over the last week or so, because—

The Hon. Dean Brown interjecting:

The Hon. M.D. RANN: Do you want me to finish this? Clearly, you don't.

The Hon. DEAN BROWN: I want an answer to the question I asked which is: why has the period been extended to twice the number of years previously given?

The SPEAKER: Order! One presumes that might be to enable the public servants to recover from the injuries to their backsides.

The Hon. M.D. RANN: I advise the deputy leader that the statements that I made last year—and, indeed, in 2002—perhaps reflect a symptom of my own humility, because I said that our pledge was that, during the lifetime of this government, we were going to try to cut the number of people sleeping rough. I am pleased that the minister has pruned it back a few years to try to give the other side some encouragement.

YOUTH WEEK

Ms THOMPSON (Reynell): My question is to the Minister for Youth. What initiatives have been introduced to mark National Youth Week?

The Hon. S.W. KEY (Minister for Youth): I thank the member for Reynell for her question, and I acknowledge her advocacy in this area. There are a number of activities surrounding Youth Week and, despite what the shadow minister for youth may say, I think they are important to outline. Young people in our state have been encouraged to participate in community-based events, and about 150 events have been organised. The youth advisory committees of 55 local councils have been assisted to make sure that these activities are funded. They range from a bohemian event in the electorate of Ashford called Park Art, which was held at

the Hilton last Saturday, through to issues workshops, community projects, dance parties, and debates. One activity which I would particularly like to attend—and I mentioned this to the member for Flinders—is the Splat and Grind day in Cowell next weekend where young people from the area will be projecting movies onto the local wheat silos. So, a variety of events will take place.

The reason National Youth Week and activities of this sort are so important is because they give young people a forum in which to come up with innovative ideas and to raise some of the issues that they see as being most important to them. It also provides an opportunity to put their organising skills into play to make sure that they have these skills later in life to help them to participate in the community. Whilst these National Youth Week activities are taking place, I will announce two schemes which have been developed through the Office for Youth and for which a total of $360 000 has been made available. I think it is particularly important to mention these activities in the house because I hope that local members will continue to assist young people in the community to access these initiatives, as they do with other grants that are available within the community.

There will be one-off grants of up to $20 000 to conduct programs which provide skills and opportunities for young people between the ages of 12 and 25. There will be skills development initiatives that will be funded through the youth empowerment grants. These include training in social skills, living independently and skills in community participation. It is a very good grant that young people can access. There are also the youth in community grants which will fund new initiatives which create opportunities for young people to participate in the community. This is on top of the fact that in every local government area now, across South Australia—I want to acknowledge the Minister for Local Government in assisting with this happening—we now have youth advisory committees across South Australia as well.

Many of these initiatives have some continuity. I think it has always been the practice in this house, certainly since I have been the minister (and I think the previous minister will agree) that it is important that we continue to have these types of grants available, but that we also have the support and focus for young people to determine their own activities.

HOMELESSNESS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Premier. What specific changes in policy have occurred in the Housing Trust and the Aboriginal Housing Authority to achieve the 37 recommendations of the Social Inclusion Homelessness Strategy?

Members interjecting:

The Hon. M.D. RANN (Premier): You do not want me to answer the question? It is all a bit of a game, is it? Somehow, some of the members opposite might think for one small nanosecond that anyone on this side of the house is scared of them. Come on! It is like Dad's Army; there is Private Pike laughing in the background. Let us run through some of the things about crisis accommodation. I have pages and pages here, because I know you really do want to know. The Crisis Accommodation Program (CAP) comprises an additional 26 projects under construction, with its total project budget of $9.8 million. Highlights for the March 2004 quarter, I am advised, include, in January, eight emergency accommodation units for the Eleonora Centre at Noarlunga Downs being completed, providing a total of 20 beds for single adults.

The transfer of crown land to Uniting Care Wesley Mission, Port Pirie, for construction of a 12 bed boarding house for homeless men was finalised in January. For the Southern Domestic Violence Service/Lutheran Church of Australia, a new build project funded through CAP comprises six dwellings constructed on trust land at Edwardstown (three units and an office for the DV service and two units for the family service) is progressing with an application lodged for council approval. This is the first time that two SAAP agencies have collaborated on the one building site.

The refurbishment and remodelling of a former trust cottage flat site for the Central Eastern Domestic Violence Service, comprising 11 emergency dwellings and an administration facility for women and children escaping domestic violence, was completed. Also, the construction of the Anglicare 40 bedroom facility for frail, aged, homeless people at Brompton was completed, and an official opening is planned for 2 April 2004. I honestly hope that members opposite will come along for the opening of the Anglicare 40 bedroom facility for frail, aged, homeless people at Brompton. Members supported—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: This is very sad. His concern is not about the homeless; his concern is about himself, because he really wants to have another run at it. He really wants to have another go at it.

The SPEAKER: Order! The Premier will answer the question and leave the ambitions of other honourable members, including the Deputy Leader, should they have any, to them.

The Hon. M.D. RANN: Thank you sir. It is quite clear that the opposition has forgotten nothing and learnt nothing. Let me go on, if they really are interested in what the subject matter is rather than playing games. Key activities and highlights during the March quarter included the continuation of the national evaluation of the current SAAP bilateral agreement, and a draft report has been provided to jurisdictions for 'in confidence' consultations with government and non-government service providers. Comments from the consultations have been provided to the Australian government.

Work has commenced with the Salvation Army's Bramwell House to identify and consider changes to the service system response to better suit the needs of women escaping domestic violence and the needs of the wider service system.

A forum of key stakeholders and the new Murrayland Support and Accommodation Service was held in February to review the first six months of operation. Service delivery outcomes for clients have increased significantly, and 25 per cent of all clients—

The SPEAKER: Order! Honourable members will cease displaying material which—

The Hon. M.D. RANN: —were indigenous, an encouraging result—

The SPEAKER: The Premier will cease his remarks. The members for Morphett, Mawson and Newland will cease displaying material which has been the subject of filming from the gallery by the television cameramen, none of which may go to air this evening without there being a contempt of standing orders and, should it do so, those honourable members who engaged in it will have, by their actions, brought discredit upon all of us in this chamber.

The Hon. M.D. RANN: It is quite clear from the responses of members opposite that they do not really care about this issue because of the games, silliness and childlike behaviour that has been going on. But, I mention other homelessness activities. The Multi Agency Community Housing Association (MACHA) has been appointed to manage and operate a multiple dwelling at 290 Gilles Street, Adelaide. This property will provide 11 beds for homeless women.

In regard to properties for purchase, the trust is currently investigating three properties for possible purchase in Adelaide and Cheltenham—one as a hostel to house homeless people and two are as a result of supported residential facility closures to maintain housing stability for residents.

In terms of the social inclusion initiative, a 14 point action plan has been announced and includes 29 initiatives, 15 of which are service delivery. Of course, members will be aware of the funding for Westcare, which does a brilliant job. I know that the minister went through this yesterday, but it seems that the opposition is always a day behind. They saw it in *The Advertiser* this morning and they thought that perhaps they were not listening in question time yesterday.

The honourable member for Adelaide and I go to Westcare and also the Daughters of Charity on Christmas Day. I have simply said, and I agree totally with David Cappo, that the money is there; the strategy is excellent; some things are happening but they are not happening fast enough; and I do not resile from calling in Public Service heads and telling them to get off their butts.

Mr BRINDAL: Mr Speaker, I rise on a point of order. The Premier, in his answer, referred to many pages. He then proceeded to read from a document. I ask whether you, sir, in the light of your earlier ruling that you would ensure that documents were adequately and properly quoted, would order their tabling in the house. I ask you to consider that.

The SPEAKER: I do not know that there is a point of order, in that the Premier did not claim that the document to which he was referring in the course of making his remarks came from any source within the Public Service which would enable it to be tabled under the convention of a requirement that such documents be tabled.

WATER, CONSUMPTION

Mr O'BRIEN (Napier): My question is to the Minister for Administrative Services. How have water restrictions and conservation measures impacted on Adelaide's water consumption?

The Hon. M.J. WRIGHT (Minister for Administrative Services): I thank the member for Napier for his question. Adelaide has achieved a significant reduction in water consumption since the introduction of water restrictions in July 2003, followed by the introduction of permanent water conservation measures in October of the same year. I am advised that Adelaide's water consumption in the period from July 2003 to February 2004 was 123.9 gigalitres compared to 150 gigalitres for the same period last year. This level of consumption represents a reduction of 17 per cent on last year.

Water savings achieved so far clearly demonstrate the positive response of the community to water conservation. This has been confirmed by research conducted by SA Water, which shows that almost 95 per cent of metropolitan residents support permanent water conservation measures and most are planning to become more water efficient.

Research undertaken late last year and early this year shows a high level of awareness about the permanent water conservation measures. Most householders said that they used less water than for the same time last year, and a high level of support for each element of the permanent water conservation measures, including sprinkler restrictions; and 41 per cent of people indicated that they were planning to install more water efficient devices in their homes.

In this regard, members are reminded that rebates for water saving devices are still available until 30 June this year. The scheme offers rebates on water efficient shower heads, flow restrictions and tap timers. Despite the good results to date, we cannot afford to be complacent. As the cooler weather approaches, the reductions in consumption need to be maintained if we are to make long-term changes to the amount of water we consume and reduce the state's reliance on the River Murray.

GAWLER POLICE STATION

The Hon. M.R. BUCKBY (Light): My question is to the Minister for Police. Will the minister explain to the house why in a paid government advertisement in the *Gawler Bunyip* on 24 March 2004 it is stated that the government is close to deciding on a successful tenderer to build the new police station in Gawler, yet on checking the SA government tender web site there is no record of that tender being issued as yet?

The Hon. K.O. FOLEY (Minister for Police): A Labor government commits to building a police station in Gawler, something that a Liberal government, after eight years, could not do and would not do. A public-private partnership, sir—

Mr BROKENSHIRE: Mr Speaker, I rise on a point of order.

The Hon. K.O. FOLEY: Here we go, 'When I was the minister'—

The SPEAKER: Order. The member for Mawson has a point of order.

Members interjecting:

The SPEAKER: Order!

Mr BROKENSHIRE: The Treasurer is correct: when I was minister, we did build them. However, the point of order relates to standing order 98.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Fair dinkum; come in spinner. I even wrote the line for him and he parroted it back.

The SPEAKER: Order!

The Hon. K.O. FOLEY: You'd reckon he would have changed the line a bit, wouldn't you! The people of Gawler can be proud that in the not too distant future there will be a brand new police station, I understand in the main street—I may be wrong about that, but it will certainly be in a prominent position. A Labor government delivering more police stations—

The Hon. R.G. KERIN: Mr Speaker, I rise on a point of order. The question was specifically whether the people of Gawler were misled as to whether or not the tender was about to be let.

The Hon. K.O. FOLEY: I will get this clarified to be exactly certain as to when, but, yes, the tenders are about to be let. We are reaching a point where these will be—

An honourable member interjecting:

The Hon. K.O. FOLEY: It is a public-private partnership. I will come back to the house by tomorrow with a

detailed chronology of exactly where we are at in the process, but I can say this: we are very close to seeing a brand new police station being built in Gawler, because when it comes to policing in this state—

The Hon. M.R. Buckby interjecting:

The Hon. K.O. FOLEY: I will check and get back to you, but I can say that this government delivers more police in this state. Mr Speaker; it delivers more police stations—

The SPEAKER: Order! The Deputy Premier will come to order!

The Hon. K.O. FOLEY: —and when that person was the Minister for Police, sir, we had—

The SPEAKER: Order!

The Hon. K.O. FOLEY: —a lot fewer police than we do today.

The SPEAKER: Order! The Deputy Premier flouts standing order 98 and ignores the calls from the chair to come to order, when it is the chair's purpose to remind not only the Deputy Premier but all members that the standing orders do apply. There will be no further warning.

VICTIMS OF CRIME FUND

Ms CICCARELLO (Norwood): My question is to the Attorney-General. Is compensation from the Victims of Crime Fund available for people in circumstances like those of Mr Geoffrey Williams?

The Hon. M.J. ATKINSON (Attorney-General): The short answer is that, yes, it almost certainly will be available. The Victims of Crime Fund, the maximum payment from which is $50 000, is made up of money from the taxpayers of South Australia, acquired through the victims levy on expiation notices and on fines levied in court, but it is also supplemented by money from consolidated revenue. However, it is worth noting that the Victims of Crime Fund is a fund of last resort. It seems to me that Paul Habib Nemer should have the means to compensate Geoffrey Williams from his own resources. It is the government's view that there is every possibility here of a successful civil action by Mr Williams to be compensated fully for the injuries inflicted on him by Paul Habib Nemer.

Dr McFetridge interjecting:

The SPEAKER: Order, the member for Morphett, for the second and final time.

The Hon. M.J. ATKINSON: It is so often the case with crimes in South Australia that, when the victims seek to recover damages from the perpetrator, it is found that the perpetrator is a man of straw; that is, the perpetrator has no assets—

Ms Chapman interjecting:

The SPEAKER: Order, the member for Bragg!

The Hon. M.J. ATKINSON: —from which the victim can recover compensation due. That is why previous governments have set up a victims of crime fund: so that taxpayers, through the victims of crime levy and through consolidated revenue, to some extent compensate victims of crime, because we know that the great majority of perpetrators will be unable to do so. However, let me assure members that, in every victims of crime case, although the state of South Australia is the first defendant, the perpetrator is the second defendant, and we do what we can to recover money from the perpetrator when it has been paid out by the Victims of Crime Fund. The fund deserves no less than the state of South Australia to use every means at its disposal to compensate the fund from the actual perpetrator of the crime. In this case—the case in which Mr Williams has been vindicated—it is my view that Paul Habib Nemer should be able to compensate Mr Williams without going through—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: —the Victims of Crime Fund. However, should payments be made through the Victims of Crime Fund to Mr Williams, we will make every effort to recover the cost of that from Paul Habib Nemer. In some cases, the perpetrator has the means to compensate the victim, and this is one of those cases.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: The member for Bragg interjects, 'How do we know?' Presumably, she thinks the Nemer family cannot afford to compensate Mr Williams—

The SPEAKER: Order!

The Hon. M.J. ATKINSON: It is an outrageous and embarrassing interjection.

Mr Brokenshire interjecting:

The SPEAKER: Order! The member for Mawson believes he has a point of order, which I have already called for. Why doesn't the member for Mawson teach the member for Bragg some of the manners in question times he wished he had himself? The honourable Attorney-General.

The Hon. M.J. ATKINSON: The Liberal Party might support Paul Habib Nemer's right not to compensate Mr Williams, but the government certainly does not.

The Hon. R.G. KERIN: I rise on a point of order, Mr Speaker. I ask for a ruling from you, sir. I think the Attorney-General is putting at risk the rights of his role. He is making an assumption ahead of the courts about the ability of a person, who I believe is a student, to actually afford something.

Members interjecting:

The SPEAKER: Order! There is no action on foot in any court. As far as I am aware, the question was in order and the material being provided by the Attorney-General, whilst it might prejudice the position he may have to take, does not in any way detract from his ability to answer the question and be held accountable for the contents of that answer. For honourable members to be debating—as they have been during this question time and others—when they know full well what the standing orders say about debate, is not a reflection on me as chair. It is a reflection on their unwillingness to accept the rules that they have made to govern themselves, and it is also a reflection on the way in which the general public perceives that abuse. If the Attorney-General wishes to answer the question in the fashion in which he is doing, then that is entirely within the purview of standing orders and it is not for the chair to warn him otherwise as to its consequences, but for the house to decide—if ever there are any.

The Hon. M.J. ATKINSON: We have already had one member of the opposition—namely, the member for Heysen—tell the house on behalf of the Liberal Party that there should have been no direction to the Director of Public Prosecutions to appeal the suspended sentence in the Nemer matter. So, as far as the member for Heysen on behalf of the Liberal Party is concerned, Paul Habib Nemer should not have gone to prison. We now have the leader of the Liberal Party saying that perhaps Paul Habib Nemer should not be liable to compensate Geoffrey Williams for what he has suffered.

The Hon. R.G. KERIN: I rise on a point of order, sir. The Attorney-General has totally misrepresented my position.

The SPEAKER: Order! That is not a point of order. It may be the substance of a personal explanation; however, the Attorney-General would do well to avoid attempting to read minds. I think the Attorney-General has probably made the points that were sought from him by the member for Norwood in the course of her inquiry.

The Hon. M.J. ATKINSON: Not quite, sir. So far as I am aware, there is no legal action on foot by Mr Williams against Mr Nemer in the civil courts, but if I were his solicitor it would be my recommendation that Mr Williams bring such an action.

Ms Chapman: Thank goodness you're not!

The Hon. M.J. ATKINSON: The member for Bragg can have her personal opinion about whether Paul Habib Nemer is liable to Mr Williams—you can back Nemer if you want—but let me say very firmly: the government believes that an important part of closure in this case is not just the imprisonment of Paul Habib Nemer—it is also the payment of due compensation to the victim, Mr Williams. That is the principle for which we stand.

Mrs REDMOND (Heysen): Mr Speaker, I have a supplementary question to the Attorney. Is the Attorney saying that the families of convicted criminals in this state are now to be held liable for compensation to victims once they have been convicted?

The Hon. M.J. ATKINSON: My view is that it has been proved beyond reasonable doubt in the South Australian courts that Paul Habib Nemer deliberately fired a gun at Mr Williams such as to put out his eye. It would be very nice if an offer of civil compensation were made to him.

ROADS, MAINTENANCE

The Hon. M.R. BUCKBY (Light): Does the Minister for Transport agree with the assertion made by the RAA that there is a $160 million road maintenance backlog on South Australian roads, and that $30 million should be allocated in next year's budget to start eradicating this backlog, which has been further increased by cuts in the last two budgets?

The Hon. P.L. WHITE (Minister for Transport): As the honourable member would know, it has been publicly acknowledged that there is a backlog of that size in road maintenance. But I think it is really important for the honourable member to join with me in lobbying the federal government so that South Australia gets our fair share of road maintenance funding. We have about 14 per cent of the nation's highways in this state, yet we do not get anywhere near our share of the cake when it comes to federal funding for those roads. We do not get funding on a dollar per kilometre basis; we are the worst funded state in terms of road funding. So, I ask the honourable member and all opposition members to join with me at this critical juncture in the state's history to lobby the federal Liberal government so that we start to get our fair share of federal government funding for roads.

ROADS, OUTBACK

The Hon. M.R. BUCKBY (Light): Will the Minister for Transport advise the house whether she will reinstate outback road gangs given the recent flooding of the Cooper River and the subsequent flooding of local roads in the Outback? I am informed by people who live in outback areas that roads heading towards tourist destinations such as Lake Eyre in the Far North have been damaged by recent flooding.

The Hon. P.L. WHITE (Minister for Transport): I extend an offer to all members of parliament to raise with me all instances of work needing to be done on roads, and I will ask my department to investigate, as I will in respect of the matter raised by the honourable member. A fundamental tenet which needs to be understood by the house is that we do not get our fair share of federal government funding for road maintenance. Whether it is looked at on an investment or an operational basis, we do not get our fair share of the federal funding pie and, until we do, it will be extremely difficult for us to do all the things that the opposition thinks are needed. I suggest that the opposition gets behind me and starts lobbying their federal colleagues to make sure that we get our fair share—

The Hon. DEAN BROWN: On a point of order, Mr Speaker, under standing order 98 the minister is debating the question. What she is saying has nothing to do with the answer.

The SPEAKER: I uphold the point of order.

The Hon. R.G. KERIN (Leader of the Opposition): I ask the minister a supplementary question. Will the Minister for Transport inform the house whether it was the federal government or the state Labor government that halved the road gangs in the north of the state?

The Hon. P.L. WHITE: I am not sure of the answer to that question or the particular program to which the leader refers. What I can say is that this state does not get its fair share of the federal funding pie. So, before members opposite stand up and sanctimoniously—

The SPEAKER: Order! The minister is now transgressing standing order 98.

The Hon. M.R. BUCKBY: Has the minister's department sold any of the camping equipment used by outback road gangs?

The Hon. P.L. WHITE: I will ask my department and bring back a reply.

GAMING MACHINES

The Hon. R.G. KERIN (Leader of the Opposition): Is the Premier aware that the Heads of Churches Task Force wrote in its May 2003 submission that reducing gaming machine numbers by even as much as 20 per cent or 3 000 would have no impact on the level of problem gambling?

The Hon. M.D. RANN (Premier): We have had a report from the Independent Gambling Authority—

The Hon. R.G. KERIN: On a point of order Mr Speaker—

The Hon. M.D. RANN: I'll answer your question. Just sit down.

The Hon. R.G. KERIN: Mr Speaker, the question was specific as to whether the Premier was aware of what the Heads of Churches had to say.

The SPEAKER: Order! The Premier will address the question.

The Hon. M.D. RANN: What I am aware of is the IGA report. What I am also aware of—

The Hon. R.G. KERIN: The Premier is defying the chair. There is an easy answer to the question.

The SPEAKER: Order! Regrettably, again it is my melancholy duty to inform the leader that it is unlikely that

he will get an answer to his question during question time today.

Mr BROKENSHIRE (Mawson): Does the Treasurer now have advice from the Treasury on the impact that the reduction of poker machine numbers in South Australia will have on the state's revenue? In response to a question on the impact on revenue asked on 17 February this year, the Treasurer told the house:

> The truth is that at this stage it is too difficult to predict. . . We will receive further advice closer to the. . . budget on what reductions in tax revenue in the forward estimates would be appropriate.

The Hon. K.O. FOLEY (Deputy Premier): The truth is that it is very difficult to predict. Treasury has provided me with some advice. It is updating that advice, and that advice will be considered in context of the budget. I will be happy to share that advice with the house, when appropriate. As I have said previously—

An honourable member interjecting:

The Hon. K.O. FOLEY: You are an opponent to pokies; it would not matter what the advice was. I would have thought you would want those machines out. Of course, I have said to the house that Treasury advice is that, taken in isolation, the taxation reduction to government will be minimal. The unknown is how you consider that in the context of a whole range of measures that are being introduced to minimise gambling. That is the unknown quantity, and that is the issue which may take some time and which may need experience before we understand the implications of those measures. I am happy to make advice available when appropriate, but I have already said to the house—

Ms Chapman interjecting:

The Hon. K.O. FOLEY: The member for Bragg.

The SPEAKER: Order! The honourable Deputy Premier has obviously finished his answer.

ROADS, OUTBACK

The Hon. M.R. BUCKBY (Light): What action is the Minister for Transport taking to reverse the situation where leading hire-car companies are refusing to hire cars to people intending to drive on South Australian outback roads due to their bad condition? Leading hire company Thrifty is refusing to hire cars to people intending to travel on South Australian outback roads as a result of their bad condition, which condition, Thrifty maintains, has eventuated since the outback road gang funding was cut.

The Hon. P.L. WHITE (Minister for Transport): That issue has not been brought to my attention but, now that it has, I will quiz my department and bring back a considered reply.

TRAFFIC FINES

Dr McFETRIDGE (Morphett): My question is for the Treasurer. What is the current amount of unpaid road traffic fines, and what has the government done to ensure that this money is both collected and then spent on road safety? With your leave, and that of the House, I will explain.

The SPEAKER: I think the question is clear enough.

The Hon. K.O. FOLEY (Treasurer): Just wait for the uproar. I have to be honest: I do not know. I did not come into this house with a briefing note on the level of unpaid speeding fines. Again, this opposition, which comes in here complaining about speeding fines, is an opposition which, while supporting 50 km/h speed limits in this house, likes to go around and play politics now that people are being fined for exceeding the speed limit. All I say to the member—

The SPEAKER: Order! The honourable minister obviously does not have an answer; this is debate. The member for Morialta.

PUBLIC TRANSPORT TICKET SALES

Mrs HALL (Morialta): Will the Minister for Transport review the policy of the Office of Public Transport which dictates that certain businesses are precluded from providing the service of selling public transport tickets? A constituent from the electorate of Morialta has been denied a licence to sell public transport tickets on the basis that a licensed ticket vendor is situated within 500 metres of his business. My constituent's business, however, satisfies criteria contained in the Office of Public Transport—

The SPEAKER: Order! That is debate.

The Hon. P.L. WHITE (Minister for Transport): In response to that question, I will ask my department about the current policy on that. It sounds as though it is a policy that has probably been in place for quite some time.

Mr Brindal interjecting:

The SPEAKER: The honourable member for Unley will come to order.

The Hon. P.L. WHITE: However, if the member has details of circumstances that indicate that that needs to be looked at, I am willing to do so if she provides me with those details.

GAWLER POLICE STATION

Ms RANKINE (Wright): Will the Minister for Police update the house on the status of the Gawler Police Station public-private partnership project?

The SPEAKER: Order! Can I tell the house, before the Deputy Premier and Minister for Police answers, that I am not satisfied that there have been 10 answers to 10 questions from the opposition today.

The Hon. K.O. FOLEY (Minister for Police): I thought it would be useful, given the question and its implication that somehow the government was not proceeding with the Gawler Police Station, that it would be appropriate to inform the house exactly if the advice that I am given.

An honourable member interjecting:

The Hon. K.O. FOLEY: No, I did not. I have received it. Public-private partnerships are the responsibility of the Minister for Infrastructure, not the Treasurer.

An honourable member: Since when?

The Hon. K.O. FOLEY: Since when? Since we had a Minister for Infrastructure, actually.

Members interjecting:

The Hon. K.O. FOLEY: Oh, but when I was minister! I am advised that, contrary to the misinformation provided by the member for Light, there are three short-listed parties. An expression of interest process was gone through and expressions of interest were received for the police station and courthouse. I am advised that three parties have been short-listed, and I can also say that I understand they are all predominantly South Australian firms. We are currently finalising tender documents, which will be released soon.

Members interjecting:

The Hon. K.O. FOLEY: Well, I have just said to you that we will finalise tender documents which will be released

soon. The selected preferred tenderer will be announced in July or August of this year. Construction is likely to begin in the first quarter of 2005 and, if that is not enough, I can advise the house that, on the advice I have been given, Gawler is likely to be one of the first police stations completed and occupied because of the size of the station compared to the larger stations that are planned for Port Lincoln and Mount Barker. So, by the first quarter of 2005 this station will be open.

We have to consider that these projects are PPPs, not standard tendering as government would normally do in the normal course of events. Under the PPP arrangements, the first step is to go through expressions of interest to see which consortia and companies are prepared to undertake the work. Those expressions of interest were—

Members interjecting:

The Hon. K.O. FOLEY: Sorry?

The SPEAKER: Order! The answer to this—

The Hon. K.O. FOLEY: —not received.

The SPEAKER: Order, the Deputy Premier!

The Hon. K.O. FOLEY: I am simply trying to give the house information, Mr Speaker.

The SPEAKER: Order! The Deputy Premier will apologise to the chair.

The Hon. K.O. FOLEY: Mr Speaker, I said simply that I am trying to give information to the house.

The SPEAKER: The Deputy Premier will apologise to the chair.

The Hon. K.O. FOLEY: I apologise to the chair.

The SPEAKER: The Deputy Premier and all honourable members know that, when a question is asked by an honourable member about a particular subject for which the minister at the time does not have the information, when it is available it is provided by way of statement and it is not provided by way of one-upmanship questions by a member on the opposite side (presumably, in this case, the government's side) when the minister gets the information. That not only denigrates the integrity of the honourable member who first asked for the information but it also adds insult to injury when, in the circumstances, the minister then says, or alleges, that the honourable member first asking the question made false allegations to the chamber. In both instances the Deputy Premier was at fault. In the circumstances, his having apologised, the chair accepts the apology.

The Hon. DEAN BROWN: Mr Speaker, I take a point of order. You may not have heard, but when—

Members interjecting:

The SPEAKER: Order!

Mr Brindal interjecting:

The SPEAKER: Order, the honourable member for Unley! The deputy leader.

The Hon. DEAN BROWN: Mr Speaker, the Deputy Premier apologised and you indicated you accepted the apology, but then he scoffed—very audibly scoffed—as he turned his back to you. I and other members on this side of the house could hear that and, therefore, it reflected further on the chair of this house.

Members interjecting:

The SPEAKER: Order! The honourable the Premier.

The Hon. M.D. RANN: I am in the position of being able to hear quite clearly that the Deputy Premier was responding to abuse from the other side.

Members interjecting:

The SPEAKER: Order! If the Deputy Premier was clearing his throat, or doing any other thing, I did not hear him do so. Notwithstanding the concern which the Deputy Leader of the Opposition has, I have no evidence of that. If the Deputy Premier did scoff, he should apologise for that, too. If he did not, I will take from him, as I will from any other honourable member, an assurance as to whether he did indeed show disrespect to the chair.

The Hon. K.O. FOLEY: Mr Speaker, I apologise for anything that I have done that in any way may have offended you.

ANANGU PITJANTJATJARA LANDS

The Hon. J.D. HILL (Minister for Environment and Conservation): I lay on the table a copy of a ministerial statement relating to the Anangu Pitjantjatjara lands made in another place by my colleague the Minister for Aboriginal Affairs and Reconciliation.

GRIEVANCE DEBATE

VICTIMS OF CRIME

Mrs REDMOND (Heysen): I rise today to express my concern about the comments of the Attorney-General during question time in relation to victims of crime legislation and how it operates in this state. I have no difficulty with the contention that the Victims of Crime Fund is a fund of last resort, and that, where possible, it will be appropriate for people to take civil action against the person who caused injury to them and obtain compensation via that path or, if they have some other mechanism whereby they can obtain compensation, because certainly the amount of compensation available under that fund is so limited in any event that it is—

The Hon. DEAN BROWN: Mr Speaker, I take a point of order: I just heard the Attorney-General use across the house, 'You do not know when to keep your gob shut.' I believe that is absolutely inappropriate for an attorney-general to use in this house and I ask for the remark to be withdrawn.

The SPEAKER: The deputy leader knows that, if an expression which is not parliamentary causes an honourable member to whom it is directed on the other side some offence, then it is the responsibility of that honourable member to immediately draw attention to the offence so caused.

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order! The Attorney-General knows my voice is frail, in which case it will help his good standing in this place if he does not interject across the chamber when the chair is addressing the chamber. The member for Heysen had the call, and by virtue of the way in which the deputy leader related to the house that the remark made, not heard by the chair, was directed to the member for Heysen, it is for the member for Heysen to take the point, not the deputy leader. The member for Heysen has the call.

Mrs REDMOND: Thank you, Mr Speaker, and had I heard the remark I would call for its withdrawal, but since I did not hear it I will not proceed further down that path and will not spend any more of this house's time in dealing with that. I am sure that the Attorney-General's agitation relates to the fact that I think he suspects he has gone too far in

relation to what he said on the matter of victims of crime. It is perfectly reasonable to say that when someone is a victim of crime they should approach other sources before they approach the Victims of Crime Fund to get compensation. I was at the point of saying that, in fact, if they are successful, normally they will get more compensation by approaching such other funds, whether it be WorkCover or anywhere else but a civil action.

If the Attorney-General's contention is that Paul Habib Nemer is personally liable, I have no difficulty with that. He has now been convicted and he is in prison for the offence, and if Mr Williams brings a successful action him, that's fine. The difficulty comes when he goes further than that and says that the family are somehow to be liable.

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: The Attorney says he did not say that. I have to check the *Hansard*. It may well be he did not precisely say that. It was the clear implication of what he was saying. He did say that his family was wealthy. That his family is wealthy is irrelevant to the question of whether Mr Nemer has to pay any compensation. I have no difficulty with the proposition that if he has any funds or assets then it is perfectly reasonable for Mr Williams to seek compensation from him. It becomes unreasonable at the point where someone's family, potentially, will be held liable. That would demand a major change in the law and the way we think about compensation. How can we possibly assert that people who are the families of criminals—who may have nothing whatsoever to do with them—could in any way be held liable for the actions of those criminals? It is not appropriate. That young man is an adult.

Members interjecting:

Mrs REDMOND: There is an argument going on across the chamber about what the Attorney did say or what the Attorney did not say. I am quite happy to check the record—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: I am not waiting because the clear implication of what the Attorney said was that, in some way, if a criminal comes from a wealthy family then it is incumbent upon that family to magnanimously make an offer to compensate the person who has been injured by the convicted criminal. It is a major change in the way we think about compensation. It is extraordinary to me that someone who holds the office of the Attorney-General of this state would make such a suggestion in this place and make such an exception in this particular case. I have not always agreed with the position taken by either side on this matter. In general, I have agreed with the Chief Justice's position in relation to the appeal, but—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: At the end of the day Mr Nemer is now convicted, but why is he the subject of such special attention? There are all sorts of extraordinary circumstances that occur in cases throughout our law courts, yet the Attorney does not pick on any other case. There was a case last week with an Aboriginal gentleman who was supposedly carrying out his tribal law, but he did with a knife instead of a club and actually killed the person, but the Attorney-General has not offered to intervene in that matter.

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: Well, why is it any less extraordinary—

Time expired.

MOBILE PHONES

Mrs GERAGHTY (Torrens): Yesterday, I spoke of the social pressures that can lead young people into debt, and I raised the problems in relation to mobile phone contracts to which young people commit themselves without fully understanding the consequences they can and do face meeting those contractual obligations. The aggressive marketing of mobile phones and the constant encouragement within the commercial media to use features, such as SMS messaging, do very little to promote sensible and affordable use. Shows such as *Australian Idol* and *Big Brother*, which revolve around the concept of audience interaction through SMS voting, actively encourage viewers—overwhelmingly our youth demographic—to vote multiple times over a period of months. The cost of such an SMS message can be more than double the normal cost due to the fact that the revenue is shared between the television company and the phone company. One can readily appreciate the significant financial windfall that stands to be collected by these messages.

A study focusing on debt levels among young Australians released by La Trobe University earlier this year made the finding that young people are making some 400 million text messages each month. The cost of an SMS message ranges from 25¢ at normal rates up to 55¢ at premium rates, and in America it can be anywhere up to $5. At present there is no regulation of rates in Australia. The La Trobe study also found that 72 per cent of young Australians between the ages of 14 and 24 now own mobile phones and that this was the main catalyst for plunging young people into a debt crisis. The reality is that companies can earn millions of dollars by targeting our young people. The mobile phone is marketed as a lifestyle and fashion item and the success of these companies, in saturating the youth demographic with their product, according to the La Trobe study is largely as a result of the fact that young people are often ill-informed, impulsive and inclined to indulge their immediate wonts. If we add to this equation the immediate access to credit and the ease with which contracts for mobile phones can be signed, it is easy to see how these debts are being incurred.

There is a critical need to educate young people about the consequences of credit and about the terms and conditions of mobile phone contracts. There is also a need to emphasise to companies and institutions the impact that providing access to easy credit is having on our young people and also their families, which I spoke about yesterday. It is truly alarming to hear people as young as 18 declaring themselves bankrupt, and I think that is probably going to become more common.

The Office of Consumer and Business Affairs maintains valuable information for young people about management of their finances and the risks of credit on its web site. However, the real challenge seems to be getting the information to people and overcoming the cultural attitudes affecting young people's decision making when purchasing these so-called lifestyle necessities.

The New South Wales Office of Fair Trading research acknowledged the important point that a paternalistic approach to educating about the risks that access to credit poses is unlikely to be successful. Indeed, the main barriers to communicating the dangers would seem to be an effective advertising and marketing culture, combined with a culture amongst young people which ties status to the acquisition of expensive gadgetry. It is a given that Australian society in general is burdened with historically high levels of indebtedness. However, it is worrying in the extreme that this

indebtedness is now being incurred at such a young age. It is certainly clear that better financial management skills ought to be taught at a younger age, as well as the need to teach our young folk a great understanding of the methods which institutions and corporations employ to reap their profits. It certainly is a problem and needs to be dealt with.

Time expired.

ANTISOCIAL BEHAVIOUR

The Hon. G.M. GUNN (Stuart): I wish to raise a matter of law and order in relation to the action that can be taken to deal with antisocial behaviour. A program, headed 'Yobs named and shamed', which operates at Worcester in the United Kingdom has been brought to my attention.

The Hon. M.J. Atkinson: Where in England?

The Hon. G.M. GUNN: In England, yes.

The Hon. M.J. Atkinson: But where in England?

The Hon. G.M. GUNN: I have already said. The louts will be named and shamed on leaflets pushed—

The Hon. M.J. Atkinson interjecting:

The Hon. G.M. GUNN: Look, I will give the Attorney-General a copy when I have finished.

The SPEAKER: The Attorney-General will cease interjecting.

The Hon. M.J. Atkinson: I think it was 'Worcester' you were looking for.

The Hon. G.M. GUNN: No, it is not. I will give the honourable member a copy so that he can be better informed, if he wants. I will start again because of the rude interruption. Louts will be named and shamed on leaflets pushed through doors. The evening news can now reveal that police legal experts have cleared the hard-hitting 'shop a yob' campaign. The leaflets (which will be backed by posters in windows) are expected to contain the names, photographs and offences committed by thugs who have been made the subject of antisocial behaviour orders. Leaflets and posters would also contain details of the antisocial behaviour orders and urge residents to call police if offenders have broken conditions. They would then risk imprisonment, eviction from their home or being thrown out of the area. The local Labor MP had this to say:

> It will deter yobs from committing offences and empower people to do something about yobs who breach the conditions. . . It will give local people real teeth in the fight against disorder and antisocial behaviour.

An article in a local paper in Redditch states:

> Gangs of louts who 'strike fear into the hearts of residents' could become a thing of the past when Redditch police begin using stringent new powers in their fight against antisocial behaviour.

I think we could use some of these particular provisions here. My constituents have had enough of this antisocial behaviour in Port Augusta, and the police should be given this sort of power to deal with these people, who have no regard for people's privacy, property or the general wellbeing of the community. They think that it is their right to vandalise property, smash windows and cause great disruption to small business people. They have no regard for the fact that these people's insurance premiums will skyrocket and that it interferes with their business. They think that they have a licence to carry on at will and nothing will happen to them. The police do their absolute best and do of course apprehend them, but it is important that people are made aware of who these characters are, and they should be shamed into behaving themselves.

Currently in Port Augusta we have an excellent foreshore redevelopment which has allowed people to reclaim the foreshore—

The Hon. J.D. Lomax-Smith interjecting:

The Hon. G.M. GUNN: I know that. It was one of Diana Laidlaw's better efforts, let me tell you. It was one of her real good efforts and I am pleased that she has stayed there recently. However, it is important that families are not deterred from enjoying the amenity which has been created in cooperation with the City of Port Augusta and the government, and these sorts of measures will help.

The second matter I raise concerns the regional Economic Development Board funding. It has been brought to my attention by the District Council of Peterborough that the Northern Regional Development Board (to which the council contributes) has not had an increase in its core funding since 1999-2000, and that this has necessitated the local government partners contributing 25 per cent above what the resource agreement requires.

A letter has been written to the Hon. Paul Holloway, the minister, claiming that the council has accepted this. However, council has recently been informed that the working towns program funding of $100 000 per annum has been withdrawn from the board and that the government is loath to commit to the continuation of the $50 000 per annum discretionary funding. It is important that this funding is reinstated because I have had the regional development board speak to me about it, and they are most concerned that their operations will be curtailed. Therefore, I call upon the minister to give a full explanation about why this has taken place, and I also understand that the council is looking forward to an answer from the minister.

I call upon the minister to take some positive action and to start investing in rural South Australia. We heard the Premier being loud in his praise of the program put forward by the Farmers Federation today. He needs to support that with some financial action, because at this stage this government has set out to penalise my electorate in many ways, whether it is by stopping the erection of school buildings at Booleroo Centre and Peterborough or whether it is taking local people off boards.

Time expired.

The SPEAKER: Order, the member for Wright! I do not wish to embarrass the member for Wright, but it is a good idea if honourable members take a seat in the chamber if they are having a conversation with one another, rather than turn their back on the chair.

McALISTER, Mr E.

Ms BEDFORD (Florey): It was my pleasure last night to represent the Premier and the Minister for Environment who holds responsibility for zoos in his portfolio at a function hosted by the chairman of the Future Zoo Foundation, Mr Robert Gerard, to honour the appointment of Mr Ed McAlister as President of the World Association of Zoos and Aquariums (WAZA as it is known to its friends), in the presence of many of our zoo's friends and supporters, including my parliamentary colleague the Leader of the Opposition and the Lord Mayor of Adelaide, in conjunction with Dr Rob Morrison and the Director of Adelaide Zoo, Mr Mark Craig, and the Monarto Director, Mr Chris Hannocks. Also present was Coralie Cheney, representing Gordon Pickard, whose foundation is a very strong supporter of zoo programs.

Both the Adelaide Zoo and the Monarto Zoological Park are members of the Australasian Regional Association of Zoological Parks and Aquaria (ARAZPA), the peak body industry in this region. The society represents both zoos in the World Association of Zoos and Aquariums, which is the peak zoo professional body in the world, just to give members a context. A large number of the world's premier zoos are members of WAZA, as are 16 regional associations. In this way WAZA influences either directly or indirectly more than 1 000 zoos worldwide.

It is this organisation which Mr McAlister has been given the honour of leading for a period of two years, and it would be fair to say that, when he was appointed to the council, he did not have any aspirations to rise to the presidency; he simply wanted to offer what skills he could as he wanted to see the Australasian region represented. However, Ed is the first person from Australia and I believe only the second person from the Southern Hemisphere to lead the organisation in its almost 60 year history. The organisation itself has changed greatly during the 12 years of his involvement and has now become a force in international conservation, generally through its member institutions but now also by attending international forums and putting forward its views.

I bring to the attention of the house some of the issues Ed raised last night in his speech entitled, 'Adelaide Zoo/Monarto Zoological Park and the Royal Zoological Society of South Australia Incorporated: Our place in the world scene'. One of the problems for many in the zoo world is that many people think of zoos as they used to be: little better than stationary circuses. In addition, there are some very bad places which are referred to as a 'zoo' but which tend to be used to condemn all zoos as being the same. WAZA and all regional associations have codes of ethics in animal welfare, and members are expected to comply with these codes or face expulsion. Members are asked not only to ensure good animal husbandry and animal welfare inside their zoos but also to take a strong position on cruelty outside their zoo walls. For example, WAZA has condemned the horrendous practice of taking bile from bears in bear farms in China, keeping dancing bears in Pakistan, and non-sustainable practices such as long line fishing, where other creatures such as pelicans can be caught and die a long, slow and painful death. In his new capacity, Ed has already written to Japan in an attempt to have bear pits closed. I find it very hard to understand why people would watch such a practice for entertainment.

As we all know, Adelaide Zoo is now an old zoo, 120 years old, and has some elements that Ed and his staff are working very hard to upgrade. Many changes have been made, and I am sure all of us have seen those over the years. Monarto Zoo is a different story. It was opened in 1993 on a shoestring budget, and it has managed, over the years, to make huge improvements. People from all over the world come to see Monarto, where the animals can be seen in an 'up close and personal' situation.

All good zoos give the reasons for their existence as research, conservation, education and recreation. The Adelaide Zoo and the Monarto Zoo combined will have 450 000 visitors this year, and they do their best to keep us entertained with many new innovations, running as they do on donations from the people who visit and support the zoos. As usual, funding is something that they are always looking to improve.

I take this opportunity to mark my appreciation, on behalf of the people of Florey, many of whom visit the zoo very regularly, to congratulate Ed and his wife, Margaret, who has supported him for many years in his work in zoos. I will close with a message from the minister which recognises that anyone who becomes a world leader is indeed exceptional. Ed's appointment as President of the World Association of Zoos and Aquaria is one in which he can take great pride.

Time expired.

FAMILY AND YOUTH SERVICES

Mr BRINDAL (Unley): Yesterday, I addressed the house on a matter relating to FAYS, and I wish to continue in that vein today, specifically mentioning FAYS' gross inability to handle people of Aboriginal and Torres Strait Island extraction within their organisational structures.

I have been informed about a family in regional South Australia where the mother, being pregnant with the eleventh child, obviously has 10 others living. The FAYS structure has built a house for that lady, and the state and federal governments, through pensions and various other artifices, provide for the welfare of that family. Most unfortunately, the mother, who is a person of Aboriginal origin, also has a pokies addiction, which means that her 10 born children are constantly in trouble with the police for stealing food. They are in trouble not only for the stealing of food but also for acts of vandalism, such as smashing windows, and all sorts of social problems that belong with that household.

I am reliably informed that the local police habitually make two or three notifications to FAYS, almost on a daily basis, in connection with this family, which is obviously socially dysfunctional and disruptive of the community and the children of which are quite clearly at risk. However, I have been told not once but repeatedly that FAYS will not intervene to separate the children from a custodial parent who is of Aboriginal extraction. I do not see the difference in South Australia based on skin colour or on ethnic origins—

Ms Breuer: Rubbish!

Mr BRINDAL: The member for Giles says that is rubbish. I actually believe that all children in this state deserve an equally fair go. I believe, for the member's—

Ms Breuer: That's rubbish. If the children were at risk, they would be removed.

The SPEAKER: Order! The member for Giles will have an occasion in a short time to make a contribution and provide a rebuttal, if it is her wish to do so.

Mr BRINDAL: I would welcome the member for Giles pointing out to me and to this house how the facts I am laying before this house are in error. If FAYS has figures on its dealings with people of Aboriginal and Torres Strait Island—which I doubt because FAYS does not even have an action plan, benchmarks or anything else—let it produce them, and let the member for Giles come into this house with a cogent argument. I am attempting, for the benefit of the member for Giles, to lay on the table facts that have been given to me. They may be wrong. For the sake of those 10 kids, I hope they are and that I am wrong.

However, I cannot do anything, other than come in here and present cases that are given to me as an opposition member and say to the government, 'Is this true? What are you doing about it?' It has certainly been alleged to me—for the benefit of the member for Giles—that FAYS will simply not treat fairly children with Aboriginal parents and that there are two classes of treatment. One is a department too scared to take on the serious issues where aboriginality is involved and probably too incompetent to do it for the rest of us.

Indeed, for the benefit of the member for Giles, I was told by a colleague in this house today of a case of an Aboriginal child, because they had a particular physical problem that needed correction at David David's Institution, where there was discussion as to what sort of nose the child would be given. The child is half caucasian and half Aboriginal, or of mixed blood, and FAYS tried to say that the child should be given an Aboriginal nose. I would have thought that the child needed a nose that fitted the face of the person—not an Aboriginal nose or a white nose—but that says something about the competency of FAYS.

Incidentally, one of our colleagues also told me that these children, having for 10 years been with a white family, cannot be adopted because the white parents are apparently not good enough to adopt Aboriginal children. I find that absolutely abhorrent. They had a white social worker for 10 years, and that white social worker was removed and replaced with an Aboriginal social worker, despite the fact the kids were very happy with the long-term situation. I believe something is wrong, and it needs fixing.

HARMONY DAY

Ms BREUER (Giles): I have to say to the member for Unley that I cannot believe that FAYS has two policies when children are at risk. If children are at risk, FAYS will act on it.

Mr Brindal interjecting:

The SPEAKER: The member for Unley will now give the member for Giles the courtesy and respect due to her. The member for Giles has the call, and if she seeks to rebut the remarks made by the member for Unley that is entirely in order.

Ms BREUER: Thank you, sir. On 21 March it was Harmony Day. The theme for Harmony Day this year is 'You plus me equals us.' However, after question time today, I do not particularly feel like talking about Harmony Day. I feel quite disgusted with our question time today. I do not think there would be a parliament in the world where such a nasty atmosphere exists during question time: it was almost lunatic behaviour. There was a lack of dignity and respect, as has occurred on so many other occasions. In our previous parliament, even at the height of things such as the Motorola crisis, there was always some respect in this place in relation to how it was controlled and operated, but that seems to have all gone these days. We were elected to represent our communities, but the yelling and screaming that goes on here would not be necessary if we remember this. I do not feel prepared to be spoken to in future in this way, as we were today.

To return to Harmony Day, two weeks ago I was asked to speak at a special mass held in Whyalla to comfort the victims and families of those people in Spain who suffered so badly in the terrible bombing that occurred there. I did speak at the mass, and I talked about how Whyalla experienced a terrible tragedy a few years ago with the Whyalla Airlines crash, although it was on a small scale compared to what has been happening in recent years with terrorist acts.

When I was in Scotland recently, I actually called into Lockerbie, as I felt some affiliation with them because of the dreadful act that occurred there a few years before, when they also lost many of their community through terrorism when a plane crashed there. I did not know anyone in Lockerbie, but I drove around and felt quite comforted by being there and knowing the feeling that that community would have had when that happened. So, I was able to talk about this at the mass that was held for the victims of the bombings in Spain and say to those people there that we were able to share those feelings, that pain and that suffering, and that dreadful loss in communities.

I was invited by Carmen and Pablo Rosa, who are leading figures in the Spanish community in Whyalla, and to see the grief that they felt that day, and to see the grief of the other people with Spanish backgrounds, was quite moving, especially as it was shared by so many of our Whyalla community. It is really important, I think, that communities are able to get together. I do not know what is happening in this testosterone-driven world; why we need to be suffering in this way; and why these things are happening. I do not believe that if women ruled the world it would be a terribly much better place, but surely we could do a better job than what is being done at the moment. So much is happening that is power driven.

Some of the things that happened in question time today and last week were aimed at getting at the government over the issues in the Pitjantjatjara lands. I spoke about this last week and said, 'Please, can't we put politics aside in this issue. We are talking about young children who are dying; we are talking about young men and women who are dying from petrol sniffing, from alcohol and from poor health problems. Why are we turning this into a political football? Why do we keep going? Why don't we just get behind what is happening and make it work, make it happen, and change those situations?'

Today there has been some discussion in the media about Yalata and, again, out come all the stops, the 'get stuck in'—spread the myths and misconceptions about what might happen there. Yalata is a community in trouble also, and it needs all the help it can get. It does not need people coming in and making ridiculous statements about what should happen or what has been happening. I know that Dr Archie Barton from the Maralinga Tjarutja lands is concerned about what is happening there, but he is also concerned about some of the media reports that have come out today about what will happen there.

We must stop playing with these issues. We have to stop thinking about power, about getting ahead, and about doing what we want to do in these ways. We have to think about people's lives. The Whyalla community was able to work together very well after the tragedy that we had, and the Whyalla multicultural community plays a really important role in our community in getting people together, getting them talking about things and making things happen.

NATURAL RESOURCES MANAGEMENT BILL

In committee.

(Continued from 29 March. Page 1742.)

Mr SNELLING: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Clause 2.

The Hon. I.F. EVANS: Is it still the intention of the government, if the bill passes in the upper house in the sitting

week in May, to proclaim the legislation and have it operating by 1 July this year?

The Hon. J.D. HILL: I will clarify that when my colleagues arrive, but it is my intention to have this bill proclaimed as soon as is practical. There is, obviously, a range of issues that would have to be worked through, but it is certainly my intention to proclaim the legislation as soon as possible.

I might take this opportunity to make some brief observations about some of the amendments, which might indicate to the opposition where the government is prepared to go, and that might aid the process. I would like to thank members for the input on the further development of the NRM bill. As I intimated in my concluding remarks, the government is prepared to positively review any amendments proposed by the opposition that will improve the bill.

I also thank the members for Davenport and Chaffey for sharing their proposals for changes to the bill with the government. The member for Davenport has, I gather, 260-odd amendments and we have been working our way through those. We are prepared to support some of the amendments that have been proposed by both the opposition and the member for Chaffey. The government is also prepared to further consider some amendments where we do not have difficulty with the intent, but are concerned about the ramifications of the proposed wording: in other words, we will either look at them tonight and tomorrow if the bill has not got through by tonight or tomorrow, or we will look at some of those issues between this house and the other place. Other amendments the government will not support, particularly those that go against the basic premise of the bill.

Before we go into further debate, I will provide members with my intentions in relation to some of the opposition's amendments. I have noted the opposition's concerns in relation to the self-incrimination provisions as proposed in the bill and, although I consider that the provision is adequate, I am prepared to accept the amendments filed in the name of the member for Davenport that deal with that issue.

There seems to be some confusion relating to the definition of the department that will assist the minister in the administration of this legislation, and I note in particular the remarks made by the Speaker in this regard. I have, therefore, filed an amendment to reword this definition to provide that the department is identified by a notice in the government *Gazette* rather than by regulation, and I note that the member for Davenport has filed a similar amendment.

Again, there seems to be some concern regarding the use of the words 'should' and 'must' in relation to the consultation provisions in the bill. The bill has been drafted in this manner for good reason, as it avoids the extent of consultation that has occurred becoming subject to legal challenge. It is the government's intention that consultation will occur, and the government is prepared to examine the context in each case where the words 'should' or 'must' have been used in the bill. Accordingly, while the government will not support some of the amendments filed by the member for Davenport in this regard, I commit to this matter being further considered between houses.

The member for Davenport has sought a raft of changes to penalty provisions in the bill. Let me state quite clearly that the penalties proposed in the bill adequately reflect the severity of the offences—and we can discuss that as we go—so I will not be accepting those amendments.

Clause 5 of schedule 1 relates to disclosure of interests. As members would be aware, the parliament passed the Statues Amendment (Honesty and Accountability in Government) Act 2003 last year, and a significant aspect of that measure is constituted by extensive amendments to the Public Sector Management Act 1995 that will put in place standard provisions relating to the duties of corporate agency members and advisory members, including provisions relating to conflicts of interests.

The NRM bill was drafted on the basis that these new arrangements would apply to members of the council's boards and groups; however, it appears that these new arrangements will not be in place in time for the commencement of this act. It is therefore necessary to insert a conflict-of-interest provision in this bill to ensure that there is no hiatus pending the commencement of the PSM act amendments. This conflict-of-interest provision replicates the relevant sections that will appear in the Public Sector Management Act and may be removed in due course once the arrangements under the act come into operation.

The government will also support the amendment to be filed in the name of the member for Chaffey in relation to a requirement for consultation between the minister and the designated ministers before nominations for members of the proposed NRM Council and regional NRM boards are finalised. The government will also support the amendment filed in the name of the member for Chaffey providing that the temporary transfer of a licence or of the whole or part of the water allocation of a licence with certain time limitations is not chargeable with duty under that act. I just provide that information to members. I understand we have a lot to get through and that this will be a fairly complex process, but I undertake to go through it with reasonable goodwill and certainly with an ear to listen to the concerns raised by members opposite.

Clause passed.

Clause 3.

The ACTING CHAIRMAN (Mr Snelling): As some of the clauses are 12 pages long, I propose to deal with this clause page by page. Is that acceptable?

The Hon. J.D. HILL: I am relaxed about the process. I think it will aid the process if we do not try to impose too many artificial constraints on how many questions members ask on particular clauses. This is a complex piece of legislation. If the opposition approaches it with a spirit of cooperation, I do not think we will have any trouble.

The Hon. I.F. EVANS: The definition of 'animal' has been amended to include fish. For what purpose is that needed under this act when it was not needed under the previous act?

The Hon. J.D. HILL: The definition is amended to include all organisms that are present in any ecology. In particular, the inclusion of fish relates to estuaries which will be covered by the NRM planning process.

The Hon. I.F. EVANS: Do I take it then that estuaries were not covered under the old process? If they were, why were fish not covered under that process?

The Hon. J.D. HILL: I gather that they were not covered to the extent that this legislation intends. I guess this just brings this act into line with more current thinking about how to manage our natural resources. I make it clear that there is no attempt in this legislation to cover aquaculture or the fishing industry. They will be covered by the existing pieces of legislation.

The Hon. I.F. EVANS: The minister says that there is no intent on behalf of the government to cover aquaculture under this bill. What I seek to establish is whether there is power for

a future government to control aquaculture under this bill. My understanding is that the bill covers state waters out to the two kilometre mark. If there is aquaculture within that range—quite often there are aquaculture facilities close to shore; indeed, some of them are close to shore where there is an outlet to a river or the ocean—I wonder how they will not have an impact on the aquaculture facility. It appears to me that the definitions in this bill are so broad that aquaculture could be caught under even the definition of 'intensive farming'. The minister says that that is not the intent of this government, but is there the power within this bill? I think there might be.

The Hon. J.D. HILL: My advice is that there is not. I will seek further advice, but there are legislative frameworks to cover those areas described by the member. My understanding is that this legislation does not override those powers. During the consultation process we talked to the Aquaculture Council, which was happy with this form of words. I understand what the member is saying: is there some obscure way that a government could cobble together a set of arrangements using this legislation somehow to override its own powers in another act? We do not believe so, but I am happy to have a closer look at it.

The Hon. I.F. EVANS: I refer to the definition of 'biological diversity'. The bill contains the term 'biodiversity', which is not defined. Is that different from 'biological diversity'?

The Hon. J.D. HILL: My advice is that they mean the same thing.

The Hon. I.F. EVANS: The minister may seek to tidy that up in between the houses.

The Hon. J.D. HILL: 'Bio' is an abbreviation of 'biological'. It makes sense, but we will have a look at that.

The Hon. I.F. EVANS: The government received a submission from the National Environment Law Association (NELA), as has the opposition, in which it refers to the definition of 'control'. With reference to the phrase 'as far as is reasonably achievable' (as a catch-all phrase at the end of the definition of 'control'), NELA argues that it would be clearer to readers of the legislation (and therefore to the courts) to remove from the definition all words up to 'as far as is reasonably achievable' and place them in the text of the bill after 'control means'. In essence, that is what NELA says. Why has the minister not picked up that recommendation?

The Hon. J.D. HILL: As the member would understand, if two lawyers get together to determine what is a better way of phrasing something, they may well have two notions. It appears not to have any substantive difference; it is a drafting style. Parliamentary Counsel preferred one way of phrasing it to the way NELA preferred. It is not a particular issue for me, and we can have another look at it. My advice from parliamentary counsel that it is adequately covered the way it is.

The Hon. I.F. EVANS: I now move to the definition of 'department'. I move:

Page 11, lines 32 to 34—

Delete the definition of Department and substitute:

Department means the administrative unit designated from time to time by the Minister by notice in the Gazette as being the Department primarily responsible for assisting the Minister in the administration of this Act;

I move this amendment because, the way the bill is currently drafted, 'department' means the department of the minister to whom the administration of this act has been committed and prescribed by regulation. That essentially means that the minister, by regulation, will determine to which department the bill refers. Of course, the day the government changes, the new government may wish to take that out and make it a different department. By having this in a regulation it allows the parliament to change that regulation. It has always been the privilege of the government of the day to decide which acts are put to which minister and department. Therefore, we believe that the proper definition should be as per our amendment, which means that it is notified by way of gazette, leaving the government of the day able to decide or have more flexibility about where the department is allocated or where the act is allocated. We move that amendment.

The Hon. J.D. HILL: The government will accept the amendment. The member has picked up a drafting error and it certainly was not the intention of the government to do in that form.

Mr VENNING: May I add to that? I do not expect to do any more. This is an area where some are concerned that the whole ethic is changing from the current situation, where it is under the Minister for Primary Industries. Under this act, as the shadow minister said, it comes under the minister for the environment or the minister chosen by the government of the day. I am concerned, and I would have liked to have insisted that it be the minister for primary industries be here, but I will not be dividing on that matter. I certainly support the amendment moved by the shadow minister. This will be an opportunity for those who are concerned that, if this was with the minister for primary industries, a lot of the fear, warranted or not, would have been taken out of this bill.

The Hon. J.D. HILL: I will address that briefly. I am glad the member for Schubert is not pursuing a division over that issue because, presumably, the member for Davenport would have voted against him, because he just said that it is the right of a premier or the government of the day to determine who should look after legislation, and I certainly agree with him in relation to that. On the issue of whether it is the environment minister or the minister for anything, the current Premier has give me responsibility for two areas of government policy in relation to this area. That is, for the environment, which was the area of responsibility of the former member for Davenport when he was a minister, and he is also given me the responsibility for the area of water, land and biodiversity conservation. That has primarily picked up what was the responsibility of the member for Unley, who was the water resources minister, and it is also picked up some elements which were in the department of environment, that is, native vegetation and some of the biodiversity issues. It has also picked up what was known as sustainable resources in the Department of Primary Industries and Resources South Australia. In order to get integrated into natural resources you have to put those elements together. My view is that the best way of getting that integration is to put those elements together in one department.

When I was given the duty to look after these areas I told the Premier that it was my view that we could combine the environment department with this water, land and biodiversity conservation department to have a big department of environment and natural resources, which was the way these issues were joined together in the past, I think, when during the late seventies and early eighties the Hon. David Wotton was the minister for environment and natural resources. In fact, in the early part of the Brown government he was the minister for environment and natural resources. There are ways of combining it, and I told the Premier that I do not

believe we should put them together into one department. I believe they should be separate departments, because they are separate cultures with separate sets of relationships. The environment department is very much about environmental advocacy. Primary industry is about primary industry development. This new Department of Water, Land and Biodiversity Conservation is really about the allocation of those resources to those purposes, either primary industry purposes or environmental outcomes.

A future government, or indeed the current government, could choose to separate responsibilities of environment from the Department of Water, Land and Biodiversity Conservation. The current Premier could choose to give the second body to another minister altogether or he could choose to give it to the primary industries minister. One of the things I am hoping is that the new department will develop a sufficient culture, status and responsiveness that future governments will keep it together as a separate department. They may transfer the department to the different ministers over time, but at least it will maintain its integrity as a natural resources department. If you start breaking it up again, you start losing the culture and all the benefits of having a department which is all about integration.

The Hon. G.M. GUNN: I will briefly comment on the minister's comments. Whether department is broken up in the future will largely depend upon the attitude of the minister and the attitude of those administering it and whether they adopt a proactive, pro-farmer attitude. If they adopt another attitude, the pressure will come on an incoming conservative government to put the axe in it. So, it is really in the hands of the minister. It did not start off too well, because the Dog Fence Board is mentioned, as is the Pastoral Board. I want to know whether it is the intention to bring those two organisations under the umbrella of this legislation in the future. From my perspective I certainly do not support it and, if that was to happen, I could give a clear indication that in the future the axe will come down on this department. The pastoral industry, of which I represent about 50 per cent, is very unhappy about being dragged in under the umbrella of the environment department. It is very unhappy. It was not necessary and it certainly was not desirable. It has now become the victim of a most unfair and unreasonable measure.

In the discussions that took place prior to the introduction of the Native Vegetation Act, it was never the intention to hit them as they have been hit by the stupidity of saying they have to get permission to extend their water schemes and a few other silly things. If that is going to be the hallmark of this legislation, I can tell you that the opposition is going to keep the very close eye on it and we will target those people responsible because, as you understand, we have no alternative. Once this bill leaves this parliament we basically lose control of it. That is why we have been so concerned. I want to see it work; I really do. I want to see it put in a position to encourage, enhance and see agriculture develop. Today in the mall the Premier was loud in his praise of agriculture, and he gave the indication that the government is going to cooperate and help. If that is the case, minister, fix some of these outstanding matters under your department or it will not work. That is why I have raised this matter.

I do not want to be here any longer than does the minister. We have all had long weeks and have long weeks ahead of us. But, as a practical farmer and someone who has represented a large section of rural producers, it is my responsibility to pursue these matters, question the minister and ensure that commonsense and fairness are applied. Currently, farmers are not being fairly treated. They are being victimised, hindered and harassed, and day-to-day farm management programs have been impeded. Yesterday the minister indicated he was working on it. If he tells me he will fix it, I will be happy. But this whole thing will falter if the current attitude persists, and there will be unfortunate scenes in this place, let me tell you. This place will be used as it can be used, and we will go after people without fear or favour, and you will spend days here on other measures. So, I look forward to the minister's response.

The Hon. J.D. HILL: I thank the member for Stuart for his comments, because it gives me the opportunity to clarify some of what I think are the deep-seated concerns he has about the legislation—not the detail of it but the intentions, if you like. I absolutely, 100 per cent agree with the member when he said that the proof of how this legislation works will be how I, as the current minister, and future ministers handle it. And, if we get it wrong and it is seen to be a piece of legislation which is used as a weapon against farmers, clearly, a future Liberal government will put the axe through it. I absolutely agree with the member. That is why I have gone through the process of consultation that I have gone through with everybody I can to try to get up a consensus piece of legislation. We want this legislation to be a support for rural communities and for people who make their living out of the land—primarily farmers, but there is a range of other people as well.

I was at the launch today in Rundle Mall, along with the member for Stuart and members from both houses, and I think the essence of what the Farmers Federation was saying was that they need sustainability in their activities. This legislation is very much about sustainability, and I will give the example from the irrigation community in the member for Chaffey's electorate. The reality is that South Australian River Murray irrigators are the most productive water users and irrigators in Australia by a long shot. Their practices are sustainable. As things start happening to the River Murray and farmers who use its water go out of production in the other states, I am quite convinced that the Riverland water users will stay in production, because they are efficient.

What has made them efficient? I will tell the house what has made them efficient: it has been the result of a framework placed upon them over time by a variety of governments about how they use water. They have not been allowed to waste water. They have known from the very beginning that water is valuable and they have used it productively. That is not the case for water users in some other parts of Australia who have just wasted water on pasture and have not invested in new processes and technology.

This legislation is about driving sustainability so that we get a benefit for the overall ecology—all of the green things that the member for Mitchell and others would want—but we also get benefits for farming communities. We get benefits for irrigators and we get benefits for rural towns, because they will be creating wealth out of the natural resources they have access to and they will not be using them up in one generation and leaving nothing for their children and grandchildren. They will be able to do it for generation after generation.

I think the processes contained in this legislation whereby we set up regional boards and regional groups will involve all those communities in a way that will make them understand for themselves and lead the charge to look after those resources. I know from my experience with the Water

Resources Act and the water catchment boards that the change in attitudes in areas where catchment boards have been established has been quite remarkable. Four or five years ago, for example, if you talked to people in the South-East about metering the amount of water they used, there would have been an uproar. As a result of the processes put in place by the water catchment board, irrigators down there are now saying, 'What kind of meter should I be installing?', because they know the value of metering water—they know the value of water. You can also point to developments that have happened under the soil act and some of the other bits of legislation as well. So, I agree with the member absolutely. I am committed to making this work in a way that has the support of rural communities. I can assure him of that, and I will continue that process as long as I am the minister.

The member raised other matters in relation to the Native Vegetation Act, and so on. The Native Vegetation Act used to be administered by the Department for Environment and Heritage and responsibility for it has been moved into the Department of Water, Land and Biodiversity Conservation, where it is managed by the director of what used to be called sustainable resources. That is a unit that used to be in PIRSA. So, if you like, that unit which ran natural resources now also looks after native vegetation. I do not see how anyone can complain about that, because the people who were set up by primary industries to be the friends of the farmers, if you like, in natural resource management are still friends of farmers but just happen to be working in another department and, in addition to the things they used to look after, they now look after native vegetation. They are working as hard as they can trying to work out the issues in relation to water placement on the pastoral lands. I had a very productive meeting with representatives of one of the soil boards a little while ago, and I understand we are making some good progress, and that is our intention.

The more we get into these issues about sustainability, the more we will have problems. People will have practices which will come up against processes that are trying to look after resources in a sustainable way. We will always have those issues and we have to work out ways of resolving them so there is no conflict, and that is what I am trying to do and that is what the bill is trying to do.

The Hon. G.M. Gunn: Fairness and commonsense.

The Hon. J.D. HILL: Absolutely.

The Hon. G.M. Gunn: What about the Pastoral Board?

The Hon. J.D. HILL: The member asked me a question about the Dog Fence Board and the Pastoral Board. During the process of developing this legislation, on the one hand I was accused of taking too much power and putting too much into this act and, on the other hand, I was accused of not putting enough into it. A number of issues were raised: the Native Vegetation Act, the pastoral act, the Upper South-East drainage act, coastal marine issues, the Dog Fence Board, and so on. We said we would look at all those issues in the second round. I have no commitment, intention or plans in relation to any of those. I am about to go on a trip with Mr Wickes and spend a bit of time at the dog fence with members of the board in May. I think it seems to be working okay; I do not see why you would break it up and put it into regional groupings.

The Hon. G.M. GUNN: It is going to operate out of Port Augusta, isn't it?

The Hon. J.D. HILL: I am not sure of the management arrangements. If the Dog Fence Board members said, 'We would like to be part of this arrangement,' we would obviously listen to them. In relation to the pastoral act, I am not too sure that that would fit neatly into the NRM arrangements, because it covers issues beyond just NRM—there is a range of matters it looks after. It seems to be working okay. There may be ways of getting closer cooperation, but we have no intentions in relation to that. I have no policy in relation to that, and I make that plain.

Amendment carried.

Mrs MAYWALD: I have two sets of amendments standing in my name. In relation to No. (1), after much discussion and coming to a compromise agreement with the minister, I withdraw those amendments and I will, in fact, continue with amendment No. (2).

The CHAIRMAN: Amendment No. (1) relates to clause 3, page 11, after line 34. Do you wish to proceed with that amendment?

Mrs MAYWALD: I do. Amendments (1), (2), (3) and (4) are all part of the same principle that will amend the way in which the minister must consult with other ministers in regard to nominations to the boards and also the natural resources council.

The CHAIRMAN: Would you like to test this one and indicate your intention in relation to subsequent amendments?

Mrs MAYWALD: Certainly. I move:

Page 11, after line 34—Insert:
designated Minister—see subsection (7a);

The Hon. J.D. HILL: I indicate to the house that I accept all the amendments to be moved by the member for Chaffey. What this does is impose upon—

Mrs MAYWALD: I am sorry, minister, but I would like to speak to the amendments. One of the major concerns that the community has had in relation to this bill—and it was raised at many of the consultation meetings that I attended—was the matter of all power to one minister. As I indicated in my second reading contribution, one of the most important components of the success of this legislation will be the goodwill of the government but also the importance of who gets nominated to those boards; and also to ensure that we do not get significant political interference in the placement of those boards that may result in an unbalanced approach to how our resources are managed in the future. The way in which the nominations were to be handled in the bill presented by the minister would have meant that the nominations would have gone to the Natural Resources Management Council, which would have made recommendations to the minister, who would have then determined who would be successful in their nomination to the board, and the minister would then have taken that to cabinet.

It is my view that, before taking it to cabinet, the minister should have extensive consultation with a number of ministers who have designated responsibilities as listed in my amendment no. 2 and they are: the minister responsible for regional affairs, primary industries, the environment, mineral resources, local government, urban or regional planning, Aboriginal affairs, economic development, tourism and the River Murray. Of course, they are not in any order of importance, given that the River Murray is (j). I would like to say that I think that is a broad cross section of ministers who have responsibilities which have an impact upon future sustainability of the management of our natural resources and who also have a responsibility regarding the social and economic wellbeing of a state that is so dependent on the future sustainability of our natural resources, and that the right to farm is not undermined in that process. I move these

amendments with the full support of those I have consulted in my community, as they see this as a safeguard measure that will ensure a better and more transparent process in the appointment to the boards and also to the Natural Resources Management Council.

The Hon. J.D. HILL: We certainly accept the amendments. This will require me to consult more formally with those members. In any event, they would have been consulted with through the cabinet process, so I am happy to do it in this prescribed way.

The Hon. I.F. EVANS: The opposition supports the amendments because one of the concerns raised with us by some of our constituents, particularly from regional areas, is the issue of (as the member for Chaffey puts it) all power to one minister. The way in which these amendments have been explained to me, I think it is clear that the amendment to clause 14 is that the minister must, before finalising his or her nominations for the purposes of this section, consult with the designated ministers. The minister who oversees the bill will have to consult with all the ministers listed on this amendment—and there are 10 of them—before making the necessary appointments. It does bring into the bill a formal process at least where the other ministers will be consulted, and for that reason we would support it.

Mr VENNING: In relation to clause 14, under subclause (5a) it just says 'his or her nominations'. Is that just the make-up of the boards? I presume that is an all encompassing thing.

The Hon. I.F. Evans interjecting:

Mr VENNING: Yes, to the council and the boards. This applies not only in relation to the nominations but also to any business that could be brought before the minister. I believe that, in relation to any decisions which are made and which fall on any one of those ministers' portfolio areas, that minister would also be involved, or is it only in relation to the nomination?

Mrs MAYWALD: The answer to that question is no, because it would become a particularly onerous constraint on the process of the community boards undertaking their job if they had to consult with each of those ministers every single time a decision needed to be made. I think the plans as accepted by the community and the minister go through an exhaustive process of consultation with the community, so I do not think it is necessary to put that provision in the act. This is merely to ensure that the minister gets the right people on the boards and consults with other members of his cabinet who have responsibilities in other areas to ensure that we have a right balance on those boards.

Mr VENNING: I will not call for a division. I appreciate the member for Chaffey's attempt, but I still believe that this will be rubber stamped, anyway. I would have liked to see some of the decision making capacity involving another minister in some way, form or other—and this might have been an attempt to do it. However, I do say that even though the member for Chaffey has a good idea, I still think it is a rubber stamp.

Mrs MAYWALD: The other component within the legislation is that the plans must come before the Natural Resources Committee of the parliament, and this enables the parliamentary process to have a good look at the plans prior to their being approved and the levy being approved, so I think that process is dealt with in another area of the act.

The ACTING CHAIRPERSON (Ms Thompson): Although the member for Chaffey indicated that all three amendments were connected, we will do it page by page.

Amendment carried.

The ACTING CHAIRPERSON: We now move to page 12.

The Hon. I.F. EVANS: Minister, I am sorry to ask some of these questions but I have never administered these acts as a minister. I have been trying to educate myself not only about what this bill does but also about what the old acts did. I am talking now specifically about domestic purpose, which follows on from domestic activity on the bottom of page 11 which was just approved. Domestic purpose in relation to taking water does not include taking water for the purpose of watering or irrigating more than 0.4 of a hectare of land. The way I understand it is that, if it is more than 0.4 of a hectare of land (which in the old language is an acre), then it is not defined as a domestic purpose. Therefore, if it is not defined as a domestic purpose, people will need a licence to take water.

I ask that question—and I know the minister will get advice to say that it is in the old water resources act, and that may be right—because I am concerned that throughout South Australia, particularly throughout the Adelaide Hills, we have some magnificent gardens which are on more than 0.4 of a hectare. The Adelaide Hills Council, for instance, has a policy that does not allow subdivision of less than an acre. Therefore, you cannot create any more titles that are less than an acre, which means every newly created block of land will be greater than 0.4 of an hectare. I think what this is saying, even though it may not have been interpreted in this way by the agency, is that if people have a domestic residence on 1½ acres of land and they take water for the purposes of watering their garden, technically under the bill they need to obtain a licence. Can the minister confirm whether my interpretation is right?

The Hon. J.D. HILL: I am trying to get some formal advice but, on the face of it, I think the honourable member's interpretation is right. As the honourable member says, this was in the Water Resources Act. The way in which the act was written was to define a domestic property as something less than an acre. I suppose you could look at it and say, 'Maybe it should be two acres,' but how far do you go before you get from purely domestic water use to something other than that? There are many hobby farmers around, namely, people who have intensive activity on small pieces of land. I am not sure; I will get some formal advice for the honourable member. However, I agree with the honourable member and, on the face of it, I think he is right. The advice is, yes, the honourable member is right, that is exactly what it means.

Mr VENNING: I want to highlight an incident that occurred in the electorate of Schubert, in a well-known historic garden at Pewsey Vale which operates under an environmental licence at the moment and which has approximately 11 hectares of garden. None of it is for commercial use; it is a historic garden. Some of the plants there are older than some in the Botanic Gardens in Adelaide. I will be doing all I can to protect that garden. The family has its own dam from which it waters the garden. It would be a well-known case to Mr Wickes and the minister's department; that is, Pewsey Vale at Lyndoch.

The Hon. J.D. HILL: I am caught in a difficult position here. This is not a provision that I am advocating: this is a provision in existing legislation.

The Hon. I.F. Evans: The minister is advocating it: it is in his legislation.

The Hon. J.D. HILL: What I am saying is that this is not a change to any legislation: this is existing law. I am not entirely sure—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I am answering questions, but I am not entirely sure what the member is saying the remedy should be to what he perceives as an ill. I am certainly happy to have a look at it to see whether or not we should have a different definition of domestic use but, off the top of my head, I am not entirely sure what that should be.

Mr VENNING: When an application is made, I believe the minister should always have the capacity to assess the situation and make a decision, even on a once-only basis. There are anomalies out there, and some of these situations are anything but normal.

The Hon. J.D. HILL: I imagine that I do, but I am a little concerned about the proposition put by the member for Davenport. There are possibility thousands of—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I was saying to my colleague here that the honourable member probably should not have raised this issue.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I am not sure how the member wants it to be fixed. It may be something the NRM committee of the parliament could do. I think this would be a perfect reference to the NRM committee to investigate this issue. It would not appear that anyone is being caught by this provision at the moment, although it may well turn out to be a case where they are. So, it would be a useful thing for the NRM committee to take evidence on this and get some advice to us about how we should amend the legislation to better suit the reality that some people live on larger blocks of land. I am not concerned about us doing it. I just do not know whether I have a ready solution. A number of propositions of that type may well come up during the course of this legislation that we could refer to the NRM committee. So, if members were happy, at the end of it we could have a simple motion referring to the NRM committee a range of issues for further investigation.

Mrs MAYWALD: I thank the minister for his faith in the NRM committee. However, we are dealing with the bill at the moment and to reopen the bill is not often that simple, and the NRM committee does not have the capacity to direct the minister to do so. I wonder whether the minister will take this on board and consider what alternatives might be looked at between houses in relation to this issue. It throws up a number of issues, particularly in relation to regional planning, where land has been subdivided into rural living, which is blocks greater than one acre in most instances, but they are still domestic blocks. Therefore, I request that the minister take that on board.

The Hon. J.D. HILL: I guess there is an issue. If you were to, say, go up to five hectares or some arbitrary figure greater than one acre, and then all those owners thought, 'You beauty! I'm now able to irrigate.' They could all put four acres of grapes on their properties.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: Well, four hectares would be commercial in some areas.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: I can assure the member that there are certainly people making money out of four of five hectares in my electorate.

The Hon. I.F. Evans: The definition cuts out business, John.

The Hon. J.D. HILL: Maybe that is the case. I am certainly happy to look at it, but it might need further investigation than just my having a look at it. I think we would probably have to consult reasonably widely. I will certainly have a look at it between this house and the other place.

Mr WILLIAMS: On this same point, the member for Davenport very correctly raised the issue with regard to the very real problem in the Adelaide Hills. I point out to the minister, too, that this problem has a slightly different occurrence in the South-East. We have a number of large gardens, a lot of which are not necessarily historic gardens but they have been established for the sake of fire protection. I have already had the unfortunate experience of losing my home to a bushfire, as have a lot of my neighbours. We take very seriously the protection we can afford ourselves by establishing large areas of irrigated lawn and garden. I think that defining it on an area basis is a poor way of defining it. I certainly take the minister's point about half a dozen acres of vineyard or apple orchard, or whatever. I do not think the intent of the opposition members in raising this is to allow people to sneak in the backdoor to have some sort of commercial irrigated crop. We are talking here about a landscape garden rather than a commercial garden, which may or may not include a kitchen garden. It would be pretty easy to define it, and subclause (b) probably takes a fair bit of that into account. So, I do request that the minister have a serious look at this between the houses.

Mr BRINDAL: I have been listening carefully to the contributions whilst I have been upstairs, and I will try not to repeat any of them. A premise of the law in this country is that water has always and without question been considered to be beyond ownership and was part of the common wealth of the nation. As such, it was absolutely and freely, without any hint of let or hindrance from government authority, available for the consumption of human beings and for animal forms in reasonable quantity. That then gets to the clause we are currently debating. Now by statute the state of South Australia seeks to impose a level of reasonableness on the style in which we can live. Clearly, this act says that 0.4 of a hectare is a reasonable domestic dwelling, presumably with the sort of housing we want. I would like the minister to reaffirm to the committee the principle that neither this government nor any government should try to say that somehow people are not entitled to water; that the government can have a price, say, for water for people's human living. I do not think that is what the minister intends. If that is the minister's intention, the committee needs to know, because it is a new direction for the law and it defies everything we have ever done in this country.

I want to take up the member for Davenport's conundrum which is that, if through the Planning Act the state of South Australia does not allow subdivision below an acre in the Adelaide Hills, for instance, so the holding I am forced to buy is at least an acre in size (or whatever the relevant size is), I then have to live on it. According to the minister, I can then water only 0.4 of a hectare. What am I expected to do with the rest? Is the minister, in effect, by this legislation, compelling the re-establishment of native vegetation on that area? Will I be able to plant it with a form of trees that will be 100 per cent consumptive of the run-off? If the minister will not let me water my holding, why should I let him have any

of my run-off? Is the minister going to legislate that I cannot water the holding but he can have all the run-off?

Mr Venning interjecting:

Mr BRINDAL: My colleague reminds me that the minister would be aware—and if he is not aware, he will be made aware—of the unique situation at Pewsey Vale, where a very prominent South Australian family has a very large garden.

The Hon. J.D. Hill interjecting:

Mr BRINDAL: Your officer will tell you about it, minister. We spent many months trying to sort out one of the largest and most eminent families of South Australia getting exactly what they thought they needed.

The Hon. J.D. HILL: I know nothing about the garden at Pewsey Vale, but I have enjoyed the products over time. I heard what the member for Unley said. I could say that he was responsible for this provision for a number of years and chose to leave it on the statute books, but that would be a cheap point.

Members interjecting:

The Hon. J.D. HILL: Okay. I have undertaken to have a look at it between houses. Certainly, under the common law there is an essential human right to have access to water, just as there is to air. No-one has attempted to allocate air to people on a minimal basis, and water is also in that category. Unlike other resources, water is totally renewable except, I guess, for the resources under the Great Artesian Basin and it is more or less restored each year. Individuals have always had a right to water, but as individuals have become capable of harvesting great amounts of water, legislators have been forced to introduce a statutory framework over those common-law rights. The member himself, when he made the point at the beginning, said it had use for stock and domestic at a reasonable level. What the statutes attempt to do, of course, is to define what is reasonable.

There is one definition in here which sets it at a per hectare allocation. Perhaps we need to look at it in terms of volumetric allocations, and that is the general direction that we are heading in under water resource management—we are moving from acreage allocations to volumetric allocations. I have no views about this other than that I am prepared to have a look at it. It is problematic—I do not know what the answer is—but I will have a look at it.

Mrs HALL: I take on board that the minister has said that he is prepared to look at this issue between houses, but I wonder if he might express his views on whether paragraph (a) should be amended to include after '0.4 of a hectare of land' the words 'for non-commercial purposes'. That would specify that we are still talking about domestic use, we are talking about 0.4 of a hectare, and it would be included in the area of non-commercial use.

The Hon. J.D. HILL: I would be reluctant to take an amendment without having thought it through. It could well be that someone has 5 hectares of land and they decide that they want to have a great big dam on it so that they can have ducks settle on that dam that they can periodically shoot. Or there might be a hollow in the land—

Members interjecting:

The Hon. J.D. HILL: What I am just saying is that you would really need to think through any consequences of anything that is thought up today, and I would much rather spend a bit of time thinking about it. I am happy to consult with the opposition over this, but I would really like the NRM committee to spend a bit of time looking at it as well. But we will certainly look at it.

Mrs HALL: Is that a commitment to have a look at the use of the words included in (a) 'for non-commercial purposes', even if you are still looking at 0.4 of a hectare which, of course, I would like to be enlarged?

The Hon. J.D. HILL: I am happy to do both those things.

The Hon. I.F. EVANS: I accept that you are going to look at it, minister, and I raised it because I thought it was something that you might want to look at. It made me scratch my head exactly how David Wotton ever agreed to such a clause, given his electorate. The other commitment I want—if you are prepared to put it on the record—is that there will be no sudden change in policy now that the department has been alerted to this, that the minister will keep a watching brief and that there will be no change in the way the department administers this issue, because I really do not want all these water licences to suddenly spread through various electorates.

The Hon. J.D. HILL: In relation to your own area, the area is not proclaimed so it is not a relevant consideration. I am not too sure what powers I have to stop people looking at these issues, but I can give an undertaking that I certainly will not initiate any crack down on people who have properties greater than 0.4 of a hectare. We have greater fish to fry in our department than that. But we will try to get some sort of sensible review of this between this house and the Legislative Council. The bill will not go to that other place until May, so that gives us four to six weeks, or so.

Mr BRINDAL: In respect to frying fish, minister, let me put this to you. Under the *Waterproofing Adelaide* document there is a fairly strong allusion to changing gardening practice from exotics to drought-tolerant and native species. Could I suggest that the minister examine between houses, and perhaps report back to the other house or this house, on that proposition because if this provision comes in then many of the houses in the member for Kavel's electorate and the member for Davenport's electorate will be limited to 0.4 of a hectare in terms of exotics and lawns and things like that, and 0.6 of a hectare in native and drought-tolerant species. Over the entire Adelaide Hills catchment that will probably represent a huge area of very significant water saving, and it will probably help the house in its deliberations—both now and between houses—if you could come back with some idea on the water savings achieved. Because, minister, let me finish by saying that that was a section in the *Waterproofing Adelaide* document which was not put together by your bureaucrats but by bureaucrats from SA Water, and which was very much pooh-poohed. I would love you to come in here and say that we are going to save X gigalitres of water, because they do not think it is possible.

The Hon. J.D. HILL: I am happy to undertake to do what the member has requested.

The Hon. I.F. EVANS: I have one last point on this domestic purpose issue, because I am just trying to get my head around these definitions. In the definition of domestic purpose on page 12, on the first line it talks about 'the taking of water'; in the second line it talks about 'taking water'; and in the third line 'taking water' in (a) and (b). Is the 'taking of water' to be read the same as 'to take water' in the definitions? There is a definition of 'to take water': is the definition in *domestic purpose* of 'taking of water' or 'taking water' to be read the same as 'to take water'? If it is outside of the definition of 'to take water' does that mean that it is, again, not a domestic purpose?

The Hon. J.D. HILL: They mean the same thing.

The Hon. I.F. EVANS: If they mean exactly the same thing, where in the definition of 'to take'—and I know that

we are not there yet, but the definition is in this other definition so I will ask the question—does it cover getting water from SA water to put on your garden under the definition of 'domestic purpose'?

The Hon. J.D. HILL: I am not sure of the relevance of that because SA Water is licensed. I guess what we are talking about in relation to point 4 is the taking of water from either a water course or a bore or some such. If you turn the tap on, you can water as many hectares as you like as long as you pay the bill. It is the difference in the source of the water. SA Water is licensed to take water out of the River Murray and out of the various catchments and storage facilities in the Mount Lofty Ranges and if you choose to turn your tap on—as long as you are within the water conservation measures we now have in place—you can use as much as you like.

The Hon. I.F. EVANS: 'Domestic wastewater' is defined as 'water used for washing clothes or dishes' and 'water used in a swimming pool'. Does the Woodside pool at Mount Barker come under 'domestic wastewater'? I am not sure whether the definition refers only to domestic swimming pools or whether it includes any swimming pool.

The Hon. J.D. HILL: Once again, we are dealing with definitions taken from the previous act. We are not seeking to change those definitions. They appear to work reasonably well. I am advised that this refers to a domestic swimming pool.

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

Page 12, line 23—Delete ', intermittently or occasionally'.

'Floodplain' is defined as 'land adjacent to a water course, lake or estuary that is periodically inundated with water'. In this bill, the words 'intermittently or occasionally' have been added. What is the difference between 'periodically', 'intermittently' and 'occasionally'? We think it is clearer if it is left as 'periodically'.

The Hon. J.D. HILL: Those words have very similar meaning. They are included to make it abundantly clear that we are talking about watercourses which may come and go under different time frames, but I am happy to accept the member for Davenport's amendment because I do not think those two words add a lot to the definition. We are comfortable with the member for Davenport's amendment.

Mr BRINDAL: I believe the member for Davenport's amendment helps the clause. Given that all boards, including the Patawalonga catchment board, have done extensive flood plain mapping for their catchments, why is the definition not simply that floodplains are those areas designated in various schedules and things like that? We seem to be trying to have a definition of words when there are maps that exist which would clearly show floodplains. We could use those maps rather than words.

The Hon. J.D. HILL: I refer the member for Unley to paragraph (b) of the definition which provides 'by an NRM plan'. The member for Davenport intends to move to delete that as well. We will not accept that amendment, because the member for Unley is correct: it is important to be able to refer to a particular area and define it as a floodplain. That would not necessarily be caught up by whatever definition the law puts in place. I absolutely agree with the member for Unley: it is important that we are able to point to a particular plan which does just that.

Amendment carried.

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

Page 12, line 26—Delete paragraph (b).

This amendment will be a test because there are a number of provisions that adopt this principle throughout the bill. If we lose this amendment, we will not proceed with a number of amendments that adopt a similar principle. 'Floodplain' is defined in at least three ways: by regulation, by an NRM plan, and by a development plan under the Development Act. There are going to be at least eight NRM regions. This means that is there is the potential for at least eight different definitions of 'floodplain' in this state. If there was going to be a consistent definition in the state NRM plan, the argument might be different, but, essentially, this refers to a regional NRM plan. Therefore, you could have eight definitions of 'floodplain'. We do not see this as good practice. We believe there should be a standard definition (or as near as one can get) so that people can understand and be comfortable that they are getting some consistency in the definition that underpins the legislation. The problem is that there will be a definition in the regulations and eight different NRM plans and definitions in the development plans, and they could all be different.

Mrs Maywald: And the River Murray Act.

The Hon. I.F. EVANS: And under the River Murray Act there may be other definitions. We do not see this as being conducive to good decision-making or ease of interpretation by members of the public. We have run this amendment through a whole range of other definitions. We are debating 'floodplain' at the moment but, from memory, watercourses, lakes and other physical attributes are also defined in a similar manner.

The National Environment Law Association picks up this point. It argues that the term 'watercourse' is defined to include a resource designated by an NRM plan. NELA submits that it is inappropriate for an NRM plan to designate watercourses, that such a designation ought to be limited to the regulations so as to avoid inconsistency across the state between what is and what is not a watercourse and, therefore, subject to powers to issue notices, etc. depending on the particular NRM region.

We accept the submission put to us by the National Environment Law Association, because they are legal practitioners out there in the commercial world dealing with these problems. So, we put to the committee that, for the sake of consistency, we do not believe that an NRM plan is the appropriate mechanism for defining these measures. The minister will say that this is similar to what is in the Water Resources Act already in regard to water catchment plans. That is true but, already, on page 3 of the legislation we have come across one problem in the definitions of which no-one was aware and which the government will now look at correcting.

We have now had seven or eight years of the Water Resources Act to look at, and the National Environment Law Association, the legal practitioners who deal with this issues on a daily basis, have identified this problem. I think we should listen carefully to the advice from NELA. There will still be clear definitions of floodplains and those things; they simply will not be in 'an NRM plan'. If the minister wants to talk between the houses about putting a uniform definition in a state NRM plan, which covers the whole state, we are happy to listen to the debate and consult on that, but at this stage that is not before us.

The Hon. J.D. HILL: I listened to what the member said and I understand the point he is trying to make, but this is just trying to be practical about the issue of various NRM plans. This is not a matter of definition of 'flood plain': it is a matter

of a local NRM board being able properly to identify areas within the region that are subject to flooding. I cannot see the real problem with that. Does it matter that in the South-East an area that is subject to flooding has been designated on a map under a different set of criteria to that used in the pastoral lands? I cannot see the danger in that. We will support our own proposition. This is just a mapping exercise for clarification within particular regions. I repeat the point that the member for Unley made: it makes sense to enable the capacity for local boards to specify on a document where flooding occurs. If the proposition is lost it will create a problem for those boards further down the track when they are practically going about the business of determining where flooding occurs.

Mr BRINDAL: I hesitate to add 'when I was minister'; it does not seem to be the thing to do. Past experience of more than a couple of years ago showed the following failings and I think the minister's officers can confirm this. When you allow a board to have a certain amount of latitude in the definition of things such as a watercourse, there can be consequences. I am sure it was the Barossa board that wished to define a watercourse as wherever water ran. It looked to define watercourses from every swale, from the highest swale in the hill right down to the sea. That would have meant many farmers having to fence small depressions near ridges as part of a watercourse. My departmental officers helped work through this, because the catchment board had to be told that this would turn the law into an ass and that there would be riots. That was the board's genuine interpretation that went further than the state had envisaged. What my colleague is arguing—and I hope, minister, that you will look at it carefully—is that there is a problem that, if there is one statute for South Australia but that statute can be differently expressed in different areas, it could expose the state to certain risks.

Recently I went to New Zealand and this is the very problem experienced there. In fact, the government of New Zealand is having to take back certain responsibilities because different boards, having defined certain terms differently, have created an inconsistency across New Zealand. Every board has its own definition and rules, but it is right and proper that a landholder in Crystal Brook who is buying land in the South-East has a reasonable expectation of the sorts of definitions that are applicable in the statute law of South Australia. I remember many years ago when I was first in this place—I think it predated the Water Resources Act—when the Hickinbothams bought Andrew's Farm from the LMC as one parcel. They were told by the LMC 'Sorry, but you have to give us some of that land back.' When the Hickinbothams asked why, they were told, 'That area is subject to occasional flooding. If we sell it to you and you build on it, a duty of care will come back to us. There is a legal liability problem; you give us back some of the land and we will swap it for some other land.' That predated the Water Resources Act.

The law obviously has a capacity to mathematically define where there are flood plains and to do it in a consistent manner. The catchment board for the Onkaparinga might define, for its purposes, a flood plain of a one in 25 year event. In the River Murray Act, as the member for Chaffey, who is very much an expert on the subject, reminds me, the flood plain on the River Murray is defined in terms of the 1956 flood levels—a most extraordinary circumstance and one which I think most experts in the field say is unlikely to be replicated. It occurred as a result of a confluence of two major events on the Darling and on the Murray systems coming through South Australia at once. It is highly unlikely to be repeated, yet that constitutes the definition of flood plain on the River Murray. If Onkaparinga chooses a one in 25 year event, if in the Sturt catchment they choose a one in 50 year event and if in the Light area they choose a one in a 100 year event, the flood plains are going to vary remarkably between areas. There will be inconsistency, which is unreasonable in the law to citizens who are supposed to be bound under one statute law, at least in this state and, hopefully, similar statute law throughout the commonwealth.

My colleague is asking not that there should not be maps—we agree that there should be maps—but they should be carefully and mathematically developed in a manner that is fair and equitable across the state. Obviously, the best place for such a map to reside is not with the local boards with their local knowledge and expertise but in the state plan. It is the bad mistake that was made in New Zealand and the New Zealand government is now seeking to correct it. It is not a state we should replicate here. Without saying 'I was the minister' or anything like that, I simply tell the committee that these are areas of which we were aware before we lost government and which actually needed to be corrected. We were strong on the definition of watercourse and things like that. One of the strengths that the legislation should come from is the fact that the State Water Plan was, in fact, the guiding document for every document that nested beneath it. No plan should be inconsistent with the State Water Plan. All the opposition is asking is that we nest those flood plains at a sufficient level within the hierarchy to actually bind the constituent bodies rather than allowing inconsistency.

The Hon. J.D. HILL: I will make some observations in relation to this definition. I must say it was amusing to hear the member for Unley, in the space of two questions, totally changing his position in relation to this. However, I make that as a passing observation. In relation to the flood plain definition, there are two parts to the definition. Perhaps the member could follow me here. The first part of the definition of 'flood plain' is 'any area of land adjacent to a watercourse, lake or estuary that is periodically, intermittently or occasionally inundated with water'.

The Hon. I.F. Evans: We amended that.

The Hon. J.D. HILL: Remove those words and say 'inundated with water'. And it includes any other area designated as a flood plain. Forget about how that is describe: it encompasses those areas that would naturally be flood plains plus any other area. There may well be, because of urban development, for example, areas which are subject to flooding because of the construction of roads, bridges, buildings and all those kinds of things. How do you specify where that area is? Everybody knows where the natural flood plain is, but where is the other bit? You can do it in a number of ways: you can do it by regulation or you can do it by the NRM plan. In fact, your amendment would probably be a better amendment if you removed 'by regulation', because the NRM plan is the most logical place to put that sort of information, as it will have to nestle, as the member for Unley said, within that hierarchy of plans which will include the state NRM plan. It will have to be consistent with that.

The other point I make is that the Development Act allows a range of development plans as well. There is no sense that everything has to be exactly the same right across the state. The advice I have is that it is essential to leave this flexibility in the legislation so that we can properly map where flooding occurs. If we were to take this out, it would hamstring the boards in relation to this matter.

Mrs MAYWALD: I agree with the position put by the minister in that it would be a better amendment to take out paragraph (a) rather than paragraph (b). We are establishing a number of boards across the state that will be responsible for developing NRM plans in consultation with their communities. To me, it would seem inappropriate that the government then, by regulation, could designate other areas as well. So, why do we need to have it by regulation as well as by NRM plan? Is the NRM plan not a statutory document that will provide us with the measure that the minister is looking for?

The Hon. J.D. HILL: There seems to be logic in what the member is saying, but—

The Hon. I.F. Evans: You were saying it yourself a minute ago.

The Hon. J.D. HILL: I know. Well, as I said, there is logic in it. The member made a very sensible comment, and it was based on a comment—

Members interjecting:

The Hon. J.D. HILL: I said it would be more sensible to remove that paragraph than the other paragraph. It would be better to think through some of these things rather than make a snap decision. I will have a look at whether or not we can get rid of the regulation. For example, once this law comes into place, there will be a time gap between this legislation being in place and those NRM plans being developed, so we may need a time when regulation will have to do. I do not know: I am just foreseeing possible problems with removing regulation generally. But I am happy to examine more carefully whether or not it should be removed.

Mrs MAYWALD: In the existing legislation can it be undertaken by regulation as well as the plan, under the water catchment boards?

The Hon. J.D. HILL: No, as I understand it. I will refer to what is in the existing Water Resources Act for the member. It goes through the definition of 'flood plain' and then provides:

(a) the flood plain (if any) of the watercourse identified in a catchment water management plan or a local water management plan adopted under Part 7; or
(b) where paragraph (a) does not apply—

that is, where it is not in the plan—

the flood plain (if any) of the watercourse identified in a development plan under the Development Act. . . ; or
(c) where neither paragraph (a) nor paragraph (b) applies—the land adjoining the watercourse that is periodically subject to flooding from the watercourse.

So, this was trying to come up with a simpler set of definitions. I do not think this is a critical issue, either for the bill or just for flood management, but I will happily have a closer look at it to see if we can come up with something. I am happy to talk with the opposition about a form of words with which it will be happy as well.

Mr WILLIAMS: The minister, in an earlier part of his explanation, pointed out that the definition in paragraphs (a), (b) and (c) will only be used to define something as a flood plain which was not a flood plain. So, the first part of the definition defines a flood plain—that is, a piece of land adjacent to a watercourse, lake or estuary that is periodically inundated with water—and paragraphs (a), (b) and (c) include any other area designated as the flood plain. So, we are talking about giving power to either the minister (through regulations), the NRM board or a development plan to designate as a flood plain an area which is not a flood plain. The minister in his explanation rightly pointed out that this is necessary, at least in the instance where development has created a flood plain which is not a natural flood plain and was not there previously. If that is what this is all about, I think we should be identifying it in the Development Act.

The problem in having three different places where you can define a flood plain which is not a flood plain is how anybody is going to find it. Are they going to go through all the regulations and say that there is no flood plain there; are they going to go through the NRM plan and say that there is no flood plain there; and will they then have to go through the development plan? All we are doing is making life very confusing. In fact, I would urge the minister to say, 'Let us get rid of (a) and (b)'. I think that the minister was right when he said that the necessity is to define a flood plain in an area that is not a flood plain but, because of development, is creating a new flood plain. The place to put that is in the Development Plan, and then any prospective person who wants to subdivide and develop an area knows where to go and find it other than having to trawl through all the regulations, the NRM plans and the Development Plan. I would urge the minister to simplify this and just use the one place, cut out the red tape and let people get on with their life.

The Hon. J.D. HILL: I thank the honourable member for that comment, and I agree with a lot of what he says. I would make two points: first, in relation to the NRM plan or the Development Plan, I can understand the honourable member's point that if someone is purchasing a property they want to know whether it is subject to flooding. It is there as a warning, if you like—beware, don't buy this. Secondly, it is in the NRM plan as a management tool. It is there for a different purpose. It would really need to be in both areas. I agree with the honourable member that you would not want to have overlapping maps. I agree with that point.

I thought that development was probably the most likely area where you create a flood plain, which was a non-natural flood plain, but there are some areas where there is dispute about whether an area is or is not a flood plain. I can look at it and say, 'Well, that floods', and you can look at it and say, 'Well, not really.' This was attempting to provide a simple way of resolving what may well be difficult disputes. So, if the NRM plan says that it is a flood plain, well, it is a flood plain, and then everyone acts on the basis that it is. If a board were to do that in an unreasonable or unwarranted way, I am sure that we would hear about it pretty quickly, and either the minister could direct or the NRM committee of the parliament would investigate it in some way.

In any event, it would have to be consistent. But given the range of questions and issues that have been put forward in relation to this measure, I will give an absolute commitment to try to come up with a formula which not only better satisfies the needs of members here but also any boards that we establish.

Mrs MAYWALD: I am not convinced by the minister's argument that there is a necessity for the three: regulations, NRM plan and Development Plan. The minister already has the capacity to direct the NRM boards and, if the minister feels there is a conflict somewhere, he has that capacity to insist upon his view, anyway. It seems to me that it would be a way that a future minister (not this minister) may be able to circumvent the process of public consultation required within NRM plans to go through the regulatory process. Unfortunately, I think that detracts somewhat from the intent of the NRM plans and the public consultation. I flag that, if this amendment does not succeed, I will be moving an amendment to delete (a) from that definition.

The Hon. J.D. HILL: As a point of clarification, the honourable member will seek to remove the word 'regulation'?

Mrs MAYWALD: Yes, 'regulation'.

The Hon. J.D. HILL: If we can get a compromise, I will accept that as an amendment. I think it is important that we do have it in the NRM plan. I can live without 'regulation'. It is a fall-back position, but we can live without that.

Mrs MAYWALD: I accept the minister's compromise in this situation. I support its being in the NRM plan, because I think that we need to have clearly defined areas within which NRM boards and groups are working.

The CHAIRMAN: At the moment we do not have an amendment, but if the member for Chaffey wishes to move it—

The Hon. I.F. EVANS: I am happy to withdraw my amendment given the debate that has occurred.

The CHAIRMAN: We will still need an amendment from the member for Chaffey.

The Hon. I.F. EVANS: Yes. I have talked to my colleagues, and we are of the view that we should consider the amendment the member for Chaffey is about to move. I seek leave to withdraw the amendment that is currently being debated.

Leave granted; amendment withdrawn.

Mrs MAYWALD: I move:

Page 12, line 25—delete
(a) by the regulations; or

Mr BRINDAL: In speaking to this amendment (which I support) and the clause, the minister made some statements that, despite this amendment, I ask that he undertake to look at it between the houses. I listened carefully when he was reading the definitions out of the old act. In each case the definitions in the old act clearly provide 'an area designated a flood plain'; is that correct?

The Hon. J.D. HILL: It is the same stem as the one before you; it is exactly the same. It includes intermittently or occasionally, as well as periodically.

Mr BRINDAL: The problem which I have and which I would like the minister to look at between the houses is that, if a flood pain can be mathematically determined, either it is or is not a flood plain. The minister said there can be conjecture; that is, someone looks at a piece of land and says, 'It's not a flood plain,' and someone else looks at it and says, 'It is a flood plain.' As far as I am concerned, with surveyors it either is or is not; either it might be subject to inundation in a prescribed period or it might not be. That should be capable of mathematical determination. It should not be designated by a board. It should not be a 'win' thing. All I ask the minister to do is to look between the houses at whatever definition we come up with to ensure that it is a mathematically consistent and provable definition of a flood plain, rather than something that is open to an individual interpretation. I think that leads to bad results sometimes.

The Hon. J.D. HILL: I am happy to do that. This definition is trying to say, 'Look, you will go through the mathematical, scientific process, but there is always doubt or scepticism about anything.' Someone will say, 'No, it is never flooded out; I have never seen it flooded,' and they will have an argument about it. If it is in the NRM plan, that is the end of the argument. That is what it means.

The Hon. I.P. LEWIS: I volunteer a proposition that, in determining the NRM plan, the return incidence of one in 100 years ought to be the basis upon which we decide what is a flood plain and what is not. For the benefit of members, geographers, and hydrogeographers at that, hold the view that one in 100 years does not mean there will be a flood every 100 years. It just means that there will be a flood of that approximate intensity 10 times in 1 000 years. Just because you had one such flood last year does not mean you will not have one tomorrow; and just because you have not had one for 400 years does not mean that it will not happen for another 400 years. The return event is 10 in 1 000 years.

Generally, it is straight out journalistic clap-trap to refer to a flood as being an event of a one in 40 year return. That is just nonsense. It is a logarithmic expression of probability. To that extent, I rise to agree with the member for Unley that to that extent it is mathematic but, otherwise, it is geographic and is best calculated by somebody with skills in hydrology—of streams—not by somebody who has not had that kind of experience.

I want to make one other contribution here about the Natural Resources Management Plan, especially in areas other than just the clearing of native vegetation (but that happens too) where, more important than any other, in places like Smithfield or Elizabeth and other suburbs to the north of the metropolitan area, we have subdivided the land and, in consequence, in the course of development, we have sealed the roads, and we have sealed the kerbing, stupidly. We should use shingle kerbing, which sets the shingles against the flow of water, such that water will seep through them. Stupidly, I hear some engineers argue against soil science, saying that that interferes with the foundation material and the footings placed on it of roadways and footpaths and so on. It does not; it does the opposite. It stabilises it by ensuring that they do not excessively dry out. They are evenly moistened and dry out across the seasons, such that we then have, once we have done what is called development, the circumstance where in any intense rainfall event—I am not talking about a one in a hundred year storm: I am talking about just an intense rainfall event, where the precipitation rate is high—there is very rapid run-off.

This problem is occurring now and you can see the evidence of it in the last 30 years across the Adelaide Plains north of Gepps Cross from the Para fault line, where subdivision and pavements have occurred around those subdivisions. We have gouged the guts out of the streams that were there. They were barely perceptible for the first hundred years of settlement on the farmlands. With the rapid run-off that has occurred, though, the volume and the velocity of water than comes from those intense rainfall events have been so strong that they have caused enormous gully erosion where that has occurred. Now, the same sort of thing is going to happen. It indeed started happening last year downstream from Mount Barker on the tributaries, the Bremer and the Angas, as the result of the new subdivisions at Mount Barker.

Macclesfield was flooded in a rain shower that was not really extraordinary. It was just unusual. It might only happen three or four times every five years. It is not extraordinary, though, yet it flooded Macclesfield, and that is going to occur more frequently, as that subdivision continues to a greater extent on the flood plain alluvium, those flats adjacent to all those tributaries and the two rivers that bear the names Angas and Bremer. It is going to cause problems with increasing frequency, in Langhorne Creek, in particular; problems of the kind—and worse—that we have seen in recent times down there, such as in the early 1990s, when the member for Finniss had been recently re-elected. For the benefit of honourable members and the minister, I am saying that we

need to take account of the flooding that will therefore now occur in Langhorne Creek—this new, downstream consequence, literally, of the upstream subdivision and pavement that has occurred.

Such calculations, then, need to recognise, too, what benefits or otherwise can be obtained by requiring developers to put in mitigation ponds which have a choke on the dam wall. Even without it, just mitigation ponds with heavy riprap at the rapid outfall point from those ponds will slow down the rate of velocity and the volume of water as it escapes from those subdivisions that have been paved for urban development purposes. If we do not do so, we will have a hell of a mess. Therefore, it is not only about where you can put dwellings along the River Murray: it is also about the effects of upstream development in determining where the flood plain will be. I say as I resume my seat that the calculations need to be made by someone other than a zealot, someone with competent, professional qualifications who understands these principles.

The Hon. J.D. HILL: I thank the member for Hammond for his comments. I could not agree more with what he had to say, and certainly the way that this definition is phrased will allow for a properly constructed board, which has local knowledge and local expertise to do exactly what he is suggesting. Unfortunately, while this legislation has been characterised as a very powerful bill which gives me enormous powers, it does not give me powers to do many of the things that the honourable member advocated ought to be done in relation to the management of development and planning. I agree with the member for Hammond completely about the issues he raised.

Amendment carried.

The Hon. I.F. EVANS: During that debate, I missed out asking a question on the definition of 'to drill', so I will go back to it. There is no amendment as such, I just want clarification to see whether I have interpreted this correctly. 'To drill', in relation to a well, means, as I understand it, 'to drill the well'. Then it goes on to say 'or to excavate the well in any other manner'. If the minister turns to the definition of 'well', paragraph (b) says 'an opening in the ground excavated for some other purpose but that gives access to underground water'. The definition of 'to drill' means to excavate the well in any other manner, so it can be excavated in any way; and 'well' means an opening in the ground excavated for some other purpose than to find ground water, but ground water happens to be there, so that clearly covers mines, because a mine would be an opening in the ground.

A mine would be excavated for some other purpose; a mine would often give you access to underground water; and 'to drill' means to excavate the well in any other manner. The way in which I read it, 'to excavate the well in any other manner' means that you can use explosives or any form of mining equipment to excavate it but, as long as it is an opening in the ground that has water in it, it does not matter for what purpose the opening was excavated, it comes under a well that can be drilled. I want to ensure that my definition of 'well' and 'to drill' is that broad and whether the mining industry is happy with that.

The Hon. J.D. HILL: The fairest observation I would make is the that definition of 'to drill' is in the original act, and I have not heard any objections from the mining industry in relation to it. I think the member is right. The definition is pretty broad; that is, as long as you construct a hole in the ground by some means, then the definition of 'to drill' certainly covers that, so it is a broad definition.

I remember one of the honourable member's colleagues telling me about drilling for water in the South-East and being unable to get sufficiently deep by the particular drill that he was using, so he had to bulldoze. In fact, the member for McKillop was telling me about it the other night. He told me how he had to cut into the ground so that he could get his pump down to a lower level in order to get water out. That would encompass that kind of—

Mr Williams interjecting:

The Hon. J.D. HILL: The member is saying that it is a problem with the water, not the pump; I agree. Nonetheless, you use a bulldozer to achieve the drilling outcome, and that is certainly true. It is a broad definition, but I am not aware of any objections to it.

The Hon. I.F. EVANS: Will the minister explain how aquaculture is not caught in the definition of intensive farming?

The Hon. J.D. HILL: I understand that the definition is clearly broad enough to pick up aquaculture in a general sense, but the jurisdiction of the legislation goes only to the low-water mark, so it would not capture any aquaculture activity offshore.

The Hon. I.F. EVANS: Onshore?

The Hon. J.D. HILL: I am getting to that. Given the broad definition of animals, it certainly captures the farming of fish onshore, and I have visited a number of areas in the state where they do that. Indeed, as to all farming on land—whether it be fish, pigs or anything else—those farmers have a general duty of care to protect the environment. However, this will not seek to manage that aquaculture activity in the sense of saying whether or not it can occur. That is subject to other legislation. However, it would have an impact on the disposal of, say, water that was used in that activity—as it would indeed on any other industrial or farming activity. It impacts not on the operations of the aquaculture activity but only on the impact of those operations on the environment, in the same way that any other farming or industrial activity would be caught. Pig feed lots are a parallel example.

The Hon. I.F. EVANS: When we consulted with the aquaculture industry (and I raised this in my second reading contribution), the response from the government was that it did not cover aquaculture, and there was no intention for it to do so. We are now told that, to some degree, it will cover and overlap on at least land based aquaculture. Has that been explained to the aquaculture industry, and what was its response? My understanding is that it has not been explained to the industry, and I am unaware of its response.

The Hon. J.D. HILL: As I understand it, the discussions with the industry were about sea based aquaculture, because plainly this legislation does not cover that. I doubt whether we talked to the pig industry, or the bee or honey industry, or any other industry about the impact it would have on them, because it is not about regulating those industries per se: it is about the impact that any natural resource user will have in terms of how they access those natural resources. For example, if one needs to take water out of a prescribed area for industrial purposes—whether it be for aquaculture, viticulture or secondary industry—there will be a licensing arrangement, as there is now under the Water Resources Act. If you are going to dispose of that water and it might affect the quality of a water stream, you are caught by whatever those regulatory frameworks are. In that sense, it impacts on it, but it is not an act about regulating the aquaculture industry as an industry in terms of its own operations.

I am trying to make a distinction. You could equally say that this is a bill that is about viticulture, because it does not exclude the growing of grapes. Clearly, the Water Resources Act is very much about the management of water used and disposed of by viticulturists. It would apply equally to any other water user.

Mr WILLIAMS: When I read through the bill I wrote a note here, and I want to get it on the record and to get an assurance from the minister. I am sure this is not the intention, but the definition of 'intensive farming' could capture what I would call normal farming practice. In a lot of the state, it has become increasingly the practice in livestock husbandry in recent years that, towards the end of summer and through autumn, before the break of the new season and when paddock feed is reduced, farmers herd their stock into a smaller area (it may be into one or two paddocks), and handfeed their stock.

As we all know, the terms of trade in the farming industry have been working against farmers for many years. To overcome that problem, farmers have been increasing their carrying capacity and stocking rates. To keep their stock in good conditions, a lot more handfeeding is carried out than was the case a few years ago. They herd their stock into small paddocks and handfeed them not only as a convenience but also to reduce any adverse impact on the natural resources on their farm. Can the minister give the committee an assurance that the definition of 'intensive farming' will not capture farmers who use that practice on a small part of their farm—that is, if they carry out this farming practice with only the total number of stock they run on their whole farm—and thus be denied watering their stock?

The Hon. J.D. HILL: The advice I have is: no, they will not be.

Mrs MAYWALD: I move:

Page 13, line 24—Delete subparagraph (i)

This is consequential to the amendment moved in relation to the definition of 'floodplain'.

The Hon. J.D. HILL: Is it a reference to lakes?

Mrs MAYWALD: Yes, it is a reference to lakes. This amendment is consequential to the debate we had under the definition of 'floodplain'. The same principles apply, and the debate has been had. It is a consequential amendment.

The Hon. I.F. EVANS: We support the amendment. We will not be proceeding with our amendment No. 4 as a result of this amendment.

The Hon. J.D. HILL: The government will accept the amendment.

Amendment carried.

The Hon. I.F. EVANS: Does the definition of 'natural resources' include air?

The Hon. J.D. HILL: Not as we have defined it.

The Hon. I.F. EVANS: So, air is not part of the ecosystem under paragraph (e)?

The Hon. J.D. HILL: I am not quite sure what the member is trying to get at here. There is no way that we will set up NRM plans to manage air. If there is any managing of air, I guess that is done by the EPA in relation to air quality. There is no practical, feasible, logical or sensible way that we could have an NRM committee that managed air. I do not know whether or not air is part of an ecosystem. It is almost a philosophical question, and I am not sure of the answer. But it is certainly not our intention to cover air.

The Hon. I.F. EVANS: Does 'geological features and landscapes' include fossils? There has been a debate within government—

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: —and the minister knows where I am coming from—about the protection of fossils (and I note that the government is promoting fossil week at the Museum; the Ediacara fossil, and so on). There has been a debate between primary industries, mining and the department of heritage about whether fossils should be protected. Currently, fossils are not protected under the legislation. My understanding is that the mining department has won the debate about not introducing specialist legislation to protect fossils. The reason for the debate within government was that part of the Ediacara fossil was stolen and taken overseas, and federal customs, under Senator Vanstone, did a fantastic job and found the fossil, brought it back and it was reinstated at the Museum. It was at that point we realised that the law was inadequate to protect fossils. My reading of 'geological features' is that that would be broad enough to include fossils and, therefore, I wonder whether you could use an NRM plan to bring in some form of protection for fossils that currently are not protected. That is basically the theory of where I am going with the question.

The Hon. J.D. HILL: I understand where the member is going and I agree with him that something needs to be done about fossils. This legislation is not attempting to do that. There is, in fact, a working party (which is probably the same one which was set up when the member was the minister), and that involves primary industries (in particular, the mining section) and my own department, and tourism also has a keen interest in this. I gather the miners say that it should be covered under the Mining Act, and we are just working through that. My advice is that this does not cover fossils. I think it would be unreasonable to place that burden on NRM boards, because the level of knowledge that would be required in relation to fossils would be unlikely to be present in too many parts of the community. It is a fairly specialised discipline.

Mr WILLIAMS: Last evening the house debated the GMO bill and, in my contribution, I expressed grave concerns about the regulation-making powers that that bill provided. I have a problem, from a philosophical standpoint, with giving powers to make regulations for all sorts of things. As a consequence, the words 'other aspects of the environment brought within the ambit of this definition by the regulations' in paragraph (f) frighten me because, all of a sudden, we can do anything by regulation. The reality is that, every time we give the government the power to make a regulation, it is really the bureaucrats to whom we are giving the power, because they are the ones who determine what will be regulated and what will not. I have grave problems with that because the parliament, in giving those powers, quite often does not contemplate the sorts of things that could be thought of at some time in the future and brought in by way of regulation. So, I have a grave concern about that.

This bill is full of regulation-making powers, and that disturbs me. As the minister would be well aware, I have had a great interest in the Water Resources Act 1997, and I can tell the committee that things have been done under the regulation-making powers in that act that I would guarantee were not contemplated at the time the parliament passed that legislation. The definition here for 'natural resources' states 'natural resources includes' and lists these things. To me, that implies that 'natural resources' includes those things,

obviously, but also a whole host of other things. Does the minister believe that the definition of natural resources, for the purposes of this act, would be something identical or very similar to the definition of natural resources in the *Australian Concise Oxford Dictionary*? That definition is 'materials or conditions occurring in nature and capable of economic exploitation'.

The Hon. J.D. HILL: That is a reasonable definition, but I think we are trying to cover more than just those that are capable of being exploited. It is an interesting point: capable of being exploited. At what point in time? It may well be in 20 or 30 years, when something that we thought was unimportant turns out to be highly exploitable but, if we ignored it now, in 20 or 30 years time we may not be able to—

Mr WILLIAMS: It does not mean that it is exploitable: it just means that that it is capable of being exploited.

The Hon. J.D. HILL: But how would you know what is capable of being exploited in the future? At one stage 100 years ago it was thought that everything in South Australia was capable of being exploited but, certainly, areas that are now subject to irrigation were not necessarily seen as high-value areas. I understand where the member is coming from, but I think that this definition is really trying to pinprick the individual areas.

In relation to the regulatory power, I am a bit nonplussed as to what other areas we would want to include, so if the member would care to amend it to remove paragraph (f) I would find myself in a position not to object.

Mr WILLIAMS: I move:

Page 14, lines 22 and 23—delete paragraph (f).

The Hon. I.P. LEWIS: On the related matter, that of paragraph (c) at the head of the page under the definition of 'Mining Act' which commences on the previous page, I cannot understand why we need a further legislative bunding around the existing acts that are mentioned, namely:

(a) the *Mining Act 1971*, the *Opal Mining Act 1995*, the *Petroleum Act 2000* or the *Petroleum (Submerged Lands) Act 1982*.

Then we have:

(b) the *Cooper Basin (Ratification) Act 1975*, the *Roxby Downs (Indenture Ratification) Act 1982* or the *Stony Point (Liquids Project) Ratification Act 1981*;

(c) and any other act relating to the production, recovery, management, conveyance or delivery of minerals brought within the ambit of this definition by the regulations;

[Sitting suspended from 6.02 to 7.30 p.m.]

The Hon. I.P. LEWIS: I have had the good fortune of being able to discuss my concerns, largely arising out of my ignorance of the purpose of defining the Mining Act to mean what it does. Paragraph (c) of that definition will enable any subsequent act that may be passed by this parliament to be excluded by regulation from the consequences or effects of this legislation. I am grateful to the minister for his frank and concise disclosure of those purposes.

The Hon. J.D. HILL: I make the point publicly that I made to the member privately that this provision defines the Mining Act and uses a generic phrase (Mining Act), but then says that it means a whole range of other things and refers to particular pieces of legislation. Then there is paragraph (c) which says 'and any other act' that relates to various aspects of mining. It is done in that way so that, I guess, any inadvertent exclusion from this provision will be caught, and any new legislation which relates to mining will also be caught, and the reason for catching it is so that mining activities can be excluded from the provisions of the natural resources legislation. Mining, of course, is covered by its own legislation.

Amendment carried.

The Hon. I.F. EVANS: NELA made a submission to the minister in regard to occupier and owner suggesting that there needs to be, in effect, a separation of the definitions of owner and occupier. I am wondering why the minister has not adopted that recommendation.

The Hon. J.D. HILL: The short answer is that it was on advice from parliamentary counsel. A lot of these suggestions from NELA were stylistic or legalistic—I do not say that in a pejorative way—but they were legalistic issues not really to do with the substance of the legislation. We asked parliamentary counsel to talk to NELA, and it gave me advice about which of the amendments ought to be accepted. That was one of the amendments that was not accepted. I am told that that is about all I can say. It is a drafting preference, and I understand that it is common in other legislation, but I am happy to have another look at this between the houses. If the member thinks it is a particular issue—I am not aware of what that issue is—I am happy to have a look at it between the houses.

The Hon. I.F. EVANS: I am happy for the minister to look at NELA's submission—it put it well. Is it possible to have two occupiers of the same land? The reason I ask is that land is defined as both the physical entity and the building. 'Occupier of land' means a person who has or is entitled to possession or, indeed, control of the land. 'Land' is defined as the physical entity or any legal estate or interest in the land or right in respect of the land.

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: No, it does not have to be. It goes on to say: 'and includes any building or structure fixed to the land'. I am looking at the landlord/tenant issue, at whether they are technically both defined as occupiers, because one is entitled to possession and one has control.

The Hon. J.D. HILL: There can be multiple occupiers of a property at one time. For example, if somebody has an easement over a property and is using that easement, I guess they would be an occupier. However, an owner of land is not necessarily an occupier, but a variety of people can be occupiers (including owners).

The Hon. I.P. LEWIS: May I elaborate on that and make it plain that in pastoral areas (and elsewhere) where a miscellaneous purposes lease is granted under the Mining Act, the occupier of the miscellaneous purposes lease has rights of residency and, for purposes of the mining enterprise, to do whatever is necessary on that miscellaneous purposes lease, but they cannot exclude the rights of a pastoralist who has a pastoral lease to graze the same area. Equally, the pastoralist cannot impede or obstruct what the miner can do on that miscellaneous purposes lease in terms of providing accommodation for employees or the owners or leaseholders, as it were, of the miscellaneous purposes lease.

Concurrently with the two of them, native title can apply. If the miscellaneous purposes lease has been granted subsequent to the establishment of native title rights on pastoral leases, the native title rights do apply, but they do not if they pre-date that. Equally, it is possible in the case of freehold for a form of strata title to apply to the land. So, there can be concurrent occupation by someone who owns rights of access to a building and/or the enterprises undertaken lawfully within that building whilst they share with some

other interest the right to use the land around that building agriculturally.

There is no necessity for the separation by boundary delineation on the surface of the earth the spaces occupied by the two persons as defined on the title under that agreement that has been struck between the parties for access to and use of the land. They are jointly and severally title holders and, as it turns out, as I understand it as a result of my interest in the mining industry, they are equally liable for whatever goes wrong as much as they have defined rights between each other as to what they may do.

The Hon. J.D. HILL: That is quite so. The member for Hammond makes the point well. It is possible to have a number of occupiers, but I point out that this is the definitional stage, so we are really just trying to define what is an occupier or an owner. Sometimes an owner is an occupier, but the reverse is not necessarily so.

The Hon. I.F. EVANS: I notice that the majority of the definition of 'owner' is taken from the old acts but there are two new clauses under this bill. One provides that a person who holds native title in the land is now defined as an owner rather than solely as an occupier. Secondly, it provides that a person who has arrogated to himself or herself (lawfully or unlawfully) the rights of an owner of the land. I am wondering where the second part of the definition of 'owner' occurs in any other piece of legislation and why we are defining someone who has gained rights unlawfully as an owner of land.

The Hon. J.D. HILL: I will get formal advice. My reading of it would be to make sure that we can identify who is going to be responsible if certain actions follow. Somebody may have occupied a piece of land and undertaken some damming activities or an activity which has an impact on somebody else, and you want to make them responsible for the consequences of their action. This is a way of bringing them within the province of the legislation. It would be unfair and bad in law if somebody who was responsible for some negative outcome was able to absolve themselves of the responsibility by saying, 'Hang on, I am not really a legal occupant of this land,' and was then able to walk away. That is the basis of the definition. It is not trying to create some legal title which is otherwise not there. It is simply trying to pin the responsibility on somebody who may have done something. This happens quite regularly.

I have certainly had some experience of it—not illegally but possibly legally—in relation to the lower Murray swamps. A range of persons irrigated land in that area to create pasture for their herds. We know this because we have just gone through a review of who owns what land and what water they should have allocated to them. There were some people who were irrigating land that they did not own and using water to which they did not have a right. There is some sort of historical sequence whereby they might have been told by an SA Water representative, 'It's okay, mate, you can use that bit of land,' but they did not necessarily have a legal title to that land although they had been doing it for 30 or 40 years. Some of them have been arguing that they have a legal entitlement because they have been doing it for a long time, and the law may, in fact, decide that they do have a legal entitlement because of occupation over a period of time. It is really trying to pick up that issue. I understand that that definition is also within the Local Government Act.

The Hon. I.F. EVANS: Given that answer, I cannot understand why you simply do not define them as occupiers. If you can define them as owners, you can define them as occupiers and they have fewer rights as an occupier than as an own. You can define them as anything you want, minister. You might not have defined them as occupiers under this bill; they may not be defined as occupiers under the—

The Hon. J.D. Hill: They may not be occupiers.

The Hon. I.F. EVANS: They are occupiers if you define them as such. Technically, they are not an owner until you define them as such. But, I cannot quite work out why it fits better in 'owner' and why it is not under 'occupier'. If they have gone onto crown land, to use your example, and created a dam, they have basically occupied the land. They do not own the land or, indeed, assume the role of owner: they basically occupy it. Ownership is more clearly defined in the law than just occupying land. The other point I make is that the last two lines of the clause state 'and includes an occupier of land'; does that not mean that all occupiers are owners? However, in your answer you said that not all occupiers are owners.

The Hon. J.D. HILL: You have made two points. I will deal with the second first. It is true that the definition of 'owner' does include an occupier of land; I agree with that. An owner, of course, could be somebody who takes upon himself ownership of the land and may, in fact, lease it out to somebody else or create a particular set of circumstances and then allow somebody else to occupy it in their absence, and they would not necessarily be caught by this provision. But it is just really using a formula that has been used in the Local Government Act. I do not think it is a particularly unusual kind of construction. It is just trying to define, in the broadest way possible, those who may need to be held responsible for adverse events.

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

Page 15, after line 20—Insert:

'peak body' means—

(a) the LGA; and

(b) the South Australian Farmers Federation Incorporated; and

(c) the Conservation Council of South Australia;

This would insert a clause after the definition of 'plant', defining 'peak body' to mean the LGA, the South Australian Farmers Federation and the Conservation Council. This really is a test clause, in effect. Throughout the bill, when changes are made to NRM plans, it says that the local constituent council will be notified—in other words, the local government authority (whether that be the Murray Bridge council or the Mitcham Council) will be notified. We argue that there is a range of other groups that will have an interest in the change to the plans and, therefore, rather than leave it that the local council is the only authority to be notified of those changes, we argue that those three groups (the LGA, the South Australian Farmers Federation and the Conservation Council of South Australia) should be notified. So, if the minister accepts this amendment, we will assume that he is accepting the other amendments as proposed to be moved. If it is defeated at this point, we obviously will not proceed with the other amendments.

The Hon. J.D. HILL: The decision to insert the LGA was really a result of negotiations with the LGA. The Farmers Federation and the Conservation Council did not have a particular issue with these kinds of arrangements, but I am happy to accept the amendment because we would obviously try to consult with a broad range of people. So, I am happy to have that prescribed and I accept this amendment and other amendments that are consistent with it.

Amendment carried.

The Hon. I.F. EVANS: In regard to the definition of 'sell', I have a minor question. I wonder how you actually prove that someone has something in their possession for the purpose of sale. They would just deny they were going to sell it. The bill provides:

'sell' includes—
. . . have in possession for sale;

It seems to me that any person so challenged would just say it is not for sale.

The Hon. J.D. HILL: That just becomes a legal argument about proof. It does not stop the definition including something which is in somebody's possession for sale, and I guess the courts would use the normal standards to prove that.

The CHAIRMAN: We are now on page 17, and the member for Davenport will move an amendment later.

The Hon. I.F. EVANS: I just want to make sure that I understand how this will work in relation to state waters. Minister, I am referring to the definition of 'state' at the top of page 17. I am trying to understand how this definition of 'state' works. I want to get it clear in my mind. I understand that the NRM plans will have an effect only up until the low water mark: it is everything on land down to the low water mark. But the act has an effect out to the state waters' boundary, which is roughly three kilometres out. I am wondering what effect it has between the low water mark and the three kilometre mark. If the NRM plan does not cover it, what is the effect of the act on that bit of water?

The Hon. J.D. HILL: The bill's jurisdiction will extend only to the low water mark; however, it will link up with other bits of legislation that cover the whole state. For example, it must be cognisant of coastal marine issues. I think that I understand it. The jurisdictional area is the low water mark, but the state plan needs to take into account issues that go beyond the low water mark so that there is a connection between this piece of legislation; and that the planning documents that are produced under it are connected with other pieces of legislation so that we do link with the Development Act, coast protection arrangements and other devices that look after that bit between the sea and the three kilometre mark. I hope that explains it.

The Hon. I.F. EVANS: The way in which I interpret that is that the regional plans, at least, go down to the low water mark. The state plans then go out to the three kilometre mark? Okay. The minister's powers over the state NRM plan also then apply over the three kilometres of water. This is where I am coming from, I guess, but I assume that the minister has to adopt the marine planning strategy developed by the Coast Protection Board and whatever the fishery plans are as part of the state NRM plan? That is as I understand it. The minister and his adviser nod.

If the minister has the capacity to change the state NRM plan (which he does under other clauses in the bill), does the minister then get the capacity to change those other plans developed under other agencies that are incorporated in the state NRM plan? I am concerned that, by incorporating these other plans, whatever they may be, into the state NRM plan, the minister automatically gains power to change or alter those plans.

The Hon. J.D. HILL: The answer is no. It is trying to link the powers that exist within this legislation with the powers that exist in other pieces of legislation, and the state plan will incorporate whatever comes out of the other legislation. Of course, there is one government, and public servants and ministers will talk to each other to try to get an integrated approach to this, but this legislation does not do as the honourable member has asked.

The Hon. I.P. LEWIS: My curiosity arises from whether or not below low watermark the minister has discretionary control without reference to any regional plan from the regional body appointed under this legislation—the NRM plan. Does the minister have discretionary control over what can be done by aquaculture leaseholders, all of whom by definition are below low watermark, especially oyster farmers?

The Hon. J.D. HILL: I will try to answer this question again, perhaps more clearly than I have in the past. The answer is no. The NRM plan allows the boards and the state plan to have jurisdiction up to the low watermark, but we want to ensure that what happens on land does not have an adverse impact on what happens in water. For example, if there is an aquaculture development or a fish breeding ground, we do not want a lot of pesticides or pollutants getting in and affecting the area, so the NRM plans need to take into account what is happening at sea. They cannot control that area but they can control the elements that go into that area and hopefully stop any detriment to that coastal environment. There is other legislation that looks after those areas.

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

Page 17, line 27—Delete paragraph (g)

Paragraph (g) is in the definition of the words 'to take' referring to taking water from the water resource. Paragraph (g) is defined as 'to undertake or permit any other prescribed activity'. The minister has already agreed to a number of amendments where the regulation-making power has been removed and I do not see any need for this particular measure. I am seeking to delete that line following the same theory that the minister has accepted in respect of other amendments that he does not need a regulation-making power in certain circumstances. In this case, he does not need the power to prescribe other activities as may be defined from time to time. It narrows the minister's power but it still leaves the minister with at least six or seven other definitions of what 'to take' water means. We seek the committee's agreement to this amendment.

The Hon. J.D. HILL: The advice I have is that it is not a show stopper for us. I will accept the amendment but there is always a risk when we do this that something will happen and we will have to come back to the parliament and amend it, and we will do that if there is another issue that we have not contemplated in this legislation.

Amendment carried.

The Hon. I.F. EVANS: I have one last question on page 17. Under the definition of 'vehicle' the bill lists plant or equipment. Plant is actually defined in the definitions as being vegetation and the like. The minister may want to look at that between houses.

The Hon. J.D. HILL: I guess it is how you pronounce the word, but I understand what the member is saying so we will do that.

The Hon. I.F. EVANS: I know that some members are concerned about the length of time it will take to get through these definitions.

An honourable member interjecting:

The Hon. I.F. EVANS: Yes, we have got all night. I want to highlight the definition of 'watercourse'. 'Watercourse' can be defined as meaning 'a river, creek or other natural watercourse'. Then it goes on to say that it can be a lake.

'Lake' has its own definition. 'Lake' means part of a lake or a body of water designated as a lake by an NRM plan or a plan under the Development Act. There are at least three definitions of lake. 'Channel' has its own definition. 'Channel' includes 'a drain, gutter, pipe' or 'part of a channel', which means part of a drain, part of a gutter or part of a pipe. There are at least six definitions of channel. It can mean part of a watercourse, so it can mean part of all those other definitions to which I referred. It can mean 'estuary'. 'Estuary' has its own definition, meaning 'a partially enclosed coastal body of water that is permanently, periodically, intermittently or occasionally open to the sea'. There are a number of definitions of what an estuary may or may not mean. Then it goes onto say 'any other natural resource, or class of natural resource, designated as a watercourse'. A natural resource, of course, can be soil, water, geological features, native vegetation, ecosystems, and so on. It is an example, I guess, of the complexity of the definitions that the lay person will struggle to read.

We have gone quite slowly through the definitions in the bill in order to try at least to get in the *Hansard* some clarity of what is in the minister's mind about what these clauses mean. The watercourse was a good one because it goes on to so many other definitions in relation to the whole bill. I notice that we have the same issue there, and I assume the member for Chaffey is moving an amendment in relation to regulations. Again, we will tidy up that provision. By using the watercourse example, I highlight how broad the definitions are and the reason why we are slowly working through these, so that we can get on the record the government's view. I am happy to support the member for Chaffey's amendment.

The Hon. J.D. HILL: I am happy to accept it, as well. The honourable member makes a point that this is complex and difficult. Natural resources in the real world are complex and difficult to define. This is an attempt to put into words what nature has created.

Mr Koutsantonis interjecting:

The Hon. J.D. HILL: My friend says, 'God'. We are trying to define nature and, obviously, that is a difficult and complex thing. I am happy to pick up the amendment from the member for Chaffey to remove regulation. The focus of all this has to be NRM plans locally. That is the way it ought to go. Basically, this is a broad definition, and it is really about moving water, other than that which comes out of a tap. That is the way it is.

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

Page 18, lines 7 and 8—Delete:
in which water is contained or flows whether permanently, intermittently or occasionally

That reverts to the definition in the original act.

The Hon. J.D. HILL: This is the first of two amendments. It removes 'in which water is contained or flows whether permanently, intermittently or occasionally'. The second one is to delete 'periodically, intermittently or occasionally' and to substitute, 'or periodically.' The second one I am happy about, but with the first one he just takes away all of those characteristics. If he wants to make it 'periodically' I would be happy to do that. I suppose because some are permanent and some are periodic you are saying that if you take all of them out you cover water generally.

The Hon. I.F. EVANS: My understanding from parliamentary counsel is that if you take out all of them it goes back to the original act.

The Hon. J.D. HILL: Okay, I understand. We will accept that.

Amendment carried.

Mrs MAYWALD: I move:

Page 18, line 18—Delete subparagraph (i)

This is a consequential amendment to the debate we have already had in relation to the issue of definition of 'watercourse' and other definitions within this act, that they need to be defined in a NRM plan and that they should not be overridden by regulation.

The Hon. J.D. HILL: I have already indicated that I will accept that.

Amendment carried.

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

Page 19, lines 1 and 2—Delete 'periodically, intermittently or occasionally' and substitute 'or periodically'.

The Hon. J.D. HILL: Yes, I agree to that.

Amendment carried.

Mrs MAYWALD: I move:

Page 19, line 7—Delete paragraph (a)

Once again, this is a consequential amendment.

Amendment carried.

The Hon. J.D. HILL: I have an amendment to clause 3, page 19, lines 24 to 30 which I do not intend to move at this stage. I need to have further negotiations with the Local Government Association in relation to that and a number of other amendments that I will move. I have given them an understanding that I will not move them until I have had a chance to consult with them. I do not think there is anything in them that would concern them, but I will move them in the other place and bring them back here, if they are supported in the other place.

The Hon. I.F. EVANS: I know the minister is not moving his amendment, but will the minister explain the purpose of that amendment?

The Hon. J.D. HILL: The bill that was introduced into this place contained a printing error and did not contain this element which was in the bill that was originally tabled, and my understanding is that it is part of what was originally agreed to with all these other bodies. Nonetheless they expressed some concern about it, and I am happy to defer moving it today until I have had a chance to assure them that this is what we were planning to move, in any event.

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

Page 19, lines 16 to 23—Delete subclause (2)

We are seeking to delete subclause (2), which states:

For the purposes of this act—
(a) a reference to land in the context of the physical entity includes all aspects of land, including the soil, organisms and other components and ecosystems that contribute to the physical state and environmental, social and economic value of the land; and
(b) a reference to a water resource includes all aspects of a water resource, including the water, organisms and other components and ecosystems that contribute to the physical state and environmental value of a water resource.

We seek to delete subclause (2) in order to try to simplify the definitions. If you look at every place where land is mentioned in the bill, first, you have to work out what land you are talking about. There are at least two definitions of 'land'. The bill states:

land means, according to the context—
(a) land as a physical entity, including land under water; or
(b) any legal estate or interest in, or right in respect of, land,
and includes any building or structure fixed to land;

That is what 'land' means in one section of the definition and then it goes on to say that not only do you have to consider

that definition of 'land' but also, depending on its context, if it is in the physical entity then you also need to consider that 'land' also means all aspects of land, including the soil, organisms and so on.

The definition of 'land' is very confusing to me, and I think it will also be very confusing for the average layperson. There is a similar argument in relation to the definition of 'water resource' where, according to this clause, a reference to a water resource includes all aspects of a water resource, including the water organisms and other components and ecosystems that contribute to the physical state and environmental value of a water resource. A 'water resource' means a watercourse or lake, surface water, underground water, stormwater and effluent. A watercourse has a definition, and I went through that before. There are at least 15 definitions of 'watercourse' once you follow it back through all the other definitions. I am not sure why we have 'lake' in the definition of water resource, because it is defined as that under 'lake', anyway.

Stormwater and effluent already have their own definitions. It becomes a chain of definition upon definition, and the lawyers will have a picnic as to their meaning. The poor old farmer who is trying to work in good faith with this legislation will not have a hope in Hades of understanding what it means. If you trace the definitions back and do a matrix of possibilities, there are hundreds of possibilities of what it might mean. It seems confusing to us, and we do not think that it necessarily adds to the bill, and we seek to amend it by deleting that.

The Hon. J.D. HILL: On this issue, I am afraid that we disagree with the opposition. My advice is that the definition of land is essential in order to allow proper management of the land, because land is more than just the soil: it is all the elements that are part of that whole resource. It is not just the particles of organic material that fly around: it is all the other things that live and operate in and are connected to the soil, and it is a similar issue with water. The soil or land elements are based on what is in the current Soil Act, as I understand it. The effectiveness of this act would be diminished if that element were to be removed, so I disagree with the opposition on this issue.

Mrs MAYWALD: For clarification, with respect to land, the context of the physical entity includes all aspects of land, including the soil, organisms and other components and ecosystems that contribute to the physical state and environmental, social and economic value of land. Where does the landowner fit into that? Is that an organism, or is it some other aspect of that definition? Organisms are not necessarily identified. Is the bill referring to the organisms that live within the soil? I am a little unsure as to what is meant by the economic value of the land.

The Hon. J.D. HILL: It is not a reference to the owner or the user of the land. This is a definition of land and, when it is used in the act in reference to owners of land, the bill talks about that and about the elements that contribute to those various issues—namely, the environmental, social and economic value of the land. For example, the amount of organic material in a parcel of land obviously has an environmental benefit, but it also has an economic benefit, because if you do not have any nutrients in the soil you will not be able to grow anything.

Amendment negatived.

The Hon. I.F. EVANS: Why do we consider the environmental, social and economic value of land, but we consider only the environmental value of a water resource? Why is the social or economic value of a water resource not considered?

The Hon. J.D. HILL: We are happy to add those elements, and we will do that between the houses. At this time, I will not proceed with my amendment No. 2, but I will do so in the other place after I have had a chance to speak to the local government authority.

The Hon. I.F. EVANS: Given the minister's comments, we are happy to wait until we see the outcome of their negotiations.

Mrs MAYWALD: I move:

Page 19, after line 42—
Insert:

(7a) For the purposes of this act, a 'designated minister' is a minister who is primarily responsible for any of the following:

(a) regional affairs;
(b) primary industries;
(c) the environment;
(d) mineral resources;
(e) local government;
(f) urban or regional planning;
(g) Aboriginal affairs;
(h) economic development;
(i) tourism;
(j) the River Murray,

as designated by the Premier from time to time for the purposes of this provision.

This amendment is consequential on a previous amendment in relation to 'designated ministers'. It enables a consultation process between the minister responsible for this bill and a range of designated ministers prior to the acceptance of nominations or those nominated being appointed to the boards as well as the Natural Resource Management Council.

The Hon. J.D. HILL: We accept this amendment.

The CHAIRMAN: Is the member for Chaffey saying that her amendment No. 3 is consequential?

Mrs MAYWALD: I am, Mr Chairman. It is consequential on the first amendment I moved in clause 3 some time ago.

The CHAIRMAN: Does the member for MacKillop want to speak to the amendment?

Mr WILLIAMS: I do indeed, Mr Chairman. I am more than happy to support the amendment, but I would like to put on the record some comments.

Ms Ciccarello: Why?

Mr WILLIAMS: Because I think it is important.

Mr Koutsantonis interjecting:

Mr WILLIAMS: Thank you, Tom. Although it has been referred to in the second reading debate I want to highlight the point again, because I think it comes in here. The problem we have with this bill is that, when it comes to making a decision in cabinet, all these functions, throughout the history of South Australia, were under three different ministers who all had an interest and a department behind them with an interest in the area of natural resource management. However, under this legislation, one minister will walk into cabinet with a cabinet submission and no other cabinet minister will have had any advice from their department, and it will be a fait accompli. I appreciate that, in moving this amendment, the member for Chaffey is, in some way, trying to address that problem.

Earlier this evening, I heard a couple of interjections suggesting that this will still be a rubber stamp and, although I support the amendment, I believe that that will still be the case. It does not overcome the problem that one minister, representing one bureaucracy, will walk into cabinet with one submission and no-one else in cabinet—particularly in a Labor cabinet, because the Labor Party has no representatives

outside the metropolitan area, apart from the member for Giles—

Mr Koutsantonis: What about Ron Roberts and Terry Roberts?

Mr WILLIAMS: I am talking about the lower house.

Members interjecting:

Mr WILLIAMS: I hear an echo. I reiterate that that will be the case particularly in a Labor cabinet because these sort of issues are debated vigorously in the Liberal Party party room every time something comes up because we have so many rural members. However, I lament the fact that there will be one minister and one set of advice going into cabinet to make decisions. I think it will make for bad decision making. Notwithstanding the current minister and the current bureaucracy and all of that, it is a bad way of going about making these decisions. I put on the record that, notwithstanding my support for what the member for Chaffey is trying to do here, I do not believe it overcomes that fundamental problem with this whole bill.

Mrs MAYWALD: I will be very quick in my comments, but I do need to respond. The assumption made by the member for MacKillop is that no other ministers have bureaucracies or departments providing advice to them in respect of consultation. If the member had had experience within a ministerial portfolio he would realise that when a requirement for consultation goes to a department they take that very seriously and provide a brief from that department's perspective to their minister, who may potentially then be able to put forward a different perspective. I feel that it is important to include a broad balance of different ministers, which is why I have gone for the number of ministerial responsibilities that I have put forward. I believe that this will act in a balancing way to ensure that more members of the cabinet are better informed about what is happening in respect of natural resource management.

Mr VENNING: I first want to congratulate the member for Chaffey on doing a part of the job. I think we will accept this measure, but I would like to back up what the member for MacKillop just said. I was in this field before entering parliament many years ago and we dealt with two ministers, and it is a worry. One of the core worries of the whole platform of this bill is the fact that we are dealing with one minister. I know that 10 ministers are listed here, and it is stated that these designated ministers will have to be involved in the process of setting up the council and, I believe, also the boards. I still believe that this is capable of being part of a rubber-stamp, and that concerns me. I do not believe that this minister could ever be accused of that, but other ministers could.

An honourable member interjecting:

Mr VENNING: It could. I would like to have seen a core of, say, three ministers as an overarching body above the council to oversee all operations. But I know that will not happen here. For the record, it was an idea that I tried to push through the system, and I think that one day we may revisit this, particularly if things go wrong. I certainly hope that they do not. Many years down the track, when I hope to be back in this system, we might be revisiting this—

An honourable member: When you retire.

Mr VENNING: When one retires—I do not ever intend to retire. I may retire into a job, but I do not ever intend to retire. I think that this is a pretty good attempt by the member for Chaffey, and I congratulate her. In relation to setting up the boards, she has listed up to 10 ministers. As I said, I am with the member for MacKillop. I know that, when we were in government, three ministers were involved in our draft legislation. Even though that was not perfect, I think we were moving closer to a scheme that would have been pretty workable. In relation to the operation of this new act, only one minister will be involved. Once the boards are in place, the member for Chaffey's designated minister list will not be used, and that concerns me. But it goes part of the way, and I commend the member for Chaffey. However, I still have that underlying concern, which will be with me for a long time.

The Hon. J.D. HILL: I know that this matter has been resolved by the acceptance of the amendment by the member for Chaffey, but I would like to address that kind of issue, because it seems to be central to the concern raised by a number of members opposite. I want to talk about the process by which government will resolve these issues. It is my intention—and I hope to create a tradition where this will happen—that we will advertise (and we have already put in the preliminary advertisement, as members know) for people to be chairs of these boards. We will get the Natural Resource Council which is the central body and which will have on it someone from the Farmers Federation, local government, the Conservation Council plus half a dozen other people who have natural resource qualifications—

Mr Venning: You've already set that up yourself.

The Hon. J.D. HILL: No, I have not set that up.

Mr Venning interjecting:

The Hon. J.D. HILL: I have not set that up. We will set that body up. That body will then make recommendations about who the chairs of each of those boards should be. Then, using this amendment, we will get the panel of ministers to agree to that panel of boards, or make recommendations to cabinet on who those chairs are to be. Then those chairs, in consultation with local communities and the council, will develop a team of people to form the boards in each region. It will be a very consultative, consensus-based approach and I hope that, once it is recommended to me and I consult with my other colleagues, there is no dispute about it. So, this will come out of the process in a way which will best reflect the interests of those eight regions.

Obviously, the government is responsible for the actions of those members and, therefore, it is important that they are the ones who ultimately appoint. That is what happens now under the Water Resources Act and, indeed, all the other acts—they are all appointed by government. The cabinet process means that all ministers, anyway, have a say in all of those appointments, and I am sure that was the same under the former government. All appointments to boards go through cabinet, and cabinet members are not silent about expressing their views—probably more so in the previous government's cabinet that in mine. But we do express our views about the right balance: are there enough women, are there enough people from farming communities, and so on?

This process will be open to so many checks and balances that I am confident we will get the balance right. If we do not, then the committee will be hostile and we will have to change it. That has happened a couple of times through the arrangements that were in place in the Water Resources Act—a number of boards were changed over time to get better structures in place. I know the member for Schubert has some particular views about at least one of the boards, but others have been changed in a way that has improved them.

Mr VENNING: I note what the minister says and I thank him for those words and those guarantees. I am sure that previous minister Lenehan would not mind me saying that I

can remember quite clearly the power that she had when she was minister and the influence that the Conservation Council and others had over all the appointments that she made. She was quite ruthless in this place. She said, 'This is what I will do because the act allows me to do it.' And she did it. The more we objected the worse it got. Certainly, the outside influences and her powers gave us a very difficult time and I think it set the environmental movement back, because it caused this divide which has only just recently closed over. I hear what the minister is saying, but will he give the committee an assurance that, as a token of goodwill when he is appointing these boards—particularly the chairmen of these boards—he will let the local member know of the nominations?

The Hon. J.D. HILL: Certainly, once I have appointed them I will let you know. I have contemplated doing this, to be perfectly honest, but if you were putting your hand up to be one of these chairs—

The Hon. I.F. Evans: I think he is.

The Hon. J.D. HILL: Maybe the member for Schubert is planning an early retirement. But if John Smith, say, was nominating for a board would he want the half dozen members of parliament from that area to know that he was standing? I think that would reduce the amount of people who were prepared to stand. People do not mind putting their name forward, but if everybody knows that they are putting their name forward—and there might be three or four names—it means that those who were not chosen are seen to be failures. I do not think that is the proper way of doing it. But in a sense I do understand that it would be good to say, 'Well, what do you think about this guy or that guy?'

Mrs Hall: Or woman.

The Hon. J.D. HILL: Or woman. I use 'guy' in a broad generic sense—inclusive language.

Mr VENNING: I understand what the minister says, and that is a commonsense approach. I believe that the minister ought to test us and the scheme in relation to appointments, because you could say in the corridor, 'Look, Ivan, I have three or four names on this list and I think I'm going to appoint so-and-so', whether I like it or not. I think that would be a gesture of goodwill, and I might give the minister some early advice.

The Hon. J.D. HILL: It is a very slippery path when ministers start going out into the corridor and asking, 'Well, what you think about this one?' Ministers take advice from where they need to take it and, I guess, from time to time, it might be appropriate for ministers to say, 'This person has been nominated. Would they work in that region or not?' I would not want to codify this practice.

Amendment carried.

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

Page 20—
Lines 14 to 16—
Delete paragraphs (g) and (h)
Lines 19 to 22—
Delete subclause (10)

This clause defines associates for certain purposes within the act—mainly for prosecution purposes, I dare say. Clause 3(8)(g) and 3(8)(h) cause some concern to the opposition. Clause 3(8)(g) states:

a relationship of a prescribed kind exists between them;

So, you would not actually know what that was if you did not have access to the government's regulation in respect of that relationship. Paragraph (h) states:

a chain of relationships that can be traced between them under any one or more of the above paragraphs.

Virtually any form of relationship could be traced under all of the above. It is very broad and includes whether persons are partners, whether they are a spouse, parent or child, or whether they are trustees or beneficiaries of the same trust. It talks about directors and bodies corporate and whether they are related bodies in relation to the Corporations Act. There is a very broad definition of 'associate' and we are not convinced that it necessarily needs to be that broad. Therefore, we seek to narrow the definition of 'associate'. We are happy to listen to a case from the minister as to why, for instance, it needs to be a relationship of a prescribed kind and what that might entail. If it exists under the current act, what is prescribed currently? If you have a chain of relationships that 'can be traced between them under any. . . of the above', 'the above' includes a prescription of 'associate '. So, that could actually tie in all the other paragraphs from (a) to (f), not that we would know that tonight. We think that the definition of 'associate' is probably broad enough between paragraphs (a) and (f) without needing paragraphs (g) or (h), hence we seek to delete them.

The Hon. J.D. HILL: The member might be interested to know that almost exactly the same definition was passed last night under the GM bill. As I understand it, the member for MacKillop had carriage of that, and on that occasion no objections were raised in relation to this. I understand that it is fairly standard wording. The advice I have is that paragraph (g) is included in an abundance of caution and we could live without that; paragraph (h) is more important, because it relates to a chain of relationships involving corporate entities, and it may well be a company which creates a company, which creates a company, and it is the third company where the resources or the responsibility lies, the first couple of companies being just shelf companies. You want to get to the real entity that is responsible. It is to stop a company from protecting itself by having false entities between it and the law. I will not go to the wall over paragraph (g) but we would not support the proposal regarding paragraph (h).

The Hon. I.F. EVANS: On a point of clarification, if that is your reason in relation to paragraph (h), then why not narrow the definition of relationship to corporate? You were talking about corporations and shelf companies, why can you not narrow that down further?

The Hon. J.D. Hill: It could be children as well.

The Hon. I.F. EVANS: Children are in paragraph (b).

The Hon. J.D. HILL: Grandchildren. All I can tell you is that this is based on advice from parliamentary counsel. It is a standard provision. It is really to ensure that there is no escaping responsibility by establishing some false barriers between the act and those responsible for the act. The best example, I suppose, is corporate entities, but there could be some sort of a connection using real people as well. That is the best advice I can give you. As I say, this is the standard way of expressing it and it was passed last night in another piece of legislation. I am happy to accept the removal of paragraph (g) but I disagree with the removal of paragraph (h).

The Hon. I.F. EVANS: To facilitate the committee, I will amend my amendment to read:

Page 20, line 14—Delete paragraph (g).

So, paragraph (h) will remain and become paragraph (g).

Mr WILLIAMS: I want the minister to be aware that in question time today the Attorney-General possibly introduced a new concept into the law of South Australia.

Mr Koutsantonis interjecting:

Mr WILLIAMS: The member for West Torrens shakes his head and groans and grunts and carries on, but we are trying to protect the public of South Australia. When the Attorney-General comes into this place and suggests that we are going to throw up a thousand years of legal tradition and introduced something which is quite novel and new, I suggest to the honourable member that he think about it, because that is what the opposition is doing. We are concerned about this chain of relationships because through paragraphs (a) to (f) you can almost trace the chain of relationships for everybody in South Australia.

We are genuinely concerned. As the member for Davenport suggested, if you limit this to a corporate relationship we do not have a problem with that. We understand where the minister is coming from and where he is trying to go. However, we have a problem with, at some time in the future (whether it be next year or the year after or in three or four years' time) suddenly someone might suggest that we can achieve this through a literal translation of what is written in the act. That is why we raise these matters, and that is why we want to put on the record that we are concerned about them. We want the minister to state on the public record and let everyone know that that is definitely not what is intended or contemplated by these clauses.

Amendment as amended carried.

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

Page 20, lines 19 to 22—Delete subclause (10).

Subclause (10) is a new provision in that it has not been taken from one of the acts that we are repealing. It provides:

> The Governor may, by regulation, declare that a particular reference to this act in a provision of this act will be taken to include a reference to an act, or to the provision of an act, repealed by this act (and that regulation will then have effect in accordance with its terms).

I think that is saying that people will be able to be held liable for offences under repealed acts. My problem with that it is: how you would know what the repealed act is, and which are the repealed acts? There is no definition of 'repealed act' in the definitions clause. I am sure it would be defined in the regulation. This gives the minister the power to bring in regulation about any repealed act that is repealed by this act, at least. I think this means that people will be held liable for offences under previous acts that have been repealed. If it is so—

The Hon. J.D. Hill interjecting:

The Hon. I.F. EVANS: The minister has indicated that he is going to support me, and that is excellent. I was about to say to the minister that, if it is the purpose to deal with notices that are already issued, then that is not clear and could be far better defined.

The Hon. J.D. HILL: I will support it. This, once again, is out of an abundance of caution by parliamentary counsel. My advice is that we can live without it. To try to get build consensus, I am happy to do that. The acts that will be repealed by this act do not lose their force for any actions which may have taken place during the term that those acts were in place, so that anything that would need to be caught is capable of being caught.

Amendment carried.

The Hon. I.F. EVANS: Before I get to the next amendment, I wish to clarify that my understanding of subclause 4(3) on page 21, where it provides chapter 2 Part 2 which is the statutory duty, from memory, and clauses under chapter 6 do not apply to the Mining Act. I wonder whether we have missed out the petroleum act there. Does that include petroleum?

The Hon. J.D. HILL: The definition that the Speaker referred to covered mining.

The Hon. I.F. EVANS: My apologies; it was one of those pesky definitions. As long as that is covered, that is fine. I should have picked it up; I apologise. I now want to speak on clause 5. This is the extraterritorial clause, the 'ET ring home' clause. I am not quite sure how this is going to work and what consultation we have had with interstate governments. The way I understand this is that clause 5(3) provides that this act extends to an activity or circumstance undertaken or existing outside the state that may affect the natural resources of the state. So, the natural resources of the state, as defined, include the soil, the water resources, geological features and landscapes, native vegetation, native animals and ecosystems. I am intrigued as to what exactly that means, because the Murray would be a water resource under the act.

The Hon. J.D. Hill: As would be the Great Artesian Basin.

The Hon. I.F. EVANS: The Great Artesian Basin would be another one, yes. If an activity or circumstance occurs in Victoria, New South Wales, Queensland, Northern Territory or Western Australia that affects the natural resources of the state, I am not sure what happens then.

The Hon. J.D. HILL: This is an interesting provision. In fact, I think that, at one stage in the Olsen government's term, the then premier attempted to rely on this kind of capacity to pursue protection for the River Murray. I gather he was going to argue that extractions or activities further upstream which had a negative effect on the river in South Australia might have created a liability which could have been pursued through the courts. The legal advice I received at the time was that that was not capable of happening.

The Hon. I.F. EVANS: At that time, or at this time?

The Hon. J.D. HILL: At any time, generally. You just cannot use extraterritorial powers to impact on somebody who does something that is quite remote from your state. However, as I recall the law, if the activity is immediately adjacent and quite direct and there is a strong connection between what occurs just over the border and South Australia, then there is some potential. I guess the analogy would be the law of nuisance as it might apply to a suburban backyard. If you, living on your .4 hectare of land, lit a fire and threw into it rubber and plastic, and so on, so that smoke went over the boundary and affected the health or amenity of somebody living next door, they would have an action in nuisance law against you, and I think this provision is to allow for that kind of happening.

The other thing, of course, is that the plans might do something to fund an activity to fix the nuisance. I guess that is analogous to what happened to the Murray-Darling Basin Commission. A whole lot of infrastructure is invested in by all the states that form part of the Murray-Darling Basin Commission, but we do not fund only those things that happen in our own state: we fund things that happen in New South Wales, and New South Wales funds things that happen in South Australia. So, we might, for example, invest in something which stops soil erosion, but it might be across the Northern Territory border or the Victorian border, for example.

Clause as amended passed.

Clause 4 passed.

Clause 5.

The Hon. I.F. EVANS: I want to ask the minister questions about clause 5, which is the extraterritorial provision. So, is it the minister's understanding of the legal effect that it occurs only if it is adjacent to the state boundary? I assume that our officers can then issue a reparation order or a reparation authorisation. What actually happens?

The Hon. J.D. HILL: I do not want to overplay the capacity of this section to provide us with powers. This is at the margin of what the state could do. Certainly, our inspectors could not go into other territory because they would not have jurisdiction. Perhaps it might be more to do with our capacity to invest or construct things in that other state which might aid our own natural resources management. There are particular agreements, for example, on the Victorian-South Australian border in relation to underground water resources. But, I suppose, theoretically, if somebody from Victoria were to do something which had an impact in South Australia and they were to come into South Australia, we might be able to prosecute them in South Australia. That is just at the edge of what is legally possible, but it is theoretically possible.

For example, Australia has national laws which make it an offence to be a paedophile in another country. We do not go to that country and arrest those persons, but if they come back to Australia they can be charged and convicted of an offence that occurred extra-territorially. I guess theoretically that is what could happen in relation to natural resources, but it is really at the margins.

Mr GOLDSWORTHY: As the minister says, someone can go overseas and commit an offence under Australian law, and when they come back to Australia they can be charged and convicted. Extrapolating out that argument, does that mean that if someone travels, say, interstate and commits an offence under this NRM law, upon their return they can be charged and convicted under this law for an offence that was, supposedly, carried out interstate?

The Hon. J.D. HILL: As I was saying, it is theoretically possible if someone did something just over the border that had an impact on South Australia. Someone might own property on both sides of the border, for example, and they operate across both jurisdictions. It is theoretically possible. This allows that situation to be explored, possibly; but I would say that there are very few cases where anything has ever occurred. This is not a major point. I guess it is just a way of putting your shoulders back, sticking out your chest and saying, 'Hang on—'

Mr Venning: Having a scratch.

The Hon. J.D. HILL: Yes, having a scratch; exactly right. The other aspect of it is that we might want to invest—and that is probably a more positive aspect—or take some action on the other side of the border which aids the protection of our natural resources, and this gives us the power to do that.

Clause passed.

Clause 6.

The Hon. I.F. EVANS: Is it the minister's interpretation that clause 6(2) increases or decreases the requirements on Crown officers?

The Hon. J.D. HILL: It certainly places a responsibility on officers of the Crown to comply with whatever the NRM plan is for the state. You know, it would be pretty silly if they were not bound by that plan.

The Hon. I.F. EVANS: That is not the question. Clause 6(1) binds them. They have an obligation. It binds the Crown. They are Crown officers. They are bound to apply the plan. I am not quite sure why then we need clause 6(2), which says that they must at least try. The distinction I draw is between the requirements of a private landowner as against the Crown. Basically, the private landowner is bound by the act. That is it. The private landowner does not have a clause which protects them and which provides, 'without limiting or derogating from subsection (1), the private landowner must endeavour as far as practicable'. The private landowner has an absolute requirement to adhere to the plan, whereas that, on my lay reading, does not necessarily apply to the Crown officer. That is what I am trying to establish.

The Hon. J.D. HILL: I am not too sure that I clearly understand the honourable member's point. Subsection (1) is saying that the Crown, in its own right, is bound by the legislative power of this act in the same way as any other landowner may be. Subsection (2) is really about complying with the plan and not the act. So, subsection (2) really relates to the plan, which is established under this act. It is not an offence not to comply with it, but officers of the Crown have a duty, as far as practicable, to act consistently with the plan. It might be an officer from another department who, in the course of their duties, has a choice about how they do something. If one way complies with the act and the other way does not, they should do whatever complies with the act.

Clause passed.

Clause 7.

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

Page 21, line 21—After 'in the State' insert:

, while at the same time encouraging, assisting and supporting agriculture and mining having regard to the value of these activities to the economy of the State,

We want that to be included in the bill because we want a very clear statement in the objects that, while we are about ecologically sustainable development (which is undefined in the bill so it is open to interpretation), at the same time we encourage, assist and support agriculture and mining, having regard to their value to the economy of this state. We want to put it up in lights that there is an economic side to ecologically sustainable development. We are concerned that the objects do not highlight the importance of agriculture and other industries to this state, which can all be done in an ecologically sustainable way. Without wishing to undermine the objects, we want to reinforce something that our party feels very strongly about, and that is encouraging, assisting and supporting agriculture and mining in this state. We seek the support of the committee for the amendment based on that premise.

The Hon. J.D. HILL: I do not support the proposition moved by the member for Davenport because it fundamentally changes the balance of the bill. This is a provision that we have negotiated with all the stakeholders and they have all signed off on it. To include these words would undermine the way the legislation is structured. The first subclause talks about ecologically sustainable development of the state by developing an integrated scheme, and subclause (2), on the following page, provides that ecologically sustainable development refers to the use of our natural resources in a way and at a rate that will enable people and communities to provide for their economic, social and physical wellbeing. What the member hopes to emphasise is inherent in that definition. It would unbalance the statement to include that as a specific point, because those who are coming from a

'green' point of view could say that they want put in the bill reference to the conservation of the environment, or some other thing, which is already included within the concept of ecological sustainability.

If the member wishes to emphasise those elements, I would be happy for a form of words to be included in paragraph (d), which relates to sustainable primary and other economic production. If the honourable member wants to amend that to include sustainable primary, agricultural and mining production, or something, I would happily accept that amendment, but not in the stem of the objects because I think that would create an imbalance.

Mrs MAYWALD: I would be happy to consider supporting the minister in opposing this amendment but only if he were to put on the record a view that the points under subclause (1) paragraphs (a) to (f) are of equal significance in relation to the objects of the bill and they have no order of preference in respect of the interpretation of the bill, so each point has equal merit in respect of how the interpretation of provisions under the bill might be referred to.

The Hon. J.D. HILL: I am happy and delighted to give that commitment. There is no sense of priority in these elements. The way that they are ordered reflects some discussions that have occurred between the various stakeholders, and it probably goes from the notion of natural resources and then moves along, but they are all important. The whole notion of ecological sustainability is about economic activity being able to continue in a way that does not diminish the natural resources that economic activity relies on. There is no point squandering and exploiting a particular part of our state in such a way that our children and grandchildren cannot do it. This is about intergenerational equity, to use the jargon of the environment movement. That is a very important principle. As I said earlier, I went to the Farmers Federation launch today. I was delighted by the fact they were saying exactly the same thing. They have used a new word that I have not come across before, that is, multifunctionality. They refer to multifunctionality, and page 50 of the brochure entitled, 'A triple bottom line for the bush' states:

> Multifunctionality encapsulates the argument that agriculture is inextricably linked to social and environmental benefits that cannot otherwise be produced by society. Thus, it is argued that agriculture should be provided with support to continue to produce these social and economic benefits.

They are using that term, but it is exactly the same notion. I would suggest that it is better to leave it as it is.

The Hon. G.M. GUNN: While the necessary changes were made to concur with the wishes of the minister, I went to some trouble in relation to this particular clause. I was delighted that our adviser came up with such a fine set of words, which amply explain the very strong views of members on this side in relation to ensuring that commonsense prevails in relation to agriculture being able to get on with its proper role in creating opportunities in this economy. I, too, was there with the minister today, and the Premier was loud in his praise of the agricultural sector. He indicated that he was pro farmer and wanted to support them. I think this amendment clearly signals to the agricultural sector that they are wanted, that they are important, that they provide a very important function to the community, and that we will not impede them with unnecessary, unwise or unhelpful red tape, bureaucracy and other particular difficulties.

It is a clear statement of intent and that is very important. As we said to the minister before, once it leaves here it will be Sir Humphrey handling it; it will not be the parliament. We will be the ones who get criticised out in the field, so I think it is very important we get this right. Therefore, I think this is a moderate, modest sort of suggestion that has been put forward. Why there has been a very significant debate, and a very careful analysis by the opposition—and the shadow minister and his assistant have done an outstanding job of analysing this particular measure—is because by bitter experience in the past we know what has happened and it is too late. I said earlier that people have reinvented the wheel in relation to the water systems in pastoral areas under the Native Vegetation Act. That is why we do not want to reinvent the wheel now. On the platform with the television cameras blaring, the Premier was loud in his support and praise today. All this is doing, minister, is putting into words what the Premier wanted to do.

The Hon. J.D. Hill: I have something that might help you.

The Hon. G.M. GUNN: Okay, because we are concerned.

The Hon. J.D. HILL: I suggest to the member that, if he were to amend paragraph (d) to provide, 'seeks to support, encourage and assist agriculture, mining and other economic production systems, having regard to the value of these activities to the economy of the state', I will accept it.

The CHAIRMAN: I have an amendment in front of me which has no name—I don't know whether someone is particularly shy. It relates to page 21, line 31 and states, 'After "production systems" insert: "with particular reference to the value of agriculture and mining activities to the economy of the state".' Is someone moving that amendment or has it just appeared from heaven?

The Hon. I.F. EVANS: I have had a quick caucus, as the government would call it, and I seek leave to withdraw the amendment that I moved and to move the amendment you, sir, have there as a substitute.

Leave granted; amendment withdrawn.

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

> Page 21, line 31—After 'production systems' insert: ', with particular reference to the value of agriculture and mining activities to the economy of the state'.

Clause 7(1)(d) would thus read:

> (d) seeks to support sustainable primary and other economic production systems, with particular reference to the value of agriculture and mining activities to the economy of the state.

The Hon. J.D. HILL: We are happy to accept that.

Amendment carried.

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

> Page 21, lines 24 to 26—Delete all words in these lines after 'diversity' in line 24.

This simply seeks to limit the object 7(1)(b) to the words, 'seeks to protect biological diversity.' That is what the object is, is it not? It says it in a nutshell. As it stands, paragraph (b) goes on and says:

> and, insofar as is reasonably practicable, to restore or rehabilitate ecological systems and processes that have been lost or degraded;

The second section of that object does cause some of my constituents some concerns about what that means with regard to revegetation of private property and the powers of the officers to force that upon unwilling owners or occupiers. So, we have no problem with trying to protect biological diversity—absolutely no problem at all. The party takes the view that the second half of that object is not needed, and therefore this amendment seeks to restrict that object 7(1)(b) to the words, 'seeks to protect biological diversity'.

The Hon. J.D. HILL: I am sorry, I cannot accept this amendment. This would, I think, substantially change the

objects of the act. I accept that the member is saying he wants to protect biodiversity, and that is good, but this is to go beyond that and to try and restore or rehabilitate ecological systems. The Water Resources Act, for example, I am sure has provisions which are relatively similar to this. This is to restore and rehabilitate systems that are broken down. The whole of the NHT funding is about doing exactly that. If we did not include this, we would be snipping off a significant part of what this legislation is about. This is not about forcing people to do this. This would be about setting up programs and investing in those things and having guidelines, and encouraging and educating and all of those things that happen now through Water Resources and through the NHT plans and the NAP plans. It would significantly diminish this.

This whole package of objects has been worked over intensively by the Natural Resources Council that we have set up, and we have got agreement across the various stakeholders about this package of words. While I am happy to amplify and extend, and so on, if I were to remove that phrase, it would say to the environment movement quite significant things. It would be the equivalent of my trying to remove paragraph (d), which is to say that we have to look after primary industry. I think we have to get the balance right. This is not about forcing anyone to do anything: it is about coming up with a package which will achieve those outcomes.

Mr WILLIAMS: Having listened carefully to what the minister has just said, I draw the minister's attention to clause 11, which talks about the general powers of the minister—and this is what disturbs me and my constituents. Clause 11(1) states:

> The minister has the power to do anything necessary, expedient or incidental to—
>
> (a) performing the functions of the minister under this act; or

Clause 11(1)(c) then states 'furthering the objects of this act'. We are very sensitive. I do not have the particular clause marked, but boards also have the identical power to do anything necessary, expedient or incidental to furthering the objects of the act. That is why the opposition is very sensitive to the objects of the bill. Remember, minister, every four years you and your government have to go before the people to be judged. However, the board that is appointed never gets to go before the people, and that is an even more dangerous concept. Shortly, you will ask us to confer on a board to be appointed—not elected, never to be responsible to the people—the power to do anything which is only incidental. The minister might say that this is a general power and it might have already appeared in previous acts, but that does not necessarily make it right.

It might suggest that we have got away with it thus far, but I find it very dangerous that we give to a board (which is not responsible to the people) the sort of powers to do anything incidental to the objects of the act where the objects of the act are as in paragraph (b). I have no problem with 'seeks to protect biological diversity', but when we start to talk about 'to restore or rehabilitate ecological systems and processes that have been lost or degraded' and we use the language 'anything even incidental to that', it opens up the world. The minister can sit there and shake his head and say, 'That is not what I mean; that is not what I intend to do.' I am trying to protect my constituents from someone who may be a minister in five or 10 years' time or from a bureaucracy which again is not answerable to the people. I remind the minister that I have never seen a bureaucrat who got something wrong lose their position. It just does not happen.

Certainly, a minister and a government which gets things horribly wrong sometimes lose their position, but appointed boards and bureaucrats, like the old man river, keep on going—or something like that. I am very sensitive to this sort of power, as is the opposition. I must admit I raised this matter in the briefing that we had with the officers of the minister's department; and at the time the officers admitted that, when they put this in the bill, they were struggling with a set of words to come up with what they meant and agreed that this was not necessarily ideal. I say it is not necessarily ideal: I think it is damn dangerous. It is dangerous to the people I represent, and I know that they would ask me to do whatever I could to have this deleted. I urge the minister to accept the amendment as proposed by the member for Davenport and, between houses, look again at this clause. If he feels that it is absolutely necessary to beef it up a little, he could try to come up with something a little more sensitive to the farming community.

The minister was in Rundle Mall today to hear his Premier help launch the Farmers Federation plan for the future. That whole plan is predicated on the fact that the farming community is the guardian of most of South Australia, but that community is being asked, amongst other things, to carry most of the burden of preserving the environment. Today was all about the farming community being asked to carry the burden, but the farming sector is asking the rest of the community to shoulder some of that load also. The minister was there to hear the Premier say that he would consult with other ministers. This clause undermines what the farming community is asking—that it be relieved a little of this burden.

Over the past 15 years, I believe that the farming community in general has become tinged with quite a hue of green. It has moved markedly from where it stood when I was a boy, and very few farmers around today would be referred to as environmental rednecks. Most have an environmental conscience, but they are very frightened to give bureaucracy the power to tell them that they will be obliged to restore and/or rehabilitate ecological systems. That is the first nail in the coffin of farming in South Australia.

The Hon. J.D. HILL: I understand where the member is coming from, but all I can say is that I think he has a fundamental misunderstanding of the way clause 11 works. Those powers do not allow me to do anything that the legislation does not allow me to do. For example, I cannot suddenly start doing anything outside the context of the legislation. They are the sorts of things that ministers probably have the power to do without their even being specified—for example, renting accommodation, hiring staff and so on—nor do those powers allow me suddenly to prosecute people, or to enter onto and compulsorily acquire land, etc.

The overwhelming majority of funding that we receive for rehabilitation from the commonwealth through the INRM projects, the NAP and the NHT is about the restoration of biodiversity and habitat. For example, we are spending enormous amounts of money in the Mount Lofty Ranges trying to recover habitat that has been degraded to try to protect species that have been lost, particularly birds. We are spending enormous amounts of money on the River Murray, trying to restore the Chowilla flood plain to a state where it is approaching some sort of health. We are trying to rehabilitate land in the Lower Murray swamps that has been degraded over time. We are trying to rehabilitate the Upper South-East drainage scheme to try to restore biological health not only

for the benefit of the environment to protect native vegetation but also so that farmers can get a better return from the land.

That is what all those funding programs are about. They are not about demanding that those land-holders invest in any particular project. It is about commonwealth and state funding assisting to achieve those outcomes, because there is a public good. If one reads closely the document that the Farmers Federation issued today, it makes the point that benefits from environment restoration should be paid for by the public and that private benefits should be paid for by the individual land-holder.

I do not disagree with that at all; that is what this is about. So, if you took that out there would be a danger—and I do not want to say that this would be the case—that the commonwealth would say, 'We can't put funding into this process because you are not actually about restoration.' To give some comfort to the member, I am happy to include—if the member sees this as a way of better expressing what this is about in a way which would assure him—the words 'to support and encourage' in paragraph (b) so that it would read, 'seeks to protect biological diversity' (which the member is happy about) 'and, in so far as is reasonably practicable, to support and encourage the restoration or rehabilitation of ecological systems and processes that have been lost or degraded'. That would make it plain that it is not about compulsory restoration but about supporting and encouraging that restoration. The object of the act says that we are about trying to get rehabilitation, but I would emphasise the way in which we are going to do this is by supporting and encouraging rather than by compulsory action.

Mr WILLIAMS: I have not had the opportunity to discuss this with my colleagues, but from an initial—

The Hon. I.F. Evans: It is in your hands.

Mr WILLIAMS: I do not know whether I want that amount of power. An initial look at including those words certainly goes a fair way to countering the problems I have with this issue.

The Hon. I.F. Evans interjecting:

Mr WILLIAMS: Yes, but I want to make a couple of other comments.

The CHAIRMAN: I have an amendment which has appeared from somewhere. The suggested amendment is as follows:

Page 21, line 25—Delete 'restore or rehabilitate' and substitute:
'support and encourage the restoration or rehabilitation'

Mr WILLIAMS: I find that amendment much more encouraging, Mr Chairman. I will not go through all the issues, but the minister and his adviser are well acquainted with some of the ongoing issues in the Upper South-East, which I previously raised in this place. We are desperately trying to do very good things in the Upper South-East of the state, in my electorate, to address the issue of dry land salinity and, by and large, I think we can win that battle. The big issue is that in my opinion we will never win the battle with regard to dry land salinity, native vegetation and maintaining biodiversity if we do not take the community with us. So, if there were any hint that we are going to come down with a heavy hand on that community, we would be wasting all our effort and all the dollars that have been spent by either the state or commonwealth on that issue. I am pleased the minister agrees with that, and I think the Liberal Party can probably live with the amendment suggested by the minister.

The Hon. I.F. EVANS: Given the member for MacKillop's accepting the minister's amendment, I withdraw the amendment in my name and allow the minister to move his amendment, or the member for MacKillop can move the amendment.

Mrs MAYWALD: I rise to support the amendment as suggested by the minister and moved by the member for MacKillop. I think it restores a little more balance into the two objects here and the balance between economic and environmental imperatives. I was concerned about the way in which paragraph (b) was constructed in that the reference to 'restore or rehabilitate ecological systems' is open to debate about to which system you should be restoring it. The difficulty we have is that, over 150 years of settlement, what used to be in existence before white settlement has changed significantly and new ecosystems have taken their place, and the Upper South-East is a perfect example of that.

In the Coorong we now have a Ramsar listed area where migratory birds that were not there before man's intervention are now there and are protected under such an agreement. It opened up a whole range of issues that were of concern to me in relation to what we were restoring it back to. In changing the words, the minister has changed the emphasis somewhat to look to support and encourage the restoration, which is very different from a plain reference to restoring. It also reflects the position that the minister has taken in relation to primary and other economic production systems. So, I am much happier with the balance now in the objectives.

The CHAIRMAN: The member for Davenport needs to seek leave to withdraw his amendment No. 14.

The Hon. I.F. EVANS: I have sought leave, Mr Chair.

Leave granted; amendment withdrawn.

Mr WILLIAMS: I move:

Page 21, line 25—Delete 'restore or rehabilitate' and substitute:
support and encourage the restoration or rehabilitation of

Amendment carried.

The Hon. I.F. EVANS: Mr Chairman, I indicate to the committee that I will not proceed with my amendment No. 15. In its place, I will proceed with the amendment that was given to you previously. This relates to clause 7(1)(d), which reads 'seeks to support sustainable primary and other economic production systems' and then the words 'with particular reference to the value of agriculture and mining activities to the economy of the state' are added. I move:

Page 21, line 31—
after 'production systems' insert:
with particular reference to the value of agriculture and mining activities to the economy of the state

The CHAIRMAN: I am calling this amendment No. 15A on the member for Davenport's schedule.

Amendment carried.

The Hon. I.F. EVANS: I will not proceed with amendment No. 16, because we have covered that with the previous amendment. I move:

Page 21, line 34—After 'the environment' insert:
, primary production

All this amendment does is insert into clause 7(1)(e) after the word 'environment' the words 'primary production'. So, it would read as follows:

Provides for the prevention or control of the impacts caused by pest species of animals and plants that may have an adverse effect on the environment or primary production or the community.

The Hon. J.D. HILL: That seems fine. I think 'community' probably included that notion, but I am happy to have it made explicit.

Mr VENNING: I thank the minister for doing that, because I thought it was a very important part (it is probably more important than you realise when you read it) in relation to what this is all about. Really, the bottom line is primary production. I think that, as part of selling this to the population at large (and that is all our boards and constituencies), it would certainly be a great advantage to have that in there.

Mr WILLIAMS: This bill draws together the three acts that cover water, soil and animals and pest plants. Certainly, the acts that we have had in this state covering soil conservation, pest plants and vertebrate pests have all been about agricultural systems and maintaining agriculture in this state.

It fascinates me that one of the objects of this act, which brings together those three acts, fails to recognise—in particular when it is referring to the control of both animal and plant pest species—or acknowledge the importance of that to primary production. Certainly, the Animal and Plant Control Act was all about agricultural pests and not environmental pests, and I commend the minister for accepting the amendment as proposed by the opposition. It just fascinates me that, in the drafting of this bill, that fundamental was overlooked.

Amendment carried.

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

Page 21—Line 36—Delete 'and provides mechanisms'.

This amendment seeks to delete the words 'and provides mechanisms' from clause 7(1)(f) of the objects, so it will read 'promotes educational initiatives to increase the capacity of people to be involved in the management of natural resources.' We do not know why you need 'and provide mechanisms.' What does it actually mean? We think it is clear without those words.

The Hon. J.D. HILL: It could involve planning workshops or the provision of counsellors. It could provide other structures to support rural communities work through this. It could involve leadership courses—I suppose you could say that is under education. There might be child care provided so that parents can go off, or it might be transportation so that they could get somewhere.

The Hon. I.F. Evans: Surely you are not going to levy people to provide child care.

The Hon. J.D. HILL: This is not about levying. This is about the object which is trying to build capacity in the community. That is one of the key objects under the NHT legislation and I guess it is really about that. We will not die if that goes out, but I am not quite sure what the problem is with it. It is really just to allow the capacity to set up structures to help people deal with these issues. What has been suggested to me is that, if this is more acceptable to you, we could put 'support' before 'mechanisms' to make it clear that it is to support people and not interfere with them.

The CHAIRMAN: You could include 'and related activities'.

The Hon. J.D. HILL: The Chairman is suggesting that we could put 'related activities. I would be happy with that form of words: it is really just to give you a broader capacity to try to help people.

Mr WILLIAMS: I return to my earlier point: I think this whole bill turns on the objects of the act, and I think that is one of the reasons why the opposition is quite sensitive as to what the objects of the act are. In the future when the bureaucracy believes that someone has countered some provision of this act, a court of the land—in trying to decide whether they are guilty—will direct itself to the objects of the act to try to determine what is meant and what the parliament wanted to happen.

The reality is that most of the land that is the subject of this act is held by farmers and when we talk about, in the last line of this subclause, 'the management of natural resources' most of those natural resources—the land, the water, and what is on the land—are in the care and control of the farmers who are out there trying to make a living. The last thing the farming community of this state needs is an increase in the capacity of other people to tell them what to do.

A practical farmer who has made a success of making a living in probably one of the harshest places to farm in the state said something to me at dinner tonight. He said the reason that the farmers of South Australia (and probably all Australia) have been so successful over the last couple of hundred years in a hostile environment is diversity. He said that farmer A is doing one thing and farmer B is doing another. In season A, farmer A is successful; in season B, farmer B will be successful. If you force both farmers to do the same thing, they will both be spectacularly unsuccessful when the season goes against them.

Two seasons ago we saw a massive drought right across Australia, and it caused devastation in South Australia. However, the farming community has been able to bounce back, because of what I have just said—because of diversity. Not all of them were using the same techniques. Not all of them were doing the same things on their land; and, because of that diversity, pockets of the land were affected very adversely, while other pockets of the land suffered less severely. The last thing we need is a group—whether it be a community group or bureaucrats—telling farmers how to manage their land, because we will lose that diversity.

I have some problems with a clause as an object of the act that says we promote mechanisms to increase the capacity of people. Who are these people? Are they people with any practical knowledge of farming? I suggest that a court, at some time in the future, will not necessarily see it that way. It might say, 'No; it is the people who live in suburban Adelaide who have an interest in the dust that blows over the city every time they get a north wind at the end of summer.' Are they the people that we want to encourage to be involved in telling those practical farmers out there how to manage the natural resources that I believe they are managing very ably? That, minister, is why we are very sensitive about these sorts of issues. In other parts of the world, farmers are told on a day-to-day basis what they can do, how to go about it and when they can do it. I say to the minister: if the tax-paying public of South Australia wants to provide 60 per cent of the income to the farmers in South Australia, the farmers might say, 'Tell us how to farm.' If the taxpayers are paying 60 per cent of their income, as happens in Europe, the farmers might be willing to accept this sort of thing; but, where the farmers are left to their own devices to actually make a living on the world markets, they do not need any interference from a mob of people who do not know what they are talking about. That is why we are very sensitive about these clauses. I think the amendment moved by the member for Davenport is minimalist. If I had my way, I would delete the whole subclause.

The Hon. I.F. Evans: You would delete the whole act.

Mr WILLIAMS: Well, indeed—the whole act. I think the amendment moved by the member for Davenport is minimalist, and I think it will in some way allay those fears in the farming community in South Australia.

Mrs MAYWALD: I rise to say that my understanding, from the community's perspective, is that it was incredibly

important to put into the objects an educational component in respect of how this act operates. I do not read into it in any way, shape or form the position that the member for MacKillop is taking. If the member for MacKillop has concerns, I think the minister's suggestion to insert the words 'support mechanisms' after the word 'provides' would ensure that the initiative is about education initiatives and support mechanisms to build capacity within communities. I think that is an entirely reasonable thing for an objective of this act to espouse, and I cannot understand how you can draw the bow that you are going to have people in the city coming out and telling you how to remove dust from your farms. I just do not understand from where that long bow was drawn. I will move that amendment at the appropriate time.

The Hon. J.D. HILL: I thank the member for Chaffey for her support of this initiative. My officers tell me that when this provision went out it did not include an educational element. We were criticised by the people you say might object to it for not having it. One of the most important parts of this legislation involves capacity building and engaging local communities in natural resource management. This is one of the strongest themes through the federal Liberal government's NHT and NAP programs. The federal government will not fund anything unless you can demonstrate that there is strong capacity building involved.

I take it that the honourable member is worried that the words 'provides mechanisms' might imply some hostile activities, so we will include the word 'support' to demonstrate that that is not the case. There might be a whole range of mechanisms that support education. For example, paying farmers to take a day off so that they can employ someone else do some work for them might be one of those mechanisms. The reason the provision refers to people and not farmers is because there are other people involved in land issues such as, for example, children of farmers. We have very successful WaterCare programs (which the member for Unley would know about) in operation right along the River Murray in South Australia where many children are involved in analysing and looking at water quality issues through their school programs.

In addition, in the metropolitan area, which is also a natural resource management area, there are many people who are not farmers, and there may well be the need to educate some of these people about some of the issues, particularly those to do with weeds, feral animals and perhaps stormwater, which need to be addressed in urban areas. That is why the more general term is provided. I absolutely assure the honourable member that this is not about the opposite of education: dictating. It is not about telling people what they have to think; it is about trying to build the capacity of people to manage their resources.

Mr BRINDAL: I ask the minister how he envisages achievement under this object. He referred to WaterCare, which I acknowledge is a good initiative under the previous Water Resources Act. The member for Stuart, who is in the chamber, has been a member of the Economic and Finance Committee for a long time. Whilst I support the object of education, if there is an abiding criticism of the catchment management boards it is that they all had an education bailiwick and they all tried earnestly and honestly and spent copious amounts of money doing not very much and doing it not very well. That is why we started the 'WaterCare: It's in your hands' campaign. We put some of that money together and ran a state campaign which I know the minister endorsed, because he ran it after we lost government and he has added a couple of new ads.

In so far as that is educational, I support it, and I do not knock the previous water catchment boards, because I think they tried. However, I think one of the limitations in a state of this size with eight water catchment boards is a limited capacity to educate. I would like the minister to explain in terms of this clause how he as minister envisages the sort of 'Mao Tse-Tung—let many flowers bloom' idea, but at the same time makes sure that he does not have a garden full of weeds.

The Hon. J.D. HILL: As we are dealing with animal and plant pest control, that is an appropriate analogy. There are two elements: one would be the macro-campaign that you would run to try to get an outcome across the state. For example, in terms of water conservation you need a simple message, and you need to use television and radio to get that message across. Equally, you need to train leaders in local communities. I refer to the LAP programs, the LandCare programs, all of those support programs where volunteers want to help look after their local area. Those members need training and education.

If you want to clear weeds from a particular area, you need to know what those weeds are at a basic level. You need to know how to use 10-80 so that you do not use too much and kill your dog, simple things like that. You also need leaders. We want to create these boards, and we want generations of people to be able to become members of them. That can be aided by capacity building in communities so that people can get experience where they can work on some of the committees or groups and then work their way through. That is the kind of stuff that it is about.

Mr WILLIAMS: Listening to the minister's explanation over the past couple of minutes, I have reread the clause and believe that there is some ambiguity. The minister may well be coming from a different direction. I will explain and perhaps provide a solution. The words 'capacity of people to be involved in the management', I read as being the capacity of people who are, at this point in time, at arm's length from the management. They are building the capacity in the segment of the community which is not presently necessarily managing the lands, whereas I think the minister has been talking about the capacity of those people who are, in fact, involved in management.

I suggest to the minister that we remove the two words 'to be' at line 37 so that it reads 'capacity of people involved in management', and that would remove that ambiguity. Unfortunately, the minister is incorporating two concepts in this clause: one is the educational concept and the other is the capacity of managers. We are talking about capacity building of managers and education which includes that group and the other group who are not necessarily managers but the wider community. I suggest that there would be much less sensitivity to this clause from the farming community if we delete the words 'to be'. They would then not see this clause as potentially leading to the interference—albeit well-meaning—with the broader community in the way that they go about their day to day business in running their farms.

The Hon. J.D. HILL: I said that because we want to try to involve those people who are not involved. If you are somebody who is a hobby farmer who moves out to the Barossa Valley, and you have 5 hectares of scrub and you have never been on the land before—you have been a dentist in metropolitan Adelaide—we want those people to know how to look after the land, and we may need to educate them

a bit. We want to increase the capacity to be involved further or for the first time. I think the member is, as the member for Chaffey said, really drawing a very long bow here. I would have thought this is the most innocuous of all the clauses in the 208 pages of legislation before us. I have suggested that we put the word 'support' before 'mechanisms'; I do not think I can do any more than that.

The Hon. I.F. EVANS: To progress the matter, I seek leave to withdraw my amendment so that the member for Chaffey can move her amendment.

Leave granted; amendment withdrawn.

Mrs MAYWALD: I move:

Page 21, line 36—After 'provides' insert 'support';

I think the point the minister has made and which I would like to emphasise in moving this amendment is that this legislation is not just for farmers. It is for people who live in NRM regional areas, which includes the city. There are many people who like to get involved in natural resource management of their local creek, the local park, the hills and a whole range of natural resources that need to be managed, and not just the properties on which the farmers are employed. I do not believe that the words 'to be' are offensive in this amendment.

I believe the important principle behind this amendment is that we need to build capacity within our communities. We need to make people aware that the management of natural resources is important for the future sustainability of not only our communities but also our agricultural communities, and that education is a key part of that. If you are going to put education in place, you have to have support mechanisms to do it. So, I commend this amendment to the committee.

Amendment carried.

Progress reported; committee to sit again.

The Hon. J.D. HILL (Minister for Environment and Conservation): I move:

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

Motion carried.

GENETICALLY MODIFIED CROPS MANAGEMENT BILL

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

MEAT HYGIENE (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

LAW REFORM (IPP RECOMMENDATIONS) BILL

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

NATURAL RESOURCES MANAGEMENT BILL

In committee (resumed on motion).

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

Page 22, lines 8 and 9—Delete paragraph (c)

This amendment seeks to delete clause 7(2)(c), which reads:

avoiding, remedying or mitigating any adverse effects of activities on natural resources.

The words 'avoiding. . . any adverse effects' cause us some concern. To us, that is all encompassing. We are not sure how you reconcile avoiding any adverse effect when, at the same time, paragraphs (a) and (b) provide for 'sustaining the potential of natural resources to meet the reasonably foreseeable needs' and 'safeguarding the life-supporting capacities of natural resources' but avoiding any adverse effects.

I do not know how you are going to be involved in the primary industry sector if you have to avoid any adverse effect. It seems to me that we do not need that clause. We accept the fact that you want to sustain the potential for natural resources to meet reasonably foreseeable needs in the future, and we support the safeguarding of life-supporting capacities of the natural resources, but we are not sure how subclause (2)(c) fits in. We think that the other structures of the bill through chapter 6 (the animal and plant section) and chapter 7 (the water section) address avoiding, remedying or mitigating any issues that would arise.

This is part of the objects of the act. This is still under 'objects'. Object 1 talks about seeking supports for sustainable primary industries, and object 2 says that we need to avoid any adverse effect. I do not know how they reconcile. Basically, we work through the objects and come to some compromise. We accept that subclauses (2)(a) and (2)(b) have a place in the bill, but we would argue that chapter 6 (which relates to animal, plant and soil, or whatever it is) and chapter 7 (which relates to water resources) deal with the issues that will be raised under subclause (2)(c). We think that subclause (2)(c) should not be in the objects because, we believe, the courts will interpret that very strongly.

Subclause (2)(c) is clear: avoid 'any adverse effects of activities on natural resources'. The definition of 'natural resources' is all encompassing: it includes soil, water and native vegetation. It is the whole box and dice. We think that the courts will interpret that to the detriment of the primary industries sector. We cannot see why it needs to be there, certainly given the other amendments that were made during the debate on the objects of the act. We see that clause as being negative in relation to the objects. If one combines 'avoiding. . . any adverse affects of activities' with the precautionary principle that appears later in the bill, one will find that it adds up to a real issue for those people involved in primary industries.

This section of the objects does not appear in any other act. It is not something that we have stolen out of another act, and we do not have a court case that says, 'This is how the court will interpret it.' According to the brief given to me by the minister's officers it is not in any other act. To my knowledge, we do not have a history of how the courts will interpret this act combined with the objects. We do not think that it detracts greatly from the objects relating to natural resources. We do think that it creates some effect for primary industries. No doubt the minister will now tell me where it is in another act, and I am not sure why his officers did not tell me that.

The Hon. J.D. Hill: They do not have the advice I have got.

The Hon. I.F. EVANS: Well, how is it that we get 18 months of consultation, we have gone through three briefings, officers have prepared a folder for us and we are not advised that it is in another act? It raises a question about the whole process.

The Hon. J.D. HILL: I think that is an extreme statement to make. I apologise if the honourable member was misinformed, but we go through the parliamentary process with all the advisers, the minister and the opposition in here to expose the bill to proper scrutiny. As I say, I do apologise. But that measure, which is a standard measure of ecologically sustainable development, does, in fact, appear in the Aquaculture Act 2001, which, I understand, was introduced when the Leader of the Opposition was the responsible minister. It appears at page 9, part 1, section 4 of that act. It is in virtually the same form of words. Section 4(c) of that act provides:

> adverse effects on the environment are avoided, remedied or mitigated.

The same form of words appear in the Environment Protection Act 1993, section 10(C) of which provides:

> avoiding, remedying or mitigating any adverse effects of activities on the environment;

It is a standard provision. The advice I have is that it sets up or acts as a lead to developments that occur later on in the legislation.

Mr WILLIAMS: I am delighted that the minister points out that that is in the Aquaculture Act, and that is one of the reasons that aquaculture has come to a screaming halt in South Australia. Some of these measures make it impossible for aquaculture to move ahead, and a number of people who have tried to establish an aquaculture industry in my electorate have struck nothing but red tape. Again, the problem we have is that, when the bill gives as one of its objects that we have to avoid any adverse effects of activities on natural resources, that means we cannot do a damn thing, because everything we do as a human, it could be argued, has an adverse effect on natural resources. I do not think that the Aquaculture Act is a very good example if we are really interested in the triple bottom line—the economic, social and physical wellbeing of our state. It might go some way towards achieving physical wellbeing but it will do nothing for the economic or social wellbeing of this state.

The Hon. J.D. HILL: The advice I have is that the aquaculture industry believes that it is going well in this state at the moment.

Mr Williams interjecting:

The Hon. J.D. HILL: I cannot account for all parts of the state but generally they appear to be going well. This is a standard provision. It does not say that one cannot do things that have an impact on natural resources. It is saying that one ought to avoid having a negative impact, one ought to remedy those things that have been done in a negative way and mitigate against any of those adverse effects. I cannot see what is exceptional about this provision.

Mrs MAYWALD: Perhaps I can provide a practical example of where it is an issue and, whilst it is not in legislation, it is in a water allocation plan, with similar references to options for avoiding, remedying or mitigating salinity impact, and I refer to principles 53 and 54 of the River Murray water allocation plan. In a public consultation process undertaken by the department, it was considered appropriate to ask the public what they might be able to do to remedy, mitigate or avoid salinity impacts. They ticked off the box of consultation and they asked what I believe were questions of the wrong people in the community, first and foremost, and in such a format that the community could not understand the consequences of their feedback.

The department then took that as saying that we cannot remedy or mitigate, so we must avoid and draw a line right through a whole region and say we cannot develop. That is a practical application of where a department has used the references here to avoid any remedying or mitigating actions and has chosen the easy option, which is to avoid. That is where we have a concern in respect of future development in this state.

The Hon. J.D. HILL: I understand the example that the member for Chaffey has raised because I have had a number of conversations with her and I have tried to mitigate and avoid the problems that she has raised, and I believe that we are well on the way to fixing those problems. However, despite the process of which she is critical, I think the member for Chaffey would agree that we have to avoid, mitigate and remedy the issue of the impact of salinity caused by development in South Australia. We have national obligations. We have agreed to do that through the Murray-Darling Basin Ministerial Council, so we do have a kind of contractual duty to do that.

If we do not fix it up there will be even more serious impacts on our capacity to develop our state. If we allow greater amounts of salt to go into the system without fixing it, we will have to invest more heavily further down the track to try to remedy those issues, and we will also get hostile acts, particularly from the state of Victoria, which will argue that we are not playing fairly and will try to reduce trade, which will limit the amount of water coming into this state. While I understand the issue, it does not mean we can avoid the substance of the matter. That is what we are trying to do, I hope with the member for Chaffey's help.

The Hon. D.C. KOTZ: I want to point out, in support of the member for Davenport's amendment, that clause 7(2) specifically provides: 'For the purposes of subclause (1),' and it then states:

> ecologically sustainable development comprises the use, conservation, development and enhancement of natural resources in a way, and at a rate, that will enable people in communities to provide for their economic, social and physical wellbeing. . .

We talk about sustainable development comprising the use, and we talk about ecologically sustainable development that will enable people and communities to provide for their economic, as well as their social and physical, wellbeing. I would suggest the very purpose of that statement is to acknowledge the fact that there is an expectation that the very natural resource that we are attempting to protect, on one hand, will be used for development to create the economics that are necessary to provide for the wellbeing of people in communities. It would seem to me that the expectation is that we will use the natural resource. What are we talking about when we talk about the natural resource? We are talking about land and water. If we want to look at land, we already have gone through what the bill suggests are all the different components of land, including soil, and any other organism or component that relates to it. In order to be able to economically develop that natural resource, it has to be used, and being used means that we are in fact going to create an adverse effect of activities on these natural resources.

When you put in the word 'avoiding', you are really saying that there is a greater protection than is necessary when you are talking about the use of this natural resource. Subclause (2)(c) provides that we remedy and mitigate any adverse effect. I would suggest that to mitigate is the closest possible literal interpretation of 'avoid' that you can get without actually using 'avoiding'. 'Avoiding' is almost the ultimate. 'Avoiding' means 'don't use' in the terms of this particular clause. I suggest it would be assist members on this

side to be able to accept the purposes of the bill, on the one hand, to look at sustainable ecology with the potential of development, but the balance between the two can be utilised without having the word 'avoiding' used in that particular clause.

I point out, again, that 'mitigating' is certainly the closest interpretation you will get to 'avoiding' when the clause provides that we will use the natural resource, which means we will disturb the land and all its components if we are going to provide the economic base for people and communities to be able to get a benefit. I do not believe that by removing the word 'avoiding' we are in any way going to upset the principle of using the balances of sustainable development and sustainable environment. I ask the minister, again, to think about removing that, at least to satisfy the concerns we have as members of the opposition on something that does seem anomalous in terms of the literal translation of the words that are being used.

The Hon. J.D. HILL: I am always keen to try to accommodate the opposition in these matters, as members opposite know. This is a standard provision which occurs in at least two other pieces of legislation in South Australia. I understand it is used nationally. It would be odd if we were to start changing nationally agreed upon principles. However, I am prepared to say that between this place and the other place I will have a closer look at it to see whether another set of words is available that can express the same principles.

I just make clear to the member for Newland that this is not saying that natural resources cannot be used and that in the using of natural resources there may not necessarily be some impact upon them. It is really saying that it is a principle that when you do go through that process you should avoid harming them. If you do harm them, you should try to remedy them, and you should mitigate any adverse affect. If you were to put in 'human' instead of 'natural' and talk about employers and employees, it would become a clearer set of understanding. If you are going to employ people, it is reasonable to make them tired, and over time they will age and all the rest of it. But you avoid trying to hurt them: you try to remedy any hurts that you do, and you mitigate against any of those harms. I think it is a perfectly commonsense provision.

Mr WILLIAMS: The minister has undertaken to have another look at this between houses, and I would just like the minister to consider that what we are doing in the enacting of this bill is giving powers to the bureaucracy in the future. I do not know whether the minister has experienced it, but a lot of those on this side of the committee have experienced a situation where the bureaucracy has said, 'This is what the act says, so you cannot do it. There is nothing we can do about it.'

I have had plenty of experiences where I have gone off to ministers, both in this government and the previous government, and the minister has said, 'No, that is what the law says; that is it. We cannot do anything about it.' That is why, again, we are sensitive to giving these powers. I would like the minister to look at what conceivable circumstance is envisaged that necessitates paragraph (c) and, for that matter, paragraph (b), which is not covered by paragraph (a). I think paragraph (a) covers the whole gambit of scenarios which might be encountered.

Paragraphs (b) and (c) merely give the excuse, when the authorised officer, or whomever it is, wants to stop somebody from doing something to say, 'This is it—no negotiation, no nothing—here it is in plain and simple English. You cannot do it.' Poor Joe Citizen has got no hope at all. I would like the minister to really consider what necessitates his having paragraph (c) that he cannot achieve using paragraph (a).

The Hon. J.D. HILL: As I said, I have given an undertaking to have a closer look at it. In addition to that, I will have produced a paper which examines the history of this language, what it is intended to mean in all its aspects and how it might apply in regard to this act. I will have that paper produced and I will give it to the member for MacKillop and to the opposition spokesperson, and we can have a look at that before this goes into the other house.

Mr WILLIAMS: Thank you, minister. One of the concerns that you know many of my colleagues and I on this side have is about the administration of the Native Vegetation Act in this state. It has been stated that this is stage 1. Stage 2 will bring the Native Vegetation Act into the integrated natural resource management system. I would like the minister to consider how we might be feeling about having the Native Vegetation Act being administered with these sorts of powers existing. That is something that I am looking ahead at and saying, 'Goodness gracious. You will not be able to walk on the grass, literally.'

The committee divided on the amendment:

AYES (19)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F.(teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kotz, D. C.	Lewis I. P.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (23)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D. (teller)	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
Maywald, K. A.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	

PAIR(S)

Kerin, R. G.	Conlon, P. F.
Matthew, W. A.	Wright, M. J.

Majority of 4 for the noes.

Amendment thus negatived.

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

Page 22, lines 24 and 25—Delete paragraph (e) and substitute:

(e) the conservation of biological diversity, ecological integrity and primary production systems should be taken into account in decision-making.

We seek to reword this principle that has to be considered when trying to achieve ecologically sustainable development, which has to be done when the objects are considered. This amendment replaces the current clause 7(3)(e). Of course, when considering the previous clause, you refer to the objects. There are then some issues about ecologically sustainable development, and then a set of principles need to

be considered when looking at ecologically sustainable development. This amendment seeks simply to reword one of those principles.

The Hon. J.D. HILL: I hate to inform the member that I cannot accept this amendment either. This principle comes out of the Environment Protection and Biodiversity Conservation Act, which is commonwealth legislation introduced by the member's colleague, the former federal minister for the environment, Senator Robert Hill. This clause has been negotiated with the various stakeholders, such as the Farmers Federation and the Conservation Council, and they are happy with this package. If we start to fiddle around with elements, we will cause loss of faith with the various groups in relation to it. For the same reason, I would not accept amendments that would try to 'green it up', if you like. This is a balance between the various elements, and it is about the issues of biological diversity and ecological integrity. It is not about primary industry: it is about those other elements.

The Hon. I.F. EVANS: This clause may well be adopted from a federal act, but that does not mean that it fits neatly into this legislation nor, indeed, that the powers are the same under this measure as under the federal act, or that the interpretations will be the same. It may well be the same wording, but the impact and what flows from it may be different. Why is it that this clause contains the words 'a fundamental consideration should be the conservation of biological diversity and ecological integrity'? Clause 7(3)(e) uses the words 'a fundamental consideration'.

When we get down to clause 7(3)(h), it just says, 'consideration should be given to Aboriginal heritage'. Is that a lesser consideration than a fundamental consideration or is a fundamental consideration the same consideration as referred to in paragraph (h), which is simply 'consideration should be given'? Why is the word 'fundamental' there? If they are all going to be treated equally, why are they worded differently? All we seek to do is place some balance into that subclause. It is clear to us, through this subclause, that the court will decide that the words 'a fundamental consideration' has a different meaning and a different influence from the words 'consideration should be given'.

I can hear the lawyers arguing it now: 'If parliament meant it to be the same thing, they would have worded it the same.' It is as simple as that: there must be a difference between a fundamental consideration and something that is only a consideration. I am not legally trained, so I do not know what the difference is. However, I am sure that some smart QC will make a lot of money arguing that the word 'fundamental' must have a different meaning, otherwise it would not be in the bill. If it had the same meaning as paragraph (h), which just says, 'consideration should be given', it would simply say in paragraph (e), 'consideration should be given to the conservation of biological diversity and ecological integrity'. However, the bill provides that it is 'a fundamental consideration'. In my opinion, that places an emphasis and says that paragraph (e) is more important than all the rest.

We do not seek to not conserve biological diversity or ecological integrity, but we do seek to bring more balance to the subclause so that, when there is a dispute in a court, the court will look at it and say, 'Well, there's obviously balance between these principles.' However, only one is a fundamental principle, and it stands out like a beacon. All the rest are just normal principles, whatever that means. It is clear to us that either there has been a drafting error and it is not meant to be a 'fundamental' principle or there is clearly meant to be a different meaning. So, we seek to move an amendment that says, 'The conservation of biological diversity, ecological integrity and primary production systems'—so that there is that balance in the subclause—'should be taken into account in decision making.' How is that unbalanced or unfair to anyone?

It talks about conservation of biological diversity, ecological integrity and primary production all in the same sentence, all with the same meaning. The Liberal Party believes that this subclause has a different meaning because it uses different words at the start of that principle, namely, 'a fundamental'. So, we have moved an amendment seeking to make it clear that all the principles are treated equally and no principle has a hierarchy of importance within that set of principles.

The Hon. J.D. HILL: This, in fact, is the argument which led to this provision in the bill: that biodiversity is, in fact, fundamental. Without keeping your biodiversity intact, all the other things will cease to operate because there will be a breakdown in the ecological systems, and the soil, water and other elements which make up our natural resources will dissipate. That is the reason why the word 'fundamental' is in there. However, I would accept an amendment, although with some reluctance, to remove the word 'fundamental' so that it merely reads, 'consideration should be the conservation of biological diversity and ecological integrity'. So, if the member is inclined to remove the word—

An honourable member: Leave the word 'a'.

The Hon. J.D. HILL: Yes; leave the word 'a' and just remove the word 'fundamental'. I would accept that, if that would help.

The Hon. I.F. EVANS: I am happy to do that. I understood that our amendment was the result of an attempt to do that, and we were told that a rewording was the best way in which to achieve it. I will withdraw amendment No. 20 and the minister can move the amendment—or does he wish me to move it?

The Hon. J.D. Hill: You do it.

The Hon. I.F. EVANS: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

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

Page 22, line 4—Delete 'fundamental'

Amendment carried.

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

Page 22, line 37—After 'Aboriginal heritage' insert:
and to other heritage issues

This amendment simply adds the words 'and to other heritage issues' after the words, 'Aboriginal heritage' in clause 7(3)(h), which currently provides:

> Consideration should be given to Aboriginal heritage, and to the interests of the traditional owners of any land or other natural resources;

We seek to expand the heritage issue side of it in this clause by saying 'and to other heritage issues'. Built heritage would be one example. We do not seek to interfere at all with, or change the intent of, the meaning in regard to Aboriginal heritage. However, we do seek to expand it in regard to providing for other heritage issues to be taken into consideration as a principle for ecologically sustainable development.

The Hon. J.D. HILL: I am happy to have a new clause constructed that picks up non-Aboriginal heritage, but I would like to keep the reference to Aboriginal heritage there as a stand-alone clause. That has been negotiated with the traditional owners and it acts as an act of reconciliation, if

you like, with them. But I am happy to pick up non-Aboriginal heritage—European heritage, for example. I am happy to work on it. It might be a little difficult to construct something right now. The words the member has—

The Hon. I.F. EVANS: If you give a commitment to construct something, that is fine.

The Hon. J.D. HILL: Yes, we will do that. I make it plain that I will give a commitment to the member to construct an amendment that picks up the issues of European heritage, I guess, and we will amend it in the other place.

An honourable member interjecting:

The Hon. J.D. HILL: I beg your pardon; other heritage, not necessarily just European heritage.

Mr GOLDSWORTHY: I just want to return (I did not have the opportunity to speak, because the amendment was put and voted on) to paragraph (e), which was amended with the words 'the conservation of biological diversity', and so on. In my second reading contribution I raised what could be looked at as a simplistic example, and I referred to our consultation process. I used an example of a tree that has died in the middle of someone's paddock. That tree may have fallen over—

Mrs Maywald interjecting:

Mr GOLDSWORTHY: It is just a question about it.

Mrs MAYWALD: Mr Chairman, I rise on a point of order. The member is speaking to a clause on which we have already voted. If the member has a question to put to a clause currently before the committee—

The CHAIRMAN: You are correct in a sense but, because of the complexity and the size of this bill, we have been dealing with these amendments on a page by page basis. So, a little latitude is allowed. That amendment has been agreed to. If the member for Kavel wants to make his point, I think we can accommodate that.

Mr GOLDSWORTHY: I will not hold up the committee unnecessarily. I just want to ask this question, because a lot of people whom I represent in the electorate of Kavel are faced with this situation. A tree has died and blown over in their paddock and they are looking to cut it up, for whatever reason—such as for firewood—just to clear it out of their paddock. If that tree was left in the paddock it would enhance the biological diversity and ecological integrity of that area. As I said, a number of animals could live in it, or whatever. So, I would like clarification that you are allowed to cut dead timber in a primary production and rural area.

The Hon. J.D. HILL: My advice is that this provision would not impact on that example. I think we have to get the balance right here. It is easy to go through this and come up with all sorts of bizarre possible scenarios, but this is just saying that in the development of the NRM plans and processes consideration has to be given to biodiversity—that is obvious. It does not mean that consideration has to be given to every felled tree in South Australia. We have to keep the perspective here, I think.

Mr GOLDSWORTHY: I am glad of that answer, because when I asked that same question and gave that same example in our briefings—I cannot remember whether it was at the beginning of this year or late last year, because we have had so many briefings over such a long period of time—the response I got from one of the departmental officers was, 'That is covered in the Native Vegetation Act and you are not really meant to do that.' So, thank you for clarifying that.

The Hon. D.C. KOTZ: I want to ask a question with reference to subclause (3)(f), which provides:

> environmental factors should be taken into account when valuing or assessing assets or services, costs associated with protecting or restoring the natural environment should be allocated or shared equitably and in a manner that encourages the responsible use of natural resources, and people who obtain benefits from the natural environment, or who adversely affect or consume natural resources, should bear an appropriate share of the costs that flow from their activities;

I am not quite sure to what extent this clause can be taken across the very broad range of areas that we talk about in ecologically sustainable development, and I am not quite sure to what degree people would be adversely affected by any form of cost structure which is not evident by this clause, because it is a matter of principle. If the minister would give me an explanation, that would assist.

The Hon. J.D. HILL: I am happy to do that. This is a principle which, I think, is contained in the SAFF policy which was released today. I was looking through it earlier, although I am not too sure that I can put my hands exactly on their formulation of it, but it is really about the beneficiary of a particular action paying for the benefit. So, if there is a public benefit the public ought to pay and if there is a private benefit the individual ought to pay. An example that I could give you is in relation to the Upper South-East drainage scheme, which I happen to know a reasonable amount about. Of the $49 million that we are investing, $11 million has to be paid by the land-holders, and they can pay that by trading native vegetation protection, through heritage agreements and so on. It is calculated on the basis that there will be a certain benefit to the individual land-holders, because their land will become more productive by the construction of those drains, the salinity levels will decline, and they will be able to get more product out of that particular land. And there is a public benefit: that is, the biodiversity of that region will be protected.

So, it is just trying to work out what the appropriate cost benefit ratios are. All the way through NHT, and particularly NAP, we are employing that scheme. It has also been employed in the restructuring of the Lower Murray swamps dairy lands, which the South Australian and commonwealth governments are investing large sums of money to restructure. The individual dairy farmers also have to contribute an amount, the formula for which has been worked out using an independent consultant to determine what is public benefit and what is private benefit. It is really encapsulating that principle. I think that is the principle that the Farmers Federation is picking up in its document. I have to say to the member that this clause has been worked through with the Farmers Federation and I understand it has its support.

The Hon. D.C. KOTZ: I thank the minister for that assessment. I think in legislation such as this, regardless of whether it is objects or principles, the mere fact that it is a mandated piece of legislation always makes me extremely wary when we talk about in general terms, not so much the principle behind, but the general terms of people who gain benefits and who should bear an appropriate share of the costs that flow from their activities. I guess the principle that can be accepted is quite obviously that there is a base for sharing costs, as the minister would know. As a previous minister for environment, and therefore for water resources, I was well aware of the South-East drainage scheme which was obviously a negotiated base with people who did, in fact, pay their way. There is a principle already established in a lot of the schemes that are on board and on the ground in South Australia at the present time. However, to go as far as to make a general assessment that talks about 'bearing an

appropriate share of the costs that flow from their activities' to me is concerning. The minister's answer is in relation to the SAFF document that has apparently just been launched and is the strategic plan for the rural areas of South Australia, presented by the South Australian Farmers Federation.

It was my understanding that part of that strategy, that the minister has in front of him at the moment, was actually seeking for something like $100 million of costs to be paid to the people of South Australia that may indulge in the type of remediation or sustainable development through schemes that gain benefits. That $100 million was being asked for by the South Australian Farmers Federation to be given as a form of compensation to those that may be made to look at remediation or to deal with a matter that the Environment Protection Agency or some of the NRM boards may decree in their regional areas as requiring some form of mitigation or remedy to take place on a piece of land that is owned by an individual.

If they have to formulate some form of remediation on their land, and that is at a cost to the land owner, then you will find that the SAFF document, in fact, is asking government to repay the costs to the people on the land for having to take part in that remediation. I do not know whether the clause, as is entered into this piece of legislation, was actually meant as an acceptance by SAFF; in fact, it is suggesting that it has a concern as well, because of the fact that it does talk about appropriate share of costs. It is such an open-ended principle that, if you actually look at the SAFF document, you will find that it is not so much an acceptance of this clause: it is a matter that they want to take a step further and ask the government, because of this clause, to fund the payment of remediation on their land. If it is necessary for some particular reason, whether or not there is a benefit to them, they are looking at some $100 million from this government, and the commonwealth, to pay that compensation to all farmers across the state of South Australia.

The Hon. J.D. HILL: I do not understand what the member is saying. I refer to page 25 of the SAFF document: 'A triple bottom line for the bush'. It refers to the Wentworth Group of scientists, stating that this perspective—and the perspective they are referring to is the perspective that was included in the draft report of the Productivity Commission on impacts on native vegetation and biodiversity regulations—is supported by the Wentworth Group of scientists who, in their blueprint for living continent state amongst other things that we need to:

> [The Wentworth Group] pay farmers for environmental services (clean water, fresh air, healthy soils). Where they expect farmers to maintain land in a certain way that is above their duty of care, we should pay them to provide those services on behalf of the rest of Australia.

I think that is what this provision is about. It is really saying that if you want to take into account environmental factors there is a collective responsibility to pay for those, that the whole burden does not rest on the shoulders of the landholders. I think perhaps the honourable member is reading this provision in the opposite light to the way in which it is intended. This is about collective responsibility for those environmental issues. The honourable member probably realises that, through the NAP on salinity and water quality, the state and federal governments are putting in close to $200 million to do exactly these kind of things.

The Hon. D.C. KOTZ: The minister has established one of the points I was trying to make regarding the interpretation of the words in these clauses. As has been demonstrated by other members on this side of the committee, the major test for any legislation is when it is taken into a court where the words in these clauses are reinterpreted by the court and a precedent is set depending on the judgment. If we use words which, on the one hand, create an impression for me and, on the other side of the chamber, the minister and his officers interpret them entirely differently, I think that shows that this clause is open to misinterpretation. Paragraph (f) provides that 'costs associated with protecting or restoring the natural environment should be allocated or shared equitably'. I am not quite sure what the minister thinks is an equitable share for the officers of a department or those who will be imbued with responsibility or authority. This is an open-ended statement, particularly when it ends with the words 'should bear an appropriate share of the costs that flow from their activities'.

I suggest again that the South Australian Farmers Federation document which the minister has in front of him clearly indicates their deep concerns because of the cost ratios that they can see in almost every page of this bill which could be levied against them. They expect the state and the commonwealth government to provide over $100 million for compensation because they may be made to take on more responsibility than has ever been expected of them before through the supposed duty of care to which the minister refers. So, I suggest that this clause is causing the Farmers Federation great concern and that they do not accept it.

The Hon. J.D. HILL: All I can say is that the advice I have is that this has been closely worked through with the Farmers Federation representatives and they are happy with the way in which it has been formulated. I repeat: it is designed to indicate that the burden for remediation does not fall solely on the shoulders of the land-holder.

The Hon. I.F. EVANS: I withdraw my amendment and move:

Page 22, line 38—Delete 'traditional'.

The definition of 'owner' takes into consideration all native title owners. So, the traditional owners are covered by the word 'owner'. By deleting the word 'traditional', all the other owners are then brought in, and therefore their rights will be considered under this clause. It in no way takes away from the consideration of the traditional owners' rights under this provision, but it does bring in the rights of other owners of the property that we are talking about: in this case, 'any land or other natural resources'. It broadens it from being just traditional owners to being all owners. You have to ask the question: why would you not take into consideration the interest of all owners of land or other natural resources as defined under the act?

The Hon. J.D. HILL: I do not support the amendment. I told the member that I will formulate an amendment which refers to non-Aboriginal heritage issues and the interests of non-traditional owners. This is a provision to try to address the issues of concern for the traditional owners of the land. It is saying that, when you are doing stuff, consider the Aboriginal people who used to own the land; that is all it is saying. If you were to do what you suggest, you would be saying that consideration should be given to Aboriginal heritage and to the interests of owners of any land or other natural resources.

The broad scope of this provision, which is to look at the broad interests of Aboriginal people, including heritage issues, would be lost and it would become a general clause. While, technically, the member is correct in that 'owners'

does not encompass the notion of native title and so on, it would lose its impact and it would probably be offensive to Aboriginal persons. We were trying to have some element in there which picks up those issues. I hope it is not turned into a particular fuss. I can certainly pick up the other issues the member mentioned in another provision.

The Hon. I.F. EVANS: I do not wish to be offensive to the Aboriginal community or others, but I make the point that, if the minister is saying that in considering the other heritage issue to which he has given a commitment, he is happy to consider how non-traditional owners are to be recognised, we are happy to let it rest at that for now. Given the minister gives that undertaking, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Mr VENNING: Could we add the extra words 'the legal owners' after that? Leave your word in there and include 'and the current legal owners'.

The CHAIRMAN: You can seek to add whatever you like through amendment, but the minister has indicated that he will have a clause drawn up to satisfy the member for Davenport's request. You can move whatever you like.

Mr VENNING: Do you accept that? I think that it would save time if you leave that in there as you said, and then put 'the current legal owner' behind it.

The Hon. J.D. HILL: We have tried to negotiate this with a range of people including farmers, conservationists, local government and traditional owners. There are some elements in here that are phrased in a particular way to relate to a particular group. There are elements in here which the Local Government Authority was keen to have included, as were the Farmers Federation and the traditional owners.

If we water it down or broaden it, it would cease to be the element that they were asking for. I do not believe it does anything at all offensive; it just recognises that traditional owners should be taken into account. It does not say you have to do anything in particular; it just says that. I am happy to include the other matters which the member is concerned about in a different provision. I will draw up a draft and show it to him, and we can move it in the other place.

Clause as amended passed.

Clause 8.

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

Page 23, lines 8 to 10—Delete subclause (2)

Subclause (2) does not add anything to the bill; you do not need it. It is telling public servants to act within the act. They are obliged to act within the act, so we think we should delete it as it is a superfluous clause.

The Hon. J.D. HILL: I am prepared to let it go because of what the member said. It has been included because we are trying to emphasise that any officer or person acting under this act should be aware that they are no longer just an animal and plant pest person or a water person but that they are also responsible in a broader sense for all the other issues. But, culture and habit and all the rest of it will ensure that that happens, I am sure, so I am happy to have that removed if it makes the opposition happy.

Amendment carried; clause as amended passed.

Clause 9.

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

Page 23, line 17—Delete 'wisely and'

This clause sets out a general statutory duty and basically states that a person must act reasonably in relation to the management of national resources within the state. Then it explains what is reasonable. In determining what is reasonable, it sets out a list of matters to have regard to and, amongst other things, you must have regard to the need to act wisely and responsibly. There was some concern on this side of the chamber about what the word 'wisely' means and in whose mind you are acting wisely. We are more familiar with the term 'responsibly', although that is very open to interpretation as well. So, we seek to get rid of the word 'wisely'. We think it is an unusual provision. The minister will probably quote ten other acts that include it, but certainly it has not been brought to our attention during briefings that it is in any other act. Therefore, I move this amendment, which seeks to achieve that end.

The Hon. J.D. HILL: I will have that removed. I think it is a bit unfortunate to remove the words 'act wisely' from a piece of legislation. You would hope that the general community would act wisely in relation to most of the things they do. I will try to explain where this bill comes from. A group of people, who came from a lot of backgrounds, worked very hard together and they wanted it included, and I guess it is aspirational—they are hoping that the committee will act in a wise way. But I am happy to have it removed and I will not fight it.

Amendment carried;

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

Page 23, line 20—
Delete 'any environmental, social, economic or practical implications, including' and substitute:
the need to have due regard to economic, social and physical well-being, and any environmental implications, taking into account

This is a rewording to add what we think is better balance to clause 9 which, again, is one of the matters to have regard to when considering what is reasonable under the general statutory duty. Currently, clause 9(2)(b) provides:

any environmental, social, economic or practical implications, including any relevant assessment of costs and benefits associated with a particular course of action, the financial implications of various measures or options, and the current state of technical and scientific knowledge;

We seek to amend the middle part to read:

any environmental, social, economic or practical implications, including the need to have due regard to economic, social and physical well-being, and any environmental implications, taking into account—

and the balance follows. Again, it is a matter, we think, of trying to bring a better balance to those things that need to be considered in this case under the general statutory duty.

The Hon. J.D. HILL: I am not really sure what the honourable member's amendment does. One has to look at the stem (subsection (2)), which provides:

In determining what is reasonable. . .

One must take into account those triple bottom line matters, namely, 'environment, social, economic or practical implications', and then the costs and benefits associated with them. I am not too sure what the honourable member's amendment seeks to do that is not contained in ours. I suppose that, on the basis that I do not understand it, I had better stick with my own.

Amendment negatived.

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

Page 23, after line 23—
Insert:
(ba) the need to ensure that ongoing agricultural operations and practices are not impeded; and

This amendment seeks to insert a paragraph (ba) after paragraph (b) with respect to these matters that need to be considered in determining whether you have acted reasonably under the 'general statutory duties' clause (clause 9). A number of opposition members want to make sure that a clear message is sent that the farming community can get on with their day-to-day lives without being, as this says, impeded or interfered with unnecessarily. We are trying to give some emphasis to the matters that need to be considered under 'general statutory duties' by moving this amendment. I know that the Farmers Federation has signed off on this legislation, but a number of rural constituents have spoken to the opposition in terms of their general concern about the bill. We have tried to implement a number of measures that we think will bring a better balance in terms of promoting the primary industry cause. Again, this is one of those provisions where we seek to do that.

The Hon. J.D. HILL: I think I understand what the honourable member is attempting to do. I am not too sure that this amendment does it. While I will not support it today, I am happy to attempt to come up with a form of words between houses to try to do what the honourable member wants. My concern with the amendment is the phrase 'ongoing agricultural operations'. What if you have someone undertaking farming in such a way that he or she is causing a massive amount of salinity to go into a watercourse, or extracting water from a watercourse in such a way that he or she stops other irrigators being able to extract water, as often happens.

What if someone is flood irrigating in an area where a plan is in place to have volumetric water used, or is operating in an area (say, in the branch broomrape area) that does not take into account the protocols put in place to limit the spread of branch broomrape? I think the form of words implies a right to continuing any practice regardless of the consequences. I think the honourable member is trying to say , 'One of the considerations is the right to be able to continue farming, but not necessarily farming in a particular way.'

In fact, the animal, plant and soil acts and the water act are all about trying to get better practices so we do not have erosion, we do not overuse our water resources and we do not have feral plants and animals spreading across the countryside. It may well mean that individual farmers from time to time have to change their practices. I would not want to incorporate in this legislation a notion that those practices did not have to change, but I will give an undertaking to the member to come up with a form of words, and I am happy to negotiate with him, that address the central concern he has but will not create a problem.

The Hon. G.M. GUNN: The amendment is one that I am responsible for and its reason is simple. Because of what has happened in the pastoral industry, where ongoing normal practices have been impeded and where people have a legitimate right to run a certain number of stock, that is why it is here. I am prepared to accept the minister's assurance that he will come up with an acceptable form of words that will ensure that proper, legitimate agricultural activity will not be impeded, otherwise I can assure him that he will have a bit of a stoush in the other place and it will take a lot of time. The problems with pipelines and the suggestions that people should set aside a certain amount of their land are absolute nonsense, as is the suggestion that other practices such as the ability to be able to burn off certain areas of native vegetation for snail control and those sort of things will have to stop. Those practices have taken place for years and any attempt to restrict or impede them is unwise, and it is certainly not in the interests of sustainable, good, productive agriculture.

The Hon. I.F. EVANS: Given that the member for Stuart, who was the proponent of that amendment in our party, is happy to accept the minister's assurance, I seek leave to withdraw the amendment.

Leave granted; amendment withdrawn.

The Hon. J.D. HILL: I move:

Page 23, after line 24—Insert:
(ca) the nature, extent and duration of any harm; and

I am pleased to note that this amendment has bipartisan support.

Amendment carried.

The Hon. I.F. EVANS: Before we finish this clause, I will refer to some comments by the National Environmental Law Association (NELA) in relation to this clause and, while I have not sought to make amendments to reflect their comments, I will read them into the *Hansard* quickly so that members in another place can consider those comments during the break. NELA states:

> . . . the general statutory duty is vague and uncertain. It is far more likely to be a source of dispute than an effective mechanism to improve natural resource management. . . ought to be substantially reworded.
>
> The duty is simply cast as a duty (apparently applying to every person) to 'act reasonably in relation to the management of natural resources'. It is so broad and imprecise as to be almost meaningless. The duty ought to more clearly specify what a person must do (the duty) to a certain standard (reasonableness), rather than relying on the adverb ('reasonably') as the basis of the duty itself.
>
> The phrase 'in relation to the management of natural resources' is unclear. It is uncertain when the duty applies and who it is to apply to. It is uncertain whether it is intended to be a duty to manage resources or whether it is a duty that is simply to apply to those who are engaged in the management of resources. The phrase also relies upon the notion of 'management of natural resources'. It is particularly unclear from the bill precisely what it is intended to mean and, hence, when the duty will apply.

I raise that for members in the other place to consider, but the opposition has not sought to redraft as suggested by NELA on this occasion. I move:

Page 23, after line 35—After 'this' insert 'or any other'

This sets out when a person is not in breach of their statutory duty. It provides:

> A person will be taken not to be in breach of subsection (1) if the person is acting—
>
> (a) in pursuance of a requirement under this act;

We seek to add the words 'or any other', so it would provide in 'pursuance of a requirement of this or any other act'. We take the view that, if someone is acting legally under some other act, they should not be able to be tripped up and caught under this act. We think the law should prevent that from occurring. Currently, the way the bill is placed that is not the case. Under this subclause you would be protected from a breach if you are acting in pursuance of this act. We think it makes it clearer, if nothing else, if we insert in this particular provision 'a person will be taken not to be in breach of general statutory duty if the person is acting in pursuance of a requirement under this or any other act'. We think that gives best protection to people in regard to general statutory duty.

The Hon. J.D. HILL: I understand that this creates a certain legal argument about how this might be proceeded with. I accept the principle that the member has raised. We will accept the amendment today but give notice that we may wish to amend it further in the other place if it has some

unforeseen consequences; and we hope for opposition support to come up with something that actually works.

Amendment carried.

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

Page 23, after line 35—
Insert:
(ba) in a manner consistent with acceptable practices within the particular industry (if relevant), or within the relevant sphere of activity; or

Within our party, I call this the 'doctors clause'. Nationally, a principle has been adopted for medical indemnity insurance and we have had the debate in this parliament about it. If doctors are working to an industry standard, they attract certain other protections. Basically, we have signed off on that nationally. This says the same thing. If a farmer is undertaking their activity in a manner that is consistent with acceptable practices within the industry, or indeed within the relevant sphere of activity, they should not be held to have breached their statutory duty. If it is generally the industry standard, they should not be held to have breached their statutory duty.

Indeed, what should happen is that they should go through and change the whole industry processes to get around that issue. We are trying to give a similar protection to the farmers that society through its parliaments has given doctors. If a farmer is acting within the normal industry standards, why should they get caught by a breach of statutory duty? We think that is a fair protection. We think there is no real downside to it. We think it offers protection to the landholder, and we seek the government's support for this amendment.

The Hon. J.D. HILL: I am sorry; I cannot support this amendment, because I think it is incredibly vague and would cause considerable argument and perhaps litigation. The notion of acceptable practice within the industry is an incredibly vague concept. Is minimum tillage, for example, the only acceptable practice, or is there a whole range of acceptable practices in a particular dry land farming context—and is it acceptable to whom? Is it acceptable within the framework of sustainability, or is it just acceptable within the framework of making money out of the land? This is also contrary to the notion of trying to get good practice in relation to the use of natural resources. It is contrary to the idea of sustainability, which is the whole basis of this legislative framework. For example, is it still acceptable to have flood irrigation in certain parts of the state for growing pasture? Is it acceptable to have viticulture sprayed from above or sprayed in the middle of the day? They are all questions that need to be worked through, through the NRM plan. I am basically trying to express my concerns about this, but I indicate that I do not accept it.

The Hon. I.F. EVANS: Minister, if those things are going to be expressed through the NRM plan, then by its very nature the plan will change the activity on the ground. By your very own argument, you say that these activities will be expressed in the NRM plan. So, that will then change what is an acceptable practice on the ground. You and I know that what was acceptable 20 years ago is not acceptable today. My uncle used to run a dairy in the Adelaide Hills. He is not running the dairy now in the Adelaide Hills. So, your own plan will set out what are acceptable practices. It may well be that an acceptable practice today is phased out over 10 years but, if they are doing it in conjunction with the industry, why should they be penalised? If it is the normal practice of the industry, why should they be found to have breached a statutory duty? I am not saying you cannot change the practices. You will do that by your NRM plans or by government policy, like EPA policy that says, 'From now on, you cannot do X', through their water, noise or air policies.

There are all sorts of ways that government can change industry practice, as you are well aware. But this seeks to adopt the same principle for farmers as we have for doctors. The way you did knee surgery 10 years ago is not the way you do knee surgery today. You take the normal industry practice and, if they can justify the case that they are following what is normal industry practice, why should they be found to have breached the statutory duty? If you want to change the industry practice—shallow tilling or whatever the examples you use—then simply bring in the policy or education program to change it, or put in an NRM plan to change the activity. You would have to do that in time. You would have to roll that out over five or 10 years. I think this subclause offers appropriate protection for the rural community, who may find themselves in breach of the statutory duty for doing nothing other than what they have been doing for the last 10 years.

The Hon. J.D. HILL: If the member is saying that this provision would be altered by the implementation of a regional NRM plan, then—

The Hon. I.F. Evans: You said you were arguing that.

The Hon. J.D. HILL: No; I am just saying that, if you were making that point, this provision adds nothing, because the NRM plan and what is acceptable practice will be the same. It would seem to me that will not be the case. The NRM regional plan will say, for example, in the case of irrigators in the River Murray, that they have a duty within five years to be 85 per cent water efficient. But acceptable practice in reality may be 60 per cent efficient. Therefore, there will be an inconsistency between what the regional NRM plan says and what is acceptable practice within that industry. What I will say to the member (as I said to the member for Stuart) is that I have a feeling for what he is trying to do, and we will roll that issue in with the other issue about agricultural operations and see whether we can come up with a form of words which pick up the concerns that he is expressing.

The Hon. I.F. EVANS: I am happy to seek leave to withdraw the amendment on that basis. I refer to the minister's example about irrigators being 85 per cent efficient in five years, but the industry practice today is only 60 per cent. The industry practice in five years will have to be 85 per cent, and therefore in that case the irrigator should not be found to have breached the statutory duty today because he is meeting the industry standard. However, in five years, if the industry standard is 85 per cent and he is still at 60 per cent, he is not meeting the standard industry practice—okay, he has breached his duty. We will talk about it during the break.

Leave granted; amendment withdrawn.

The Hon. J.D. HILL: I guess that what the member is saying is that there should not be a double jeopardy; that is, if there is an NRM standard and you are satisfying it, you should not be caught through some other provision or, if you are moving towards reaching that NRM standard and everyone else is in the same boat, you should not be particularly caught out. I guess it is the general form of words. The NRM plan relates to the River Murray but there might be a broader industry standard which somehow has a different standard. As I say, we will try to work on this area.

Clause as amended passed.

Clause 10.

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

Page 25—
After line 13—
Insert:
(c) specify the kind or kinds of information to which subsection (2a) applies.
After line 13—
Insert:
(2a) If a person has provided information of a kind to which the subsection applies (see subsection (2)(c)) under subsection (2)(b), the minister—
(a) must seek the consent of the person who provided the information to make it publicly available and must make it publicly available if consent is given;
(b) must not disclose that information to another person without the consent of the person who provided it.

I move these two amendments together because, from memory, they link together. It is from the existing Water Resources Act. Essentially, what these two amendments combined mean is that, if an officer is provided with information under this subclause, they must seek the consent of the person who provided the information to make it publicly available. It is just a protection to the person who has provided the information. I think the minister might be supporting these amendments. I think I have explained them enough.

The Hon. J.D. HILL: I indicate that I support the amendments.

Amendments carried.

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

Page 25, after line 16—
Insert:
(4) If the minister gives a direction to an NRM authority under this act, the NRM authority must cause a statement of the fact that the direction was given to be published in its next annual report.
(5) The minister must, in acting in the administration of this act, act fairly and reasonably and must seek to enhance and support agricultural and other activities within the primary production sector.

Clearly subclause (4) is asking that, if the minister directs an NRM authority under this act, that direction is printed in the annual report so that we become aware of it in the parliament. It is just a public disclosure issue and we think that is good practice. There are hundreds of acts under which ministers have those directions printed in the annual report, and so we do not see that as a great burden on anyone.

Subclause (5) is all about bringing some balance on behalf of the primary industries sector to the functions of the minister, and it is a theme that has run right through tonight's debate. It is just another step in trying to provide what we see is a better balance on the issues—in this case, set out under the functions of the minister.

The Hon. J.D. HILL: I accept the first of those amendments, with the proviso that I may need to seek further amendments in the other place in relation to it. I may need to insert a definition of 'direction', because we need to be clear that, every time I talk to an NRM authority, it does not become somehow caught up in this act. We do not want thousands of pages of trivia. For example, if I write to ask for information, a lot of paperwork might be created, and I do not think we want to tie this up with trivia. If we are talking about a certain kind of direction, I am happy to comply with that.

In relation to the second amendment, while I am happy to act fairly and reasonably, I do not think we should try to limit this just to doing one thing. This bill is about more than just agriculture and primary production: it is about looking after our natural resources in a sustainable way which takes into account economic, social and environmental factors. If the member were to move this amendment in a way that it provided that the minister 'must act fairly and reasonably and in accordance with the principles of sustainability', I would accept it, but to focus on one aspect only I think would be unreasonable.

The Hon. I.F. EVANS: Therefore, I move the amendment in an amended form.

The CHAIRMAN: I was going to suggest that you split it into two parts. With the agreement of the committee, I will split amendment 32 into two sections, and we will deal with one at a time.

Proposed subclause (4) inserted.

The Hon. I.F. EVANS: With the member for Stuart's concurrence, I ask him to rework the wording on subclause (5), since it is one of his items of interest.

The Hon. G.M. GUNN: I ask the minister that he have this reconsidered in another place, because I think I would have some difficulty moving the amendment now.

The CHAIRMAN: With the leave of the committee, that part of the amendment is withdrawn.

Clause as amended passed.

Clause 11.

The Hon. I.F. EVANS: This clause is opposed. It is not that we do think the minister should not have any power because, of course, the minister should have appropriate powers. The Water Resources Act has been in place for six or seven years. I understand that this provision is not in that act, and it appears to have operated perfectly well without clause 11 outlining all these general powers. I am not sure what the purpose of this clause is. In various clauses, the bill outlines a range of powers that the minister has, but we do not see a need for this clause. In a sense, it really is a test clause, because it uses those magical words 'the Minister has the power to do anything necessary, expedient or incidental to' the performance of the functions of the minister under this act, or administering the act or, indeed, furthering the objects of the act. It goes on to provide that the minister can do a whole range of things, such as enter into contracts, etc.

If one goes back and looks at the scope of the objects of the act (and the member for MacKillop made a contribution on this point earlier in the debate), one sees that the principles that have to be considered are very broad. We believe that if the Water Resources Act and the other acts have operated all these years without this power why, all of a sudden, when you bring the three acts together, do you need this clause? It is probably just a drafting matter, which is no disrespect to the drafting people. The powers are fed throughout the act in various clauses, but we do not see the need to put it in these terms. We also suggest that it expands the minister's powers by the words 'anything necessary, expedient or incidental'. That really says that the minister can do absolutely anything in regard to the objects, which are so broad.

The Hon. J.D. HILL: I accept the amendment.

The Hon. I.F. EVANS: Well, if I have convinced the minister, I will stop.

The Hon. J.D. HILL: I make the point that we accept that the clause should be deleted, because I already have those powers: I do not need the act to say I have them. The reason for putting it in the act is so that anyone who reads the act understands that the minister has those powers. It is really a way of communicating that fact to those who are checking out who can do what. I do not think we lose or gain anything by removing it, but if the opposition wants to take it out that is fine.

Clause negatived.

Clause 12 passed.

Clause 13.

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

Page 26, line 18—Delete subclause (2)

This amendment simply seeks to delete subclause (2). Clause 13 establishes the NRM Council, and subclause (2) provides that the NRM Council is subject to the general direction of the minister. We understand that the role of the NRM Council will essentially be one of policy advice to the minister. The minister can, of course, seek policy advice at any time from the board simply by sending a letter to the council or getting his staff to put through a minute, or whatever. We do not see why the minister needs the power to direct the council as such. It is an advice body, and we would argue that the advice should come up independently to the minister and not under the minister's direction. Of course, the minister can always ask for policy advice. That is how he would do it if he was seeking information from the EPA: he would simply ask it for advice and, as a matter of course, the EPA would respond. So, we do not see a need to direct the council.

I believe the member for Chaffey has a similar amendment in regard to groups that she will be moving later. We would argue that, at the policy level, there is really no need for direction of the minister. The council should be independent in relation to looking at policy as it sees them, based on the merits of the information before it and fed up to it. They can then pass on the policy advice or their reports to the minister in due course.

The Hon. J.D. HILL: I do not accept the amendment. This is a standard provision, I understand, in relation to advisory boards. This is to do with governance; it is not about me directing them to come to a particular outcome or to have a particular view. It is about how we manage the bureaucratic processes. My advice is that, if this provision was not in here, the NRM council would then have to report to parliament, or somewhere else, because it would not be reporting to me. I have to require it to meet, to prepare plans, to provide those plans to me, to prepare them in a form that can be tabled in parliament, and all those kinds of things. It is absolutely essential that we have that power, otherwise the system just will not work.

Mr VENNING: I think that this is one of the base problems with this new bill in relation to the old one, particularly regarding the ministerial powers—and I have said that from the very outset. As the member for Davenport just said, look at the words 'the NRM council be subject to the general direction and control'. Are they going to be completely mindless people? If they are under the general direction and control of the minister, it really is a rubber stamp for the minister. I think there ought to be words to the effect that these people are a stand-alone body—autonomous. But, of course, the minister certainly has a very strong power of veto over who is appointed to the council, and he also appoints the chairman. When one considers that he oversees the appointments of them all and gives them general directions and controls, I think that is a bit over the top. I think there is a certain danger in that. I do not believe that this minister will ever cause any problems but, down the track, others might. I would like the minister to moderate at least some of those words to give this body some autonomy so that it is not completely and totally subservient to the minister of the day.

The Hon. J.D. HILL: I can only repeat that I think the member is exaggerating the concerns in relation to this. This is a provision that comes out of the animal/plant commission legislation. It is a standard provision, a general—

Mr Venning: It is a different minister, though, isn't it?

The Hon. J.D. HILL: No, it is me.

Mr Venning interjecting:

The Hon. J.D. HILL: So what? Ministers come and go. This paranoid kind of concern that a Labor environmental minister will change the nature of life as we know it—

Mr Venning interjecting:

The Hon. J.D. HILL: The Speaker made this point the other day ex cathedra, really, following on from a question. He said he hoped that under the NRM legislation there would still be a minister who would be able to come in here and be responsible for the various boards and committees that are established, and that is what this is about. I am the elected person. The voters chose us, the parliament has chosen this group to be the government and the government has chosen me to be the individual representative. I am elected. That is democracy in action.

This is a group of appointed people who are not democratically elected, other than perhaps the three who are appointed by the various groups—the LGA, the farmers and the Conservation Council. But they do not represent the general community. That is my job, and that is our job in here. So, this group has to be responsible to me. If I am responsible for them, I need to have a general power of direction. The direction is not along the lines of: 'You must find that X should happen'. That is not the nature of the direction. The direction is: 'You shall give me a report. You shall prepare a natural resource management plan. You shall meet six times a year', and so on. It is about governance: it is not about the policy detail.

Mrs MAYWALD: Given that under your proposal the NRM Council will be subject to the general direction and control of the minister and that one of its functions under clause 18(1) is to provide advice to the minister on the administration and operation of this act, it seems to me that there is a bit of a conflict. There is an advisory council on the one hand—and many of the functions of the NRM Council are to advise the minister on a whole range of things, to evaluate what the minister is doing, to monitor how the minister is performing against the objects of this act—and then you are saying to it, 'When you report I will direct that you are not to report on this matter, that matter, or another matter.' The capacity to do that is there in the words 'The NRM Council is subject to the general direction and control of the minister', because those words do not limit it to just administration.

The Hon. J.D. HILL: I can only act on advice—and I am not a legal expert in this—and the advice I have, which I gather is based on crown law advice, is that 'general direction' has a different meaning from 'direction'. I cannot direct them to come up with a particular outcome; I cannot say to them, 'I direct you to nominate person x for board y'. That is not the nature of that direction. What I can do is say to them, 'You will meet in that building, you will cause someone to take minutes and you will provide me with an account of your activities on a regular basis'—those kinds of general directions that a minister needs to be able to give in order to supervise. I will give you an example of where it has not worked. The Dog and Cat Management Board is a very good case in point of a board over which no minister has had proper supervision for—

The Hon. I.F. Evans: That is a reflection.

The Hon. J.D. HILL: It is a reflection on the board, not on ministers past or present.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: He no longer works for the Dog and Cat Management Board. But there was a board which was established and over which there was no proper effective control and it really became a difficulty for both sides of the house. We are now going through the process of trying to sort out the issues—but that is another matter. The minister of the day does need to have that general sense of direction, but if members are concerned I can get some better advice for them which expands on the nature of the general direction.

Mr WILLIAMS: In a statement the minister made in answer to the member for Davenport's inquiry he said that without this clause the governance of the council would be impossible and that it would be impossible for the council to operate, as it would have no instruction as to governance. I would like to point out to the minister that the Water Resources Council has operated like this ever since the establishment of the Water Resources Act 1997—for some seven years. If he looks at division 2 of the Water Resources Act, section 49 simply provides, 'The Water Resources Council is established.' Then it moves on to section 50, which establishes the membership of the Water Resources Council. Section 51 provides for the function of the council, and that is it. There is nothing about the council being subject to the general direction of, and control by, the minister. I do not know how it has operated for the last seven years.

The CHAIRMAN: The minister has given assurances that he will have this matter examined.

Mrs MAYWALD: Can I make a suggestion to the minister in the examination of this issue? If he believes that the general direction for which this provision is required is for administration of the part, he should insert those words into the clause. A suggested amendment, as an example, is, 'subsection 2 states that for the purpose of the administration of this part the NRM Council is subject to the general direction of the minister'.

I believe that, if you are looking at administrative purposes and you want to direct the board as to what building, whatever, then that is fair enough. But if you want to direct it in how it deliberates, then it is an advisory council: it is not a board. You actually have the provision to direct the board, so the cat and dog management example is not a very good example, because that is a board and so are the NRM boards. This is an advisory council to assist in decision-making. I think it would be unwise to have that council under the direction of the minister, because it may not necessarily seem to be independent of the minister and give advice without fear or favour of the minister's view.

The Hon. J.D. HILL: I am more than happy to take that up, because we want to keep it at a narrow focus. It is an advisory body—that is quite true. I do not want to direct them to come up with a particular piece of advice, because there is no point in having them if that is the case. However—

The Hon. I.F. Evans: It saves a lot of problems if they do that.

The Hon. J.D. HILL: However, I was just thinking of another example when the member was talking—the dog and cat management board springs to mind again. If the council were to go feral, for example, and start doing things which were outside its charter, you would need to have somebody who could say, 'Well, that is outside your charter. I direct you to go back to where you are supposed to be.' I will look at all that and see how we can package it up in a way which makes it clear that I am not going to be telling them what advice they ought to give me.

The Hon. I.F. EVANS: On the basis of the commitment of the minister, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Clause passed.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.53 p.m. the house adjourned until Wednesday 31 March at 2 p.m.